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OF THE
NEW YORK CITY BOARD OF STANDARDS
AND APPEALS

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May 30, 2002

DIRECTORY

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Tuesday, May 21, 2002**

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DOCKET

New Case Filed Up to May 21, 2002

156-02-BZ B.Q. 964/70 65th Street, south side, 100' west of Tenth Avenue, Block 5750, Lot 47, Borough of Queens. Alt.1#301318991. The reestablishment of a variance previously granted by the Board under Cal. No.606-85-BZ, which permitted the maintenance of a new and used car sales lot with an accessory office and parking, in a C2-3 within and R5 zoning district.

COMMUNITY BOARD #10Q

159-02-A B.S.I. 33 White Plains Avenue, between Shaughnessy Lane and Chestnut Avenue, Block 2967, Lot 73, Borough of Staten Island. An appeal challenging the Department of Buildings' determination dated April 18, 2002, in which the Department refused to revoke Certificate of Occupancy No. 500442675 for subject premises, on the grounds that said building does not violates the Zoning Resolution and the NYC Building Code requirements.

157-02-BZ B.S.I. 1334 East 27th Street, west side, 260' south of Avenue "M", Block 7662, Lot 66, Borough of Staten Island. Applic.#301064684. Proposed enlargement to an existing one family dwelling, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, side and rear yards, is contrary to Z.R. §23-14, §23-46 and §23-47.

COMMUNITY BOARD #14SI

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.

158-02-BZ B.Q. 444 Beach 6th Street, between Jarvis and Meehan Avenues, Block 15591, Lot 1, Borough of Queens. Alt. #401403076. Proposed enlargement to an existing community facility(yeshiva), Use Group 3, located in an R3-1 zoning district, which does not comply with the zoning requirements for floor area, side, front and rear yards, also height and setback, is contrary to Z.R. §24-11, §24-35, §24-34, §24-382 and §24-521.

COMMUNITY BOARD #14Q

CALENDAR

JUNE 18, 2002, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday morning*, June 18, 2002, at 10 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

545-56-BZ

APPLICANT - Walter T. Gorman, P.E., for Williamsbridge Road Realty Corp., owner; Williamsbridge Repairs Service Station, lessee.

SUBJECT - Application March 19, 2002 - reopening for an extension of term of variance which expired October 29, 2002 and for an amendment to the resolution.

PREMISES AFFECTED - 2001-2007 Williamsbridge Road a/k/a 1131-39 Neill Avenue, northwest corner of Neill Avenue, block 4306, Lot 20, Borough of The Bronx.

COMMUNITY BOARD #11BX

1043-80-BZ

APPLICANT - Rothkrug & Rothkrug Weinberg & Spector for RANS 1680 Building Corp., owner.

SUBJECT - Application December 17, 2001 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 3, 2000.

PREMISES AFFECTED - 1680/88 Albany Avenue a/k/a 4024 Marginal Street, southwest corner of Albany Avenue and Marginal Street, Block 7744, Lots 47, 49, 50, Borough of Brooklyn.

COMMUNITY BOARD #18BK

271-90-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector for EPT Holding Corp., owner.

SUBJECT - Application March 19, 2002 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired October 29, 2001.

PREMISES AFFECTED - 68-01/05 Queens Boulevard, northeast corner of Queens Boulevard and 68th Street, Block 1348, Lot 53, Woodside, Borough of Queens.

COMMUNITY BOARD #2Q

JUNE 18, 2002, 11:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday morning*, June 18, 2002, at 11 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

APPEALS CALENDAR

389-01-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector LLP, for D'Amico Imburgia Realty Corp., owner.

SUBJECT - Application December 17, 2001 - Proposed construction of two story commercial building, not fronting on a legally mapped is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 79 Industrial Loop, east side, 550.14' north of Arthur Kill Road, Block 7206, Lot 253, Borough of Staten Island.

COMMUNITY BOARD #3 S.I.

47-02-A & 48-02-A

APPLICANT - Michael DeRuvo, R.A., for Carmen Loconte, owner.

SUBJECT - Application February 6, 2002 - Proposed construction of a two story, one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 3667 Richmond Avenue, east side, 675.0' south of Katan Avenue, Block 5515, Lot 3, Borough of Staten Island.

3669 Richmond Avenue, east side, 715.0' south of Katan Avenue, Block 5515, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #3 S.I.

93-02-A

APPLICANT - Walter T. Gorman, P.E., for Breezy Point Cooperative, Inc., owner; Larry Turturo, lessee.

SUBJECT - Application March 29, 2002 - Proposed enlargement of the existing first floor, construct a new second floor addition, and install a new septic system in connection with a home, which does not front on a legally mapped street and simultaneously lies within the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED - 465 Seabreeze Walk, west side, 50' south of Rockaway Point Boulevard, Block 16350, Part of Lot 400, Borough of Queens.

COMMUNITY BOARD #14Q

CALENDAR

94-02-A & 95-02-A

APPLICANT - Miro C. Stracar, P.E., Stracar Engineering, P.C., for Breezy Point Cooperative, owner; Mr. & Mrs. Edward Carr, lessee.

SUBJECT - Application April 2, 2002 - Proposed enlargement of an existing one family dwelling, not fronting on a legally mapped street is contrary to Section 36, Article 3 of the General City Law, also an interpretation of Z.R. §23-47 and how it relates to rear yard requirement.

PREMISES AFFECTED - 10 Lincoln Walk, west side, 135' south of Oceanside Avenue, Block 16350, Lot 400, Borough of Queens.

28 Pelham Walk, west side, 115 north of Breezy Point Boulevard, Block 16350, Lot 400, Borough of Queens.

160-02-A

APPLICANT - Jose Martinez, for Carlos Aguirre, owner. SUBJECT - Application May 20, 2002 - Proposed one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 24-01 89th Street, east side, 532.67' north of Astoria Boulevard, Block 1101, Lot 8, Borough of Queens.

JUNE 18, 2002, 2:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, June 18, 2002, at 2 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

256-01-BZ

APPLICANT - Carl A. Sulfaro, Esq., for Mundream Realty, Inc., owner; Hempstead Aut Care, Inc., lessee.

SUBJECT - Application August 21, 2001 - under Z.R. §§11-411, 11-412 and 11-413, to permit the reestablishment of an expired variance, previously granted under Cal. No. 634-54-BZ, which permitted a gasoline service station with accessory uses in a C1-2 within an R3-2 zoning district, and to permit the change in use to motor vehicle repairing with accessory parking of cars awaiting service, also the incidental sale of used cars.

PREMISES AFFECTED - 219-06 Hempstead Avenue, aka 103-01/09 219th Street, southeast corner, Block 11154, Lot 22, Borough of Queens.

COMMUNITY BOARD # 13Q

388-01-BZ

APPLICANT - Hiram A. Rothkrug, EPDSCO, for Equinox Partners, LTD, owner; Clove Road Body Builders, Inc., lessee.

SUBJECT - Application December 17, 2001 - under Z.R. §73-36, to permit the legalization of an existing physical culture establishment, located within a portion of an existing commercial building, which requires a special permit as per Z.R. §32-10.

PREMISES AFFECTED - 2071 Clove Road, northeast corner, between Hillcrest Terrace and Mosel Avenue, Block 2921, Lot 6, Borough of Staten Island.

COMMUNITY BOARD #2S.I.

393-01-BZ

APPLICANT - Hiram A. Rothkrug, EPDSCO, for Riviera Plaza, LLP., owner; Buffalo Rd. Body Building, Inc., lessee.

SUBJECT - Application December 17, 2001 - under Z.R. §73-36, to permit the legalization of an existing physical culture establishment, located within a portion of an existing commercial building, requires a special permit from the Board as per Z.R. §32-10.

PREMISES AFFECTED - 3295 Amboy Road, northwest corner, between Buffalo Street and Hopkins Avenue, Borough of Staten Island.

COMMUNITY BOARD #3S.I.

18-02-BZ

APPLICANT - Agusta & Ross, for Jobil Auto Repairs, Inc., owner.

SUBJECT - Application January 7, 2002 - under Z.R. §§11-412 & 11-413, to permit the proposed automotive laundry, Use Group 16, located in an R5 zoning district, is contrary to a previous variance granted under Cal. #652-54-BZ, which permitted an automotive service station in an R5 zoning district.

PREMISES AFFECTED - 8610/24 Flatlands Avenue, aka 902/12 East 87th Street, southeast corner, Block 8023, Lot 39, Borough of Brooklyn.

COMMUNITY BOARD #18BK

19-02-BZ

APPLICANT - Hiram A. Rothkrug, EPDSCO, for Tottenville Square, LLC, owner; Page Avenue Body Building, Inc., lessee.

SUBJECT - Application January 7, 2002 - under Z.R. §73-36, to permit the legalization of an existing physical culture establishment, located within a portion of a one story

CALENDAR

commercial building, in an M1-1 zoning district, requires a special permit as per Z.R. §73-36.

PREMISES AFFECTED - 7001 Amboy Road, northwest side, between Page and Bethel Avenues, Block 8008, Lot 14, Borough of Staten Island.

COMMUNITY BOARD #3S.I.

61-02-BZ

APPLICANT - Martyn & Don Weston Architects, for Asset One Corp., owner.

SUBJECT - Application February 19, 2002 - under Z.R. §72-21, to permit the proposed conversion of floors two through four, of an existing four story manufacturing building, into sixteen residential units, located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

PREMISES AFFECTED - 71-83 Beaver Street and 35-47 Belvidere Street, southwest corner, Block 3135, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #4BK

Pasquale Pacifico, Executive Director

JULY 9, 2002, 11:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday morning*, July 9, 2002, at 11 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

APPEALS CALENDAR

141-02-A

APPLICANT - The Agusta Group for Raymond & Katherine Koon, owner.

SUBJECT - Application May 1, 2002 - Proposed construction of a two-story, one family dwelling, located partially within the bed of a mapped street, which is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 46-17 Overbrook Street, west side, between Alameda and Thebes Avenues, Block 8204, Lot 14, Borough of Queens.

COMMUNITY BOARD #11Q

54-02-A & 55-02-A

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, owner; Charleston Development Corp., owner.

SUBJECT - Application February 11, 2002 - Proposed construction of a two family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED - 100 Gary Street, south side, 150.7' east of Kenilworth Avenue, Block 5720, Lot 99, Borough of Staten Island.

106 Gary Street, south side, 100.0' east of Kenilworth Avenue, Block 5720, Lot 102, Borough of Staten Island.

COMMUNITY BOARD #3S.I.

JULY 9, 2002, 2:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, July 9, 2002, at 2 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

104-02-BZ

APPLICANT - Joseph P. Morsellino, for Flushing Bay Realty Corp., owner; Helms Brothers, contract vendee.

SUBJECT - Application April 9, 2002 - under Z.R. §72-21, to permit the proposed use of the property for the storage of new automobiles, prior to delivery to customers, located in a C3 zoning district, which is contrary Z.R. §32-10.

PREMISES AFFECTED - 23-40 120th Street, a/k/a 23-16 120th Street, southwest corner of 20th Avenue, Block 4223, Lot 21, Borough of Queens.

COMMUNITY BOARD #7Q

404-01-BZ

APPLICANT - Sheldon Lobel, P.C., for Maurice Wachsmann, owner.

SUBJECT - Application May 7, 2002 - under Z.R. §73-622, to permit the proposed enlargement of an existing single family dwelling, Use Group 1, located in an R2 zoning district, which does comply with the zoning requirements for floor area ratio, open space ratio and rear yard, and is contrary to Z.R. §23-141 and §23-46.

PREMISES AFFECTED - 1182 East 28th Street, 120' north of Avenue "L", Block 7627, Lot 79, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Pasquale Pacifico, Executive Director

CALENDAR

JULY 16, 2002, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday morning*, July 16, 2002, at 10 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

200-24-BZ

APPLICANT - Stephen Ely, for Haymes Investment Company, owner.

SUBJECT - Application April 19, 2002 - reopening for an extension of time to complete construction and to obtain a certificate of occupancy.

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

COMMUNITY BOARD #7BX

16-36-BZ

APPLICANT - Vassalotti Associates, A.I.A., for Phillips Petroleum Co., owner.

SUBJECT - Application April 18, 2002 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of time to obtain a certificate of occupancy.

PREMISES AFFECTED - 1885 Westchester Avenue, northeast corner of Leland Avenue, Block 3880, Lot 1, Borough of The Bronx.

COMMUNITY BOARD #9BX

915-46-BZ

APPLICANT - Carl A. Sulfaro, Esq., for 184 Jero, Inc., owner; Gaseteria Oil Corporation, lessee.

SUBJECT - Application March 14, 2002 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 40-08 30th Avenue, southeast corner of Newtown Road, Block 681, Lot 114, Borough of Queens.

COMMUNITY BOARD #1Q

657-49-BZ

APPLICANT - Fredrick A. Becker, Esq., for Geofra Realty Corp., owner.

SUBJECT - Application April 8, 2002 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 20, 2000.

PREMISES AFFECTED - 92-02/08 Rockaway Beach Boulevard, northwest corner of Rockaway Beach Boulevard and Beach 92nd Street, Block 16127, Lot 16, Borough of Queens.

COMMUNITY BOARD #14Q

641-59-BZ

APPLICANT - Kenneth H. Koons, R.A., for Jesus Beniquez, owner.

SUBJECT - Application September 11, 2001 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 6, 2000.

PREMISES AFFECTED - 760 Castle Hill Avenue, northeast corner of Homer Avenue, Block 3614, Lot 28, Borough of The Bronx.

COMMUNITY BOARD #9BX

JULY 16, 2002, 11:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday morning*, July 16, 2002, at 11 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

APPEALS CALENDAR

89-02-A

APPLICANT - Sheldon Lobel, P.C., for McDonalds Corporation, owner.

SUBJECT - Application March 27, 2002 - Proposed construction of a trash enclosure and parking stalls for a proposed fast food restaurant, on a portion of the subject lot, which is located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.

PREMISES AFFECTED - 244-10 Merrick Boulevard, aka 244-16 Merrick Boulevard, south side, between 244th and 245th Streets, Block 13208, Lot 33, Borough of Queens.

COMMUNITY BOARD #13Q

CALENDAR

JULY 16, 2002, 2:00 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, July 16, 2002, at 2 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

265-01-BZ

APPLICANT - Sheldon Lobel, P.C., for Sandro E. Falla, owner.

SUBJECT - Application August 28, 2001 - under Z.R. § 72-21, to permit the legalization of an enlargement to an existing one family dwelling which does not comply with the zoning requirements for lot size, side, front and rear yards, F.A.R. and O.S.R., which is contrary to Z.R. § 23-141, § 23-32, § 23-45 and § 23-47.

PREMISES AFFECTED - 102-06 Russell Street, south side, between 102nd and 103rd Streets, Block 14238, Lot 1045, Borough of Queens.

COMMUNITY BOARD #10Q

405-01-BZ

APPLICANT - Sheldon Lobel, P.C., for Aron Welz United Talmudical Academy, owner.

SUBJECT - Application December 28, 2001 - under Z.R. § 72-21, to permit the proposed construction of a five story school building and synagogue, Use Groups 3 and 4, located in an R5 within a C2-3/R5 zoning district, which does not comply with the zoning requirements for floor area ratio, lot coverage and front and side yards, is contrary to Z.R. § 24-11, § 24-521, § 24-34 and § 24-35.

PREMISES AFFECTED - 1275 36th Street, aka 123 Clara Street, southeast corner, between Clara and Luisa Streets, Block 5310, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #12BK

71-02-BZ

APPLICANT - Raymond H. Levin, Esq., for Wachtel & Masyr, LLP, for Lafayette Crosby Development, LLC c/o Cape Advisors, owner.

SUBJECT - Application March 1, 2002 - under Z.R. § 72-21, to permit the proposed construction of a 15-story mixed-use building, with residential uses on the upper floors, and retail use below the second story, Use Groups 2 and 6, located in an M1-5B zoning district, is contrary to Z.R. § 42-00 and § 42-14D(2)(b).

PREMISES AFFECTED - 204/210 Lafayette Street, aka 51

Crosby Street, between Spring and Broome Streets, Block 482, Lot 32, Borough of Manhattan

COMMUNITY BOARD #2M

74-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Ben and Phyllis Lifshitz, owner.

SUBJECT - Application March 12, 2002 - under Z.R. § 73-622, to permit the proposed enlargement of a single family residence, Use Group 1, located within an R2 zoning district, which does not comply with the zoning requirements for floor area ratio and open space ratio, and is contrary to Z.R. § 23-141.

PREMISES AFFECTED - 1383 East 23rd Street, 80' north of Avenue "N", Block 7660, Lot 10, Borough of Brooklyn.

COMMUNITY BOARD #13BK

107-02-BZ

APPLICANT - Philip L. Rampulla, for Bartholomeo Castellano, owner.

SUBJECT - Application April 3, 2002 - under Z.R. § 73-52, to permit the proposed addition of two accessory off-street parking spaces, to be located in the residential portion of the subject lot, for a Use Group 6 retail store, which is contrary to Z.R. § 22-00.

PREMISES AFFECTED - 298 Naughton Avenue, corner of Hylan Boulevard, Block 3656, Lot 10, Borough of Staten Island.

COMMUNITY BOARD #2SI

110-02-BZ

APPLICANT - Sheldon Lobel, P.C., for Anna Shchiglik and Mark Kotliar, owner.

SUBJECT - Application April 5, 2002 - under Z.R. § 73-622, to permit the proposed enlargement to an existing one family dwelling, Use Group 1, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, floor area, and side and rear yards, is contrary to Z.R. § 23-141(b), § 23-461(a) and § 23-47.

PREMISES AFFECTED - 1880 East 22nd Street, between Avenues "R" and "S", Block 6827, Lot 23, Borough of Brooklyn.

COMMUNITY BOARD #15BK

Pasquale Pacifico, Executive Director

MINUTES

**REGULAR MEETING
TUESDAY MORNING, MAY 21, 2002
10:00 A.M.**

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

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, April 23, 2002, were approved as printed in the Bulletin of May 2, 2002, Volume 87, No. 18.

SPECIAL ORDER CALENDAR

713-55-BZ

APPLICANT - Vassalotti Associates, Architects for Exxon Mobil Fuels Marketing Co., owner.

SUBJECT - Application January 2, 2002 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired December 11, 2001.

PREMISES AFFECTED - 181-05 Horace Harding Expressway, north east corner of Utopia Parkway and Horace Harding Expressway, Block 7065, Lot 8, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES -

For Applicant: Hiram Rothkrug.

For Administration: John Scrofani, Fire Department.

ACTION OF THE BOARD - Rules of Practice and Procedure waived, application reopened, and term of the variance extended.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Babbar

Commissioner Korbey and Commissioner Caliendo.....4

Negative:0

THE RESOLUTION -

WHEREAS, the applicant has requested a reopening and an extension of the term of the special permit which expired December 11, 2001; and

WHEREAS, a public hearing was held on this application on May 7, 2002 after due notice by publication in The City Record, laid over to May 21, 2002 for decision; and

WHEREAS, the applicant seeks to extend the term of the variance for an additional ten years.

Resolved, that the Board of Standards and Appeals hereby waives the Rules of Practice and Procedure and

reopens and extends the term of the resolution pursuant to Z.R. §11-411, said resolution having been adopted December 11, 1956, so that as amended this portion of the resolution shall read:

"to permit the extension of the term of the resolution for ten years from December 11, 2001 expiring December 11, 2011, on condition

THAT the premises shall be maintained in substantial compliance with the proposed drawings submitted with the application marked "Received May 20, 2002"-(1) sheet; and that other than as herein amended the resolution above cited shall be complied with in all respects; and on further condition

THAT there shall be no parking on the sidewalk;

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

THAT all lighting shall be pointed away from residential dwellings;

THAT landscaping shall be maintained in accordance with BSA approved plans;

THAT all signs shall be maintained in accordance with BSA approved plans;

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

THAT a new Certificate of Occupancy shall be obtained within one year from the date of this amended resolution;

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." (NB No. 3323)

Adopted by the Board of Standards and Appeals, May 21, 2002.

1449-61-BZ

APPLICANT - Vassalotti Associates Architects, for Exxon Company U.S.A., owner.

SUBJECT - Application February 2, 1999 - request for a waiver of the Rules of Practice and Procedure, reopening for an amendment to legalize the removal of a previously approved pump island, the enlargement to the accessory building and for an extension of term of variance which expired November 8, 1997.

PREMISES AFFECTED - 4085 Nostrand Avenue, northeast corner of Emmons Avenue, Block 8796, Lot 63, Borough of

MINUTES

Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Hiram A. Rothkrug.

For Opposition: John Scrofani, Fire Department.

ACTION OF THE BOARD - Rules of Practice and Procedure waived, application reopened, term of variance extended and resolution amended.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Babbar

Commissioner Korbey and Commissioner Caliendo.....4

Negative:0

THE RESOLUTION -

WHEREAS, the applicant has requested a reopening and an extension of the term of the variance which expired November 8, 1997; and

WHEREAS, a public hearing was held on this application on January 23, 2001 after due notice by publication in The City Record, and laid over to April 3, 2001, June 5, 2001, July 10, 2001, October 16, 2001, January 29, 2002, May 7, 2002 and then to May 21, 2002 for decision; and

WHEREAS, the applicant is seeking to extend the term of the variance for an additional ten years; and

WHEREAS, the applicant is also seeking to amend the variance to legalize the enlargement to the existing service station building.

Resolved, that the Board of Standards and Appeals hereby waives the Rules of Practice and Procedure and reopens and extends the resolution pursuant to Z.R. §§11-411, said resolution having been adopted May 1, 1962, as amended through March 31, 1987, so that as amended this portion of the resolution shall read:

"to extend the term of the variance to ten years from November 9, 1997, expiring November 9, 2007, and to permit the legalization of the enlargement to the existing service station building, on condition

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

THAT all lighting shall be pointed away from residential dwellings;

THAT all signs shall be maintained in accordance with BSA approved plans;

THAT the premises shall be maintained in substantial compliance with previously Board approved plans marked "Received November 21, 2000"-(2) sheets; and that other than as herein amended the resolution above cited shall be complied with in all respects, and a new Certificate of Occupancy shall be obtained within one year from the date of this amended resolution; on further condition

THAT there shall be no self-service, coin operated car washes;

THAT all other conditions of the prior grant 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;

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

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." (NB No. 2264-61)

Adopted by the Board of Standards and Appeals, May 21, 2002.

611-76-BZ

APPLICANT- Vassalotti Associates, Architects, for North Fork Bank, owner.

SUBJECT - Application October 16, 2001 - reopening for an extension of term of variance which expired February 15, 2002.

PREMISES AFFECTED - 43-17/21 214th Place, north side 161.24' north of Northern Boulevard, Block 6301, Lots 9, 10 and 11, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES -

For Applicant: Hiram Rothkrug.

ACTION OF THE BOARD - Rules of Practice and Procedure waived, application reopened, and term of the variance extended.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Babbar

Commissioner Korbey and Commissioner Caliendo.....4

Negative:0

THE RESOLUTION -

WHEREAS, the applicant has requested a reopening and an extension of the term of the special permit which expired February 15, 2002; and

WHEREAS, a public hearing was held on this application on February 26, 2002, after due notice by publication in The City Record, laid over to May 7, 2002 and then to May 21, 2002 for decision; and

WHEREAS, the applicant seeks to extend the term of the variance for an additional ten years.

Resolved, that the Board of Standards and Appeals hereby waives the Rules of Practice and Procedure and reopens and extends the term of the resolution pursuant to Z.R. §11-411, said resolution having been adopted February 15, 1977, so that as amended this portion of the resolution shall read:

"to permit the extension of the term of the

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resolution for ten years from February 15, 2002
expiring February 15, 2012, on condition

THAT the premises shall be maintained in substantial compliance with the proposed drawings submitted with the application marked "Received October 16, 2001"-(1) sheet; and that other than as herein amended the resolution above cited shall be complied with in all respects;

THAT there shall be no parking on the sidewalk;

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

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

THAT a new Certificate of Occupancy shall be obtained within one year from the date of this amended resolution;

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." (ALT No. 893)

Adopted by the Board of Standards and Appeals, May 21, 2002.

364-82-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for Little Neck Commons LLC, owner; Jack LaLanne Fitness Centers, Inc. lessee.

SUBJECT- Application March 20, 2001 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 245-02/34 Horace Harding Expressway, south side, Block 8276, Lot 100, Borough of Queens.

COMMUNITY BOARD #11Q

APPEARANCES -

For Applicant: Howard Hornstein.

For Administration: John Scrofani, Fire Department.

ACTION OF THE BOARD - Application reopened and the resolution amended.

THE VOTE TO REOPEN HEARING -

Affirmative: Chairman Chin, Vice-Chair Babbar

Commissioner Korbey and Commissioner Caliendo.....4

Negative:0

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Babbar

Commissioner Korbey and Commissioner Caliendo.....4

Negative:0

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Vice-Chair Babbar

Commissioner Korbey and Commissioner Caliendo.....4

Negative:0

THE RESOLUTION -

WHEREAS, the applicant has requested a reopening and an amendment to the resolution; and

WHEREAS, a public hearing was held on this application on March 19, 2002, after due notice by publication in The City Record, laid over to April 9, 2002, May 7, 2002 and then to May 14, 2002 for decision; and

WHEREAS, the applicant now seeks to amend the variance to permit 1,040 square feet on the cellar level to be occupied by the existing physical culture establishment and to change the name and logo on the building facade; and

Resolved, that the Board of Standards and Appeals reopens and amends the resolution adopted on January 18, 1983, amended through June 20, 1995, so that as amended this portion of the resolution shall read:

"To permit 1,040 square feet on the cellar level to be occupied by the existing physical culture establishment and to change the name and logo on the building facade; on condition;

THAT accessory parking for the subject premises shall be provided at no cost for the first two hours, that a nominal fee shall be charged for additional time afterwards, and that there shall be a five hour maximum before the cars shall be either booted or towed;

THAT the premises shall be maintained in substantial compliance with previously Board approved plans marked "Received March 20, 2001"-(2) sheets, "February 5, 2002"-(1) sheet, and March 8, 2002" - (2) sheets; and on further condition

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

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

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

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." (No. 401194649)

Adopted by the Board of Standards and Appeals, May 21, 2002.

355-54-BZ

APPLICANT - Sheldon Lobel, P.C., for Globe Electric

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Supply Co., Inc., owner.
SUBJECT - Application August 14, 2002 - reopening for an amendment to the resolution.
PREMISES AFFECTED - 33-29/43 9th Street, aka 33-64 10th Street, Block 320, Lot 10, Borough of Queens.
COMMUNITY BOARD #1Q
APPEARANCES -
For Applicant: Eric Palatnik.
ACTION OF THE BOARD - Laid over to July 16, 2002, at 10 A.M., for continued hearing.

914-62-BZ
APPLICANT - New York City Board of Standards and Appeals.
SUBJECT - For possible rescindment of the resolution.
PREMISES AFFECTED - 205-04 Northern Boulevard, Queens.
COMMUNITY BOARD #11Q
APPEARANCES -
In Favor: Hiram A. Rothkrug.
THE VOTE TO CLOSE HEARING -
Affirmative: Chairman Chin, Vice-Chair Babbar
Commissioner Korbey and Commissioner Caliendo.....4
Negative:0
ACTION OF THE BOARD - Laid over to June 18, 2002, at 10 A.M., for decision, hearing closed.

837-85-A
APPLICANT - Philip P. Agusta, R.A., M.U.P., for Dr. Stephen Gari, D.M.D., F.A.G.D., owner.
SUBJECT - Application December 13, 2000 - reopening for an extension of the term of variance which expired December 17, 2000.
PREMISES AFFECTED - 166-18 73rd Avenue and 73-02 167th Street, southwest corner of 73rd Avenue and 167th Street, Block 6974, Lot 19, Borough of Queens.
COMMUNITY BOARD #8Q
APPEARANCES -
For Opposition: John Scrofani, Fire Department.
THE VOTE TO CLOSE HEARING -
Affirmative: Chairman Chin, Vice-Chair Babbar
Commissioner Korbey and Commissioner Caliendo.....4
Negative:0
ACTION OF THE BOARD - Laid over to August 6, 2002, at 10 A.M., for decision, hearing closed.

180-95-BZ
APPLICANT - Jay Segal, Greenberg Traurig, LLP, for Brewran West Associates, LP, owner.
SUBJECT - Application August 10, 2001 - reopening for

an amendment to the resolution.
PREMISES AFFECTED - 256 West Street/416-424 Washington Street, Block 218, Lots 28, 23, 20, Borough of Manhattan.
COMMUNITY BOARD #1M
APPEARANCES -
For Applicant: Deirdre Carson and Carole DeSaram.
For Administration: John Scrofani, Fire Department.
THE VOTE TO CLOSE HEARING -
Affirmative: Chairman Chin, Vice-Chair Babbar
Commissioner Korbey and Commissioner Caliendo.....4
Negative:0
ACTION OF THE BOARD - Laid over to June 18, 2002, at 10 A.M., for decision, hearing closed.

37-96-BZ
APPLICANT - Sheldon Lobel, P.C., for Pilot Realty Corp., owner.
SUBJECT - Application June 1, 2001 - reopening for an amendment to the resolution and for an extension of time to complete construction.
PREMISES AFFECTED - 1601 Bronxdale Avenue, southwest corner of East Tremont Avenue, Block 4042, Lot 200, Borough of The Bronx.
COMMUNITY BOARD #11BX
APPEARANCES -
For Applicant: Eric Palatnik.
For Administration: John Scrofani, Fire Department.
ACTION OF THE BOARD - Laid over to August 6, 2002, at 10 A.M., for continued hearing.

165-01-A thru 189-01-A
APPLICANT - Rothkrug & Rothkrug, for Tower Hill at Springville, Inc., owner.
SUBJECT - Applications April 30, 2001 - proposed two family dwelling located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.
PREMISES AFFECTED -
46 Beard Street, west side, 345.35' north of Travis Avenue, Block 2370, Lot 1, Borough of Staten Island.
40 Beard Street, west side, 409.85' north of Travis Avenue, Block 2370, Lot 4, Borough of Staten Island.
38 Beard Street, west side, 441.85' north of Travis Avenue, Block 2370, Lot 5, Borough of Staten Island.
34 Beard Street, west side, 473.85' north of Travis Avenue, Block 2370, Lot 7, Borough of Staten Island.
32 Beard Street, west side, 489.85' north of Travis

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Avenue, Block 2370, Lot 8, Borough of Staten Island.

28 Beard Street, west side, 520.85' north of Travis Avenue, Block 2370, Lot 10, Borough of Staten Island.

26 Beard Street, west side, 544.68' north of Travis Avenue, Block 2370, Lot 11, Borough of Staten Island.

20 Beard Street, west side, 568.51' north of Travis Avenue, Block 2370, Lot 12, Borough of Staten Island.

22 Beard Street, west side, 584.51' north of Travis Avenue, Block 2370, Lot 13, Borough of Staten Island.

16 Beard Street, west side, 600.51' north of Travis Avenue, Block 2370, Lot 14, Borough of Staten Island.

14 Beard Street, west side, 616.51' north of Travis Avenue, Block 2370, Lot 15, Borough of Staten Island.

8 Beard Street, west side, 664.51' north of Travis Avenue, Block 2370, Lot 18, Borough of Staten Island.

6 Beard Street, west side, 670.51' north of Travis Avenue, Block 2370, Lot 18, Borough of Staten Island.

3 Beard Street, west side, 672.52' north of Travis Avenue, Block 2370, Lot 42, Borough of Staten Island.

30 Monahan Avenue, south side, 72.18' east of Lewiston Street, Block 2370, Lot 208, Borough of Staten Island.

28 Monahan Avenue, south side, 86.02' east of Lewiston Street, Block 2370, Lot 209, Borough of Staten Island.

26 Monahan Avenue, south side, 99.85' east of Lewiston Street, Block 2370, Lot 210, Borough of Staten Island.

24 Monahan Avenue, south side, 113.69' east of Lewiston Street, Block 2370, Lot 211, Borough of Staten Island.

22 Monahan Avenue, south side, 127.52' east of Lewiston Street, Block 2370, Lot 212, Borough of Staten Island.

20 Monahan Avenue, south side, 161.35' east of Lewiston Street, Block 2370, Lot 213, Borough of Staten Island.

18 Monahan Avenue, south side, 175.18' east of Lewiston Street, Block 2370, Lot 214, Borough of Staten Island.

14 Monahan Avenue, south side, 202.85' east of Lewiston Street, Block 2370, Lot 216, Borough of Staten Island.

12 Monahan Avenue, south side, 216.68' east of Lewiston Street, Block 2370, Lot 217, Borough of Staten Island.

8 Monahan Avenue, south side, 244.35' east of Lewiston Street, Block 2370, Lot 219, Borough of Staten Island.

6 Monahan Avenue, south side, 258.18' east of Lewiston Street, Block 2370, Lot 220, Borough of Staten Island.

APPEARANCES -

For Applicant: Hiram A. Rothkrug.

For Administration: John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to June 18, 2002, at 11 A.M., for continued hearing.

59-02-A

APPLICANT - Jose Martinez, for Carlos A. Aguirre, owner.
SUBJECT - Application February 14, 2002 - Proposed one family dwelling, located within the bed of a mapped street, is contrary to Section 35, Article 3 of the General City Law.
PREMISES AFFECTED - 23-81 89th Street, east side, 572.67' north of Astoria Boulevard, Block 1101, Lot 6, Borough of Queens.

APPEARANCES -

For Applicant: Jose Martinez.

For Administration: John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to June 18, 2002, at 11 A.M., for continued hearing.

72-02-A

APPLICANT - Mitchell H. Hossoff, Kossoff Alper & Unger, for PR 30 LLC, owner.

SUBJECT - Application March 5, 2002 - An appeal from a decision of the Department of Buildings dated February 4, 2002, which denied the creation of new non-conforming single room units on the basement floor of subject premises.

PREMISES AFFECTED - 325 West 30th Street, north side, 321' west of Eighth Avenue, Block 754, Lot 25, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES -

For Applicant: Timothy Dunphy.

For Administration: Lisa Oratia, Fire Department.

THE VOTE TO CLOSE HEARING -

Affirmative: Chairman Chin, Vice-Chair Babbar

Commissioner Korbey and Commissioner Caliendo.....4

Negative:0

ACTION OF THE BOARD - Laid over to June 18, 2002, at 10 A.M., for decision, hearing closed.

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Pasquale Pacifico, Executive Director.

Adjourned: 11:10 A.M.

**REGULAR MEETING
TUESDAY AFTERNOON, MAY 21, 2002
2:00 P.M.**

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

ZONING CALENDAR

224-00-BZ

APPLICANT - Sheldon Lobel, P.C., for Basile Builders; Carmela Basiolo, President, owner.

SUBJECT - Application September 28, 2000 - under Z.R. §72-21, to permit the proposed six story residential building (Use Group 2) located in an R-5 zoning district, which creates non-compliance with respect to F.A.R., lot coverage, O.S.R., height and perimeter wall, lot area per dwelling unit, and yard requirements, which is contrary to Z.R. §§23-41, §23-631, §23-222, §23-45, §23-46 and §23-47.

PREMISES AFFECTED - 2353 Cropsey Avenue, a/k/a 247 Bay 34th Street, Block 6889, Lots 7 and 9, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Janice Cahalane and Sheldon Lobel.

For Administration: John Scrofani, Fire Department.

ACTION OF THE BOARD - Application denied.

THE VOTE TO GRANT -

Affirmative:.....0

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

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated December 28, 2000, acting on Applic. No.301070196, reads;

- “1. Building is located in an R5 zone, zoning computations and plans represent an R7 “Quality housing” type residential development. Apply to the Board of Standards and Appeals for a zoning variance or resubmit to conform to R5 zoning Following regulations contrary to as of right R5 zoning regulations.
2. Floor area ratio exceeds 1.65
3. Lot Coverage exceeds 55%
4. Open space is less than 45%

5. Maximum height of 40' is exceeded
6. Lot area per dwelling unit is less than 605 square feet
7. Yards exceed those required provided 0'-0" required 8'-0" minimum."; and

WHEREAS, a public hearing was held on this application on May 15, 2001, after due notice by publication in The City Record and laid over to June 27, 2001, August 7, 2001, September 25, 2001, and October 30, 2001 for continued hearing and then to November 20, 2001 for decision. A decision on November 20, 2001 was not rendered and the hearing was re-opened to accept new testimony and subsequent submissions. The hearing was continued on January 8, 2002 and April 9, 2002 and then laid over to May 21, 2002 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, in an R5 zoning district, the proposed six-story residential building (Use Group 2), which creates non-compliance with respect to Floor Area Ratio, Lot Coverage, Open Space Ratio, Height and Perimeter Wall, Lot Area per Dwelling Unit, and yard requirements which is contrary to Z.R. §§ 23-41, 23-631, 23-222, 23-45, 23-46 and 23-47; and

WHEREAS, the subject site is located on the east side of Cropsey Avenue between Bay 34th and Bay 35th Streets; and

WHEREAS, the subject lot is currently improved with two commercial buildings which by prior Board action permitted the extension of a gasoline service station, an addition of a motor vehicle repair shop and the addition of automobile storage; and

WHEREAS, the applicant represents that the aforementioned two existing buildings currently house an auto repair shop and a grocery store; and

WHEREAS, the record indicates that the subject lot lies within an area that is zoned for, and predominantly used for residential uses; and

WHEREAS, the applicant contends that an as-of-right development is not feasible and therefore the proposal seeks an increase in the permitted bulk of the building to enable the owner to obtain a reasonable return; and

WHEREAS, on several occasions during numerous public hearings on this application, the Board informed the applicant of the need to provide a basis for uniqueness relating to a physical condition affecting the subject lot; and

WHEREAS, in response to the Board’s repeatedly expressed concerns, the applicant stated that the lot had an odd shape and that as a result, neither a complying development nor the existing two small commercial

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buildings, could appropriately utilize the full potential of the premises; and

WHEREAS, the Board noted that R5 zoning allows a 1.65 Floor Area Ratio, permitting a generous development yielding a reasonable return; and

WHEREAS, the Board also noted that R5 Infill zoning allows an even more generous Floor Area Ratio of 1.85; and

WHEREAS, the applicant also claims that the cost of removing the underground storage tanks and hydraulic lifts is a unique condition; and

WHEREAS, however, the record indicates that this condition has already been resolved and that the cost of curing the above condition is "fixed," applying to an as-of-right development or a variance application; and

WHEREAS, in an effort to respond to the Board's requests to demonstrate uniqueness, the applicant submitted a Boring study revealing that groundwater is located 10.5 feet below the surface; and

WHEREAS, while the Board notes the above condition, it finds that the applicant failed to sufficiently demonstrate that the condition is unique to this property or that it leads to a practical difficulty or hardship in conforming to existing zoning regulations, or that it would be so costly to remedy that a complying development would not yield a reasonable return; and

WHEREAS, based on the subject lot being only slightly irregular and no evidence in the record demonstrating unique features leading to a hardship or practical difficulty on this site, the Board finds that the applicant has failed to meet the requirements of Z.R. §72-21 (a); and

WHEREAS, based on the record, the Board finds that the applicant has not presented adequate documentation illustrating that a complying residential or community facility development would not yield a reasonable return; and

WHEREAS, therefore, the Board finds that the applicant has failed to meet the requirements of Z.R. §72-21 (b)

WHEREAS, the applicant represents that if the instant application is granted, non-conforming commercial will be demolished and a residential building, more in keeping with the characteristics of the neighborhood will be constructed; and

WHEREAS, on May 7, 2002, the applicant submitted an amended proposal seeking a 2.2. Floor Area Ratio, that the Board finds to be excessive and out of character with the surrounding area; and

WHEREAS, however, while the use is appropriate for the subject lot, the record indicates that the bulk proposed is out-of-context with adjacent developments and would negatively impact the character of the surrounding area; and

WHEREAS, as noted above, R5 zoning allows a 1.65 Floor Area Ratio, permitting a generous development and R5 Infill zoning allows an even more generous Floor Area Ratio of 1.85; and

WHEREAS, therefore, the Board rejects the applicant's contention that a variance for the subject site would not alter the character of the neighborhood or impact its future use or development; and

WHEREAS, therefore, the Board finds that the applicant has failed to meet the requirements of §72-21 (c);

WHEREAS, since the application fails to meet the requirements of Z.R. §§72-21 (a), (b) and (c) it must be denied.

Resolved, that the decision of the Borough Commissioner, dated December 28, 2000, acting on Applic. No.301070196 must be sustained and the application denied.

Adopted by the Board of Standards and Appeals, May 21, 2002.

294-01-BZ

APPLICANT - Sheldon Lobel, P.C., for 125 Green Street Realty Corp., owner.

SUBJECT- Application October 22, 2001 - under Z.R. §72-21 to permit the legalization of the fourth floor of an existing four story building for residential use and to permit the remaining three floors to be utilized for residential purposes (Use Group 2) located in an M1-1 zoning district, which is contrary to Z.R. §42-10.

PREMISES AFFECTED - 125 Green Street, between Franklin Street and Manhattan Avenue, Block 2512, Lot 60, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Administration: John Scrofani, Fire Department.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

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

Negative:0

Adopted by the Board of Standards and Appeals, May 21, 2002.

301-01-BZ

APPLICANT - Stadtmauer Bailkin, LLP, by Howard A. Zipser, for 231 Centre Street Associates and 23 Great Jones Street, LLC, owners; 119 Seventh Avenue Cafeteria, LLC, lessee.

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SUBJECT - Application October 30, 2001 - under Z.R. §72-21, to permit the proposed eating and drinking establishment, Use Group 6A, in excess of 5,000 square feet, to be partially located below the floor level of the second story, of a building to be constructed in an M1-5B zoning district, which is contrary to Z.R. §42-14 D(2)(b) and D(3)(a).

PREMISES AFFECTED - 371 Lafayette Street, aka 21/23 Great Jones Street, between Great Jones and Bonds Streets, Block 530, Lots 17 and 18, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES -

For Applicant: Howard Zipser and Susan Leonard.
For Opposition: Doris Diether and Ellen Peterson-Lewis.
For Administration: John Scrofani, Fire Department.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE REOPEN HEARING -

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

Negative:0

THE VOTE CLOSE HEARING -

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

Negative:0

THE VOTE GRANT -

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

Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated June 27, 2001, acting on Applic. No. 102986663, reads:

1. Proposed eating and drinking establishment Use Group 6A in excess of 5,000 square feet within M1-5B Zoning District is contrary to Zoning Resolution Section 42-14 (D)(3)(a).
2. Proposed eating and drinking establishment below the floor level of the second story is contrary to Zoning Resolution 42-14(D)(2)(b)."; and

WHEREAS, a public hearing was held on this application on March 5, 2002 after due notice by publication in The City Record, laid over to April 16, 2002 and then to May 21, 2002 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, the proposed eating and drinking establishment, Use Group 6A, in excess of 5,000 square feet, to be partially located below the floor level of the second story, of a building to be constructed in an M1-5B zoning district, which is contrary to Z.R. §42-14 D(2)(a) and D(2)(b); and

WHEREAS, the applicant represents that the zoning lot is an irregularly shaped parcel which has a total area of 5,549 square feet, with 200'10" of frontage on the eastern side of Lafayette Street, 49'1.75" of frontage on Great Jones Street and 6'7.25" of frontage along Bond Street; and

WHEREAS, the applicant further represents that the premises has been occupied by marginal commercial uses for the past 60 years, including a gasoline station, automobile repair business, newsstand and juice bar; and

WHEREAS, the applicant states that the only remaining structure on the zoning lot is a 769 square foot eating establishment occupying a deteriorated and outdated one-story brick structure fronting on Great Jones Street; and

WHEREAS, the applicant proposes to demolish the existing building and construct a new 3-story structure with approximately 11,975 square feet of floor area; and

WHEREAS, the applicant represents that the ground and second floors of the proposed building will be occupied by the restaurant while the third floor will be entirely enclosed, containing accessory offices and an area for private functions; and

WHEREAS, the applicant states that the restaurant will be a 24-hour restaurant/diner with both take-out and eat-in services; and

WHEREAS, the applicant states that the subject site is irregular in shape, with a northern width of approximately 49 feet and a southern width of only 6 feet 7 inches; and

WHEREAS, the applicant claims that the zoning lot is small with an area of only 5,549 square feet and due to the lot's odd shape, only 4,492 square feet can be used for a conventionally shaped floor plate; and

WHEREAS, the applicant contends that the combination of this small floor plate with the odd, narrow, and shallow shape of the zoning lot does not permit nor allow for the creation of an economically viable commercial, industrial, manufacturing, or warehouse-distribution type building; and

WHEREAS, the applicant further contends that these conforming uses require large unencumbered floor plates, high ceilings, and loading docks with off-street parking which are absent on the site; and

WHEREAS, evidence in the record indicates that a portion of the Lafayette Street frontage was formerly improved with a one-story building, which was most recently occupied by an automotive repair service, and in the past has also served as a gasoline service station; and

WHEREAS, the applicant represents that this portion of the zoning lot was further encumbered with six petroleum

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underground storage tanks which were removed at substantial cost; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, which are the result of the site's irregular shape and history of development present a practical difficulty and unnecessary hardship for conforming with the strict application of the Zoning Resolution; and

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

WHEREAS, the applicant represents that the character of the neighborhood is predominantly commercial and residential with many eating and drinking establishments serving the residential community; and

WHEREAS, the applicant contends that the proposed restaurant is in keeping with the area's established character, as the proposed restaurant will be replacing a diner-type restaurant with similar hours; and

WHEREAS, the applicant represents that the restaurant will also have an accessory lounge area that will operate from 6:00 p.m. to 4:00 a.m. and a bar in the main dining room that will operate from 8:00 a.m. to 4:00 a.m. daily except Sunday when it will operate from 12:00 p.m. to 4:00 a.m.; and

WHEREAS, the applicant represents that during the warmer months, an outdoor table area or café will be operated from 10:00 a.m. to 12:00 a.m. Sunday through Thursday and will close at 1:00 a.m. on Friday and Saturday; and

WHEREAS, the applicant states that any outdoor music will consist of background music only and will be kept below 45 dBA and that there shall be no outdoor music after 9 PM; and

WHEREAS, the applicant further states that there will be a security presence 7 days a week between the hours of 12:00 a.m. and 7:00 a.m.; and

WHEREAS, in order to expose the neighbors to the least amount of noise disturbance, garbage will be kept indoors until the time of collection and be picked up between the hours of 11:00 p.m. and 12:00 a.m. on the Jones Street side of the building;

WHEREAS, the applicant further contends that the proposed development will replace a dilapidated building into one housing the same use, but with a building that will better serve community residents; and

WHEREAS, in response to Board and concerns, the applicant agreed to limit use of the premises to Use Group 6A eating and drinking activities; and

WHEREAS, therefore, the Board finds that the proposed application will not alter the essential character of the surrounding neighborhood, nor impair the use of

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

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

WHEREAS, the Board finds that the variance application is the minimum variance 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 §72-21 of the Zoning Resolution; and

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

WHEREAS, the applicant's Shandel Phase II report indicates that "the soil at the site is classified as 'clean fill with reuse options,'" and no test results indicated any hazardous or contaminated soil that exceeded any Federal, State or local environmental code or regulation; and

WHEREAS, The New York State Department of Environmental Conservation in its May 17, 2002 letter concurs with this assessment and has determined that no further investigation or response will be required at the subject site regarding spill number 94-00935; and

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

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, and grants a variation in the application of the Zoning Resolution to permit, the proposed eating and drinking establishment, Use Group 6A, in excess of 5,000 square feet, to be partially located below the floor level of the second story, of a building to be constructed in an M1-5B zoning district, which is contrary to Z.R. §42-14 D(2)(a) and D(2)(b), on condition that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received May 20, 2002"-(6) sheets; and on further condition;

THAT use of the premises shall be limited to Use Group 6A eating and drinking activities;

THAT the third floor shall be fully enclosed;

THAT there shall be no loitering or queuing of customers outside;

THAT the hours of operation for the accessory lounge area shall be from 6:00 p.m. to 4:00 a.m. and the hours of operation for the bar in the main dining room shall be from 8:00 a.m. to 4:00 a.m. daily except Sunday when it shall be from 12:00 p.m. to 4:00 a.m.;

MINUTES

THAT the outdoor table area or café shall be limited to 10:00 a.m. to 12:00 a.m. Sunday through Thursday and will close at 1:00 a.m. on Friday and Saturday;

THAT any outdoor music shall consist only of background music which shall be kept below 45dBA and that there shall be no outdoor music after 9 PM;

THAT security personnel shall be provided 7 days a week between the hours of 12:00 a.m. and 7:00 a.m.;

THAT garbage shall be picked up between the hours of 11:00 p.m. and 12:00 a.m. on the Jones Street side of the building and shall be kept indoors until the time of collection;

THAT this any change in use, ownership or lessee shall require Board approval;

THAT all signage shall be provided in accordance with BSA-approved plans;

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

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

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

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

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

Adopted by the Board of Standards and Appeals, May 21, 2002.

403-01-BZ

APPLICANT- Sullivan, Chester & Gardner LLP, for Trump Construction Co., owner; Yandoli Foods Corp., lessee.

SUBJECT - Application December 26, 2001 - under Z.R. §73-243, to permit, in a C7 zoning district, the reestablishment of an expired special permit previously granted under Calendar Number 98-82-BZ, for an accessory drive-thru facility, the proposed reconfiguration of the drive-thru facility and lot, and the increase in the number of parking spaces from 29 to 36.

PREMISES AFFECTED - 606 Neptune Avenue, southwest corner of 6th Street, Block 7270, Lot 25, Borough of Brooklyn.

COMMUNITY BOARD #13BK

APPEARANCES -

For Applicant: Jeffrey Chester.

For Administration: John Scrofani, Fire Department.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated November 28, 2001, acting on Alt. Applic. No. 301172503 reads:

"Drive through window in a C1-2 Zoning District is contrary to ZR 32-31. The Drive-through facility for this location has been previously approved by the Board of Standards and Appeals. Cal. No 98-82-BZ) and has expired. Refer this application to the Board for an extension of term."; and

WHEREAS, a public hearing was held on this application on May 7, 2002 after due notice by publication in the City Record, laid over to May 21, 2002 for decision; and

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

WHEREAS, this is an application for a special permit under Z.R. §§73-243 and 73-03, to permit, in a C7 zoning district, the reestablishment of an expired special permit previously granted under Calendar Number 98-82-BZ, for an accessory drive-thru facility, the proposed reconfiguration of the drive-thru facility and lot, and the increase in the number of parking spaces from 29 to 36; and

WHEREAS, the subject lot contains approximately 35,000 square feet with 150' of frontage along Neptune Avenue, improved with a restaurant with an accessory drive-thru facility; and

WHEREAS, the existing restaurant's floor area is approximately 3,714 square feet and provides 29 accessory parking spaces; and

WHEREAS, the record indicates that the surrounding area contains a mixture of commercial, residential and community facility uses and that Neptune Avenue is a heavily trafficked thoroughfare; and

WHEREAS, the applicant represents that on Neptune Avenue, directly to the east across West 6th Street, is a large multi-tenanted shopping center with an accessory parking lot; and

WHEREAS, on July 13, 1982, under Calendar Number 98-82-BZ, the Board granted a Special Permit for a term of five (5) years, on condition that speed bumps, warning signs and stop signs be installed; and

WHEREAS, the application was amended in 1987, 1994 with the last of the five year terms expiring July 13, 1997; and

MINUTES

WHEREAS, the applicant represents that the current owner was not aware that the property was subject to Board renewal; and

WHEREAS, the record indicates that the drive through lane will accommodate up to 10 automobiles, that the proposed exit on West 6th Street will have a negligible impact on traffic, that 36 accessory parking spaces are being provided, that Neptune Avenue is a significant commercial thoroughfare and that the majority of the existing frontages within 500' are commercial in nature, that the drive through has existed for 18 years and has not caused an undue adverse impact on residences within the immediate vicinity, and that because there are no adjacent residential uses, there is an adequate buffer between the drive-through facility and adjacent residential uses; and

WHEREAS, the Board finds that the proposed application 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 has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-243 and 73-03; and

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

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

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

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 N.Y.C.R.R. Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes the required findings and grants a special permit under Section Z.R. §§73-243 and 73-03, to permit, in a C7 zoning district, the reestablishment of an expired special permit previously granted under Calendar Number 98-82-BZ, for an accessory drive-thru facility, the proposed reconfiguration of the drive-thru facility and lot, and the increase in the number of parking spaces from 29 to 36, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received April 16, 2002"- (6)sheets; and on further condition;

THAT this special permit shall be limited to a term of five years from the date of this grant expiring May 21, 2007;

THAT substantial construction shall be completed in accordance with Z.R. §73-70;

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

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

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

Adopted by the Board of Standards and Appeals, May 21, 2002.

31-02-BZ

APPLICANT - Moshe M. Friedman, P.E., Francine Wiederman, owner.

SUBJECT - Application January 17, 2002 - under Z.R. §73-622, to permit in an R3-2 zoning district, the enlargement to an existing one-family dwelling which creates non-compliance with regard to Floor Area, Open Space Ratio, Perimeter Wall Height and the Rear and Side Yards contrary to Z.R. §§ 23-141(b), 23-631(b), 23-47 and 23-48.

PREMISES AFFECTED - 1924 East 24th Street (Mansfield Place), west side, 186'- 8" south of Avenue "S", Block 7302, Lot 16, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Moshe Friedman.

For Administration: John Scrofani, Fire Department.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated January 9, 2002, acting on Alt. 1. Application No. 301284296 reads:

"Proposed extensions to existing One (1) Family Dwelling are contrary to

ZR Sec 23-141 (b) Floor Area

ZR Sec 23-141 (b) Open Space & Lot Coverage

ZR Sec 23-631 (b) Perimeter Wall

ZR Sec 23-47 Rear Yard

ZR Sec 2348 Minimum Side Yard and requires a Special Permit from the Board of Standards and Appeals as per Sec 73-622"; and

WHEREAS, a public hearing was held on this application on March 26, 2002 after due notice by publication in The City Record, and laid over to April 16, 2002, and then to May 21, 2002 for decision; and

MINUTES

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

WHEREAS, a special permit is sought under Z.R. §73-622 to allow, in an R3-2 zoning district, the enlargement to an existing one-family dwelling which creates non-compliance with regard to Floor Area, Open Space Ratio, Perimeter Wall Height and the Rear and Side Yards contrary to Z.R. §§ 23-141(b), 23-631(b), 23-47 and 23-48; and

WHEREAS, Community Board #15 has recommended approval of this application; and

WHEREAS, the proposed enlargement will increase the FAR to .78, decrease the Rear Yard from the required 30' to 20'3", decrease the open space from the required 65% to 58%, maintain the existing Perimeter Wall Height of 22', and maintain the existing side yards of 7.42' and 3.08'; and

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

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

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

Resolved that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under Z.R. §§73-03 and 73-622 and grants a special to allow in an R3-2 zoning district, the enlargement to an existing one-family dwelling which creates non-compliance with regard to Floor Area, Open Space Ratio, Perimeter Wall Height and the Rear and Side Yards contrary to Z.R. §§ 23-141(b), 23-631(b), 23-47 and 23-48, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received January 17, 2002" -(4) sheets, "April 29, 2002" -(1) sheet and "May 7, 2002" -(2) sheets; and on further condition;

THAT there shall be no habitable room in the cellar;

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

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

THAT 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;

THAT substantial construction be completed and a new Certificate of Occupancy be obtained within two years of this grant.

Adopted by the Board of Standards and Appeals, May 21, 2002.

65-02-BZ

APPLICANT - Hiram A. Rothkrug, EPDSCO, Lindenstar Company, owner; Lindenwood Restaurant, Inc. lessee.

SUBJECT - Application February 20, 2002 - under Z.R. §72-21, to permit the proposed re-establishment of an expired variance, previously granted under Cal. No. 742-74-BZ, which permitted an enlargement to an existing diner, located in an R4 district.

PREMISES AFFECTED - 2870/92 Linden Boulevard, south side, between Amber and Sapphire Streets (78th Street), Block 4497, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #5BK

APPEARANCES -

For Applicant: Hiram A. Rothkrug.

For Administration: John Scrofani, Fire Department.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated March 26, 2002, acting on Applic. No. 300790366, reads:

"Proposed re-establishment of the variance (which pertains solely to the portion of the existing diner [UG 6] located in the R4 zone) is contrary to the Board of Standards and Appeals variance granted under 742-74-BZ."; and

WHEREAS, a public hearing was held on this application on April 23, 2002 after due notice by publication in The City Record, laid over to May 21, 2002 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit, the proposed re-establishment of an expired variance, previously granted under Cal. No. 742-74-BZ, which permitted an enlargement to an existing diner, located in an R4 district; and

MINUTES

WHEREAS, the applicant further represents that the premises is a thirteen (13) foot high building, has a total area of 4,397 square feet, and provides off-street parking for 32 vehicles; and

WHEREAS, in 1974, acting on Cal. No. 742-74-BZ, the Board approved an application to permit in an R4 district, for a term of ten (10) years, expiring May 13, 1985, the erection of a one-story enlargement to an existing diner; and

WHEREAS, evidence in the record indicates that in 1976, the City Planning Commission and Board of Estimate approved a rezoning of the site, in addition to the block frontages located directly to the east and west of the site, from R4 to R4/C1-2; and

WHEREAS, although the existing diner was no longer subject to the BSA variance, only half of the 915 square foot enlargement approved by the Board was covered by the rezoning; and

WHEREAS, the applicant represents that this variance seeks to re-establish the prior variance approved by the Board for that portion of the diner enlargement (458 square feet), which still remains in the adjoining R4 district; and

WHEREAS, the applicant states that the subject site is a split lot, which creates a practical difficulty and irregularity in being able to develop the site in strict compliance with the use and bulk provisions of the Zoning Resolution; and

WHEREAS, the applicant contends that due to the existing structure, the narrowness, and shallowness of the lot, a conforming development would result in a four-story residential building with dimensions of 7' by 60'; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, which are the result of the site's split zoning designation and the existing structure present a practical difficulty and unnecessary hardship for conforming with the strict application of the Zoning Resolution; and

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

WHEREAS, the applicant represents that the existing site does not have, and would not cause any new adverse impacts on the residences within the immediate vicinity of the subject site, and the subject site would remain the same as originally built in 1961; and

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

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

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

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

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

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

Therefore, it is Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, and grants a variation in the application of the Zoning Resolution to permit, the proposed re-establishment of an expired variance, previously granted under Cal. No. 742-74-BZ, which permitted an enlargement to an existing diner, located in an R4 district, on condition that all work shall substantially conform to drawings as they apply to the objection above noted, filed with this application marked "Received February 20, 2002"-(4) sheets; and on further condition;

THAT it shall be noted in the Certificate of Occupancy that any change in use, ownership or lessee shall require Board Approval;

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

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

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

Adopted by the Board of Standards and Appeals, May 21, 2002.

244-01-BZ

APPLICANT - Sheldon Lobel, P.C., for Rodney Street Corp., owner.

SUBJECT - Application July 24, 2001 - under Z.R. §72-21, to permit the legalization of residential units within an existing three story building located in an M1-1 zoning district, which is contrary to Z.R. §42-00.

MINUTES

PREMISES AFFECTED - 325 South First Street, aka 398/404 Rodney Street, northeast corner, Block 2398, Lot 28, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Janice Cahallane and Sheldon Lobel.

For Administration: John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to July 9, 2002, at 2 P.M., for continued hearing.

246-01-BZ

APPLICANT- Carl A. Sulfaro, Esq., for Q.P. Development Corp., owner; Pure Power gym, lessee.

SUBJECT - Application August 2, 2001 - under Z.R. §73-36, to permit the legalization of an existing physical culture establishment (Use Group 9A) located in an M1-1 within a C2-2 zoning district, which requires a special permit as per Z.R. §32-31 and §42-31.

PREMISES AFFECTED - 35-11 Prince Street, east side 105.57' south of 35th Street, Block 4958, Lot 1, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Carl A. Sulfaro.

For Administration: John Scrofani, Fire Department.

THE VOTE TO CLOSE HEARING -

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

Negative:0

ACTION OF THE BOARD - Laid over to June 11, 2002, at 2 P.M., for decision, hearing closed.

285-01-BZ

APPLICANT - Harold Weinberg, P.E., Consulting Engineer, P.C., for Yeshiva Yalde Torah by Sinai Halberstam, owner.

SUBJECT- Application October 5, 2001 - under Z.R. §73-19, to permit the legalization of the first floor of the subject premises as a day care center, Use Group 3, and the enlargement of the second floor for said use, located in an M1-2 zoning district, is contrary to Z.R. §42-00, §52-22 and §52-41.

PREMISES AFFECTED - 1045 38th Street, north side, 294'-2½," west of 10th Avenue, Block 5289, Lot 61, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Harold Weinberg.

For Administration: John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to June 11, 2002, at 2 P.M., for continued hearing.

321-01-BZ

APPLICANT - Titan Towers, LP, Pitney, Hardin, Kipp & Szuch, LLP, for Motiva Enterprises, LLC, owner.

SUBJECT - Application February 14, 2002 - under Z.R. §73-30, to permit the proposed construction of a 475' lattice communications tower, and two prefabricated 12' x 20' equipment shelters at the base of the tower, located in an M3-1 zoning district, which requires a special permit as per Z.R. §73-30.

PREMISES AFFECTED - 25 Paidge Avenue, on the corner of McGuinness Boulevard, Block 2491, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Michael Vitiello.

For Administration: John Scrofani, Fire Department.

THE VOTE TO REOPEN HEARING -

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

Negative:0

ACTION OF THE BOARD - Laid over to July 9, 2002, at 2 P.M., for continued hearing.

367-01-BZ

APPLICANT - Rosenberg & Estis, P.C., by Ellen Hay, for Fifty Third Group, LLC, owner.

SUBJECT - Application March 18, 2002 - under Z.R. §72-21, to permit the legalization of the change in occupancy of a portion of the first floor, in an existing six story mixed use building, from residential to commercial use, located in an R-8B (TA) zoning district, which is contrary to Z.R. §32-15.

PREMISES AFFECTED - 226 East 53rd Street, south side, between Second and Third Avenues, Block 1326, Lot 37, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES -

For Applicant: Ellen Hay.

For Administration: John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to July 16, 2002, at 2 P.M., for continued hearing.

369-01-BZ

APPLICANT - Sheldon Lobel, P.C., for SYC, LLC, owner.

SUBJECT - Application November 27, 2001 - under Z.R. §72-21, to permit the legalization of an existing three story

MINUTES

residential building, Use Group 2, located in an M1-2 zoning district, is contrary to Z.R. §42-00.

PREMISES AFFECTED - 303 Seigel Street, northwest corner of Bogart Street, Block 3092, Lot 27, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Janice Cahalane, Sheldon Lobel and Neil Dolgin.

For Administration: John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to July 9, 2002, at 2 P.M., for continued hearing.

374-01-BZ & 375-01-BZ

APPLICANT - Augusta & Ross for 399 Broadway Holdings, LLC., owner.

SUBJECT - Application November 30, 2001 - under Z.R. §72-21, to permit the proposed erection of a four story multiple dwelling (Use Group 2) located in an M1-1 zoning district, which is contrary to Z.R. §42-10.

PREMISES AFFECTED - 836 Kent Avenue, west side, 119'-8" south of Park Avenue, Block 1897, Lot 36, Borough of Brooklyn.

838 Kent Avenue, west side, 114'-8" south of Park Avenue, Block 1897, Lot 37, Borough of Brooklyn.

COMMUNITY BOARD #3BK

APPEARANCES -

For Administration: John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to July 16, 2002, at 2 P.M., for postponed hearing.

2-02-BZ

APPLICANT - Sheldon Lobel, P.C., for City of New York Economic Development, owner; Bronx Preparatory Charter School, lessee.

SUBJECT - Application January 3, 2002 - under Z.R. §§72-21 and 73-19 to permit the proposed construction of a five story school, Use Group 3, located in an M1-4 zoning district, which requires a special permit as per §73-19 and a variance to waive certain rear yard requirements, which is contrary to §42-13, §43-232 and §43-302.

PREMISES AFFECTED - 3872 Third Avenue, aka 532 East 172nd Street, southeast corner, Block 2929, Lots 8-18, 20 and 22, Borough of The Bronx.

COMMUNITY BOARD #3BX

APPEARANCES -

For Applicant: Irving E. Minkin and Peter Gluck.

For Administration: John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to June 11, 2002, at 2 P.M., for continued hearing.

20-02-BZ

APPLICANT - Fredrick A. Becker, Esq., for 303 Park Avenue South Leasehold LLC, owner; Town Sports International dba New York Sports Club, lessee.

SUBJECT - Application January 7, 2002 - under Z.R. §73-36, to permit the proposed expansion of an existing physical culture establishment, located in a C6-4A zoning district, previously granted under Cal. No. 160-95-BZ, which requires a special permit as per Z.R. §§32-10 and 32-31.

PREMISES AFFECTED - 303 Park Avenue South, northeast corner of East 23rd Street, Block 879, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #5M

APPEARANCES -

For Applicant: Fredrick A. Becker.

For Administration: John Scrofani, Fire Department.

ACTION OF THE BOARD - Laid over to June 11, 2002, at 2 P.M., for continued hearing.

30-02-BZ

APPLICANT - Fredrick A. Becker, Esq., for Delmonico Hotel Co., LLC, owner; Town Sports International dba New York Sports Club, lessee.

SUBJECT - Application January 17, 2002 - under Z.R. §73-36, to permit the legalization of an expansion of an existing physical culture establishment, located within portions of the basement, first floor, second floor mezzanine and second floor, of a thirty-two story commercial building, located in a C5-2.5 and C5-5 (Mid) zoning district, which requires a special permit as per Z.R. §32-10.

PREMISES AFFECTED - 502 Park Avenue, northwest corner of East 59th Street, Block 1374, Lots 30 and 36, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Fredrick A. Becker.

For Administration: John Scrofani, Fire Department.

THE VOTE TO CLOSE HEARING -

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

Negative:0

ACTION OF THE BOARD - Laid over to June 18, 2002, at 2 P.M., for decision, hearing closed.

37-02-BZ

APPLICANT - Harold Weinberg, P.E., for Estate of Herbert Weinberg, Harold Weinberg, owner; Miriam Weinberg Eberman, contract vendee.

MINUTES

SUBJECT - Application April 11, 2002 - under Z.R. §73-622, to permit the proposed enlargement of an existing two family dwelling (Use Group 2) located in an R3-1 zoning district, which does not comply with the zoning requirements for floor area ratio and rear yard, and is contrary to Z.R. §23-141. §23-47 and §54-31.

Pasquale Pacifico, Executive Director.

Adjourned: 4:30 P.M.

PREMISES AFFECTED - 181 Falmouth Street, east side, 100'-0" north of Oriental Boulevard, Block 8749, Lot 292, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Harold Weinberg.

For Administration: John Scrofani, Fire Department.

THE VOTE TO CLOSE HEARING -

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

Negative:0

ACTION OF THE BOARD - Laid over to June 11, 2002, at 2 P.M., for decision, hearing closed.

84-02-BZ

APPLICANT - Howard A. Zipser/Stadtmauer Bailkin, for East End Temple Congregation El Emet, owner.

SUBJECT - Application March 25, 2002 - under Z.R. §72-21, to permit the proposed expansion at the basement, first and second floor levels, of an existing synagogue (Use Group 4), located in an R7B and R9A zoning district, which does not comply with the zoning requirements for rear yard and lot coverage, and is contrary to Z.R. §24-12 and §24-33.

PREMISES AFFECTED - 245 East 17th Street, north side, 83' west of Second Avenue, Block 898, Lot 25, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES -

For Applicant: Harold Zipser, Steve Sinacori and George Schefferlecher.

For Administration: John Scrofani, Fire Department.

THE VOTE TO CLOSE HEARING -

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

Negative:0

ACTION OF THE BOARD - Laid over to June 11, 2002, at 2 P.M., for decision, hearing closed.

CORRECTIONS

*CORRECTION

These resolution adopted on January 9, 2001, under Calendar Nos. 104-00-BZ thru 110-00-BZ and printed in Volume 86, Bulletin Nos. 1-3, is hereby corrected to read as follows:

104-00-BZ

CEQR # 00-BSA-118K

APPLICANT - Sheldon Lobel, P.C., for Middleton Development Corp., owner.

SUBJECT- Application April 7, 2000 - under Z.R. §72-21, to permit in a C8-2 zoning district, the proposed construction of residential dwellings (Use Group 2), which is contrary to Z.R. § 32-00.

PREMISES AFFECTED - 2 Throop Avenue, between Middleton and Lynch Streets, Block 2238, Lot Tentative 132 (prior 32), Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Eric Palatnik.

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

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated March 13, 2000 acting on N.B. Applic. No. 300844594 which read:

“ PROPOSED RESIDENTIAL DWELLINGS IN C8-2 ZONING DISTRICT ARE CONTRARY TO SECTION 32-00 OF THE ZONING RESOLUTION AND REQUIRE A VARIANCE FROM THE BOARD OF STANDARDS AND APPEALS”; and

WHEREAS, Community Board 1, Brooklyn, has recommended conditional approval of these applications; and

WHEREAS, a public hearing was held on this application on November 21, 2000, after due notice by publication in The City Record, laid over to December 12, 2000 and then to January 9, 2000 for decision; and

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

WHEREAS, this application is one of 7 application, filed under Calendar Numbers 104-00-BZ through 110-00-

BZ requesting a variance to permit the construction of a residential complex in a commercial district; and

WHEREAS, these applications are for the erection a housing complex consisting of 7 lots, with each lot housing a five-story residential building containing 5 residential dwellings (currently known as Block 2238 Lots 132, 133, 134, 135, 136, 137, 138) hereinafter “the site”; and

WHEREAS, this application is under Z.R. §72-21, to permit, in a C8-2 zoning district, the proposed construction of residential dwellings (Use Group 2), which is contrary to Z.R. § 32-00; and

WHEREAS, the site presently consists of 7 lots which are vacant; and

WHEREAS, the site occupies the corner of Middleton Street and Throop Avenue; and

WHEREAS, evidence in the record indicates that in 1887 the subject lot was occupied by a three story multi-family structure with a store on the ground floor; and

WHEREAS, the applicant represents that over the last 110 years, no manufacturing use has occupied the site; and

WHEREAS, the applicant notes that the site is too narrow to accommodate modern manufacturing uses, and

WHEREAS, the size of the site, its history of development with a non conforming use or as a vacant property and its location on the corner of Middleton Street and Throop Avenue characterized by other residential uses, creates an unnecessary hardship in now developing the site with a conforming use; and

WHEREAS, the applicant has documented compliance with Quality Housing requirements; and

WHEREAS, the applicant has represented that the owner will comply with the Fire Department’s requirements; and

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

WHEREAS, as set forth, the site is part of a very small manufacturing enclave surrounded by residential uses as characterized by a residential development being erected less than two blocks from the subject site; and

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

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

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

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

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

MINUTES

CORRECTIONS

Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit, in a C8-2 zoning district, the proposed construction of residential dwellings (Use Group 2), which is contrary to Z.R. § 32-00, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with these applications marked "Received September 8, 2000"-(5) sheets, "December 4, 2000"-(10) sheets and "December 20, 2000"-(1) sheet; and on further condition;

THAT all Fire Department requirements be complied with;

THAT landscaping be maintained in accordance with BSA-approved plans;

THAT the above conditions appear on the certificate of occupancy;

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

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

Adopted by the Board of Standards and Appeals, January 9, 2001.

***These resolutions has been corrected to remove the portion which read: "WHEREAS, evidence in the record demonstrates that the proposed accessory parking spaces are sufficient to avoid any parking impacts and will minimize any adverse impacts on the surrounding area". Corrected in Bulletin No. 22, Vol. 87, dated May 30, 2002.**

105-00-BZ

CEQR # 00-BSA-119K

APPLICANT - Sheldon Lobel, P.C., for Middleton Development Corp., owner.

SUBJECT - Application April 7, 2000 - under Z.R. §72-21, to permit in a C8-2 zoning district, the proposed construction of residential dwellings (Use Group 2), which is contrary to Z.R. § 32-00.

PREMISES AFFECTED - 2A Throop Avenue, between Middleton and Lynch Streets, Block 2238, Lot Tentative 133 (prior 33), Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Eric Palatnik.

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

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated March 13, 2000 acting on N.B. Applic. No. 300848867 which read:

"PROPOSED RESIDENTIAL DWELLINGS IN C8-2 ZONING DISTRICT ARE CONTRARY TO SECTION 32-00 OF THE ZONING RESOLUTION AND REQUIRE A VARIANCE FROM THE BOARD OF STANDARDS AND APPEALS"; and

WHEREAS, Community Board 1, Brooklyn, has recommended conditional approval of these applications; and

WHEREAS, a public hearing was held on this application on November 21, 2000, after due notice by publication in The City Record, laid over to December 12, 2000 and then to January 9, 2000 for decision; and

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

WHEREAS, this application is one of 7 application, filed under Calendar Numbers 104-00-BZ through 110-00-BZ requesting a variance to permit the construction of a residential complex in a commercial district; and

WHEREAS, these applications are for the erection a housing complex consisting of 7 lots, with each lot housing

a five-story residential building containing 5 residential dwellings (currently known as Block 2238 Lots 132, 133, 134, 135, 136, 137, 138) hereinafter “the site”; and

WHEREAS, this application is under Z.R. §72-21, to permit, in a C8-2 zoning district, the proposed construction of residential dwellings (Use Group 2), which is contrary to Z.R. § 32-00; and

WHEREAS, the site presently consists of 7 lots which are vacant; and

WHEREAS, the site occupies the corner of Middleton Street and Throop Avenue; and

WHEREAS, evidence in the record indicates that in 1887 the subject lot was occupied by a three story multi-family structure with a store on the ground floor; and

WHEREAS, the applicant represents that over the last 110 years, no manufacturing use has occupied the site; and

WHEREAS, the applicant notes that the site is too narrow to accommodate modern manufacturing uses, and

WHEREAS, the size of the site, its history of development with a non conforming use or as a vacant property and its location on the corner of Middleton Street and Throop Avenue characterized by other residential uses, creates an unnecessary hardship in now developing the site with a conforming use; and

CORRECTIONS

WHEREAS, the applicant has documented compliance with Quality Housing requirements; and

WHEREAS, the applicant has represented that the owner will comply with the Fire Department’s requirements; and

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

WHEREAS, as set forth, the site is part of a very small manufacturing enclave surrounded by residential uses as characterized by a residential development being erected less than two blocks from the subject site; and

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

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

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

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

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

Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental

Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit, in a C8-2 zoning district, the proposed construction of residential dwellings (Use Group 2), which is contrary to Z.R. § 32-00, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with these applications marked “Received September 8, 2000”-(5) sheets, “December 4, 2000”- (10) sheets and “December 20, 2000”-(1) sheet; and on further condition;

THAT all Fire Department requirements be complied with;

THAT landscaping be maintained in accordance with BSA-approved plans;

THAT the above conditions appear on the certificate of occupancy;

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

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

Adopted by the Board of Standards and Appeals, January 9, 2001.

***These resolutions has been corrected to remove the portion which read: “WHEREAS, evidence in the record**

demonstrates that the proposed accessory parking spaces are sufficient to avoid any parking impacts and will minimize any adverse impacts on the surrounding area”.

Corrected in Bulletin No. 22, Vol. 87, dated May 30, 2002.

107-00-BZ

CEQR # 00-BSA-121K

APPLICANT - Sheldon Lobel, P.C., for Middleton Development Corp., owner.

SUBJECT- Application April 7, 2000 - under Z.R. §72-21, to permit in a C8-2 zoning district, the proposed construction of residential dwellings (Use Group 2), which is contrary to Z.R. § 32-00.

PREMISES AFFECTED - 6 Throop Avenue, between Middleton and Lynch Streets, Block 2238, Lot Tentative 135 (prior 36), Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Eric Palatnik.

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

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated March 13, 2000 acting on N.B. Applic. No. 300844601 which read:

“ PROPOSED RESIDENTIAL DWELLINGS IN C8-2 ZONING DISTRICT ARE CONTRARY TO SECTION 32-00 OF THE ZONING RESOLUTION AND REQUIRE A VARIANCE FROM THE BOARD OF STANDARDS AND APPEALS”; and

WHEREAS, Community Board 1, Brooklyn, has recommended conditional approval of these applications; and

WHEREAS, a public hearing was held on this application on November 21, 2000, after due notice by publication in The City Record, laid over to December 12, 2000 and then to January 9, 2000 for decision; and

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

WHEREAS, this application is one of 7 application, filed under Calendar Numbers 104-00-BZ through 110-00-BZ requesting a variance to permit the construction of a residential complex in a commercial district; and

CORRECTIONS

WHEREAS, these applications are for the erection a housing complex consisting of 7 lots, with each lot housing a five-story residential building containing 5 residential dwellings (currently known as Block 2238 Lots 132, 133, 134, 135, 136, 137, 138) hereinafter "the site"; and

WHEREAS, this application is under Z.R. §72-21, to permit, in a C8-2 zoning district, the proposed construction of residential dwellings (Use Group 2), which is contrary to Z.R. § 32-00; and

WHEREAS, the site presently consists of 7 lots which are vacant; and

WHEREAS, the site occupies the corner of Middleton Street and Throop Avenue; and

WHEREAS, evidence in the record indicates that in 1887 the subject lot was occupied by a three story multi-family structure with a store on the ground floor; and

WHEREAS, the applicant represents that over the last 110 years, no manufacturing use has occupied the site; and

WHEREAS, the applicant notes that the site is too narrow to accommodate modern manufacturing uses, and

WHEREAS, the size of the site, its history of development with a non conforming use or as a vacant property and its location on the corner of Middleton Street and Throop Avenue characterized by other residential uses, creates an unnecessary hardship in now developing the site with a conforming use; and

WHEREAS, the applicant has documented compliance with Quality Housing requirements; and

WHEREAS, the applicant has represented that the owner will comply with the Fire Department's requirements; and

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

WHEREAS, as set forth, the site is part of a very small manufacturing enclave surrounded by residential uses as characterized by a residential development being erected less than two blocks from the subject site; and

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

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

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

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

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

Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit, in a C8-2 zoning district, the proposed construction of residential dwellings (Use Group

2), which is contrary to Z.R. § 32-00, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with these applications marked "Received September 8, 2000"-(5) sheets, "December 4, 2000"- (10) sheets and "December 20, 2000"-(1) sheet; and on further condition;

THAT all Fire Department requirements be complied with;

THAT landscaping be maintained in accordance with BSA-approved plans;

THAT the above conditions appear on the certificate of occupancy;

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

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

Adopted by the Board of Standards and Appeals, January 9, 2001.

***These resolutions has been corrected to remove the portion which read: "WHEREAS, evidence in the record demonstrates that the proposed accessory parking spaces are sufficient to avoid any parking impacts and will minimize any adverse impacts on the surrounding area". Corrected in Bulletin No. 22, Vol. 87, dated May 30, 2002.**

106-00-BZ

CEQR # 00-BSA-120K

APPLICANT - Sheldon Lobel, P.C., for Middleton Development Corp., owner.

SUBJECT - Application April 7, 2000 - under Z.R. §72-21, to permit in a C8-2 zoning district, the proposed construction of residential dwellings (Use Group 2), which is contrary to Z.R. § 32-00.

PREMISES AFFECTED - 4 Throop Avenue, between Middleton and Lynch Streets, Block 2238, Lot Tentative 134 (prior 35), Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Eric Palatnik.

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

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:0

CORRECTIONS

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated March 13, 2000 acting on N.B. Applic. No. 300844530 which read:

“ PROPOSED RESIDENTIAL DWELLINGS IN C8-2 ZONING DISTRICT ARE CONTRARY TO SECTION 32-00 OF THE ZONING RESOLUTION AND REQUIRE A VARIANCE FROM THE BOARD OF STANDARDS AND APPEALS”; and

WHEREAS, Community Board 1, Brooklyn, has recommended conditional approval of these applications; and

WHEREAS, a public hearing was held on this application on November 21, 2000, after due notice by publication in The City Record, laid over to December 12, 2000 and then to January 9, 2000 for decision; and

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

WHEREAS, this application is one of 7 application, filed under Calendar Numbers 104-00-BZ through 110-00-BZ requesting a variance to permit the construction of a residential complex in a commercial district; and

WHEREAS, these applications are for the erection a housing complex consisting of 7 lots, with each lot housing a five-story residential building containing 5 residential dwellings (currently known as Block 2238 Lots 132, 133, 134, 135, 136, 137, 138) hereinafter “the site”; and

WHEREAS, this application is under Z.R. §72-21, to permit, in a C8-2 zoning district, the proposed construction of residential dwellings (Use Group 2), which is contrary to Z.R. § 32-00; and

WHEREAS, the site presently consists of 7 lots which are vacant; and

WHEREAS, the site occupies the corner of Middleton Street and Throop Avenue; and

WHEREAS, evidence in the record indicates that in 1887 the subject lot was occupied by a three story multi-family structure with a store on the ground floor; and

WHEREAS, the applicant represents that over the last 110 years, no manufacturing use has occupied the site; and

WHEREAS, the applicant notes that the site is too narrow to accommodate modern manufacturing uses, and

WHEREAS, the size of the site, its history of development with a non conforming use or as a vacant property and its location on the corner of Middleton Street and Throop Avenue characterized by other residential uses, creates an unnecessary hardship in now developing the site with a conforming use; and

WHEREAS, the applicant has documented compliance with Quality Housing requirements; and

WHEREAS, the applicant has represented that the owner will comply with the Fire Department’s requirements; and

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

WHEREAS, as set forth, the site is part of a very small manufacturing enclave surrounded by residential uses as characterized by a residential development being erected less than two blocks from the subject site; and

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

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

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

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

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

Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit, in a C8-2 zoning district, the proposed construction of residential dwellings (Use Group 2), which is contrary to Z.R. §32-00; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with these applications marked “Received September 8, 2000”-(5) sheets, “December 4, 2000”- (10) sheets and “December 20, 2000”-(1) sheet; and on further condition;

THAT all Fire Department requirements be complied with;

THAT landscaping be maintained in accordance with BSA-approved plans;

THAT the above conditions appear on the certificate of occupancy;

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

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

Adopted by the Board of Standards and Appeals, January 9, 2001.

***These resolutions has been corrected to remove the portion which read: “WHEREAS, evidence in the record demonstrates that the proposed accessory parking spaces are sufficient to avoid any parking impacts and will minimize any adverse impacts on the surrounding area”. Corrected in Bulletin No. 22, Vol. 87, dated May 30, 2002.**

CORRECTIONS

108-00-BZ

CEQR # 00-BSA-122K

APPLICANT - Sheldon Lobel, P.C., for Middleton Development Corp., owner.

SUBJECT - Application April 7, 2000 - under Z.R. §72-21, to permit in a C8-2 zoning district, the proposed construction of residential dwellings (Use Group 2), which is contrary to Z.R. § 32-00.

PREMISES AFFECTED - 8 Throop Avenue, between Middleton and Lynch Streets, Block 2238, Lot Tentative 136 (prior 36), Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Eric Palatnik.

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

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated March 13, 2000 acting on N.B. Applic. No. 300844549 which read:

“ PROPOSED RESIDENTIAL DWELLINGS IN C8-2 ZONING DISTRICT ARE CONTRARY TO SECTION 32-00 OF THE ZONING RESOLUTION AND REQUIRE A VARIANCE FROM THE BOARD OF STANDARDS AND APPEALS”; and

WHEREAS, Community Board 1, Brooklyn, has recommended conditional approval of these applications; and

WHEREAS, a public hearing was held on this application on November 21, 2000, after due notice by publication in The City Record, laid over to December 12, 2000 and then to January 9, 2000 for decision; and

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

WHEREAS, this application is one of 7 application, filed under Calendar Numbers 104-00-BZ through 110-00-BZ requesting a variance to permit the construction of a residential complex in a commercial district; and

WHEREAS, these applications are for the erection a housing complex consisting of 7 lots, with each lot housing a five-story residential building containing 5 residential dwellings (currently known as Block 2238 Lots 132, 133, 134, 135, 136, 137, 138) hereinafter “the site”; and

WHEREAS, this application is under Z.R. §72-21, to permit, in a C8-2 zoning district, the proposed construction of residential dwellings (Use Group 2), which is contrary to Z.R. § 32-00; and

WHEREAS, the site presently consists of 7 lots which are vacant; and

WHEREAS, the site occupies the corner of Middleton Street and Throop Avenue; and

WHEREAS, evidence in the record indicates that in 1887 the subject lot was occupied by a three story multi-family structure with a store on the ground floor; and

WHEREAS, the applicant represents that over the last 110 years, no manufacturing use has occupied the site; and

WHEREAS, the applicant notes that the site is too narrow to accommodate modern manufacturing uses, and

WHEREAS, the size of the site, its history of development with a non conforming use or as a vacant property and its location on the corner of Middleton Street and Throop Avenue characterized by other residential uses, creates an unnecessary hardship in now developing the site with a conforming use; and

WHEREAS, the applicant has documented compliance with Quality Housing requirements; and

WHEREAS, the applicant has represented that the owner will comply with the Fire Department’s requirements; and

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

WHEREAS, as set forth, the site is part of a very small manufacturing enclave surrounded by residential uses as characterized by a residential development being erected less than two blocks from the subject site; and

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

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

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

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

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

Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation

in the application of the Zoning Resolution, limited to the objections cited, to permit, in a C8-2 zoning district, the proposed construction of residential dwellings (Use Group 2), which is contrary to Z.R. §32-00; on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with these applications marked "Received September 8, 2000"-(5) sheets,

CORRECTIONS

"December 4, 2000"- (10) sheets and "December 20, 2000"-(1) sheet; and on further condition;

THAT all Fire Department requirements be complied with;

THAT landscaping be maintained in accordance with BSA-approved plans;

THAT the above conditions appear on the certificate of occupancy;

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

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

Adopted by the Board of Standards and Appeals, January 9, 2001.

***These resolutions has been corrected to remove the portion which read:** *"WHEREAS, evidence in the record demonstrates that the proposed accessory parking spaces are sufficient to avoid any parking impacts and will minimize any adverse impacts on the surrounding area".* **Corrected in Bulletin No. 22, Vol. 87, dated May 30, 2002.**

109-00-BZ

CEQR # 00-BSA-123K

APPLICANT - Sheldon Lobel, P.C., for Middleton Development Corp., owner.

SUBJECT- Application April 7, 2000 - under Z.R. §72-21, to permit in a C8-2 zoning district, the proposed construction of residential dwellings (Use Group 2), which is contrary to Z.R. § 32-00.

PREMISES AFFECTED - 10 Throop Avenue, between Middleton and Lynch Streets, Block 2238, Lot Tentative 137 (prior 38), Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Eric Palatnik.

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

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated March 13, 2000 acting on N.B. Applic. No. 300844558 which read:

“ PROPOSED RESIDENTIAL DWELLINGS IN C8-2 ZONING DISTRICT ARE CONTRARY TO SECTION 32-00 OF THE ZONING RESOLUTION AND REQUIRE A VARIANCE FROM THE BOARD OF STANDARDS AND APPEALS”; and

WHEREAS, Community Board 1, Brooklyn, has recommended conditional approval of these applications; and

WHEREAS, a public hearing was held on this application on November 21, 2000, after due notice by publication in The City Record, laid over to December 12, 2000 and then to January 9, 2000 for decision; and

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

WHEREAS, this application is one of 7 application, filed under Calendar Numbers 104-00-BZ through 110-00-BZ requesting a variance to permit the construction of a residential complex in a commercial district; and

WHEREAS, these applications are for the erection a housing complex consisting of 7 lots, with each lot housing a five-story residential building containing 5 residential dwellings (currently known as Block 2238 Lots 132, 133, 134, 135, 136, 137, 138) hereinafter “the site”; and

WHEREAS, this application is under Z.R. §72-21, to permit, in a C8-2 zoning district, the proposed construction of residential dwellings (Use Group 2), which is contrary to Z.R. § 32-00; and

WHEREAS, the site presently consists of 7 lots which are vacant; and

WHEREAS, the site occupies the corner of Middleton Street and Throop Avenue; and

WHEREAS, evidence in the record indicates that in 1887 the subject lot was occupied by a three story multi-family structure with a store on the ground floor; and

WHEREAS, the applicant represents that over the last 110 years, no manufacturing use has occupied the site; and

WHEREAS, the applicant notes that the site is too narrow to accommodate modern manufacturing uses, and

WHEREAS, the size of the site, its history of development with a non conforming use or as a vacant property and its location on the corner of Middleton Street and Throop Avenue characterized by other residential uses, creates an unnecessary hardship in now developing the site with a conforming use; and

WHEREAS, the applicant has documented compliance with Quality Housing requirements; and

WHEREAS, the applicant has represented that the owner will comply with the Fire Department's requirements; and

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

WHEREAS, as set forth, the site is part of a very small manufacturing enclave surrounded by residential uses as characterized by a residential development being erected less than two blocks from the subject site; and

CORRECTIONS

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

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

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

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

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

Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit, in a C8-2 zoning district, the proposed construction of residential dwellings (Use Group 2), which is contrary to Z.R. §32-00, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with these applications marked "Received September 8, 2000"-(5) sheets, "December 4, 2000"-(10) sheets and "December 20, 2000"-(1) sheet; and on further condition;

THAT all Fire Department requirements be complied with;

THAT landscaping be maintained in accordance with BSA-approved plans;

THAT the above conditions appear on the certificate of occupancy;

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

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

Adopted by the Board of Standards and Appeals, January 9, 2001.

***These resolutions has been corrected to remove the portion which read: "WHEREAS, evidence in the record demonstrates that the proposed accessory parking spaces are sufficient to avoid any parking impacts and will minimize any adverse impacts on the surrounding area". Corrected in Bulletin No. 22, Vol. 87, dated May 30, 2002.**

110-00-BZ

CEQR # 00-BSA-124K

APPLICANT - Sheldon Lobel, P.C., for Middleton Development Corp., owner.

SUBJECT- Application April 7, 2000 - under Z.R. §72-21, to permit in a C8-2 zoning district, the proposed construction of residential dwellings (Use Group 2), which is contrary to Z.R. § 32-00.

PREMISES AFFECTED - 12 Throop Avenue, between Middleton and Lynch Streets, Block 2238, Lot Tentative 138 (prior 38), Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Eric Palatnik.

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

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated March 13, 2000 acting on N.B. Applic. No. 300844567 which read:

“ PROPOSED RESIDENTIAL DWELLINGS IN C8-2 ZONING DISTRICT ARE CONTRARY TO SECTION 32-00 OF THE ZONING RESOLUTION AND REQUIRE A VARIANCE FROM THE BOARD OF STANDARDS AND APPEALS”; and

WHEREAS, Community Board 1, Brooklyn, has recommended conditional approval of these applications; and

WHEREAS, a public hearing was held on this application on November 21, 2000, after due notice by publication in The City Record, laid over to December 12, 2000 and then to January 9, 2000 for decision; and

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

WHEREAS, this application is one of 7 application, filed under Calendar Numbers 104-00-BZ through 110-00-BZ requesting a variance to permit the construction of a residential complex in a commercial district; and

WHEREAS, these applications are for the erection a housing complex consisting of 7 lots, with each lot housing a five-story residential building containing 5 residential dwellings (currently known as Block 2238 Lots 132, 133, 134, 135, 136, 137, 138) hereinafter “the site”; and

WHEREAS, this application is under Z.R. §72-21, to permit, in a C8-2 zoning district, the proposed construction of residential dwellings (Use Group 2), which is contrary to Z.R. § 32-00; and

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WHEREAS, the site presently consists of 7 lots which are vacant; and

WHEREAS, the site occupies the corner of Middleton Street and Throop Avenue; and

WHEREAS, evidence in the record indicates that in 1887 the subject lot was occupied by a three story multi-family structure with a store on the ground floor; and

WHEREAS, the applicant represents that over the last 110 years, no manufacturing use has occupied the site; and

WHEREAS, the applicant notes that the site is too narrow to accommodate modern manufacturing uses, and

WHEREAS, the size of the site, its history of development with a non conforming use or as a vacant property and its location on the corner of Middleton Street and Throop Avenue characterized by other residential uses, creates an unnecessary hardship in now developing the site with a conforming use; and

WHEREAS, the applicant has documented compliance with Quality Housing requirements; and

WHEREAS, the applicant has represented that the owner will comply with the Fire Department's requirements; and

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

WHEREAS, as set forth, the site is part of a very small manufacturing enclave surrounded by residential uses as characterized by a residential development being erected less than two blocks from the subject site; and

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

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

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

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

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

Resolved that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variation in the application of the Zoning Resolution, limited to the objections cited, to permit, in a C8-2 zoning district, the proposed construction of residential dwellings (Use Group 2), which is contrary to Z.R. §32-00, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with these applications marked "Received September 8, 2000"-(5) sheets, "December 4, 2000"-(10) sheets and "December 20, 2000"-(1) sheet; and on further condition;

THAT all Fire Department requirements be complied with;

THAT landscaping be maintained in accordance with BSA-approved plans;

THAT the above conditions appear on the certificate of occupancy;

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

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

Adopted by the Board of Standards and Appeals, January 9, 2001.

***These resolutions has been corrected to remove the portion which read: "WHEREAS, evidence in the record demonstrates that the proposed accessory parking spaces are sufficient to avoid any parking impacts and will minimize any adverse impacts on the surrounding area". Corrected in Bulletin No. 22, Vol. 87, dated May 30, 2002.**

***CORRECTION**

This resolution adopted on April 16, 2002, under Calendar No. 368-01-BZ and printed in Volume 87, Bulletin No. 17, is hereby corrected to read as follows:

368-01-BZ

CEQR#02-BSA-076M

APPLICANT - Friedman and Gotbaum, LLP, by Irving J. Gotbaum, Esq., for New York Service Center for Chinese Study Fellows, Inc., owner; Market Corner Realty, LLC, Contract Vendee.

SUBJECT - Application November 26, 2001 - under Z.R. §72-21, to permit the addition of a small penthouse on the roof, and an eating and drinking establishment on the first story level of a proposed transient hotel, which does not comply with the zoning requirements for floor area ratio and is contrary to Z.R. §33-121.

PREMISES AFFECTED - 88/102 Ninth Avenue, east side, between West 16th and 17th Streets, Block 740, Lot 1, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES -

For Applicant: Lori Cuisiner.

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ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated October 31, 2001 acting on Applic. No. 103044180 reads:

“The change of use from an existing Use Group 3 community facility with sleeping accommodations to proposed Use Group 5 transient hotel does not comply with Zoning Resolution Section 33-121 because the proposed transient hotel will exceed the permitted commercial FAR for commercial uses in an R8 (C2-5) zoning district.”

WHEREAS, a public hearing was held on this application on February 12, 2002 after due notice by publication in The City Record and laid over to March 19, 2002 and then to April 16 for decision; and

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

WHEREAS, this is an application under Z.R. §72-21, to permit the addition of penthouse guest suites on the roof, and an eating and drinking establishment on the first story

level of a proposed transient hotel, which does not comply with the zoning requirements for floor area ratio and is contrary to Z.R. §33-121; and

WHEREAS, the applicant represents that the subject lot is currently improved with a 11-story building containing 60,649 square feet of floor area (3.0 FAR), housing community facility uses, with a frontage of 184 feet on the eastern side of Ninth Avenue and a 100-foot depth along the northern side of West 16th Street and the southern side of West 17th Street; and

WHEREAS, evidence in the record indicates that the building contains 108 “hotel or dormitory room units,” each of which is approximately 257 square feet, and was utilized by a not-for-profit entity to house its guests and the building; and

WHEREAS, the Zoning Lot lies entirely within an R8 (C2-5) zoning district (general residence district with a commercial overlay permitting local retail and services); and

WHEREAS, within an R8 (C2-5) zoning district, residential buildings may achieve a density of 6.02 FAR or a total maximum permitted floor area of 110,768, - 36,800 square feet of which may be utilized as commercial space; and

WHEREAS, the applicant states that the proposed hotel will consist of the existing 11-story structure with additional 5,029 square for penthouse guest suites, and 13,080 square feet for an eating and drinking establishment on the first story; and

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WHEREAS, the applicant contends that in order to be financially feasible, the Hotel must be developed as “boutique” hotel which will provide 120 rooms and penthouse guest suites; and

WHEREAS, the proposed sub-cellar will accommodate the Hotel’s laundry room, service areas, staff locker rooms and toilets, and mechanical equipment rooms; and

WHEREAS, the application will also provide for accessory parking garage with a 24-car capacity which will be accessed by way of an auto ramp located on a separate zoning lot directly east of the Site along West 16th Street; and

WHEREAS, the applicant states that the Existing Building’s cellar will provide a kitchen for the restaurant proposed for the first story, as well as storage areas and bathrooms; and

WHEREAS, the lobby leads into a former ballroom with a double-height ceiling that is proposed as commercial space to be occupied by Use Group 5 through Use Group 9 uses; and

WHEREAS, the applicant further states that the Hotel’s mezzanine, which can be accessed by two stairways in the cellar-level commercial space (or by the elevator banks) will accommodate the executive offices, the Hotel staff locker rooms (including toilets, showers and lounge area or lunch room), a mechanical room and public toilets; and

WHEREAS, the applicant proposes to include new construction in the hotel’s first floor that is currently non-required open space; and

WHEREAS, the Hotel will consist of a lobby and lounge in the southern section, and a restaurant (plus kitchen) at the northern section; and

WHEREAS, the applicant notes that the proposed typical floor plan is largely dictated by the Existing Building’s 35' by 152' configuration (on the second through eleventh floors) and the center elevator core, which occupies approximately 160 square feet of space on each floor; and

WHEREAS, the above configuration allows twelve guests rooms per floor along the western half of the Hotel’s floor plate on floor two through eleven; and

WHEREAS, the applicant contends that the penthouse guest suites are an important component of this boutique hotel scheme because the building’s configuration limits each room on all other floors to 225 square feet and the penthouse guest suites will draw a premium according to the applicant’s feasibility study; and

WHEREAS, the applicant states that building out the existing plaza to include the restaurant/bar and lobby will enable the Hotel to provide services to its guests in a manner customary to boutique hotels in New York City; and

WHEREAS, the applicant describes the area as characterized by a mix of R8 and R8B zoned residential building types and sizes, including numerous multiple

dwelling ranging from three to eight-stories (many of which are tenement “walk-ups”), loft buildings and community facilities, which are predominately located to the north, east and west of the Site; and

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WHEREAS, the record indicates that the R8 zoned blocks have a C2-5 overlay running the depth of 100 feet on the west side of Ninth Avenue and north of the site and on the east side of Ninth Avenue, the 100-foot deep block-front is zoned R8B (C2-6A) between West 17th and 18th Streets and R7-B(C2-6A) between West 18th and 21st Streets; and

WHEREAS, the applicant claims that as such, ground floor retail establishments proliferate along the Avenue north of West 16th Street; and

WHEREAS, the applicant states that the area to the Hotel's east is zoned R8B (general residence district) and to the south and southwest is zoned M1-5 (loft areas located mainly within Manhattan CBD); and

WHEREAS, the Port Authority Commerce Building comprises the entire block opposite the Hotel across West 16th Street and across Ninth Avenue and west of the Hotel are located several parking garages, a community center and warehouse buildings; and

WHEREAS, the applicant represents that the Existing Building at the Site is impractical and presents a unique condition leading to a hardship due to its narrow and inefficient 35 foot by 152 foot floor plates on the second through eleventh floors; and

WHEREAS, the applicant contends that the community facility as-of-right alternative, a dormitory, would be impractical because each room could house only one student and universities generally prefer to house at least two persons per dormitory room and, moreover, its location away from existing Manhattan universities also renders it impractical; and

WHEREAS, the applicant further contends that the residential as-of-right alternative, an apartment building, would also be impractical because of the narrowness of the building, the single loaded corridors and the central elevator core which would allow for only shallow apartments; and

WHEREAS, the applicant claims that the mixed-use as-of-right alternative would also be impractical because of the extremely small apartment units and the minimum number of as-of-right hotel rooms which could be produced, thus, the Site cannot be developed within relief from the Zoning Resolution's bulk requirements; and

WHEREAS, the applicant states that although the site's lot itself measures 100 feet in depth by 184 feet in width, the Site is improved with an inefficiently shaped building that measures approximately 35 feet in depth and 152 feet in width; and

WHEREAS, according to the applicant, approximately 14'7" of the building's width comprises a north-south corridor, elevator banks, storage and mechanical rooms and two sets of stairwells; and

WHEREAS, the applicant claims that the existing configuration for this north-south floor area cannot be effectively changed and the stairwells are required as a second means of egress, thus, the open plaza area must be partially developed with Hotel's proposed eating and drinking facilities flanking a new smaller open space that leads to the new Hotel lobby; and

WHEREAS, the applicant states that the floor plans for the Hotel has been designed to overcome the difficulties and impracticalities imposed by the Existing Building by having all hotel guest rooms provide adequate square footage per person to allow a safe, healthy and uncrowded environment; and

WHEREAS, the applicant claims that the square footage required for the stairway, elevators and mechanical shafts the guest room floor approximates 39% of each floor's total square footage, and their existing location, as well as the building's narrow floor plate, negates the possibility of an internal reconfiguration; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, namely the obsolescence due to its narrow and inefficient 35 foot by 152 foot floor plates at the second through eleventh floors, presents a practical difficulty and unnecessary hardship for the existing community facility use, which does not comply with rear yard requirements; and

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

WHEREAS, the applicant states that for all intents and purposes, the community facility is currently set up and operates as a "hotel" for Chinese students and visitors; and

WHEREAS, the applicant claims that the proposed Hotel site is located in the thriving Chelsea neighborhood, which is characterized by a mix of building types and sizes and uses, including mid- and low-rise buildings and residential, commercial and manufacturing uses; and

WHEREAS, the applicant further claims that the minimal square footage increase resulting from new construction at the Site will have no negative impact on the neighborhood; and

WHEREAS, the applicant states that the "porthole" design will be replicated on the new construction, thus

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creating a harmonious relationship with the existing building; and

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

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

WHEREAS, the Board find 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 §72-21 of the Zoning Resolution; and

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

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

Resolved that the Board of Standards and Appeals issues a Negative Determination under 6 NYCRR Part 617 and §6-

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07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21, to permit the addition of penthouse guest suites on the roof, and an eating and drinking establishment on the first story level of a proposed transient hotel, which does not comply with the zoning requirements for floor area ratio and is contrary to Z.R. §33-121, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received March 5, 2002"-(10) sheets; and on further condition;

THAT the Certificate of Occupancy be obtained within two years;

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

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, April 16, 2002.

***The resolution has been corrected to reflect the changes in the square footage. Corrected in Bulletin No. 22, Vol. 87, dated May 30, 2002.**

Pasquale Pacifico, Executive Director.

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