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# BULLETIN

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

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Volume 92, Nos. 48-51

December 20, 2007

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### DIRECTORY

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# DOCKET

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New Case Filed Up to December 11, 2007

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**279-07-A**

34 Reid Avenue, South west of Reid Avenue (unmapped street) north west of Marshall Avenue (mapped street)., Block 16350, Lot(s) 300, Borough of **Queens, Community Board: 4**. Appeal for construction of a new one family dwelling on existing lot.

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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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**JANUARY 15, 2008, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, January 15, 2008, 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**

**121-95-BZ**

APPLICANT – Francis R. Angelino, Esq., for 37 West 46th Street Realty Corporation, owner.

SUBJECT – Application September 17, 2007 – Extension of Term/Waiver for a previously granted special permit (73-36) for a physical culture establishment (Osaka Health Spa) on the third floor and mezzanine level of a six story mixed used building in a C6-4.5 zoning district which expired on February 6, 2006.

PREMISES AFFECTED – 37 West 46<sup>th</sup> Street, north/south West 46<sup>th</sup> Street, between 5<sup>th</sup> and 6<sup>th</sup> Avenues, Block 1262, Lot 20, Borough of Manhattan.

**COMMUNITY BOARD #5M**

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**6-04-BZII**

APPLICANT – The Law Office of Fredrick A. Becker, for Glenmore Associates, owner; New York Sports Club, lessee.

SUBJECT – Application March 21, 2007 – Extension of Term of a variance granted pursuant to Section 72-21 allow the operation of a physical culture establishment located in a C1-3/R6 zoning district.

PREMISES AFFECTED – 7118-7124 Third Avenue, northwest corner of Third Avenue and 72<sup>nd</sup> Street, Block 5890, Lot 43, Borough of Brooklyn.

**COMMUNITY BOARD #12BK**

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**APPEALS CALENDAR**

**140-07-A**

APPLICANT – Rothkrug Rothkrug & Spector, LLP  
Owner: Breezy Point Cooperative, Incorporated  
Lessee: Thomas Carroll

SUBJECT – Application May 25, 2007 – Appeals seeking to reverse the Department of Building's decision to revoke permits and approvals for a one family home. R4 Zoning district.

PREMISES AFFECTED – 607 Bayside Drive, North west intersection of Bayside Drive and zoning street know as Service Lane, Block 16350, Lot 300, Borough of Queens.

**COMMUNITY BOARD #14Q**

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**270-07-A**

APPLICANT – Sheldon Lobel, P.C., for Washington Hall Holdings, LLC, owner.

SUBJECT – Application November 27, 2007 – seeking a determination that the owner has acquired a common law vested right to continue development under the prior R6 zoning.

PREMISES AFFECTED – 163-167 Washington Avenue, approximately 80' from the northeast corner of Myrtle Avenue and Washington Avenue, Block 1890, Lots 1, 4, 82, Borough of Brooklyn.

**COMMUNITY BOARD #2BK**

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**JANUARY 15, 2008, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, January 15, 2008, 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**

**143-07-BZ**

APPLICANT – Moshe M. Friedman, for Chabad House of Canarsie, Inc., owner.

SUBJECT – Application June 4, 2007 – Variance (§72-21) to permit the construction of a three-story and cellar synagogue, religious pre-school, and Mikva. The proposal is contrary to sections 24-111 (a) and 23-141 (a) (Floor Area and FAR), 24-11 (Open Space and Lot Coverage), 24-521 (Front Wall and Sky Exposure Plane), 24-34 (Front Yard), 24-35 (Side Yard), 25-31 (Parking). R2 district.

PREMISES AFFECTED – 6404 Strickland Avenue, south east corner of Strickland Avenue and East 64<sup>th</sup> Street, Block 8633, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #18BK**

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**193-07-BZ**

APPLICANT – Sheldon Lobel, P.C., for Alex Gonter and Mark Gonter, owners.

SUBJECT – Application August 7, 2007 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area and open space (23-141); side yard (23-461) and rear yard (23-47) in an R-2 zoning district.

PREMISES AFFECTED – 3591 Bedford Avenue, eastern side of Bedford Avenue between Avenue N and O, Block 7679, Lot 17, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

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# CALENDAR

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## 217-07-BZ

APPLICANT – Eric Palatnik, PC, for Clara Tarantul, owner.

SUBJECT – Application September 24, 2007 – Special Permit (§73-622) for the enlargement of an existing single family home. This application seeks to vary floor area, open space and lot coverage (23-141(a)); rear yard (23-47) and side yards (23-461) in an R3-1 zoning district.

PREMISES AFFECTED – 25 Beaumont Street, between Shore Boulevard and Hampton Avenue, Block 8728, Lot 95, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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## 236-07-BZ

APPLICANT – Jay A. Segal, Esq., for Hope Street Ventures, LLC, owner.

SUBJECT – Application October 17, 2007 – Special Permit (§ 73-46) to allow a waiver of parking requirements for a residential conversion of an existing building. 46 spaces are required; 11 spaces are proposed. M1-2/R6A (MX-8) district.

PREMISES AFFECTED – 53-65 Hope Street, north side of Hope Street between Havemeyer Street and Marcy Avenue, Block 2369, Lot 38, 40, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

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## 249-07-BZ

APPLICANT – Harold Weinberg, P.E., for Varda Grodtko, owner.

SUBJECT – Application November 2, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary side yard requirement (23-461) in an R3-2 zoning district.

PREMISES AFFECTED – 1865 East 28<sup>th</sup> Street, east side, 215' north of Avenue S between Avenue R and S, Block 6834, Lot 58, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

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*Jeff Mulligan, Executive Director*

**JANUARY 29, 2008, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, January 29, 2008, 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

### 280-06-BZ

APPLICANT – Carl A. Sulfaro, Esq., for Charles P. Green, owner; Exxon Mobil Oil Corporation, lessee.

SUBJECT – Application October 18, 2006 – Under (§ 73-211) to permit in a C2-2 within R3-2 zoning district, the reestablishment of a Special Permit granted by the BSA for an Automotive Service Station with accessory uses, including an existing accessory convenience store which expired on December 20, 2002.

PREMISES AFFECTED – 181-08 Horace Harding Expressway, southeast corner of Utopia Parkway and Horace Harding Expressway, Block 7070, Lot 2, Borough of Queens.

**COMMUNITY BOARD #8Q**

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### 205-07-BZ

APPLICANT – Omnipoint Communications Inc., for Joseph Wroblewski, owner; Omnipoint Communications, Inc., lessee.

SUBJECT – Application August 20, 2007 – Special Permit (§73-30) to allow a non-accessory radio tower on the rooftop of an existing building. The tower will be disguised as a 25' flagpole. The site is located in an R4-1 zoning district.

PREMISES AFFECTED – 53-20 72<sup>nd</sup> Place, west side of the intersection of 53<sup>rd</sup> Road and 72<sup>nd</sup> Place, Block 2506, Lot 52, Borough of Queens.

**COMMUNITY BOARD #5Q**

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### 233-07-BZ

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for TIAA-CREF, owner; Pure 86th Street Incorporated, lessee.

SUBJECT – Application October 11, 2007 – Special Permit (§73-36) to allow a physical culture establishment on the first floor, cellar, sub-cellar 1 and sub-cellar 2 in an existing 35-story mixed-use building. The proposal is contrary to section 32-10. C2-8A zoning district.

PREMISES AFFECTED – 203 East 86<sup>th</sup> Street, northeast corner of the intersection of 86<sup>th</sup> Street and Third Avenue, Block 1532, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #8M**

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*Jeff Mulligan, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, DECEMBER 11, 2007  
10:00 A.M.**

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

**SPECIAL ORDER CALENDAR**

**175-95-BZ**

APPLICANT – H Irving Sigman, for Twi-light Roller Skating Rink, Incorporated, owner.

SUBJECT – Application April 25, 2007 – Extension of Term/Amendment/Waiver – To permit at the first floor level the extension of the existing banquet hall (catering establishment), (UG9) into an adjoining unoccupied space, currently designated as a store, (UG6) located in an C1-2/R3-2 zoning district.

PREMISES AFFECTED – 205-35 Linden Boulevard, North south 0' east of the corner formed by Linden Boulevard & 205<sup>th</sup> Street, Block 11078, Lot 1, Borough of Queens.

**COMMUNITY BOARD # 12Q**

APPEARANCES –

For Applicant: Alan Sigman.

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

**THE VOTE TO GRANT** –

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

Negative:.....0

Abstain: Commissioner Montanez.....1

**THE RESOLUTION:**

WHEREAS, this is an application for a reopening, a waiver, an extension of the term for a previously granted variance for a Use Group 9 banquet hall, which expired on December 10, 2006, an amendment to permit the enlargement of the facility, and an amendment to extend the hours of operation; and

WHEREAS, a public hearing was held on this application on August 7, 2007, after due notice by publication in *The City Record*, with continued hearings on September 11, 2007, October 16, 2007, and November 20, 2007, and then to decision on December 11, 2007; and

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

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

WHEREAS, State Senator Malcolm A. Smith recommends approval of this application; and

WHEREAS, the subject premises is located on the northeast corner of Linden Boulevard and 205<sup>th</sup> Street, partially within a C1-2 (R3-2) zoning district and partially within an R3-

2 zoning district; and

WHEREAS, on December 10, 1996, under the subject calendar number, the Board granted a variance to permit a change in use from Use Group 6 retail to Use Group 9 catering establishment at the site for a term of ten years; and

WHEREAS, the Board notes that the applicant requests to describe the use as a banquet hall, which is within the same use group as catering establishment; and

WHEREAS, the site is occupied by a one-story commercial building with a banquet hall, several independent retail units, and an accessory parking lot for 18 cars; and

WHEREAS, the banquet hall is operated as Thomasina's; and

WHEREAS, the applicant currently seeks an additional ten-year term; and

WHEREAS, the applicant also seeks to enlarge the banquet hall use horizontally into adjacent vacant space formerly used for retail; and

WHEREAS, the applicant proposes to construct a second assembly room, a bridal room, an expanded lobby, restrooms, and storage areas; and

WHEREAS, the applicant represents that the new assembly room will have a floor area of 1,272 sq. ft. and will be able to accommodate a maximum of 80 people; and

WHEREAS, the existing assembly room accommodates a maximum of 270 people and, the applicant represents, is not suited for smaller gatherings; and

WHEREAS, the applicant represents that the simultaneous use of the two assembly rooms will be an infrequent occurrence and that the additional space is primarily to broaden the range of services and to better accommodate the current needs; and

WHEREAS, specifically, the applicant represents that the proposed bridal room, improved lobby, handicapped-accessible restrooms, and expanded storage areas will serve the existing and proposed uses; and

WHEREAS, further, the applicant states that there is not an anticipation of increased attendance; and

WHEREAS, the applicant proposes to increase the hours of operation, which are currently: Monday through Friday, 12:00 p.m. to 3:00 p.m. and 8:00 p.m. to 1:30 a.m., and Saturday and Sunday, 9:00 a.m. to 1:30 a.m.; and

WHEREAS, the proposed hours of operation are: 9:00 a.m. to 1:30 a.m., daily; and

WHEREAS, the Board has determined that these hours of operation are appropriate; and

WHEREAS, at hearing the Board raised concerns about whether the 18 parking spaces at the site could accommodate the demand; and

WHEREAS, accordingly, the Board directed the applicant to provide information about the parking demand and availability of parking offsite; and

WHEREAS, the applicant modified the plans to allow for 35 attended parking spaces within the accessory parking lot; and

WHEREAS, the applicant stated that it will provide attended parking during peak hours, otherwise, the lot will remain a non-attended parking lot with 18 spaces; and

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# MINUTES

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WHEREAS, additionally, the applicant performed a survey of attendees at several banquet hall events and concluded that, on average, approximately 50 percent of attendees arrived by private automobile and there was an average of three attendees per automobile; and

WHEREAS, at the Board's direction, the applicant performed a survey of available on street parking within a 1,000-ft. radius of the site including along Linden Boulevard, Francis Lewis Boulevard, the boundaries of a nearby high school, and along a portion of 118<sup>th</sup> Avenue; and

WHEREAS, the applicant represents that the survey identified sufficient available offsite parking during the banquet hall's peak periods of Friday, after 8:00 p.m., and Saturday and Sunday after 5:00 pm.; and

WHEREAS, the applicant notes that for the parking analysis, the assumed demand was 350 persons (the maximum capacity during simultaneous use of the two assembly rooms), which is only projected to be reached on rare occasions of simultaneous use, yet could still be accommodated; and

WHEREAS, the applicant also notes that a commercial use occupying the same amount of space as the proposed enlargement would have a higher parking requirement than the proposed use; and

WHEREAS, finally, at hearing, the Board inquired about the use of the banquet hall and whether there was entertainment open to the public; and

WHEREAS, the applicant responded that once or twice a year, the banquet hall hosts charity benefits, which include entertainment and are open to the community; and

WHEREAS, based upon its review of the record, the Board finds that a ten-year extension of term and the enlargement of the catering facility are appropriate with certain conditions as set forth below.

*Therefore it is Resolved* that the Board of Standards and Appeals *waives* the Rules of Practice and Procedure, *reopens*, and *amends* the resolution, dated December 10, 1996, so that as amended this portion of the resolution shall read: "to grant an extension of the variance for a term of ten years from the expiration of the last grant to expire on December 10, 2016 and to permit the enlargement of the banquet hall; *on condition* that all work shall substantially conform to drawings filed with this application and marked "Received October 2, 2007"- (1) sheet and "April 25, 2007"- (4) sheets; and *on further condition*:

THAT this grant shall expire on December 10, 2016;

THAT attended parking shall be provided during hours of operation and when functions are scheduled, from 5:00 p.m. Friday until the close of business Sunday;

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

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

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. 402562151)

Adopted by the Board of Standards and Appeals,  
December 11, 2007.

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## 299-06-BZ

APPLICANT – New York City Board of Standards and Appeals.

OWNER: Three Partners, LLC.

SUBJECT – Application November 3, 2006 – To consider dismissal for lack of prosecution – Proposed legalization of a public parking facility (garage and lot); contrary to use regulations (§22-10). R7-1 district.

PREMISES AFFECTED – 1976 Crotona Parkway, east side of Crotona Parkway, 100' north of Tremont Avenue, Block 3121, Lots 10 and 25, Borough of Bronx.

## COMMUNITY BOARD # 6BX

APPEARANCES –

For Applicant: Daniel Braff.

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

THE VOTE TO WITHDRAW –

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

Adopted by the Board of Standards and Appeals,  
December 11, 2007.

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## 16-36-BZ, Vol. II

APPLICANT – Vassalotti Associates, Architects, for Cumberland Farms Incorporated, owners.

SUBJECT – Application July 17, 2007 – Extension of Term of a previously granted variance for the operation of a gasoline service station (Exxon) which expired November 1, 2007 in a C2-2/R-5 zoning district.

PREMISES AFFECTED – 1885 Westchester Avenue, northwest corner of Westchester Avenue and White Plains Road, Block 3880, Lot 1, Borough of Bronx.

## COMMUNITY BOARD #9BX

APPEARANCES –

For Applicant: Hiram Rothkrug.

**ACTION OF THE BOARD** – Laid over to January 15, 2008, at 10 A.M., for continued hearing.

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## 673-81-BZ

APPLICANT – David L. Businelli, for Joseph Montalbano, owner.

SUBJECT – Application August 20, 2007 – Extension of Term of variance granted pursuant to §72-21 permitting, in an R3-2 zoning district, the erection of a one story and cellar retail store and office building with accessory parking in the open area. The application was previously approved for a 15 year term which expired on January 5, 1997.

PREMISES AFFECTED – 2075 Richmond Avenue, East

# MINUTES

side of Richmond Avenue 461.94' N. feet from corner of Rockland Avenue, Block 2015, Lot 28, Borough of Staten Island.

## COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: David Businelli.

**ACTION OF THE BOARD** – Laid over to January 15, 2008, at 10 A.M., for continued hearing.

## 426-83-BZ

APPLICANT – Glen V. Cutrona, AIA, for Giuseppe Emmanuele, owner; S & E Landholding, Incorporated, lessee.

SUBJECT – Application November 3, 2006 – Extension of Term/Amendment/Waiver-Request extension of term of an existing retail stores on the first floor and offices on the second floor (UG6 in a R3-1 zoning district), approved pursuant to §72-21. The amendment seeks to legalize a reduction in parking from the 27 to 20 vehicles and approve the change in parking layout. The application also seeks to amend the signage and extend the term for an additional twenty (20) years from its expiration on November 27, 2004. PREMISES AFFECTED – 1880 Hylan Boulevard, Hylan Boulevard and Slater Boulevard, Block 3657, Lot 7, Borough of Staten Island.

## COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Glen V. Cutrona.

THE VOTE TO CLOSE HEARING –

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

**ACTION OF THE BOARD** – Laid over to January 8, 2008, at 10 A.M., for decision, hearing closed.

## 16-92-BZ

APPLICANT – Stadtmauer Bailkin, LLP, for High Teck Park, Inc., owner.

SUBJECT – Application May 18, 2007 – Pursuant to Z.R §§72-01 & 72-22 to permit a waiver of the rules of practice and procedure, a re-opening, an amendment, and an extension of the term of the variance. The requested application would permit the legalization from the change in use from auto repair and warehouse to a charity auto donation facility (Use Group 16 automotive storage), container storage (Use Group 16), a woodworking and metal working company (Use Group 16) and a legalization of a 2,420 square foot mezzanine addition. The premises is located in a R5/C1-1 zoning district.

PREMISES AFFECTED – 115 King Street, 78 Sullivan Street, lot front King Street and Sullivan Street, between Richardson and Van Brunt Street, Block 556, Lot 15, Borough of Brooklyn.

## COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Jesscia Loeser.

**ACTION OF THE BOARD** – Laid over to January 15, 2008, at 10 A.M., for continued hearing.

## 67-95-BZ

APPLICANT – Francis R. Angelino, Esq., for Times Square JV LLC, owner; Town Sports International, lessee.

SUBJECT – Application May 17, 2007 – Extension of Term of a previously approved Special Permit granted pursuant to §73-36 allowing the operation of a physical culture establishment on the 14 & 15 floors of the Crowne Plaza Hotel located in a C6-7T (MID) zoning district.

PREMISES AFFECTED – 1591/1611 Broadway, west side, the blockfront between West 48<sup>th</sup> & West 49<sup>th</sup> Streets, Block 1020, Lot 46, Borough of Manhattan.

## COMMUNITY BOARD #5M

APPEARANCES –

For Applicant: Francis R. Angelino.

THE VOTE TO CLOSE HEARING –

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

**ACTION OF THE BOARD** – Laid over to January 15, 2008, at 10 A.M., for decision, hearing closed.

## APPEALS CALENDAR

### 105-07-A thru 108-07-A

APPLICANT – Paul Bonfilio Architect, P.C., for Tom and Angelika Davis, owners.

SUBJECT – Application May 2, 2007 – Proposed construction of four two family semi detached dwellings located within the bed of mapped street (199th) contrary to General City Law Section 35. R3-2 Zoning district.

PREMISES AFFECTED –

198-24 47<sup>th</sup> Avenue, south side of 47<sup>th</sup> Avenue, 165.37' west of Francis Lewis Boulevard, Block 5618, Lot 49.

198-28 47<sup>th</sup> Avenue, south side of 47<sup>th</sup> Avenue, 165.37' west of Francis Lewis Boulevard, Block 5619, Lot 20.

47-17 199<sup>th</sup> Avenue, south side of 47<sup>th</sup> Avenue, 165.37' west of Francis Lewis Boulevard, Block 5618, Lot 49.

47-18 199<sup>th</sup> Street, south side of 47<sup>th</sup> Avenue, 165.37' west of Francis Lewis Boulevard, Block 5618, Lot 49, Borough of Queens.

## COMMUNITY BOARD #11Q

APPEARANCES –

For Applicant: Paul Bonfilio.

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

THE VOTE TO GRANT –

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

# MINUTES

Negative:.....0

## THE RESOLUTION:

WHEREAS, the decisions of the Queens Borough Commissioner dated April 20, 2007 and revised on November 27, 2007, acting on Department of Buildings Application Nos. 402572943, 402572300, 402572934, and 402572952, read in pertinent part:

“Objection #2 – Proposed development is contrary to General City Law #35 building in the bed of mapped street, required BSA approval”; and

WHEREAS, this application as originally filed was for a four two-family semi-detached homes to be built within the bed of 199<sup>th</sup> Street, between 47<sup>th</sup> Avenue and 48<sup>th</sup> Avenue; and

WHEREAS, the applicant revised the plans to reflect three two-family attached and semi-detached homes with frontage on 47<sup>th</sup> Avenue and one detached two-family home with frontage on the dead end of 199<sup>th</sup> Street; and

WHEREAS, a public hearing was held on this application on October 23, 2007, after due notice by publication in the *City Record*, with a continued hearing on December 4, 2007, and then to decision on December 11, 2007; and

WHEREAS, Community Board 11, Queens, recommended disapproval of the earlier iteration of the proposal, citing concerns about traffic, parking, and drainage and sewer issues, incompatibility with neighborhood character, and overburdening utilities and infrastructure; and

WHEREAS, State Senator Frank Padavan submitted written testimony in opposition to the proposal, citing concerns about the potential for additional flooding in the area and an increase in traffic; and

WHEREAS, the Auburndale Improvement Association provided testimony in opposition to the application, citing concerns about increased residential density, the potential for flooding during and after the construction process, and the potential need to open up 199<sup>th</sup> Street in the future; and

WHEREAS, by letter dated August 15, 2007, the Fire Department stated that it reviewed the original application and that it has no objections to the two homes that front on 47<sup>th</sup> Avenue, but it would require that the two homes that front on the dead end of 199<sup>th</sup> Street be fully sprinklered; and

WHEREAS, in response, the applicant submitted a revised site plan with reflecting three homes fronting on 47<sup>th</sup> Avenue and one home fronting on the dead end of 199<sup>th</sup> Street; and

WHEREAS, by letter dated November 20, 2007, the Fire Department stated that it reviewed the revised site plan and would require only the home that fronts on the dead end of 199<sup>th</sup> Street (tentative Lot 49) to be fully sprinklered; and

WHEREAS, the applicant revised the site plan to include a note stating that the home on Lot 49 would be fully sprinklered; and

WHEREAS, by letter dated August 21, 2007, the Department of Transportation (DOT) stated that it reviewed the application and advises the Board that it would require the curbs and sidewalks abutting the proposed development to conform to the existing width and alignment that currently exists on 47<sup>th</sup> Avenue and 199<sup>th</sup> Street; as to the dead end of

199<sup>th</sup> Street, DOT stated that it defers to the Fire Department; and

WHEREAS, DOT also notes that Lots 50 and 51, which are not part of this application, require access to 199<sup>th</sup> street via a common driveway; accordingly, DOT requests that the applicant provide perpetual easements to Lots 50 and 51, allowing them to have access to the common driveway on Lot 49, and that said easement be duly recorded and the deed filed with the County Clerk; and

WHEREAS, the Board notes that DOT did not indicate that it intends to include the applicant’s property in its ten-year capital plan; and

WHEREAS by letter dated November 30, 2007, DOT states that it has reviewed the applicant’s revised submission and has no further comments; and

WHEREAS, by letter dated June 11, 2007, the Department of Environmental Protection (DEP) states that it reviewed the above application and advises the Board that there is an existing 10-in. private sanitary sewer and an 8-in. city water main in 199<sup>th</sup> Street, between 47<sup>th</sup> Avenue and 48<sup>th</sup> Avenue; and

WHEREAS, additionally, DEP states that there is an existing 10-in. private sanitary sewer and a 12-in. city water main in the bed of 47<sup>th</sup> Avenue, between 198<sup>th</sup> Street and Francis Lewis Boulevard; and

WHEREAS, further, amended drainage plans 33E(46), 33GS(11), and 33ESW(17) reflect a future 10-in. sanitary sewer and a 12-in. storm sewer in 199<sup>th</sup> Street, between 47<sup>th</sup> Avenue and 48<sup>th</sup> Avenue; and

WHEREAS, DEP notes that that the proposed construction on existing Lots 50 and 51 will not have access to the existing or future sewers in 199<sup>th</sup> Street; and

WHEREAS, by letters dated June 29, 2007 and July 27, 2007, and after consultation with DEP staff, the applicant states that Lots 50 and 51 will have sufficient access via a proposed common driveway to 199<sup>th</sup> Street for both vehicular traffic and water/sewer connections; and

WHEREAS, by letter dated August 23, 2007, DEP states that the proposed width of the common driveway in the bed of 199<sup>th</sup> Street between 47<sup>th</sup> Avenue and 48<sup>th</sup> Avenue for Lots 50 and 51 is not adequate, stating that the minimum 30 feet width is required for the utility access, ingress and egress; and

WHEREAS, in response, the applicant revised the site plan to reflect a layout, which addresses the concerns about access as well as provides for a sewer/corridor easement in the bed of the southwest portion of 199<sup>th</sup> Street south of 47<sup>th</sup> Avenue, which will be available for the installation, maintenance, and/or reconstruction of the future 12-in. storm sewer, future 10-in. sanitary sewer and extension of the 8-in. city water main; and

WHEREAS, the Board notes that the revised plans provide for the ingress and egress for existing Lots 50 and 51; the width of the sewer corridor/easement varies from 58’-0” to 42’-0” and length varies from 60.43’ to 18’-0”; and

WHEREAS, the revised plans also reflect that 50’-0” of 47<sup>th</sup> Avenue between 198<sup>th</sup> Street and Francis Lewis Boulevard will be available for installation, maintenance, and/or reconstruction of the future 10-in. sanitary sewer, existing 10-

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in. private sanitary sewer, and 12-in. city water main; and

WHEREAS, DEP requests that no permits will be issued until easement documents are approved by DEP and DOB legal counsel and duly recorded in the City Register, with an irrevocable Declaration of Street Opening; and

WHEREAS, DEP has stated that it will accept the proposal, given the noted conditions; and

WHEREAS, based upon its review of the record, the Board finds that the proposal is appropriate with certain conditions as set forth below; and

*Therefore it is Resolved* that the decisions of the Queens Borough Commissioner, April 20, 2007 and revised on November 27, 2007, acting on Department of Buildings Application Nos. 402572943, 402572300, 402572934, and 402572952 are 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 December 3, 2007"-(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 approved plans shall be considered approved only for the portions related to the specific relief granted;

THAT no permits shall be issued until easement documents are approved by both the Department of Environmental Protection and Department of Buildings and recorded with the City Register of the County Clerk;

THAT the existence of the easement shall be noted on the certificate of occupancy for the home on Lot 49;

THAT the home on Lot 49 shall be fully sprinklered and the certificate of occupancy shall note this requirement;

THAT an irrevocable Declaration of Street Opening shall be submitted prior to the issuance of any permits;

THAT the lot subdivision is to be approved by DOB;

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

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

Adopted by the Board of Standards and Appeals, December 11, 2007.

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## 147-07-BZY

APPLICANT – Cozen O’Connor Attorneys, for North Seven Associates, LLC, owner.

SUBJECT – Application June 5, 2007 – Extension of time (11-332) to complete construction of a minor development commenced under the prior R6 (M1-2) district regulations. R6B Zoning District.

PREMISES AFFECTED – 144 North 8<sup>th</sup> Street, south side of North 8<sup>th</sup> Street, 100’ east of Berry Street, Block 2319, Lot 11, Borough of Brooklyn.

## COMMUNITY BOARD #1BK

APPEARANCES –

For Applicant: Peter Geis.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice Chair Collins and Commissioner Ottley-Brown.....3

Recused: Commissioner Hinkson.....1

Abstain: Commissioner Montanez.....1

Negative:.....0

**THE RESOLUTION:**

WHEREAS, this is an application under ZR § 11-332, to permit an extension of time for the completion of construction of, and obtainment of a certificate of occupancy for, a minor development currently under construction at the subject site; and

WHEREAS, a public hearing was held on this application on October 16, 2007, after due notice by publication in *The City Record*, with a continued hearing on November 20, 2007, and then to decision on December 11, 2007; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Chair Srinivasan; and

WHEREAS, Community Board 1, Brooklyn, recommends disapproval of this application citing the following: (1) the incongruity of the building with the current zoning and its inconsistency with the 197-a plan adopted for the community; (2) invalidity of the DOB permit; and (3) lack of affordable housing or community facilities, despite utilizing a community facility bonus; and

WHEREAS, City Council Member David Yassky has provided written testimony also recommending disapproval of the application; and

WHEREAS, Neighbors Allied for Good Growth and other local residents (collectively, the "Opposition") provided written and oral testimony citing concerns about the validity of the building permit and financial evidence, the safety of the subject building, and its nonconformance with the recently-adopted contextual zoning regulations; and

WHEREAS, the subject premises is located on the south side of North 8<sup>th</sup> Street, 100 feet east of Berry Street; and

WHEREAS, the premises is currently located within an R6B zoning district; and

WHEREAS, however, the development complies with the prior R6 (M1-2) zoning district regulations; and

WHEREAS, however, on May 11, 2005 (hereinafter, the "Enactment Date"), the City Council voted to adopt the

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Greenpoint Williamsburg Rezoning; and

WHEREAS, as of that date, the applicant had obtained permits for the development and had completed 100 percent of its foundation, such that the right to continue construction was vested pursuant to ZR § 11-331, which allows the Department of Buildings (DOB) to determine that construction may continue under such circumstances; and

WHEREAS, however, only two years are allowed for completion of construction and to obtain a certificate of occupancy; and

WHEREAS, accordingly, because the two-year time limit has expired and construction is still ongoing, the applicant seeks relief pursuant to ZR § 11-30 *et seq.*, which sets forth the regulations that apply to a reinstatement of a permit that lapses due to a zoning change; and

WHEREAS, first, the Board notes that ZR § 11-31(c)(1) defines construction such as the proposed development, which involves the construction of a single building which is non-complying under an amendment to the ZR, as a "minor development"; and

WHEREAS, for a "minor development," an extension of time to complete construction, previously authorized under a grant for an extension made pursuant to ZR § 11-331, may be granted by the Board pursuant to ZR § 11-332; and

WHEREAS, ZR § 11-332 reads, in pertinent part: "In the event that construction permitted in Section 11-331 (Right to construct if foundations completed) has not been completed and a certificate of occupancy including a temporary certificate of occupancy, issued therefore within two years after the effective date of any applicable amendment . . . the building permit shall automatically lapse 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 such building permit for two terms of not more than two years each for a minor development . . . In granting such an extension, the Board shall find that substantial construction has been completed and substantial expenditures made, subsequent to the granting of the permit, for work required by any applicable law for the use or development of the property pursuant to the permit."; and

WHEREAS, the applicant noted that ZR § 11-332 requires only that there be substantial construction and substantial expenditures subsequent to the issuance of building permits; and

WHEREAS, as a threshold issue, the Board must determine that proper permits were issued, since ZR § 11-31(a) requires: "For the purposes of Section 11-33, relating to Building Permits Issued Before Effective Date of Amendment to this Resolution, the following terms and general provisions shall apply: (a) A lawfully issued building permit shall be a building permit which is based on an approved application showing complete plans and specifications, authorizes the entire construction and not merely a part thereof, and is issued prior to any applicable amendment to this Resolution. In case of dispute as to whether an application includes "complete plans and specifications" as required in this Section, the Commissioner of Buildings shall determine whether such

requirement has been met"; and

WHEREAS, the applicant represents that all of the relevant DOB permits were lawfully issued to the owner of the subject premises; and

WHEREAS, the record indicates that the following permit for the proposed development was issued to the owner by DOB, prior to the Enactment Date: Permit No. 301784399-01 NB, (hereinafter, the "New Building Permit"); and

WHEREAS, the New Building Permit is for a 16-story building and mezzanine which meets open space requirements through the use of rooftops of adjacent properties located at 115 Berry Street and 138 North 8<sup>th</sup> Street; and

WHEREAS, litigation is pending concerning the applicant's rights to the use of the rooftops at 115 Berry Street and 138 North 8<sup>th</sup> Street; in the event of a negative decision, the applicant will not be permitted to build higher than ten stories; and

WHEREAS, on January 26, 2006, DOB issued a stop work order because in the absence of a legal determination on the rooftop question, the approved 16-story building is not permitted; and

WHEREAS, in response, the applicant submitted a revised zoning analysis to the DOB in support of a request for reconsideration in connection with the stop work order issued against the site; and

WHEREAS, the revised zoning analysis excluded 5,300 sq. ft. of floor area permitted only if the disputed open space is available; and

WHEREAS, the zoning analysis reflected that the amount of open space not in dispute complies with the requirements for a ten-story building with 40,539 sq. ft. of floor area in an R6 zoning district; and

WHEREAS, the Board notes that, based on the revised zoning analysis, DOB issued a reconsideration on February 26, 2006, partially rescinding the stop work order to permit construction to proceed on the lower ten stories up to a limit of 40,539 sq. ft. in floor area; and

WHEREAS, the Community Board has raised concerns about the validity of the building permit; and

WHEREAS, in oral and written testimony, the Opposition contended that the dispute concerning the applicant's rights to the open space in the adjacent properties invalidates the DOB permit, since the permit is for 16 stories; and

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

WHEREAS, Section 645 (b) (1) of the Charter vests the Commissioner of Buildings with "exclusive power . . . to examine and approve or disapprove plans for the construction or alteration of any building or structure . . .", and

WHEREAS, in response to a request by the Board, the Department of Buildings has confirmed by a letter dated November 19, 2007 that the New Building Permit issued was

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valid when issued; and

WHEREAS, the Board accepts that this letter establishes the validity of the New Building Permit when issued; and

WHEREAS, the Board has reviewed the record and agrees that the New Building Permit meets the requirements of ZR §11-31(a); and

WHEREAS, in oral and written testimony, the Opposition has also raised questions concerning the validity of the New Building Permit – which approved a 16-story building – to authorize continued construction in the event of a ruling that the applicant has no right to the rooftops of the adjacent properties and can therefore build no higher than ten stories; and

WHEREAS, the applicant represents that, if it is found to have no rights to the rooftops of the adjacent properties, it will seek to amend its permit to allow a complying building; and

WHEREAS, ZR § 11-31(b) provides that building permits issued before the effective date of amendment may be modified after the effective date of the zoning amendment so long as the modifications to such plans do not create a new non-compliance or non-conformity or increase the degree of non-compliance or non-conformity; and

WHEREAS, the Board notes that an amendment to permit a ten-story building with 40,539 sq. ft. of floor area would not create a new non-compliance or non-conformity or increase the degree of non-compliance or non-conformity; and

WHEREAS, turning to the substantive findings of ZR § 11-332, the Board notes that there is no fixed standard in an application made under this provision as to what constitutes substantial construction or substantial expenditure in the context of new development; and

WHEREAS, the Board also observes that the work to be measured under ZR § 11-332 must be performed after the issuance of the permit; and

WHEREAS, similarly, the expenditures to be assessed under ZR § 11-332 are those incurred after the permit is issued; and

WHEREAS, accordingly, as is reflected below, the Board only considered post-permit work and expenditures, as submitted by the applicant; and

WHEREAS, in written statements and testimony, the applicant represents that, since the issuance of the New Building Permit, substantial construction has been completed and substantial expenditures were incurred; and

WHEREAS, the applicant states that work on the proposed development subsequent to the issuance of the permit includes installation of structural steel and floor slabs, and partial installation of exterior walls, internal partitions and electrical infrastructure; and

WHEREAS, in support of this statement the applicant has submitted the following: photographs of the site showing the completed building form for the lower ten stories with partially completed façade work; building infrastructure; floors; ceilings; and partial interior wall construction; and

WHEREAS, the applicant represents that all remaining work can be completed in 12 to 18 months; and

WHEREAS, the Board has reviewed all documentation

and agrees that it establishes that the afore-mentioned work was completed subsequent to the issuance of the valid permits; and

WHEREAS, as to costs, the applicant represents that the total expenditure paid for the development is \$12,986,900.00, or 60 percent out of the \$21,805,747.00 cost to complete; and

WHEREAS, the applicant has submitted copies of financial records and invoices; and

WHEREAS, the applicant contends that this percentage constitutes a substantial expenditure sufficient to satisfy the finding in ZR § 11-332; and

WHEREAS, the Opposition questioned the validity of the financial evidence; and

WHEREAS, the Board notes that even if certain expenditures were eliminated from consideration, considerable expenditures are evidenced by the large portion of the building which is above grade and visible; and

WHEREAS, at hearing the Board asked the applicant to address the violations associated with the construction of the building; and

WHEREAS, in response, the applicant submitted a statement describing each violation and explaining that each has been corrected but not removed from administrative records; and

WHEREAS, the Opposition testified that serious safety violations remained; and

WHEREAS, in response to the Opposition's concerns, the Board requested that DOB inspect the site; and

WHEREAS, the results of subsequent safety inspections filed with the Board by the Department of Buildings and Fire Department indicated that the building was in safe condition, but that the hoist to be used to access the upper floors in the event of a fire was inoperable; and

WHEREAS, in a written submission, the applicant established that the hoist was not operating due to a suspension of electrical power at the building, pending approval of the subject application; and

WHEREAS, the Opposition also raised concerns with the failure of the building to conform to the recently adopted contextual zoning regulations, and with a purported lack of affordable housing or community facilities; and

WHEREAS, the Board recognizes that the community sought and obtained the rezoning and adoption of a 197-a plan but notes that the scope of its review under ZR § 11-332 is limited to ascertaining whether an applicant seeking an extension of a lapsed building permit completed substantial construction and made substantial expenditures prior to its lapse; and

WHEREAS, based upon its review of all the submitted evidence, the Board finds that substantial construction was completed and that substantial expenditures were made since the issuance of the permits; and

WHEREAS, therefore, the Board finds that the applicant has adequately satisfied all the requirements of ZR § 11-332, and that the owner is entitled to the requested reinstatement of the permits, and all other permits necessary to complete the proposed development; and

WHEREAS, accordingly, the Board, through this

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resolution, grants the owner of the site a two-year extension of time to complete construction, pursuant to ZR § 11-332.

*Therefore it is Resolved* that this application made pursuant to ZR § 11-332 to renew Building Permit No. 301784399-01 NB, as well as all related permits for various work types, either already issued or necessary to complete construction, is granted, and the Board hereby extends the time to complete the proposed development and obtain a certificate of occupancy for one term of two years from the date of this resolution, to expire on December 11, 2009.

Adopted by the Board of Standards and Appeals, December 11, 2007.

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## **2-07-A thru 5-07-A**

APPLICANT – Sheldon Lobel, P.C., for Ron Karo, owner.  
SUBJECT – Application January 8, 2007 – To allow construction of four-3story 2 family located within the bed of a mapped street, contrary to General City Law Section 35. R5 zoning district.

PREMISES AFFECTED – 3212, 3214, 3216, 3218, Tiemann Avenue, northeast corner of Tiemann Avenue and unnamed Street, Block 4752, Lots 128, 129, 132, 133, Borough of Bronx.

### **COMMUNITY BOARD #12BX**

APPEARANCES –

For Applicant: Josh RhinSmith.

**ACTION OF THE BOARD** – Laid over to January 29, 2008, at 10 A.M., for continued hearing.

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## **39-07-BZ thru 40-07-A**

APPLICANT – Sheldon Lobel, P.C., for Blue Granite, owner.

SUBJECT – Application February 2, 2007 – Proposed construction of a 3 story, 3 family located within the bed of a mapped street, contrary to General City Law Section 35. R5 zoning district.

PREMISES AFFECTED – 3248, 3250, Givan Avenue, unnamed street between Wickham and Givan Avenue, Block 4755, Lots 65 & 66, Borough of Bronx.

### **COMMUNITY BOARD #12BX**

APPEARANCES –

For Applicant: Jordan Most.

**ACTION OF THE BOARD** – Laid over to January 15, 2008, at 10 A.M., for continued hearing.

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## **138-07-A**

APPLICANT – New York City Department of Buildings.

OWNER: 614 NYC Partners, Incorporated

SUBJECT – Application May 24, 2007 – Appeal seeking to revoke Certificate of Occupancy No. 104114487 that allowed the conversion of single room occupancy units (SRO) to Class A apartments without obtaining a Certificate of No Harassment from NYC Housing Preservation and Development (HPD). R8 Zoning District.

PREMISES AFFECTED – 614 West 138<sup>th</sup> Street, West 138<sup>th</sup> Street, east of Riverside Drive and west of Broadway, Block 2086, Lot 141, Borough of Manhattan.

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

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to January 29, 2008, at 10 A.M., for continued hearing.

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## **155-07-A**

APPLICANT – Jorge F. Canepa, for Sonja Keyser, owner.  
SUBJECT – Application June 11, 2007 – Proposed construction of a swimming pool, tennis court and changing room located within the bed of a mapped street (Tiber Place) contrary to General City Law Section 35. R1-2 Zoning District.

PREMISES AFFECTED – 55 Chipperfield Court, 413.88' south of the corner between Chipperfield Court and Ocean Terrace, Block 687, Lot 21, Borough of Staten Island.

### **COMMUNITY BOARD #2SI**

APPEARANCES –

For Applicant: Jorge Canepa.

THE VOTE TO CLOSE HEARING –

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

**ACTION OF THE BOARD** – Laid over to January 8, 2008, at 10 A.M., for decision, hearing closed.

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## **204-07-BZY**

APPLICANT – Sheldon Lobel, P.C., for Washington-Hall Holdings, LLC, owner.

SUBJECT – Application August 17, 2007 – Proposed extension of time (§11-332) to complete construction of a minor development of a 15 story mixed use building under the prior R6/C1-3 Zoning District.

PREMISES AFFECTED – 163-167 Washington Avenue, approximately 80' from the northeast corner of Myrtle Avenue and Washington Avenue, Block 1890, Lots 1, 4, 82, Borough of Brooklyn.

### **COMMUNITY BOARD #2BK**

APPEARANCES –

For Applicant: Ron Mandel, Jordan Most and Richard Esposito.

For Opposition: Jacqueline Stallings, Sophia Chang, Sharon Barnes, Scott Witter, Peter Eide, Olga Akselrod, Patti Haga.

**ACTION OF THE BOARD** – Laid over to January 15, 2008, at 10 A.M., for continued hearing.

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REGULAR MEETING  
TUESDAY AFTERNOON, DECEMBER 11, 2007  
1:30 P.M.

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

ZONING CALENDAR

240-07-A

APPLICANT – Sheldon Lobel, P.C., for 1270 Bay Ridge Parkway Development, LLC, owner.

SUBJECT – Application October 24, 2007 – Appeal seeking a determination that the owner has acquired a common law vested right to continue development commenced under the prior R4/C1-2 zoning district. R4-1 zoning district.

PREMISES AFFECTED – 1270 Bay Ridge Parkway, 12<sup>th</sup> Avenue and 13<sup>th</sup> Avenue, Block 6221, Lot 34, Borough of Brooklyn.

**COMMUNITY BOARD #10BK**

APPEARANCES –

For Applicant: Irving Minkin.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to January 15, 2008, at 10 A.M., for decision, hearing closed.

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*Jeffrey Mulligan, Executive Director*

Adjourned: A.M.

378-04-BZ

**CEQR #05-BSA-066K**

APPLICANT – Sheldon Lobel, P.C., for Hieronima Rutkowska, owner.

SUBJECT – Application November 29, 2004 – Variance (§72-21) to permit the construction of a four-story residential building and a four-car garage. The Premise is located on a vacant lot in an M1-1 zoning district. The proposal is contrary to §42-00.

PREMISES AFFECTED – 94 Kingsland Avenue, northeast corner of the intersection between Kingsland Avenue and Richardson Street, Block 2849, Lot 1, Borough of Brooklyn.

**COMMUNITY BOARD #1BK**

APPEARANCES –

For Applicant: Jordan Most.

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

THE VOTE TO GRANT –

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

Negative:.....0

Abstain: Commissioner Montanez.....1

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated April 29, 2005, acting on Department of Buildings Application No. 301803680, reads in pertinent part:

“Proposed residential use is not permitted in M1-1 zoning district pursuant to Z.R. Section 42-00.”; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-1 zoning district, a three-story residential building, which is contrary to ZR § 42-00; and

WHEREAS, a public hearing was held on this application on December 12, 2006 after due notice by publication in the *City Record*, with continued hearings on February 6, 2007 and March 20, 2007, and then to decision on December 11, 2007; and

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

WHEREAS, Community Board 1, Brooklyn, recommends disapproval of the application, citing concerns about neighborhood character, a change in use, and the absence of uniqueness of the site; and

WHEREAS, the proposed building will have a total floor area of 5,317 sq. ft. (1.945 FAR), a street wall and total height

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of 33'-9", six dwelling units, and four enclosed parking spaces (the "Proposed Building"); and

WHEREAS, the applicant initially proposed to construct a four-story building, with 6,705.84 sq. ft. of floor area (2.45 FAR), a street wall and total height of 45'-0", and eight dwelling units; and

WHEREAS, the Board expressed concern about this proposal, noting that the context in the immediate vicinity is of small two and three-story single-family and multi-family buildings; and

WHEREAS, the Board suggested to the applicant that the initially-proposed height and bulk would not be compatible with the character of the neighborhood, given the heights of the surrounding buildings, and that the amount of FAR did not appear to be economically justified; and

WHEREAS, the Board directed the applicant to reduce the building's height and to provide an FAR which is permitted in an R6 zoning district; the residential district across Kingsland Street is zoned R6; and

WHEREAS, the applicant responded to the Board's concerns by submitting revised plans, which reflect a reduced height and an FAR that complies with R6 zoning district regulations; and

WHEREAS, the Board finds the current version acceptable in terms of impact and compatibility with the surrounding context; and

WHEREAS, the site is located on the northeast corner of Kingsland Avenue and Richardson Street within an M1-1 zoning district; and

WHEREAS, the site has a width ranging from 25'-0" to 25'-6", a depth ranging from 106'-9" to 111'-11", and a lot area of 2,733.3 sq. ft.; and

WHEREAS, the site is currently vacant; and

WHEREAS, because the Proposed Building will contain Use Group 2 dwelling units, the instant variance application was filed; and

WHEREAS, the applicant represents that the following are unique physical conditions which create an unnecessary hardship in developing the site in conformance with applicable regulations: (1) the site is narrow; and (2) the site is small and irregularly-shaped; and

WHEREAS, as to the width, the applicant represents that the site has a width of 25'-6" on Kingsland Avenue and a width of 25'-0" at the interior portion of the site; and

WHEREAS, additionally, the applicant represents that the site has a varying length, from 111'-11" on Richardson Street to 106'-09" on the interior portion of the site; and

WHEREAS, the applicant represents that these conditions, which result in a lot area of approximately 2,733 sq. ft., cannot accommodate a conforming use; and

WHEREAS, specifically, the applicant represents that a lot of this width and size would not be able to accommodate facilities for loading and storing goods for a conforming warehouse or manufacturing use; and

WHEREAS, as to the uniqueness of this condition, the applicant represents that other conforming uses in the zoning district on similarly narrow lots are either (1) part of larger sites under common ownership or (2) old buildings occupied by

established uses; and

WHEREAS, the applicant provided information on the sites within the M1-1 zoning district within a 400-ft. radius of the site, which documents these representations; and

WHEREAS, specifically, the applicant documents that all but two of the other 25-ft. wide sites within the radius are occupied by either residential uses or buildings which date back to 1920 through 1950; the other two sites are vacant; and

WHEREAS, based upon the above, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant asserts that because of its unique physical conditions, there is no reasonable possibility that the development of the property in conformance with the use will bring a reasonable return to the owner; and

WHEREAS, the applicant initially submitted a feasibility study analyzing a conforming industrial building and an as of right community facility; and

WHEREAS, the applicant concluded that these as of right scenarios would not realize a reasonable return; and

WHEREAS, based upon its review of the feasibility study, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with applicable use requirements will provide a reasonable return; and

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

WHEREAS, the applicant states that the immediate area is a mix of residential, commercial, and manufacturing/industrial uses; and

WHEREAS, the applicant notes that the proposed residential use is consistent with the character of the area, which includes many other residential uses, including those across the street, and others on the subject block; and

WHEREAS, the applicant represents that nearly half of the sites within the M1-1 zoning district within a 400-ft. radius of the site are occupied by residential uses; the proportion is even higher when including the sites within the R6 zoning district within the radius; and

WHEREAS, as to the adjacent uses, the applicant represents that there are residential uses along Kingsland Avenue to the north of the site and across the street from the subject site; and

WHEREAS, the applicant asserts that the adjacent residential uses compromise access to the site and compromise its marketability for a conforming use; and

WHEREAS, the applicant represents that all of the seven other sites on the subject blockfront on Kingsland Avenue are occupied by residential uses; and

WHEREAS, the applicant notes that the blocks across the Kingsland Avenue are within a large R6 zoning district and are occupied primarily with residential uses; and

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WHEREAS, based upon its review of the submitted land use map and its inspection, the Board agrees that the area includes a significant amount of residential use, and finds that the introduction of six dwelling units and four accessory parking spaces will not impact nearby conforming uses nor negatively affect the area's character; and

WHEREAS, further, the Board notes that the earlier iterations would not have been contextual with the surrounding neighborhood, which is characterized by two and three-story residential buildings; and

WHEREAS, specifically, at hearing, the Board directed the applicant to reduce the building height and FAR so that it would be within the R6 zoning district parameters; and

WHEREAS, the Board notes that the proposal has been reduced in terms of FAR and height, which makes it more compatible with the surrounding context; and

WHEREAS, additionally, the Board notes that the proposal includes four parking spaces, which will help minimize any impact on on-street parking; 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, but is rather a function of the pre-existing unique physical conditions cited above; and

WHEREAS, as noted above, the applicant originally proposed a four-story building with 6,705.84 sq. ft. of floor area (2.45 FAR), a street wall and total height of 45'-0", and eight dwelling units; and

WHEREAS, in response to the Board's concerns, the applicant proposed the current version of the building, which the Board finds acceptable; and

WHEREAS, in response to the Community Board's recommendation that there be a conforming use on the ground floor, the Board directed the applicant to analyze a residential scenario with ground floor commercial use; and

WHEREAS, the applicant submitted revised plans and a supplemental feasibility analysis which indicate that this scenario would not provide a reasonable return; and

WHEREAS, further, the applicant represents that there is not a strong context for ground floor commercial uses; and

WHEREAS, accordingly, 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 project is classified as an Unlisted action pursuant to Sections 617.6(h) and 617.2(h) of 6 NYCRR; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 05BSA066K, dated

April 29, 2005; and

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

WHEREAS, the Office of Environmental Planning and Assessment of the New York City Department of Environmental Protection (DEP) has reviewed the following submissions from the applicant: April 29, 2005 EAS and the February 28, 2005 Phase I Environmental Site Assessment Report; and

WHEREAS, these submissions specifically examined the proposed action for Hazardous Materials, Air Quality and Noise; and

WHEREAS, a DEP Restrictive Declaration (the "DEP RD") was executed on October 27, 2006 and submitted for proof of recording on February 7, 2007 and requires that hazardous materials concerns be addressed; and

WHEREAS, DEP has determined that there would not be any impacts from the subject proposal, based on the implementation of the measures cited in the DEP RD and the applicant's agreement to the conditions noted below; and

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

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment based on the conditions set forth in the Restrictive Declaration; and

WHEREAS, based upon the above, the Board agrees that the findings required under ZR §73-49 have been met; and

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an M1-1 zoning district, a three-story residential building, which is contrary to ZR §42-00 *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received April 3, 2007" – eleven (11) sheets; and *on further condition*:

THAT prior to the issuance of any DOB permit for any work on the site that would result in soil disturbance (such as site preparation, grading or excavation), the applicant or any successor will perform all of the hazardous materials remedial measures and the construction health and safety measures as delineated in the Remedial Action Plan and the Construction Health and Safety Plan to the satisfaction of DEP and submit a

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written report that must be approved by DEP;

THAT no temporary or permanent Certificate of Occupancy shall be issued by DOB or accepted by the applicant or successor until DEP shall have issued a Final Notice of Satisfaction or a Notice of No Objection indicating that the Remedial Action Plan and Health and Safety Plan has been completed to the satisfaction of DEP;

THAT the following are the bulk parameters of the building: three stories, 5,317 sq. ft. of floor area (1.945 FAR), a street wall and total height of 33'-9" (without mechanicals), six dwelling units, and four enclosed parking spaces, all as indicated on the BSA-approved plans;

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

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

THAT the Department of Buildings must ensure compliance with all 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, December 11, 2007.

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## 426-05-BZ

### CEQR #06-BSA-046Q

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

SUBJECT – Application December 28, 2005 – Variance (§72-21) to allow a two-level enlargement of an existing one-story commercial building contrary to FAR regulations (§43-12). M1-1 district.

PREMISES AFFECTED – 57-02/08 39<sup>th</sup> Avenue and 39-02 58<sup>th</sup> Street, Block 1228, Lots 48, 52, 57, Borough of Queens.

### COMMUNITY BOARD #2Q

APPEARANCES – None.

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

**THE VOTE TO WITHDRAW** –

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

Adopted by the Board of Standards and Appeals, December 11, 2007.

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## 331-06-BZ

APPLICANT – Stadtmauer Bailkin, LLP, for Putnam Holding Corp., owner.

SUBJECT – Application December 27, 2006 – Variance under §72-21 to allow a three-family dwelling to violate front yard (§23-45) and side yard (§23-462(a)) requirements. R4 district.

PREMISES AFFECTED – 3647 Palmer Avenue, south side of Palmer Avenue, between Needham Avenue and Crawford Avenue, Block 4917, Lot 17, Borough of Bronx.

### COMMUNITY BOARD #12BX

APPEARANCES – None.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson.....4  
Negative:.....0  
Abstain: Commissioner Montanez. ....1

**THE RESOLUTION:**

WHEREAS, the decision of the Bronx Borough Commissioner, dated December 11, 2007, acting on Department of Buildings Application No. 201057701, reads in pertinent part:

“ZR 23-461(a) Proposed plans only provide one side yard. . . . Two are required;” and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R4 zoning district, the construction of a two-story two-family home on a lot that does not comply with side yard requirements, contrary to ZR § 23-461(a); and

WHEREAS, a public hearing was held on this application on October 16, 2007, after due notice by publication in *The City Record*, with a continued hearing on November 27, 2007 and then to decision on December 11, 2007; and

WHEREAS, Community Board 12, Bronx, recommended disapproval of an earlier iteration of this application, citing concerns with the height of the home and impacts of front yard and side yard waivers on the character of the neighborhood; and

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

WHEREAS, the proposed building will have the following non-complying parameter: a single side yard of with a width of 8'-0" on the southern portion of the lot; and

WHEREAS, two side yards with a total width of 13'-0" are required in the subject R4 zoning district; and

WHEREAS, the site is a vacant lot located on the west side of Palmer Avenue, between Needham Avenue and Crawford Avenue; and

WHEREAS, the applicant originally proposed a three-story three-family home which required a side yard waiver of 8'-0" (because such development requires two side yards with minimum widths of 8'-0" each) and a front yard waiver, and

WHEREAS, the original proposal provided for a floor area of 2,511 sq. ft. and 1.35 FAR (reflecting the floor area bonus available in a predominately built-up area, under certain circumstances); and

WHEREAS, the current proposal is for a two-story two-family home with one complying side yard of 8'-0", floor area of 2,053 sq. ft. and an FAR of 0.82 (0.75 FAR is the minimum permitted, or 0.9 FAR with an attic); and

WHEREAS, the applicant states that the site cannot be developed without a variance, due to its narrow width, thus, the

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instant application was filed; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the site in compliance with underlying district regulations: the lot's narrow width of 25 feet; and

WHEREAS, as to the lot's width, the applicant notes that without a side yard waiver, the site could not feasibly be developed; and

WHEREAS, the applicant has submitted evidence establishing that the subject lot has been in existence and vacant since at least 1933; and

WHEREAS, the applicant notes that, given the narrow width, the provision of two side yards would result in an uninhabitable home with a width of 12'-0", which would severely constrain the floor plates; and

WHEREAS, the Board notes that the site is one of three uniquely small sites that are vacant or under-developed within a 200' radius; and

WHEREAS, further, the Board notes that no comparably sized residential lot within the immediate area provides two complying side yards; and

WHEREAS, the Board agrees that the side yard waiver is necessary in order to construct a habitable home; and

WHEREAS, thus, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create a practical difficulty in developing the site in compliance with the applicable zoning regulations; and

WHEREAS, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that a complying and viable building could be constructed; and

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

WHEREAS, the applicant notes that the proposed house complies with all R4 zoning district regulations aside from the side yard requirement, and that the proposed bulk and height is compatible with the other residential buildings in the immediate vicinity; and

WHEREAS, as to concerns raised by the Community Board regarding the home's height, the Board notes that the original proposal reviewed by the Community Board was for a three-story three-family home which the applicant subsequently revised and that the two-story two-family home now proposed is compatible with the surrounding neighborhood; and

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

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

WHEREAS, as noted, the applicant originally sought to build a three-story three-family home, with a floor area of 2,511 sq. ft. (1.35 FAR) and without the required front yard or one of the two required 8'-0" side yards; and

WHEREAS, at the Board's direction, the applicant modified the plans to reflect a two-story two-family home with a 10'-0" front yard, a floor area of 2,053 sq. ft. and an FAR of 0.82; and

WHEREAS, the Board finds that this proposal for a side yard waiver of 5'-0" is the minimum necessary to afford the applicant relief; and

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Type II Declaration under 6 NYCRR Part 617.5 and 617.13, §§ 5-02(a), 5-02(b)(2), and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 72-21, to permit, in an R4 zoning district, the construction of a two-story two-family home on a lot that does not comply with the side yard requirements, contrary to ZR § 23-461(a); *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received November 21, 2007" – six (6) sheets; and *on further condition*:

THAT the parameters of the proposed home are as follows: one side yard of 8'-0" along the southern portion of the lot, floor area of 2,053 sq. ft., and an FAR of 0.82; as illustrated on the BSA-approved plans

THAT there shall be no habitable space in the cellar;

THAT the above condition shall appear on the Certificate of Occupancy

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

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction 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, December 11, 2007.

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**16-07-BZ**

**CEQR #07-BSA-055X**

APPLICANT – Juan D. Reyes, III, for Daytop Village, Inc., owner.

SUBJECT – Application January 12, 2007 – Special Permit (§73-44) to permit a reduction in required parking for a Use

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Group 4A ambulatory and diagnostic treatment center located in M1-1 and C1-2 (R2) zoning districts.

PREMISES AFFECTED – 2614 Halperin Avenue, Halperin Avenue between Blandell Avenue and Williamsburg Road, Block 4074, Lot 11, Borough of Bronx.

## COMMUNITY BOARD #10BX

APPEARANCES –

For Applicant: Juan D. Reyes.

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

**THE VOTE TO GRANT** –

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

Abstain: Commissioner Montanez.....1

**THE RESOLUTION:**

WHEREAS, the decision of the Bronx Borough Commissioner, dated December 6, 2007, acting on Department of Buildings Application No. 200918061, reads in pertinent part:

“Proposed reduction in required accessory parking under Sections 44-21 and 36-21 ZR, for Use Group 6 (B-1 parking use) in an M1-1/C1-2 (R2) zoning district requires a special permit from the Board of Standards and Appeals pursuant to Section 73-44 ZR”; and

WHEREAS, this is an application under ZR §§ 73-44 and 73-03, to permit on a site partially within an M1-1 zoning district and partially within a C1-2 (R6) zoning district, a reduction in the required number of accessory parking spaces for a proposed Use Group 6 use from 36 to 18, contrary to ZR §§ 36-21 and 44-21; and

WHEREAS, a public hearing was held on this application on August 7, 2007, after due notice by publication in *The City Record*, with continued hearings on September 18, 2007 and October 23, 2007, and then to decision on December 11, 2007; and

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

WHEREAS, Community Board 10, Bronx, recommends approval of this application; and

WHEREAS, a representative of State Assemblywoman Naomi Rivera provided a letter in opposition to the application; and

WHEREAS, a representative for City Councilmember James Vacca requested information on the offsite parking plans; and

WHEREAS, certain community members appeared at hearing and provided written testimony in opposition to the proposal (the “Opposition”), citing concerns about (1) a purported incompatibility of the proposed use with the neighborhood, (2) the potential for increased traffic, (3) insufficient on-street parking in the area, and (4) a purported lack of available space in the identified offsite parking facilities; and

WHEREAS, the application is brought on behalf of Daytop Village Foundation, a nonprofit institution; and

WHEREAS, the applicant proposes to open a community outreach center for substance abuse and socio-psychological counseling at the site; and

WHEREAS, the subject site is located on the south side of Halperin Avenue, between Blondell Avenue and Williamsbridge Road, and has a lot area of 8,067 sq. ft.; and

WHEREAS, the site is currently occupied by a 5,038 sq. ft. two-story commercial building, with accessory parking spaces; and

WHEREAS, the applicant proposes to enlarge the existing building to result in a total floor area of 10,785 sq. ft. (1.34 FAR); and

WHEREAS, the applicant proposes to provide six parking spaces onsite and 12 parking spaces at other parking facilities within a 600-ft. radius of the site, pursuant to ZR § 36-43; and

WHEREAS, the applicant represents that the development and use of the site, other than the proposed parking, complies and conforms with all zoning district regulations; and

WHEREAS, accordingly, the Board’s review was limited to the request for a parking reduction from 36 to 18 spaces, pursuant to the special permit; and

WHEREAS, the Board notes that the enlargement of the building must be approved by DOB for compliance with all zoning district regulations; and

WHEREAS, the applicant submitted a reconsideration from DOB stating its approval of the parking layout for the proposed six onsite parking spaces provided that there be a parking attendant onsite during all hours of operation; and

WHEREAS, pursuant to ZR § 73-44, the Board may, in the subject M1-1 and C1-2 (R6) zoning districts, grant a special permit that would allow a reduction in the number of accessory off-street parking spaces required under the applicable ZR provisions, for the noted Use Group 6 use in the parking category B1; in the subject zoning district, the Board may reduce the required parking from one space per 300 sq. ft. of floor area to one space per 600 sq. ft. of floor area; and

WHEREAS, the total number of required parking spaces at the site for the proposed use is 36; and

WHEREAS, accordingly, the special permit allows for a 50 percent reduction for qualifying spaces and this would reduce the required parking for these uses to 18 spaces; and

WHEREAS, the applicant represents that only six parking spaces can be accommodated onsite and the remaining 12 required spaces will be provided at parking facilities within a 600-ft. radius of the site; and

WHEREAS, at hearing, the Board stated that it will request that DOB confirms that the 12 offsite spaces are provided within the requisite 600-ft. radius of the site, per ZR § 36-43, prior to permitting; and

WHEREAS, ZR § 73-44 requires that the Board must determine that the Use Group 6 use in the B1 parking category is contemplated in good faith; and

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WHEREAS, the applicant has submitted sufficient evidence of good faith in maintaining the proposed use at the site; and

WHEREAS, however, while ZR § 73-44 allows the Board to reduce the required accessory parking, the Board requested an analysis about the impact that such a reduction might have on the community in terms of available on-street parking; and

WHEREAS, at the Board's request, the applicant prepared a parking analysis based upon a transportation survey for the existing use at the site and studied a 600-ft. radius; and

WHEREAS, the applicant completed a survey of the surrounding area and found that there are a number of other parking facilities with available space; and

WHEREAS, as to public transportation, the applicant represents that the site is well-served by (1) New York City Transit Bx4, Bx8, Bx14, Bx21, Bx31, Bx40, and Bx42 bus lines at Tremont Avenue and Westchester Avenue, and (2) the Westchester Square subway stop of the 6 subway line, which is four blocks away; and

WHEREAS, additionally, the Board asked the applicant to describe the anticipated parking demand at the site; and

WHEREAS, the applicant represents that ten current employees and 16 current clients would drive to the site; and

WHEREAS, however, the applicant notes that (1) not all of the employees who drive would be onsite at the same time and (2) the clients come in shifts and it is unlikely that there would be significant overlap of the clients who drive; and

WHEREAS, further, the site has a maximum occupancy of 20 clients; and

WHEREAS, the projections reflect that the average parking demand by clients would be three spaces at one time; and

WHEREAS, accordingly, the applicant projects that the peak total combined parking demand for clients and employees would be 13 parking spaces; and

WHEREAS, at hearing, the Board suggested that the six onsite parking spaces be limited to use by employees since most of them would stay parked for the entire day and would therefore minimize traffic in and out of the site; and

WHEREAS, the applicant agrees to limit the use of the six onsite parking spaces to employees and to post signs noting the location of the required offsite parking spaces; and

WHEREAS, in response to the Opposition's concerns that the proposed offsite parking spaces have not been substantiated, the Board notes that the applicant has identified five potential offsite parking facilities and that DOB must approve the proposal for required offsite parking spaces prior to issuance of permits; and

WHEREAS, in response to the concern about increased traffic, the Board notes that the former use of the site was commercial offices with 20 accessory parking spaces; and

WHEREAS, the applicant asserts that the former use

generated more vehicle traffic to the site than what is proposed; and

WHEREAS, further, the Board notes that the proposed use is as of right and the only issue it has reviewed for this application is the appropriateness of the parking reduction; and

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-44 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to pursuant to 6 NYCRR, Part 617.4; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 07BSA055X, dated November 1, 2007; and

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

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

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

*Therefore it is Resolved*, that the Board of Standards and Appeals issues a Negative Declaration 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. §§ 73-44 and 73-03, to permit on a site partially within an M1-1 zoning district and partially within a C1-2 (R6) zoning district, a reduction in the required number of accessory parking spaces for the proposed Use Group 6 use from 36 to 18, contrary to ZR § 44-21 and 36-21; *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, 2007"-(2) sheets; and *on further condition*:

THAT there shall be no change in ownership or use of the site or the building without prior application to and approval from the Board;

THAT a minimum of six parking spaces shall be provided onsite;

THAT an attendant shall be provided for the six onsite parking spaces during the office's hours of operation;

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THAT a minimum of 12 parking spaces shall be provided in offsite parking facilities;

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

THAT the location and agreements for the use of 12 offsite parking spaces shall be reviewed and approved by DOB prior to the issuance of permits;

THAT any building enlargement shall be as approved by DOB and must comply with all relevant zoning district regulations;

THAT the layout and design of the onsite accessory parking lot 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 of 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, December 11, 2007.

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## 33-07-BZ

### CEQR #07-BSA-057K

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Marathon Hosiery, Co., Inc., owner.

SUBJECT – Application August 7, 2007 – Variance (§72-21) to permit the conversion of the upper four floors of an existing five-story manufacturing building for residential use. The Premises is located in a M1-1 zoning district. The proposal is contrary to §42-00.

PREMISES AFFECTED – 25 Carroll Street, north side of Carroll Street, 200' east of intersection with Van Brunt Street, Block 347, Lot 54, Borough of Brooklyn.

### COMMUNITY BOARD #6BK

APPEARANCES –

For Applicant: Eric Palatnik.

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

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson.....4  
Negative:.....0  
Abstain: Commissioner Montanez.....1

### THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated January 18, 2007, acting on Department of Buildings Application No. 302193212, reads in pertinent part:

“Proposed residential use in M1-1 zoning district is non-conforming per ZR 42-00, hence is not

permitted.”; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an M1-1 zoning district, the conversion of the second through fifth floors of a five-story manufacturing building to residential use, which is contrary to ZR § 42-00; and

WHEREAS, a public hearing was held on this application on August 7, 2007 after due notice by publication in the *City Record*, with continued hearings on October 2, 2007 and November 20, 2007, and then to decision on December 11, 2007; and

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

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

WHEREAS, the subject site is located on the north side of Carroll Street, between Columbia Street and Van Brunt Street; and

WHEREAS, the site has a lot area of 5,000 sq. ft.; and

WHEREAS, the site is occupied by a five-story building, built in the 1890s, which was previously occupied by commercial/manufacturing uses, but has been primarily vacant in recent years; and

WHEREAS, the proposed building will have a total floor area of 21,912 sq. ft. (4.38 FAR), a residential floor area of 17,112 sq. ft. (3.42 FAR), a commercial/manufacturing floor area of 4,800 sq. ft. (0.96 FAR), and a street wall and total height of 60'-0”;

WHEREAS, the first floor will be occupied by conforming commercial/manufacturing use and a residential lobby and the second through fifth floors will be occupied by four dwelling units per floor for a total of 16 dwelling units; and

WHEREAS, because the proposed building will contain Use Group 2 dwelling units, the instant variance application was filed; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject lot in conformity with applicable regulations: (1) an undersized freight elevator, (2) lack of adequate egress, (3) low ceiling height, (4) small floor plates, and (5) inadequate loading and unloading facilities; and

WHEREAS, as to the freight elevator, the applicant states that the dimensions of the freight elevator are 5'-0” wide by 5'-10” deep by 7'-9” high, with a maximum capacity of 2,000 pounds; and

WHEREAS, the applicant represents that the elevator is too small to accommodate modern manufacturing demands, which far exceed the noted capabilities; and

WHEREAS, as to egress, the applicant represents that the existing egress design precludes the building from being divided into smaller spaces for multiple conforming users; and

WHEREAS, as to the ceiling heights, the applicant represents that the first two floors have heights of 11'-6” and 11'-7”, respectively, and the heights of the upper three floors range from 10'-9” to 10'-11”;

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WHEREAS, the applicant represents that greater ceiling height is required for modern manufacturing uses; and

WHEREAS, similarly, the applicant represents that the floor plates of approximately 4,350 sq. ft. cannot accommodate modern manufacturing uses; and

WHEREAS, the applicant notes that the current trend in manufacturing and warehouse uses is more easily accessible, horizontal buildings with large floor plates and high ceilings that utilize material storage and moving equipment that was not available or foreseeable at the time the subject building was constructed in the 1890s; and

WHEREAS, as to the loading berth, the applicant represents that it is insufficient to accommodate many trucks, which extend onto the sidewalk or into the street when loading and unloading; and

WHEREAS, based upon the above, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulty in developing the site in conformance with the applicable zoning regulations; and

WHEREAS, the applicant asserts that because of its unique physical conditions, there is no reasonable possibility that the development of the property in conformance with the use will bring a reasonable return to the owner; and

WHEREAS, the applicant represents that the owner hired a consultant to market the building for conforming manufacturing and/or commercial use; and

WHEREAS, the applicant made improvements to the building in order to help attract conforming tenants and actively marketed it for more than a year through newspaper and onsite advertisements and a website dedicated to the building; and

WHEREAS, the Board notes that evidence reflecting these efforts was submitted into the record; and

WHEREAS, the applicant submitted a feasibility study analyzing a conforming industrial building, which concluded that the as of right scenario would not realize a reasonable return; and

WHEREAS, based upon its review of the feasibility study, the Board has determined that because of the subject building's unique physical conditions, there is no reasonable possibility that development in strict conformance with applicable use requirements will provide a reasonable return; and

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

WHEREAS, the applicant states that the immediate area is a mix of residential, commercial, and manufacturing/industrial uses; and

WHEREAS, the applicant notes that more than half of the subject block, including the adjacent lot to the rear of the site, is within an R6 zoning district; and

WHEREAS, further, the applicant notes that the proposed residential use is consistent with the character of the area, which includes many other residential uses and mixed residential/commercial use; and

WHEREAS, the applicant represents that approximately half of Carroll Street between Columbia Street and Van Brunt Street is occupied with residential or mixed residential/commercial uses; and

WHEREAS, the applicant notes that the majority of the proposed changes will be confined to the existing building envelope and that the proposed FAR of 4.38 is less than the existing 4.48 due to the elimination of a portion of the ground floor space; and

WHEREAS, the applicant represents that the existing conforming commercial use on the first floor will remain and is compatible with the mix of uses in the area; and

WHEREAS, the applicant represents that the proposed conversion meets the light and air requirements of ZR § 15-23 and meets the relevant provisions of the Multiple Dwelling Law; and

WHEREAS, based upon its review of the submitted land use map and its inspection, the Board agrees that the area includes a significant amount of residential use, and finds that the introduction of 16 dwelling units will not impact nearby conforming uses nor negatively affect the area's character; 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, but is rather a function of the pre-existing unique physical conditions cited above; and

WHEREAS, the Board notes that the applicant originally proposed to add a partial sixth floor to the existing building to accommodate an additional dwelling unit, which the Board determined was not necessary to achieve a reasonable return; and

WHEREAS, in response to the Board's concerns, the applicant proposed the current version of the building, which the Board finds acceptable; and

WHEREAS, accordingly, 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 project is classified as an Unlisted action pursuant to Sections 617.6(h) and 617.2(h) of 6 NYCRR; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 07BSA057K, dated January 19, 2007; and

WHEREAS, the EAS documents show that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront

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Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, the Office of Environmental Planning and Assessment of the New York City Department of Environmental Protection (DEP) has reviewed the following submissions from the applicant: November 2006 Phase I Environmental Site Assessment Report; and

WHEREAS, these submissions specifically examined the proposed action for Hazardous Materials, Air Quality and Noise; and

WHEREAS, a DEP Restrictive Declaration (the "DEP RD") was executed on December 6, 2007 and submitted for proof of recording on December 7, 2007 and requires that hazardous materials concerns be addressed; and

WHEREAS, DEP has determined that there would not be any impacts from the subject proposal, based on the implementation of the measures cited in the DEP RD and the applicant's agreement to the conditions noted below; and

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

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment based on the conditions pursuant to the Restrictive Declaration; and

WHEREAS, based upon the above, the Board agrees that the findings required under ZR § 73-49 have been met; and

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an M1-1 zoning district, the conversion of the second through fifth floors of a five-story manufacturing building to residential use, which is contrary to ZR § 42-00 *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received November 29, 2007"—Six (6) sheets; and *on further condition*:

THAT the following are the bulk parameters of the building: five stories, 17,112 sq. ft. (3.42 FAR) of residential floor area on the second through fifth floors, 4,800 sq. ft. (0.96 FAR) of commercial/manufacturing floor area on the first floor, a total floor area of 21,912 sq. ft. (4.38 FAR), a street wall and total height of 60'-0" (without mechanicals), and 16 dwelling units, all as indicated on the BSA-approved plans;

THAT DOB shall confirm the floor area calculations prior to the issuance of permits;

THAT prior to the issuance of any DOB permit for any work on the site that would result in soil disturbance (such as site preparation, grading or excavation), the applicant or any successor will perform all of the hazardous materials remedial

measures and the construction health and safety measures as delineated in the Remedial Action Plan and the Construction Health and Safety Plan to the satisfaction of DEP and submit a written report that must be approved by DEP;

THAT no temporary or permanent Certificate of Occupancy shall be issued by DOB or accepted by the applicant or successor until DEP shall have issued a Final Notice of Satisfaction or a Notice of No Objection indicating that the Remedial Action Plan and Health and Safety Plan has been completed to the satisfaction of DEP;

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

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

THAT the Department of Buildings must ensure compliance with all 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, December 11, 2007.

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## 135-07-BZ

APPLICANT – Lewis E. Garfinkel, R.A., for Ester Loewy, owner.

SUBJECT – Application May 22, 2007 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area and open space (§23-141(a)); less than the required side yards (§23-461) and less than the required rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 920 East 24<sup>th</sup> Street. West side of East 24<sup>th</sup> Street, 140' north of Avenue L, Block 7587, Lot 54, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Edward Gourdine.

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

**THE VOTE TO GRANT** –

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

Negative:.....0

Abstain: Commissioner Montanez.....1

**THE RESOLUTION:**

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated May 17, 2007, acting on Department of Buildings Application No. 302342695, reads in pertinent part:

- “1. Proposed plans are contrary to Z.R. 23-141(a) in that the proposed Floor Area Ratio (FAR) exceeds the permitted 50%.
2. Proposed plans are contrary to Z.R. 23-141(a) in that the proposed Open Space Ratio (OSR) is less than the required 150%.

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3. Plans are contrary to Z.R. 23-461(a) in that the existing total side yards are less than the required 13'-0".
4. Plans are contrary to Z.R. 23-461(a) in that the existing minimum side yard is less than the required minimum 5'-0".
5. Proposed plans are contrary to Z.R. 23-47 in that the proposed rear yard is less than 30'-0"; and

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

WHEREAS, a public hearing was held on this application on September 18, 2007, after due notice by publication in *The City Record*, with continued hearings on October 16, 2007 and November 20, 2007, and then to decision on December 11, 2007; and

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

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

WHEREAS, the subject site is located on the west side of East 24<sup>th</sup> Street, 140 feet south of Avenue I; and

WHEREAS, the subject site has a total lot area of 4,000 sq. ft., and is occupied by a single-family home with a floor area of 2,336.8 sq. ft. (0.58 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 2,336.8 sq. ft. (0.58 FAR), to 3,523.4 sq. ft. (0.88 FAR); the maximum floor area permitted is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will provide an open space ratio of 65.9 percent (a minimum of 150 percent is required); and

WHEREAS, the proposed enlargement will maintain the existing non-complying side yards with widths of 4'-8" and 8'-1" (side yards with a minimum width of 5'-0" each and a total width of 13'-0" are required); and

WHEREAS, the proposed enlargement will provide a 23'-1" rear yard (a minimum rear yard of 30'-0" is required); and

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

WHEREAS, at hearing the Board directed the applicant to remove the portion of the proposed roof which encroached into the sky exposure plane and to confirm that all dormers comply with zoning district regulations; and

WHEREAS, in response, the applicant modified the plans to reflect complying roof and dormer conditions; and

WHEREAS, additionally, the Board directed the applicant to identify all attic space with a height of eight feet or greater and to include that space in the floor area

calculations; and

WHEREAS, in response, the applicant modified the plans to clearly reflect all of the attic space with a heights of 8'-0" or greater; and

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

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

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

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

*Therefore it is Resolved*, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received November 7, 2007"-(7) sheets and "December 3, 2007"-(4) sheets; and *on further condition*:

THAT there shall be no habitable room in the cellar;

THAT the floor area of the attic shall be limited to 765 sq. ft.;

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

THAT the following shall be the bulk parameters of the building: a total floor area of 3,523.4 sq. ft. (0.88 FAR), a rear yard with a minimum depth of 23'-1", an open space ratio of 69.9 percent, and side yards with minimum widths of 4'-8" and 8'-1", as illustrated on the BSA-approved plans;

THAT all dormers shall be as approved by DOB;

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

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

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

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Adopted by the Board of Standards and Appeals,  
December 11, 2007.

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**136-07-BZ**

APPLICANT – Lewis E. Garfinkel, R.A., for Leora Fenster, owner.

SUBJECT – Application May 22, 2007 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area and open space (§23-141(a)); less than the required side yards (§23-461) and less than the required rear yard (§23-47) in an R-2 zoning district.

PREMISES AFFECTED – 1275 East 23<sup>rd</sup> Street, East side of East 23<sup>rd</sup> Street, 160’ north of Avenue M, Block 7641, Lot 14, Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES –

For Applicant: Edward Gourdine.

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

THE VOTE TO GRANT –

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

Negative:.....0

Abstain: Commissioner Montanez.....1

THE RESOLUTION:

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated May 14, 2007, acting on Department of Buildings Application No. 302341240, reads in pertinent part:

- “1. Proposed plans are contrary to Z.R. 23-141(a) in that the proposed Floor Area Ratio (FAR) exceeds the permitted 50%.
2. Proposed plans are contrary to Z.R. 23-141(a) in that the proposed Open Space Ratio (OSR) is less than the required 150%.
3. Plans are contrary to Z.R. 23-461(a) in that the existing minimum side yard is less than the required minimum 5’-0”.
4. Proposed plans are contrary to Z.R. 23-47 in that the proposed rear yard is less than 30’-0””; and

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

WHEREAS, a public hearing was held on this application on September 18, 2007, after due notice by publication in *The City Record*, with continued hearings on October 16, 2007 and November 20, 2007, and then to decision on December 11, 2007; and

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

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

WHEREAS, the subject site is located on the west side of East 23<sup>rd</sup> Street, 160 feet north of Avenue M; and

WHEREAS, the subject site has a total lot area of 3,000 sq. ft., and is occupied by a single-family home with a floor area of 1,909.9 sq. ft. (0.63 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 1,909.9 sq. ft. (0.63 FAR), to 2,967.4 sq. ft. (0.99 FAR); the maximum floor area permitted is 1,500 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will provide an open space ratio of 103 percent (a minimum of 150 percent is required); and

WHEREAS, the proposed enlargement will maintain the existing non-complying side yard with a width of 2’-11” (side yards with a minimum width of 5’-0” each are required); and

WHEREAS, the proposed enlargement will provide a 23’-9” rear yard (a minimum rear yard of 30’-0” is required); and

WHEREAS, the enlargement of the building is not located within 20’-0” of the rear lot line; and

WHEREAS, at hearing the Board directed the applicant to either establish a context for the initially proposed 37’-5” building height or to reduce the building height; and

WHEREAS, in response, the applicant modified the plans to reflect a reduction in the height of the building from 37’-5” to 34’-3””; and

WHEREAS, additionally, the Board directed the applicant to confirm that all proposed dormers and bay windows comply with zoning district regulations and to eliminate any encroachment into the sky exposure plane; and

WHEREAS, in response, the applicant revised the plans to eliminate any encroachment into the sky exposure plane and submitted calculations reflecting that the dormers and bay windows comply with zoning district regulations; and

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

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

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

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

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Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, open space ratio, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; on condition that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received November 7, 2007"–(7) sheets and "December 3, 2007"–(5) sheets; and on further condition:

THAT there shall be no habitable room in the cellar;

THAT the floor area of the attic shall be limited to 576.3 sq. ft.;

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

THAT the following shall be the bulk parameters of the building: a total floor area of 2,967.4 sq. ft. (0.99 FAR), a rear yard with a minimum depth of 23'-9", an open space ratio of 103 percent, and side yards with minimum widths of 2'-11" and 9'-11", as illustrated on the BSA-approved plans;

THAT all dormers shall be as approved by DOB;

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

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

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

Adopted by the Board of Standards and Appeals, December 11, 2007.

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## 181-07-BZ

### CEQR #08-BSA-005Q

APPLICANT – Omnipoint Communications Inc., for Pat Quadrozzi, owner; Omnipoint Communications Inc., lessee.  
SUBJECT – Application July 20, 2007 – Special Permit (§73-30) For a proposed 20-foot extension to an existing 50-foot non-accessory radio tower and related equipment at grade.

PREMISES AFFECTED – 72-18 Amstel Boulevard, north side of Amstel Boulevard between 72<sup>nd</sup> Street, and Beach 73<sup>rd</sup> Street, Block 16070, Lot 13, Borough of Queens.

### COMMUNITY BOARD # 14Q

#### APPEARANCES –

For Applicant: Robert Bardioso.

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

## THE VOTE TO GRANT –

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

Negative:.....0

Abstain: Commissioner Montanez.....1

## THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated September 8, 2006, acting on Department of Buildings Application No. 402281954, reads in pertinent part:

"Proposed monopole extension exceeds the sky exposure plane. Monopole must be filed at BSA as per 73-30. TPPN is not applicable since there is no use group for non accessory radio towers;"  
and

WHEREAS, this is an application under ZR §§ 73-30 and 73-03, to permit, within an M1-1 zoning district, the proposed extension of a non-accessory radio tower for public utility wireless communications, which is contrary to ZR § 42-00; and

WHEREAS a public hearing was held on this application on November 20, 2007 after due notice by publication in *The City Record*, and then to decision on December 11, 2007; and

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

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

WHEREAS, the proposed monopole will be located on the north side of Amstel Avenue between Beach 72<sup>nd</sup> Street and Beach 73<sup>rd</sup> Street; and

WHEREAS, the applicant states that the proposed extension will add 20 feet to an existing telecommunications facility consisting of a 50-foot high monopole, for a final height of 70 feet; and

WHEREAS, the proposed monopole has been designed as a narrow pole to minimize its height, with six small panel antennas at the top of the extension; and

WHEREAS, three small equipment cabinets and a battery cabinet will be located at the base of the monopole; and

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

WHEREAS, the applicant represents that (1) the pole has been designed and sited to minimize adverse visual effects; (2) the construction and operation of the pole will comply with all applicable laws, and that no noise or smoke, odor or dust will be emitted; and (3) no adverse traffic impacts are anticipated; and

WHEREAS, the applicant also states that related equipment cabinets will be situated behind the existing monopole adjacent to an existing building and will therefore be minimally visible to the public; and

WHEREAS, the applicant further represents that the

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height is the minimum necessary to provide the required wireless coverage, and that the pole will not interfere with radio, television, telephone or other uses; and

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

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

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

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 08-BSA-005Q, dated July 20, 2007; and

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Type I Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings and *grants* a special permit under ZR §§ 73-03 and 73-30, to permit, within an M1-1 zoning district, the proposed extension of a non-accessory radio tower for public utility wireless communications, which is contrary to ZR § 42-00, *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received July 20, 2007"-(7) sheets; and *on further condition*;

THAT the monopole and equipment cabinets will be maintained in accordance with BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction 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, December 11, 2007.

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## **197-05-BZ**

APPLICANT – Blank Rome LLP, by Marvin Mitzner, for B & E 813 Broadway, LLC & Broadway Realty, owner.

SUBJECT – Application August 17, 2005 – Variance (§72-21) to allow a 11-story residential building with ground floor retail; contrary to regulations for FAR and open space ratio (§23-142), front wall height, setback and sky-exposure plane (§33-432), and maximum number of dwelling units (§23-22). C6-1 district.

PREMISES AFFECTED – 813/815 Broadway, west side of Broadway, 42' south of East 12<sup>th</sup> Street, Block 563, Lots 33 & 34, Borough of Manhattan.

## **COMMUNITY BOARD #2M**

APPEARANCES –

For Applicant: Marvin Mitzner and Robert Pauls.

For Opposition: Martin Tessier.

**ACTION OF THE BOARD** – Laid over to January 15, 2008, at 1:30 P.M., for continued hearing.

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## **31-06-BZ**

APPLICANT – Sheldon Lobel, P.C., for Frank Falanga, owner.

SUBJECT – Application February 24, 2006 – Zoning variance (§72-21) to allow the legalization of an automotive collision repair shop (Use Group 16) in an R3-1/C1-2 district; proposed use is contrary to ZR §§22-00 and 32-00.

PREMISES AFFECTED – 102-10 159<sup>th</sup> Road, south side of 159<sup>th</sup> Road near the intersection of 192<sup>nd</sup> Street and 159<sup>th</sup> Road, Block 14182, Lot 88, Borough of Queens.

## **COMMUNITY BOARD #10Q**

APPEARANCES –

For Applicant: Jordan Most and Mark London.

**ACTION OF THE BOARD** – Laid over to February 5, 2008, at 1:30 P.M., for continued hearing.

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## **48-06-BZ**

APPLICANT – Jack A. Adesso, PLLC, for 420 Morris Park Avenue, LLC, owner.

SUBJECT – Application March 17, 2006 – Zoning variance under § 72-21 to allow an eight (8) story residential building

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containing seventy (70) dwelling units and seventeen (17) accessory parking spaces in an M1-1 district. Proposal is contrary to use regulations (§42-00).

PREMISES AFFECTED – 420 Morris Park Avenue, southwest corner of East Tremont Avenue and Morris Park Avenue, Block 3909, Lot 61, Borough of Bronx.

## COMMUNITY BOARD #6BX

APPEARANCES –

For Applicant: Jack Adesso, Bill Seevers and Mario Cangeras and Robert Pauls.

**ACTION OF THE BOARD** – Laid over to February 12, 2008, at 1:30 P.M., for continued hearing.

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## 134-06-BZ

APPLICANT – Sheldon Lobel, P.C., for 241-15 Northern LLC, owner.

SUBJECT – Application June 26, 2006 – Variance under §72-21 to allow a five (5) story residential building containing 40 dwelling units and 63 accessory parking spaces. Proposal is contrary to regulations for use (§22-12), floor area and FAR (§23-141), open space (§23-141), front yard (§23-45), height and setback (§23-631) and maximum number of dwelling units (§23-22). R1-2 district.

PREMISES AFFECTED – 241-15 Northern Boulevard, northwest corner of the intersection between Northern Boulevard and Douglaston Parkway, Block 8092, Lot 39, Borough of Queens.

## COMMUNITY BOARD # 11Q

APPEARANCES –

For Applicant: Jordan Most.

**ACTION OF THE BOARD** – Laid over to February 5, 2008, at 1:30 P.M., for continued hearing.

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## 212-06-BZ

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

SUBJECT – Application August 22, 2006 – Variance (§72-21) to convert an existing supermarket (Use Group 6) into an electronics store with no limitation in floor area (Use Group 10). The Premises is located in an R4 zoning district. The proposal is contrary to §22-10.

PREMISES AFFECTED – 242-02 61<sup>st</sup> Avenue, Douglaston Parkway and 61<sup>st</sup> Avenue, Block 8286, Lot 185, Borough of Queens.

## COMMUNITY BOARD #11Q

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to January 8, 2008, at 1:30 P.M., for continued hearing.

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## 233-06-BZ

APPLICANT – Blank Rome LLP, by Marvin Mitzner, for B & E 813 Broadway, LLC & Broadway Realty, owner.

SUBJECT – Application August 17, 2005 – Variance (§72-21) to allow a 11-story residential building with ground floor retail; contrary to regulations for FAR and open space ratio

(§23-142), front wall height, setback and sky-exposure plane (§33-432), and maximum number of dwelling units (§23-22). C6-1 district.

PREMISES AFFECTED – 813/815 Broadway, west side of Broadway, 42' south of East 12<sup>th</sup> Street, Block 563, Lots 33 & 34, Borough of Manhattan.

## COMMUNITY BOARD #2M

APPEARANCES –

For Applicant: Kathleen R. Bradshaw and Edward Dickman.

**ACTION OF THE BOARD** – Laid over to January 29, 2008, at 1:30 P.M., for continued hearing.

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## 315-06-BZ

APPLICANT– Eric Palatnik, P.C., for Merkaz, The Center, Inc., owner.

SUBJECT – Application December 6, 2006 – Variance (§72-21) to permit the proposed three-story religious-based pre-school, which will include an accessory synagogue. The premises is located within two zoning districts, an R5B and R2, with the vast majority (95%) resting within the R5B district. The proposal is contrary to §§24-11, 24-34, 24-35, 24-36 and 24-521.

PREMISES AFFECTED – 1739 Ocean Avenue, between Avenues L and M, Block 7638, Lot 24, Borough of Brooklyn.

## COMMUNITY BOARD #14BK

APPEARANCES –

For Applicant: Eric Palatnik.

For Oposition: Leonid Zolofarer and Edward Shusterman.

THE VOTE TO CLOSE HEARING –

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

**ACTION OF THE BOARD** – Laid over to January 15, 2008, at 1:30 P.M., for decision, hearing closed.

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## 48-07-BZ

APPLICANT – Alfonso Duarte, for Jerry Trianfaffillou, owner.

SUBJECT – Application February 20, 2007 – Variance (§72-21) for the enlargement of an existing single family residence on an undersized lot which seeks to vary (§23-47) less than the required rear yard and (§23-141(b)) for lot coverage in an R2A zoning district.

PREMISES AFFECTED – 7-12 126<sup>th</sup> Street, west side 90' south of 7<sup>th</sup> Avenue, Block 3970, Lot 11, Borough of Queens.

## COMMUNITY BOARD #7Q

APPEARANCES –

For Applicant: Alfonso Duarte.

THE VOTE TO CLOSE HEARING –

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

**ACTION OF THE BOARD** – Laid over to January

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# MINUTES

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15, 2008, at 1:30 P.M., for decision, hearing closed.

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**151-07-BZ**

APPLICANT – Harold Weinberg, P.E., for John Perrone, owner.

SUBJECT – Application June 8, 2007 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area, lot coverage, open space (§23-141) and rear yard (§23-47) in an R3-1 zoning district.

PREMISES AFFECTED – 1133 83<sup>rd</sup> Street, north side, 256' east of 11<sup>th</sup> Avenue between 11<sup>th</sup> Avenue and 12<sup>th</sup> Avenue, Block 6301, Lot 65, Borough of Brooklyn.

**COMMUNITY BOARD #10BK**

APPEARANCES –

For Applicant: Harold Weinberg and Frank Sellitto.

**ACTION OF THE BOARD** – Laid over to January 15, 2008, at 1:30 P.M., for continued hearing.

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**169-07-BZ**

APPLICANT – Jacqueline M. Cigliano, for Chen Lai Ho, owner.

SUBJECT – Application June 18, 2007 – Variance (§72-21) to allow a single-family home; contrary to regulations for minimum lot width (§23-32). R1-1(NA-2) district.

PREMISES AFFECTED – 626 West 254<sup>th</sup> Street, southerly line of 254<sup>th</sup> Street, east of intersection of West 254<sup>th</sup> Street and Independence Avenue, Block 5942, Lot 308, Borough of Bronx.

**COMMUNITY BOARD #8BX**

APPEARANCES –

For Applicant: Jacquiline Cigliano.

For Opposition: Deborah Kirschner.

**ACTION OF THE BOARD** – Laid over to February 5, 2008, at 1:30 P.M., for continued hearing.

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**182-07-BZ**

APPLICANT – Harold Weinberg, P.E, for Harry Shlyonsky, owner.

SUBJECT – Application July 20, 2007 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary lot coverage, open space and floor area (§23-141) in an R3-1 zoning district.

PREMISES AFFECTED – 229 Exeter Street, east side 220' south of Oriental Boulevard, between Oriental Boulevard and Esplanade, Block 8743, Lot 36, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

APPEARANCES –

For Applicant: Harold Weinberg and Frank Selutto.

THE VOTE TO CLOSE HEARING –

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

Negative:.....0

**ACTION OF THE BOARD** – Laid over to January 15, 2008, at 1:30 P.M., for decision, hearing closed.

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**200-07-BZ**

APPLICANT – Rampulla Associates Architects, for Ortho Health Care Realty, LLC, owner.

SUBJECT – Application August 10, 2007 – Variance (§72-21) for new horizontal and vertical addition to existing commercial building for medical offices (UG 4). Proposal is contrary to §22-14. R3-1 district within Special South Richmond District and Special Growth Management District.

PREMISES AFFECTED – 3333 Hylan Boulevard, north west side of Hylan Boulevard, east of Spratt Avenue, Block 4987, Lot 1, Borough of Staten Island.

**COMMUNITY BOARD #3SI**

APPEARANCES –

For Applicant: Phil Rampulla and John Reilly.

For Opposition: James G. Shawgig, Carole Timko, Linda Nigio, William Koman, Keith Turro, John Timko, Ed Converg, Roh LaFemina, Nevgul Laverie.

**ACTION OF THE BOARD** – Laid over to February 26, 2008, at 1:30 P.M., for decision, hearing closed.

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*Jeff Mulligan, Executive Director*

*Adjourned: P.M.*