
BULLETIN

OF THE NEW YORK CITY BOARD OF STANDARDS AND APPEALS

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

Volume 89, No. 19

May 6, 2004

DIRECTORY

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SATISH BABBAR, *Vice-Chair*

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159-04-BZ B.BX. 950/60 Longfellow Avenue, east side, between Bruckner Boulevard and Garrison Avenue, Block 2755, Lots 125 and 127, Borough of Bronx. Alt.#200772930. Proposed construction of a charter school, Use Group 3 and located within an M2-1 zoning district, is contrary to Z.R. §42-00.

COMMUNITY BOARD #2BX

160-04-BZ B.BK. 73 Washington Avenue, east side, 170' north of Avenue, Block 1875, Lot 5, Borough of Brooklyn. Alt.#301215325. Proposed conversion of a former loft building, into eight (8) dwelling units, located in an M1-2 zoning district, is contrary to Z.R. §42-10.

COMMUNITY BOARD #2BK

161-04-A B.BK. 73 Washington Avenue, east side, 170' north of Avenue, Block 1875, Lot 5, Borough of Brooklyn. Alt.#301215325. Proposed conversion of a former loft building, into eight (8) dwelling units, with rear windows for natural light and ventilation, is contrary to Section 27 of the NYC Building Code.

162-04-BZ B.Q. 90-06 Pitkin Avenue, southwest corner of Pitkin Avenue and Boulevard, Block 11401, Lot 1, Borough of Queens. Alt.#401294675. Proposed reestablishment of an expired variance, previously granted by the Board of Zoning Cal.#147-52-BZ, which permitted a factory (specialty woodworking for custom and molds), in an R-4 zoning district.

COMMUNITY BOARD #10Q

163-04-BZ B.BK. 677/91 Fulton Street, north side, 28' east of Fulton Place, Block 2096, Lot 69, Borough of Brooklyn. Alt.#301441296. Proposed physical culture establishment, which will occupy portions of the cellar and first floor of an existing two story building located in C1-3(R6) zoning district, is contrary to Z.R. §32-00.

COMMUNITY BOARD #2BK

164-04-BZ B.BX. 2241 Westchester Avenue, aka 2101 Glebe Avenue, Block 3963, Lot 57, Borough of The Bronx. Applic.#200827132. Proposed physical culture establishment, located on the second floor of an existing two story commercial building, located in C2-6 within an R6 zoning district, is contrary to Z.R. §32-00.

COMMUNITY BOARD #10BX

165-04-BZ B.Q. 153-01 Northern Boulevard, north side, 153rd and 154th Streets, Block 5264, Lot 1, Borough of Bronx. Applic.#401583372. Proposed construction of a two story commercial building with cellar parking, (effectively the reconstruction of a building that recently came down), located in a C2-2 within an R-2 zoning district, which exceeds the permitted floor area and does not provide the minimum required parking spaces, is contrary to Z.R. §54-41, §33-121 and §36-21.

COMMUNITY BOARD #7Q

166-04-BZ B.BK. 1765 East 23rd Street, east side, between Queen and Avenue "R", Block 6806, Lot 65, Borough of Brooklyn. Applic.#301215325. Proposed enlargement of an existing one family dwelling, Use Group 1, located in an R3-2 zoning district, which does not comply with the zoning requirements for lot area, lot coverage, side yard, rear yard and perimeter wall height, is contrary to Z.R. §23-141, §23-461A, §23-47 and §23-631.

COMMUNITY BOARD #15BK

167-04-BZ B.BK. 1336 East 22nd Street, West side, 180.0' west of Avenue "M", Block 7639, Lot 76, Borough of Brooklyn. Applic.#301215325. Proposed enlargement of an existing single family detached residence, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for lot area ratio, open space ratio and the required rear yard, is contrary to Z.R. §23-14 and §23-47.

COMMUNITY BOARD #14BK

DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.

CALENDAR

MAY 25, 2004, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, May 25, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

371-29-BZ

APPLICANT - Maduakolam Mish. Nnabuihe, for Getty Petroleum Corp., owner; Besan Trading Inc., lessee.

SUBJECT - Application January 9, 2004 - reopening for an amendment to the resolution for tire shop as an accessory use to the existing automotive service station.

PREMISES AFFECTED - 1210-1230 East 233rd Street, northwest corner of Grenada Place and Edson Avenue, Block 4934, Lot 66, Borough of The Bronx.

COMMUNITY BOARD #13BX

753-63-BZ

APPLICANT - Anthony N. Borowiec, P.E., for Warren Kurtz, P.E. of NYC Department of Environmental Protection, owner.

SUBJECT - Application March 5, 2004 - reopening for an amendment to the resolution to add three additional stories to the station.

PREMISES AFFECTED - 184 Avenue D, east side of Avenue D, 20' south of 13th Street, Block 367, Lot 25, Borough of Manhattan.

COMMUNITY BOARD #3M

MAY 25, 2004, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, May 25, 2004, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

193-03-BZ

APPLICANT - James M. Plotkin, Esq., for Park and Kent Associates, Inc., owner.

SUBJECT - Application June 10, 2003 - under Z.R. §72-21 to permit the proposed construction of a five (5) story, 27 unit residential building, in an M1-1 zoning district.

PREMISES AFFECTED - 824/34 Kent Avenue, south side of Park Avenue, and east of Taaffe Place, Block 1897, Lot 31, Borough of Brooklyn.

COMMUNITY BOARD #3BK

120-93-BZ

APPLICANT - Sheldon Lobel, P.C., for Harry McNulty, owner.

SUBJECT - Application December 17, 2003 - reopening for an extension of term of variance which expired May 10, 2004 and for an amendment to allow the elimination of gasoline sales, permitting the sale of used automobiles and increase on site parking to 9 spaces

389-03-BZ

APPLICANT - Harold Weinberg, P.E., for Miriam Katz, owner.

SUBJECT - Application December 16, 2003 - under Z.R. §73-622 to permit the proposed erection of a two story rear enlargement, to an existing one family dwelling, located in an R3-2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space, rear yard, lot coverage and side yards, is contrary to Z.R. §23-141, §23-461, §23-47 and §54-31.

PREMISES AFFECTED - 1959 East 24th Street, east side, 460'0" south of Avenue "S", Block 7303, Lot 64, Borough of Brooklyn.

COMMUNITY BOARD #15BK

38-04-BZ

APPLICANT - Eric Palatnik, P.C., for Sanford Becker and Howard Ochs, owner.

SUBJECT - Application February 13, 2004- under Z.R. §72-21 to permit the legalization of the northern side yard at an existing dentist's office, Use Group 4, located in an R3-2 zoning district, which is in non-compliance with Z.R. §23-464 and §24-35.

PREMISES AFFECTED - 70-15 164th Street, east side, between Jewel and 71st Avenues, Block 6933, Lot 78, Borough of Queens.

COMMUNITY BOARD #8Q

Pasquale Pacifico, Executive Director

JUNE 8, 2004, 10:00 A.M.

NOTICE IS HEREBY GIVEN of a public hearing, Tuesday morning, June 8, 2004, 10:00 A.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

SPECIAL ORDER CALENDAR

125-92-BZ

APPLICANT - Rampulla Associates Architects, for Nicholas Criscitelli, owner.

SUBJECT - Application April 7, 2004 - reopening for an amendment to the resolution - to eliminate the retail sales portion of the building and modify the number of persons to occupy the eating and drinking establishment.

PREMISES AFFECTED - 3333 Hylan Boulevard, north side Hylan Boulevard between Spratt Avenue and Hopkins Avenue, Block 4987, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #3SI

PREMISES AFFECTED - 222-19 Linden Boulevard, northwest corner of Linden Boulevard and 223rd Street, Block 11323, Lot 1, Borough of Queens.

COMMUNITY BOARD #13Q

CALENDAR

95-97-BZ

APPLICANT - The Law Office of Fredrick A. Becker, for Lavin Brothers Austin, LLC, owner; TSI Forest Hills, Inc., lessee.

SUBJECT - Application January 20, 2004 - reopening for an amendment to the resolution to permit the legalization of an expansion in floor area of a previously granted special permit to allow the operation of a physical culture establishment on the first floor.

PREMISES AFFECTED - 69-47 Austin Street, northwest corner of Austin Street and 70th Avenue, Block 3237, Lot 30, Borough of Queens.

COMMUNITY BOARD #6Q

APPEALS CALENDAR

73-04-A thru 124-04-A

APPLICANT - Fischbein Badillo Wagner Harding for Strickland Realty, LLC, owner.

SUBJECT - Application March 9, 2004 - Proposed construction of a one family dwelling, not fronting on a legally mapped street, is contrary to Section 36, Article 3 of the General City Law.

PREMISES AFFECTED -

11 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2001, Borough of Brooklyn. Applic.#301815542.

23 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2002, Borough of Brooklyn. Applic.#301815490.

25 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2003, Borough of Brooklyn. Applic.#301812402.

31 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2004, Borough of Brooklyn. Applic.#301812411.

33 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2005, Borough of Brooklyn. Applic.#301812420.

15 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2018, Borough of Brooklyn. Applic.#301805338.

31 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2019, Borough of Brooklyn. Applic.#301801529

39 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2020, Borough of Brooklyn. Applic.#301815356.

47 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2021, Borough of Brooklyn. Applic.#301815347.

55 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2022, Borough of Brooklyn. Applic.#301815365

63 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2023, Borough of Brooklyn. Applic.#301809675.

71 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470,

39 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2006, Borough of Brooklyn. Applic.#301812439.

41 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2007, Borough of Brooklyn. Applic.#301812448.

47 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2008, Borough of Brooklyn. Applic.#301812457.

49 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2009, Borough of Brooklyn. Applic.#301812466.

57 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2010, Borough of Brooklyn. Applic.#301812475.

59 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2011, Borough of Brooklyn. Applic.#301812484.

65 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2012, Borough of Brooklyn. Applic.#301812493.

67 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2013, Borough of Brooklyn. Applic.#301812509.

73 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2014, Borough of Brooklyn. Applic.#301812518.

5 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2015, Borough of Brooklyn. Applic.#301812527.

83 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2016, Borough of Brooklyn. Applic.#301815481.

5 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2017, Borough of Brooklyn. Applic.#301809657.

Lot 2024, Borough of Brooklyn. Applic.#301809538.

79 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2024, Borough of Brooklyn. Applic.#301810716.

87 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2026, Borough of Brooklyn. Applic.#301810725.

64 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2027, Borough of Brooklyn. Applic.#301815472.

62 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2028, Borough of Brooklyn. Applic.#301815536.

56 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2029, Borough of Brooklyn. Applic.#301815506.

54 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2030, Borough of Brooklyn. Applic.#301815515.

48 Harbor Drive, west side of Strickland Avenue, between

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prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2031, Borough of Brooklyn. Applic.#301815524.

46 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2032, Borough of Brooklyn. Applic.#301815551.

38 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2033, Borough of Brooklyn. Applic.#301815560.

36 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2034, Borough of Brooklyn. Applic.#301815579.

30 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2035, Borough of Brooklyn. Applic.#301815588.

28 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2036, Borough of Brooklyn. Applic.#301815597.

50 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2037, Borough of Brooklyn. Applic.#301815631.

48 Clear Water Road, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470,

58 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2046, Borough of Brooklyn. Applic.#301810789.

22 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2047, Borough of Brooklyn. Applic.#301810798.

16 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2048, Borough of Brooklyn. Applic.#301810805.

14 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2049, Borough of Brooklyn. Applic.#301810814.

6 Harbor Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2050, Borough of Brooklyn. Applic.#301810823.

22 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2051, Borough of Brooklyn. Applic.#301810841.

10 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2052, Borough of Brooklyn. Applic.#301810832.

COMMUNITY BOARD #18BK

JUNE 8, 2004, 1:30 P.M.

NOTICE IS HEREBY GIVEN of a public hearing, *Tuesday afternoon*, June 8, 2004, at 1:30 P.M., at 40 Rector Street, 6th Floor, New York, N.Y. 10006, on the following matters:

ZONING CALENDAR

Lot 2038, Borough of Brooklyn. Applic.#301815622.

86 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2039, Borough of Brooklyn. Applic.#301815604.

84 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2040, Borough of Brooklyn. Applic.#301815613.

78 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2041, Borough of Brooklyn. Applic.#301810734.

76 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2042, Borough of Brooklyn. Applic.#301810743.

70 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2043, Borough of Brooklyn. Applic.#301810752.

68 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2044, Borough of Brooklyn. Applic.#301810761.

60 Bell Point Drive, west side of Strickland Avenue, between prolongations of East 57th Place and Mayfield Drive, Block 8470, Lot 2045, Borough of Brooklyn. Applic.#301810770.

9-04-BZ

APPLICANT - Marvin B. Mitzner, Esq., Fischbein Badillo Wagner Harding for Walworth Condominium, Inc., owner.

SUBJECT - Application January 12, 2004 - under Z.R. §72-21 to permit the proposed multiple dwelling, which will contain forty-seven dwelling units, located in an M1-1 zoning district, is contrary to Z.R. §§42-00 and 43-00.

PREMISES AFFECTED - 114 Walworth Street, northwest corner of Myrtle Avenue, Block 1735, Lot 24, Borough of Brooklyn.

COMMUNITY BOARD #3BK

14-04-BZ

APPLICANT - Alfonso Duarte, for Angelo Mordini, owner; Punto Zero, lessee.

SUBJECT - Application January 13, 2004 - under Z.R. §73-244 to permit the proposed conversion of an existing restaurant (Use Group 6), to an eating and drinking establishment with entertainment(Use Group 12A), located in a C2-3 within an R6 zoning district, is contrary to Z.R. §32-31.

PREMISES AFFECTED - 76-07 Roosevelt Avenue, northeast corner of 76th Street, Block 1287, Lot 43, Borough of Queens.

COMMUNITY BOARD #3Q

39-04-BZ

APPLICANT - Eric Palatnik, P.C., for Mordechai Bistrizky, owner.

SUBJECT - Application February 13, 2004 - under Z.R. §73-622 to permit the proposed enlargement of a single family residence, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area, open space and rear yard, is contrary to Z.R. §23-141, §23-461 and §23-47.

CALENDAR

PREMISES AFFECTED - 1418 East 29th Street, between Avenue "N" and Kings Highway, Block 7682, Lot 57, Borough of Brooklyn.

COMMUNITY BOARD #14BK

Pasquale Pacifico, Executive Director

**REGULAR MEETING
TUESDAY MORNING, APRIL 27, 2004
10:00 A.M.**

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

The minutes of the regular meetings of the Board held on Tuesday morning and afternoon, March 2, 2004, were approved as printed in the Bulletin of March 11, 2004, Volume 89, No. 11.

SPECIAL ORDER CALENDAR

101-92-BZ

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

SUBJECT - Application August 13, 2003 - reopening for an extension of term of variance which expired October 26, 2003.

PREMISES AFFECTED - 68-98 E. Burnside Avenue (aka 2036 Walton Avenue and 2035 Morris Avenue) south side of East Burnside Avenue, between Walton Avenue and Morris Avenue, Block 2829, Lot 45, Borough of The Bronx.

COMMUNITY BOARD #5BX

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD -

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:0

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on February 10, 2004, after due notice by publication in The City Record, with continued hearings on March 23, 2004 and April 13, 2004 and then laid over to April 27, 2004 for decision; and

WHEREAS, the applicant has requested a re-opening and an extension of the term of the variance which expired on October 26, 2003; and

WHEREAS, on May 7, 1957, under calendar number 754-56-BZ, the Board granted an application to permit the use of a parking lot for non-commercial, non-transient parking; and

WHEREAS, the variance was subsequently extended for five year terms, under calendar number 754-56-BZ, on January 9, 1962, February 15, 1967, and May 2, 1972; and

WHEREAS, the variance subsequently lapsed, but the applicant represents that the lot was used for non-commercial, non-transient parking as per the prior Board grant on a continuous basis even after the lapse; and

WHEREAS, on October 26, 1993, the Board granted an application under the current calendar number to permit renewal of an expired variance for the use of the parking lot for non-commercial, non-transient parking, for a period of ten (10) years; and

WHEREAS, the applicant represents that the lot is used for parking of employees and patron's cars, without charge and for parking by other persons in the neighborhood who desire such parking; and

WHEREAS, the applicant currently seeks to extend the term of this variance for an additional ten (10) years; and

WHEREAS, in accordance with the license issued by the Department of Consumer Affairs, the applicant has agreed to limit the number of parking spaces on the site to no more than twenty five (25).

Resolved, that the Board of Standards and Appeals, reopens and extends the term of the variance as granted by Board resolution, said resolution having been adopted October 26, 1993, so that as amended this portion of the resolution shall read: "to permit the extension of the term of the variance for an additional ten (10) years from the October 26, 2003 to expire on October 26, 2013, on condition that the premises shall be maintained in substantial compliance with the proposed drawings submitted with the application marked `Received March 30, 2004' -(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 all applicable conditions from all prior BSA resolutions for this site shall remain in effect;

THAT the number of parking spaces on the site shall be limited to a maximum of 25, of which 11 spaces shall be made available for rental to neighborhood people as indicated on the previous certificate of occupancy;

MINUTES

THAT the parking layout shall be approved by the Department of Buildings;

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

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

THAT the 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 **87-94-BZ**

APPLICANT - The Law Office of Fredrick A. Becker, Esq., for Czech Republic, owner.

SUBJECT - Application November 13, 2003 - reopening for an extension of time to complete construction and for an amendment to the resolution.

PREMISES AFFECTED - 321-325 East 73rd Street, north side of 73rd Street, Block 1448, Lot 16, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

For Applicant: Fredrick A. Becker.

ACTION OF THE BOARD - Application reopened, time to complete construction extended and resolution amended.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:0

THE RESOLUTION -

WHEREAS, the applicant requested an extension of time to complete construction which expired on November 12, 2003, and an amendment to permit minor changes to the approved plans; and

WHEREAS, a public hearing was held on this application on February 14 after due notice by publication in The City Record, and then laid over to March 23, 2004 for decision; the decision was then deferred to April 20, 2004, and deferred again to April 27, 2004; and

WHEREAS, Community Board 8, Manhattan, recommends approval of the subject proposal; and

WHEREAS, on March 28, 1995, the Board granted an application for an enlargement to an existing non-complying five-story and cellar community facility building and for the re-establishment of an eating and drinking establishment on the ground floor and cellar; and

WHEREAS, under the subject calendar number, the Board granted two extensions of time to complete construction, on November 12, 1997 and September 10, 2002; and

WHEREAS, the applicant represents that the delayed construction is a result of a change in the financial circumstances of the building's original owner as well as a change in occupant; the occupant is now a foreign consulate; and

WHEREAS, the applicant seeks to make three amendments to the approved plans: 1) a change in use of a portion of the cellar from an office and storage space to four dressing rooms for diplomatic personnel; 2) the creation of a 300 square foot mezzanine at the rear wall on the fourth floor for the secure storage of diplomatic papers; and 3) the removal of 600 square feet of existing floor area at the

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

(DOB # 200795096)

Adopted by the Board of Standards and Appeals, April 27, 2004.

rear wall of the building on the fifth floor and the creation of another secure storage area; and

WHEREAS, the net result of the proposed amendment would be the creation of 430 square feet of additional floor area in the interior of the existing building; and

WHEREAS, the applicant states that the proposed changes are necessary because the owner of the premises, a foreign consulate, has realized that existing BSA approved plans do not provide adequate space for certain uses that are essential for it to properly operate at the premises and to meet its programmatic needs; and

WHEREAS, the Board notes that the proposed changes are minimal and would not have any effect on the scale and character of the surrounding neighborhood.

Resolved, that the Board of Standards and Appeals reopens and amends the resolution so that as amended this portion of the resolution shall read: "to permit an extension of the time to complete construction for an additional two (2) years from the date of this resolution to expire on April 27, 2006, and to permit a change in use in a portion of the cellar from an office and storage space to four dressing rooms for diplomatic personnel, the creation of a 300 square foot mezzanine at the rear wall on the fourth floor for the secure storage of diplomatic papers and the removal of 600 square feet of existing floor area at the rear wall of the building on the fifth floor and the creation of a new secure storage area; on condition that all work shall substantially conform to drawings as filed with this application marked "Received November 13, 2003"- (5) sheets and "March 9, 2004"- (6) sheets; and on further condition;

THAT all relevant conditions from prior resolutions required to be on the certificate of occupancy shall appear on the new certificate of occupancy;

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

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

(DOB Application No. 100800153)

Adopted by the Board of Standards and Appeals, April 27, 2004.

281-99-BZ

APPLICANT - New York City Board of Standards and Appeals.

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OWNER OF THE PREMISES: Enopac Holding LLC.
SUBJECT - On remand from the New York County Supreme Court.

PREMISES AFFECTED - 6055 Strickland Avenue, west
APPEARANCES - None.

ACTION OF THE BOARD - Application denied.

THE VOTE GRANT -

Affirmative:0
Negative: Vice-Chair Babbar, Commissioner Caliendo,
Commissioner Miele and Commissioner Chin.....4
Not Voting: Chair Srinivasan.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated October 15, 1999, acting on Application No. 300865482, reads:

1. Proposed Mini-storage warehouse (U.G. 16) is not a permitted use in the R3-1 zone. (section 22-10ZR). Variance needed from Board of Standards and Appeals.
2. Bulk regulation not provided in R3-1 zoning district for Mini-storage warehouse B.S.A. must provide.
3. Proposed Mini-storage facility does not comply with provisions of Article 6 Chapter 2 regarding Water Front Area regulations. Variance needed from Board of Standards and Appeals."; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of a mini-storage facility (Use Group 16), located in an R3-1 zoning district, which is contrary to Z.R. §22-00; and

WHEREAS, the premises and surrounding area had several site and neighborhood examinations by a committee of the Board, consisting of Vice Chair Satish Babbar, Commissioner Peter Caliendo, Commissioner Joel Miele, Commissioner James Chin, and former Commissioner Mitchell Korbey; and

WHEREAS, previously, a public hearing was held on this application on July 25, 2000 after due notice by publication in The City Record, laid over to September 12, 2000, May 15, 2001, September 25, 2001, October 16, 2001, December 4, 2001, February 12, 2002, March 5, 2002, March 19, 2002, May 7, 2002, July 9, 2002, October 8, 2002, November 12, 2002 and then to January 28, 2003 for decision; the decision was deferred until February 25, 2003; and

WHEREAS, on February 25, 2003, the Board determined: (1) that unique physical conditions inherent to the subject premises (specifically, the irregular shape of the lot and subsurface soil conditions stemming from a history of industrial uses) created an unnecessary hardship in developing the site under applicable R3-1 zoning regulations, thus satisfying the finding set forth at §72-21(a); and (2) that the applicant provided a feasibility study sufficiently demonstrating that a development under R3-1 zoning regulations would not yield the owner a reasonable return, thus satisfying the finding set forth at Z.R. §72-21(b); and

WHEREAS, however, the Board also determined that the proposed use variance would undermine the intent of the residential rezoning of the area and thus alter the essential

side of Strickland Avenue roughly between the prolongation of Mayfair Avenue and East 59th Place, Block 8470, Lots 1060, 1070, 1076, Borough of Brooklyn.

COMMUNITY BOARD #18BK

character of the neighborhood and district, and that therefore the finding set forth at Z.R. 72-21(c) was not met; and

WHEREAS, accordingly, by a 5-0 vote, the Board denied the subject application, and issued a resolution outlining the reasons for its decision; and

WHEREAS, the Board's denial of the subject application was challenged in an Article 78 proceeding before the Supreme Court of the State of New York, New York County; and

WHEREAS, the subject application was remanded back to the Board pursuant to an order of the Supreme Court; and

WHEREAS, the court order directed the Board to reconsider its determination that the subject application failed to meet the finding set forth at Z.R. §72-21(c); and

WHEREAS, the order also directed the Board to make a determination as to Z.R. §72-21(d) and (e); and

WHEREAS, subsequent to receiving the court order, the Board, through its staff, indicated to the applicant its intent to hold a public hearing on remand, pursuant to normal Board practice on remanded matters; and

WHEREAS, the applicant filed a motion with the Supreme Court, challenging the Board's decision to hold a public hearing; the Board, represented by the City's Law Department, opposed this motion, and by order dated January 8, 2004, the court denied applicant's motion and directed that testimony at any of the public hearings on remand be limited to matters relevant to Z.R. §72-21(c), (d) and (e); and

WHEREAS, the Board again held a public hearing on the subject application on January 14, 2004 after due notice by publication in The City Record, and then to decision on March 2, 2004, when the matter was reopened for testimony and submissions and a new decision date was set for April 13, 2004; the decision was then deferred to April 27, 2004; and

WHEREAS, Chair Srinivasan, appointed to the Board in January of 2004, abstained from the vote on the instant matter because it dates back to 1999 and involves a voluminous record; and

WHEREAS, the record indicates that the subject premises is an irregularly-shaped parcel, fronting on both Strickland Avenue and the east side of Mill Basin, comprised of Lots 1060, 1064, 1070 and 1076 on Block 8470, with a total area of approximately 121,846 square feet; and

WHEREAS, the applicant represents that the property is located on the eastern portion of a large "superblock" of more than 50 acres, which is bounded by Flatbush Avenue, Avenue U, Mill Avenue and Strickland Avenue; and

WHEREAS, evidence in the record indicates that the subject property has historically been used for various industrial uses until the early 1990s, when it was utilized as a waste treatment facility; and

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WHEREAS, the waste treatment use on the subject property was terminated in 1995, and the site has since

WHEREAS, the Board notes that the blocks across Strickland Avenue from the subject site (Blocks 8651, 8650, 8644 and 8645) are characterized by residential development, predominantly one and two story, one and two family dwellings, including a significant amount of detached homes; and

WHEREAS, in 1996 the "superblock" area was rezoned from M3-1 to R3-1; and

WHEREAS, the subject proposal seeks to erect six two-story structures to be used as mini-storage, and a two-story 30' x 40' building to be used as office space and living area for a caretaker; the proposed facility is a Use Group 16 use; and

WHEREAS, at the January 14, 2004 remand hearing, the applicant stated its position that the proposed mini-storage facility would represent an improvement over the existing use of the site and would not affect the neighboring residential uses across the street; and

WHEREAS, the applicant acknowledged that Strickland Avenue was not a six lane highway; and

WHEREAS, Councilmember Fidler testified in opposition, and stated that the mini-storage proposal, if built, would impact the residential neighborhood across Strickland Avenue; and

WHEREAS, pursuant to Z.R. §72-21(c), the Board may properly consider whether the proposed variance, if granted, would substantially impair the appropriate use or development of adjacent property; and

WHEREAS, pursuant to Z.R. §72-21, the Board, in determining whether one of the five findings is supported by substantial evidence, may draw upon its personal knowledge; and

WHEREAS, the Board noted at the January 14, 2004 hearing that it had become aware of a filing at the BSA by a developer who sought a General City Law §36 waiver (which, if granted, allows a building or development to be constructed not fronting on a mapped street) to build conforming development on the lot adjacent to the subject lot, on the same side of Strickland Avenue, known as 6097 Strickland Avenue (hereinafter, the "Copolla Property"); and

WHEREAS, the Board notes that this property was discussed numerous times over the prior public hearing process, well before the matter was remanded, and had been identified at that time as a site that could potentially sustain conforming residential development; and

WHEREAS, specifically, this property was discussed on the following hearing dates: July 25, 2000, October 8, 2002, and November 12, 2002; and

WHEREAS, by the conclusion of the prior public hearing process in February of 2003, the Copolla Property had been placed in bankruptcy, and no further testimony was

WHEREAS, the applicant made a submission dated April 7, 2004, which summarized the applicant's position regarding the 'C' and 'E' findings; and

WHEREAS, in the April 7 submission, the applicant argues, in sum and substance, that the Board should not

been used as overnight storage for buses; and

submitted indicating that it would be developed; and

WHEREAS, in November of 2003, a committee of the Board and Board staff held a pre-application meeting pursuant to its normal procedures with a representative of a new owner of the Copolla Property, at which time this representative stated that they would seek multiple GCL §36 waivers from the Board, in order to proceed with as of right development; and

WHEREAS, pursuant to GCL §36, the Board may grant a waiver to a property owner to allow construction to occur when there is no mapped street fronting the buildings to be constructed; such application typically contemplates the creation of a private roadway system; and

WHEREAS, an application for a GCL §36 waiver is a straightforward application, and the Board typically requires that the Fire Department sign off on the proposal; once such sign off is obtained, the Board invariably grants the waiver; and

WHEREAS, such an application is not a variance of the normal zoning requirements applicable to a site; subsequent development must conform to applicable zoning regulations for the underlying zoning district; and

WHEREAS, the Board was made aware at the pre-application meeting that assuming GCL waivers were obtained, the owners of the Copolla property would pursue acquisition of building permits from the Department of Buildings for as of right development in conformance with the underlying R3-1 use and bulk regulations; and

WHEREAS, in addition to its knowledge of conforming development of the Copolla Property gained at the pre-application meeting, the Board became aware in February 2004 that the representatives of the Copolla Property were planning on actually filing formal applications at the BSA for the GCL waivers; and

WHEREAS, accordingly, at the March 2, 2004 hearing, the Board asked the applicant to address the impact of the proposed mini-storage facility on the conforming development on the Copolla Property; the applicant made a brief statement, and then the Board set a submission schedule and a decision date; and

WHEREAS, on March 9, 2004, the Board received the applications for the GCL waivers from the new owners of the Copolla Property, made through their counsel (the "Copolla Applicant"); and

WHEREAS, in the GCL waiver applications, the Copolla Applicant proposes 52 R3-1 conforming dwellings, with a private road system; the units will be a combination of detached and semi-detached homes; and

WHEREAS, the GCL waiver applications include a plot plan and a zoning analysis, showing compliance with the R3-1 zoning district regulations; and

consider the proposal of conforming development on the Copolla Property persuasive for two reasons: (1) prior submissions in the record show that significant environmental remediation of the Copolla Property's soil is required, at a cost of \$10 million, and that, consequently, the

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Board should not assume that conforming development will take place merely because a GCL waiver application was filed with the BSA; and (2) even if the Copolla Property were to be developed with a conforming residential development, the proposed mini-storage facility would be less objectionable than the existing bus storage use because it would generate less traffic, would be more "tastefully designed", and would be screened from the residential uses; and

WHEREAS, as to the applicant's first argument, the amount of money expended by a developer in obtaining a GCL waiver relative to alleged environmental clean up costs is not the basis by which a proposed variance's impact on the development of adjacent property is determined; rather, absent some evidence before the Board that the proposed conforming development is not being credibly and diligently pursued, the Board must evaluate the possible impairment by the proposed variance on the appropriate adjacent development; and

WHEREAS, the applicant's assertion that the Board may not assume residential development will take place on the Copolla Property until DEP approved environmental remediation has occurred is also not an appropriate basis for a Board determination as to the potential adverse impacts of a variance on conforming development; the Board notes that DEP approval on remediation is but one component of the development process; and

WHEREAS, if the Board were to accept the applicant's proposed standard of assessment of substantial impairment of development of adjacent property for purposes of the 'C' finding, then the Board would be required: (1) to acquire and evaluate all materials related to the conforming developer's due diligence as to the adjacent site, so as to ensure that the conforming proposal was made in good faith; and (2) to defer its analysis of the 'C' finding until another regulatory agency's sign off was obtained, where it was alleged that such sign off was needed prior to commencement of construction; and

WHEREAS, the Board has not conducted this specific type of overreaching review in any prior variance application; nor is the Board aware of any case law interpreting the 'C' finding in such a manner; and

WHEREAS, additionally, the Board has not deferred analysis of the 'C' finding pending sign off from another agency, even though the Board occasionally acknowledges that another agency's sign off may be required prior to

WHEREAS, the Board finds that a mini-storage facility of the size proposed is likely to generate traffic and noise which is objectionable when in such close proximity to a residential development of detached or semi-detached homes; and

WHEREAS, even though the applicant represents that the mini-storage facility will be "tastefully designed" and would be screened, the Board finds that the facility would nevertheless be out of context in terms of its design and bulk,

issuance of building permits; and

WHEREAS, the Board notes that, in any event, the applicant has not suggested, or provided evidence proving, that the developer of the Copolla Property is acting in bad faith, has failed to conduct appropriate due diligence, did not consider the environmental remediation issues (which are well-known and documented in the public record related to the instant matter), or is ignorant of the potential financial risks inherent to the proposed development; and

WHEREAS, the Board has before it a complete GCL §36 waiver application that contains, among other things, a site plan showing the outline of 52 conforming dwellings and the proposed private road, a supporting statement, and a zoning analysis; and

WHEREAS, the Board is aware that a significant filing fee was paid to the City for the GCL waiver applications, and that the developer of the adjacent property has retained counsel to provide representation before the Board; and

WHEREAS, the Board notes that the Copolla Property is a large parcel and, based upon the GCL waiver filing before it, finds no reason to disbelieve the developer's apparent conclusion that it could support conforming development sufficient to make a reasonable financial return; and

WHEREAS, while a small amount of waivers and grants made by the Board do not proceed to actual development, this fact in no way is dispositive in the instant matter; and

WHEREAS, in the experience of the individual Board members, a significant majority of developments that require a GCL §36 waiver commence subsequent to the grant of the waiver and issuance of a building permit; the developers rarely return to the Board for further discretionary relief, but instead proceed with conforming development; and

WHEREAS, as to the applicant's second argument, the Board notes that the proposed mini-storage use falls within the Use Group 16 category in the Zoning Resolution, which, pursuant to Z.R. §32-25, includes semi-industrial uses that involve "objectionable influences, making such uses incompatible with residential uses"; and

WHEREAS, the Board finds that a mini-storage facility and a large conforming residential development of the type proposed for the Copolla Property are inherently incompatible; and

given that it would consist of six long, unbroken structures, whereas the conforming development on the Copolla Property would consist of 52 detached or semi-detached homes; and

WHEREAS, the applicant also contends that the proposed mini-storage facility would generate less traffic and be more aesthetically pleasing than the existing bus storage use; and

WHEREAS, the Board notes that consideration of an

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existing non-conforming use on the subject parcel, proposed to be discontinued and replaced, is not relevant to its evaluation of the 'C' finding; rather, what is relevant is whether the proposed variance use will substantially impair the appropriate use of adjacent property; and

WHEREAS, the Board notes that the existing bus storage use is a non-conforming use; and

WHEREAS, Z.R. §51-00 provides that the purpose of regulations governing non-conforming uses is, in part, "to restrict further investment in such uses, which would make them more permanent establishments in inappropriate locations"; and

WHEREAS, pursuant to Z.R. §52-32, a non-conforming use that exists on a parcel of land which meets the definition of land with minor improvements, such as the subject parcel, may be changed only to a conforming use; and

WHEREAS, given the disfavor under the applicable zoning regulations for long-term continuation of, or a change to another manufacturing use from, the existing non-conforming use, the Board concludes that it lacks the permanency of the proposed mini-storage use, which could continue in perpetuity once granted by the Board; and

WHEREAS, the Board believes that the permanent aspect of the mini-storage use is further evidenced by the proposed erection of six permanent storage structures on land that is currently vacant; and

WHEREAS, the Board concludes that it is the proposed mini-storage facility's permanency which makes its negative impact more far reaching in time and thus more objectionable than the existing non-conforming use; and

WHEREAS, the Board also finds the mini-storage variance, if granted, would lower the price that a prospective purchaser might pay to live in homes planned for the Copolla Property, which, in turn, could diminish the viability of the Copolla development such that it could not proceed as of right; and

WHEREAS, accordingly, the Board finds that the mini-storage proposal, if granted, would substantially impair the appropriate development of the adjacent property; and

WHEREAS, the record also contains evidence that a conforming development is proposed for 5922 Strickland Avenue, which is to the southwest of the subject parcel on the same superblock; and

WHEREAS, the Board notes that the alleged remediation costs related to the Copolla Property are, as reported by the applicant, significantly higher (approximately 10 million) than the alleged remediation costs related to the subject property (approximately 3.4 million); and

WHEREAS, in light of the above, the Board questions how the applicant can reasonably maintain that a Use Group 16 use is the minimum variance necessary to realize a reasonable return on the property, notwithstanding the fact that the Copolla Property is larger than the subject parcel; and

WHEREAS, the Board notes that at one point in the

WHEREAS, the Board finds that the superblock on the west side of Strickland Avenue now appears to be in the process of being residentially developed, and further finds that the proposed mini-storage facility, if granted, would negatively impact the conforming residential development at 5922 Strickland Avenue; and

WHEREAS, moreover, the Board does not view the superblock on which the subject property is located to be isolated from the existing residential neighborhood on the other side of Strickland Avenue, such that a determination of the essential character of the entire neighborhood can not encompass this residential neighborhood; and

WHEREAS, the Board notes that it often looks to uses across a street, even a wide street, to ascertain the essential character of a particular neighborhood, especially when the zoning district is the same or comparable; and

WHEREAS, accordingly, the Board finds that the subject parcel and the residential neighborhood across Strickland Avenue can be considered to be similar components of one neighborhood for purposes of evaluating the 'C' finding; and

WHEREAS, there are existing detached homes in the blocks across from the subject property; and

WHEREAS, the Board finds that the proposed mini-storage facility, which consists of 6 large, unbroken garage-type structures, would not be contextual to these detached homes, in terms of bulk and use; and

WHEREAS, the Board finds that the proposed mini-storage facility, if granted, would alter the essential character of the neighborhood, in that it would introduce a permanent Use Group 16 use directly across the street from a residential neighborhood which consists in part of detached homes; and

WHEREAS, therefore, the Board again finds that the subject application fails to meet the requirements of Z.R. §72-21(c); and

WHEREAS, the hardship claimed in the instant application was not self-created; therefore, the application meets the finding set forth at Z.R. §72-21(d); and

WHEREAS, the Board notes that conforming development now appears to be slated for the Copolla Property and the property at 5922 Strickland Avenue; and

public hearing process, the applicant proposed various residential scenarios that would require a bulk waiver from the Board; and

WHEREAS, the Board also notes that given the conforming development planned for the Copolla Property and at 5922 Strickland Avenue, the value of the subject parcel for residential development is likely enhanced, such that a reasonable return from either a conforming residential development or a residential scenario that includes additional Board-granted bulk may now be feasible; and

WHEREAS, based upon the above, the Board concludes that the mini-storage proposal is not the

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minimum variance; therefore, the subject application fails to meet the finding set forth at Z.R. §72-21(e); and

WHEREAS, pursuant to Z.R. §72-21, the Board may only grant a variance upon a showing that each and every finding of Z.R. §72-21 is supported by substantial evidence or other documentation; and

WHEREAS, the subject application does not meet the findings set forth at Z.R. §72-21(c) and (e).

Therefore, it is resolved that the decision of the Borough Commissioner dated October 15, 1999, acting on Application No. 300865482 is upheld and this application is denied.

Adopted by the Board of Standards and Appeals, April 27, 2004.

279-01-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for Magen David Yeshivah, owner.

SUBJECT - Application December 8, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 2106-2130 McDonald Avenue, through lot with frontage on Lake Street and McDonald Avenue, between Avenue S & T, Block 7087, Lots 14, 22, 24, 73, 76, Borough of Brooklyn.

COMMUNITY BOARD #11BK

APPEARANCES -

For Applicant: Barbara Hair.

ACTION OF THE BOARD - Application reopened and resolution amended.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:0

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on February 10, 2004, after due notice by

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

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted." (DOB# 301521529)

Adopted by the Board of Standards and Appeals, April 27, 2004.

352-02-BZ

APPLICANT - New York City Board of Standards and Appeals.

publication in The City Record, with continued hearings on March 9, 2004 and April 13, 2004 and then to April 27, 2004 for decision; and

WHEREAS, on March 26, 2002, the Board granted a variance under the subject calendar number to permit a proposed school, Use Group 3, located in an M1-1 and an R5 zoning district, which created non-conformance with M1-1 district use regulations and non-compliance with R5 district bulk regulations, contrary to Z.R. §§42-00, 24-11, 24-34, 24-35, 24-36 and 24-521; and

WHEREAS, the applicant now seeks the installation of non-standard curb cuts to facilitate the smoother flow of school bus, mini-van and passenger vehicle traffic ingress to, and egress from, the site; and

WHEREAS, the proposed curb cuts are non-standard in that: (1) the driveway intersects the street line at a non-standard angle; (2) the width of the splays exceed the maximum permitted; (3) the driveway cuts through the sidewalk, necessitating curb cuts along the driveway and sidewalk for accessibility required pursuant to the Americans with Disabilities Act; and

WHEREAS, the applicant has revised the proposal to address the concerns of the Department of Transportation ("DOT") and by letter dated April 21, 2004, the DOT has indicated it has no objection to the proposal; and

WHEREAS, at the request of the DOT, the applicant has provided a sidewalk pedestrian ramp for accessibility, as well as DOT recommended signage.

Resolved, that the Board of Standards and Appeals, reopens and amends the resolution, so that as amended this portion of the resolution shall read: "to permit the installation of non-standard curb cuts on a site previously before the Board, on condition that all work shall substantially conform to drawings as filed with this application marked "March 29, 2004"- (1) sheet; and on further condition;

THAT all DOT required items, including the ramp for ADA accessibility and signage, will be provided as shown on approved plans;

OWNER OF PREMISES: Peter Likourentzos

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 2801 Emmons Avenue, northeast corner East 28th Street to East 29th Street, Block 8792, Lot 63, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES - None.

ACTION OF THE BOARD - Application dismissed for lack of prosecution.

THE VOTE TO DISMISS -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:0

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THE RESOLUTION -

WHEREAS, this is an application, pursuant to ZR §72-21 to permit, in a C2-2 in and R5 (Sheepshead Bay Special Zoning District), the addition of a wedding chapel or banquet hall, Use Group 9, to an existing eating and drinking establishment, Use Group 6, with restrictions on entertainment which is contrary to §94-061; and

WHEREAS, this application was originally filed on December 5, 2002 without a financial feasibility study; and

WHEREAS, an initial Notice of Objections was sent by the BSA examiner on January 14, 2003 requesting that a financial feasibility study be submitted as soon as it was available; and

WHEREAS, the applicant submitted a financial feasibility study on May 29, 2003 which the BSA examiner addressed in a Second Notice of Objections sent on June 5, 2003; and

WHEREAS, the June 5, 2003 Notice of Objections indicated that the financial feasibility study submitted was not satisfactory in that the comparable properties provided were insufficient and the study failed to link any unique physical characteristics of the site to economic hardship-pursuant to ZR §72-21(b); and

WHEREAS, in response the applicant's failure to provide a satisfactory feasibility study, the subject application was placed on the Dismissal Calendar on March 10, 2004; and

WHEREAS, at the March 10, 2004 Dismissal Calendar hearing, the applicant was once again informed that a satisfactory feasibility study had yet to be submitted; and

WHEREAS, the applicant was then granted approximately a month and a half adjournment to submitted the required material and the case was placed on the Board's Special Order Calendar for April 27, 2004; and

WHEREAS, the Board notes that there were no submissions by the applicant following the March 10, 2004 hearing and that the applicant failed to appear at the April 27, 2004 hearing.

APPLICANT - The Law Office of Fredrick A. Becker, for 325 North Macquesten Parkway Corporation, owner; Abko Inc dba Carwash Associates, lessee.

SUBJECT - Application June 13, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 486/496 Coney Island Avenue aka 804/826 Church Avenue, west side of Coney Island Avenue 91' 9 1/8" south of the corner of Church Avenue and Coney Island Avenue) Block 5341, Lot 17, Borough of Brooklyn.

COMMUNITY BOARD #12BK

APPEARANCES -

For Applicant: Fredrick A. Becker.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:0

ACTION OF THE BOARD - Laid over to May 18, 2004, at 10 A.M., for decision, hearing closed.

WHEREAS, therefore, due to the applicant's continued failure to respond to the Board's numerous requests for information necessary to the instant application, the Board finds that it must dismiss this case for lack of prosecution.

Adopted by the Board of Standards and Appeals, April 27, 2004.

156-03-BZ

APPLICANT - New York City Board of Standards and Appeals.

OWNER OF PREMISES: RKO Plaza LLC & Farrington Street Developers, LLC.

SUBJECT - to dismiss the application for lack of prosecution.

PREMISES AFFECTED - 135-35 Northern Boulevard, north side of intersection of Main Street and Northern Boulevard, Block 4958, Lots 48 and 38, Borough of Queens.

COMMUNITY BOARD #7Q

APPEARANCES -

For Applicant: Chris Wright.

ACTION OF THE BOARD - Application withdrawn.

THE VOTE TO WITHDRAW -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5

Negative:0

Adopted by the Board of Standards and Appeals, April 27, 2004.

465-55-BZ

889-55-BZ, Vol. II

APPLICANT - J & H Management Corp., for Everything Auto Repair, lessee.

SUBJECT - Application October 21, 2003 - request for a waiver of the Rules of Practice and Procedure and reopening for an extension of term of variance which expired May 1, 2003

PREMISES AFFECTED - 69-13/25 (69-15 Official) 164th Street, east side 110' south of 69th Avenue, Block 6931, Lot 38, Borough of Queens.

COMMUNITY BOARD #8

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Laid over to May 25, 2004, at 10 A.M., for continued hearing.

116-68-BZ

APPLICANT - Stephen Rizzo, for 40 Central Park South Inc.,

MINUTES

owner; Café Atlas, lessee.

SUBJECT - Application December 19, 2003 - reopening for an extension of time to obtain a certificate of occupancy which expired on December 21, 2003.

PREMISES AFFECTED - 40 Central Park South, south side, 120' east of Sixth Avenue, Block 1274, Lot 6, Borough of Manhattan.

COMMUNITY BOARD #5

APPEARANCES -

For Applicant: Stephen Rizzo.

ACTION OF THE BOARD - Laid over to May 18, 2004, at 10 A.M., for continued hearing.

705-81-BZ

APPLICANT - The New York City Board of Standards and Appeals

OWNER OF PREMISES: Fraydun Enterprises.

LESSEE: New York Health and Racquet Club.

SUBJECT - Application - reopening for compliance.

PREMISES AFFECTED - 1433/37 York Avenue, northeast corner of East 76th Street, Block 1471, Lots 21, 22 and 23, Borough of Manhattan.

COMMUNITY BOARD #8M

APPEARANCES -

In Favor: Mitchell Ross.

In Opposition: Ellen Stigman.

ACTION OF THE BOARD - Laid over to June 22, 2004, at 10 A.M. for continued hearing.

234-98-BZ

APPLICANT - Walter T. Gorman, P.E., for Jose Vasquez, owner;
45-03-A thru 64-03-A

APPLICANT - Robert E. Englert, A.I.A., for Sleepy Hollow Development Corp., owner.

SUBJECT - Application February 10, 2003 - Proposed two family attached frame building, not fronting on a legally mapped street, and located within the bed of a mapped street, is contrary to Sections 35 and 36, Article 3 of the General City Law.

PREMISES AFFECTED -

69 Hall Avenue, north side, 595.62' west of Willowbrook Road, Block 2091, Lot 85, Borough of Staten Island.

67 Hall Avenue, north side, 570.62' west of Willowbrook Road, Block 2091, Lot 80, Borough of Staten Island.

65 Hall Avenue, north side, 545.62' west of Willowbrook Road, Block 2091, Lot 79, Borough of Staten Island.

63 Hall Avenue, north side, 520.62' west of Willowbrook Road, Block 2091, Lot 78, Borough of Staten Island.

61 Hall Avenue, north side, 495.62' west of Willowbrook Road, Block 2091, Lot 77, Borough of Staten Island.

59 Hall Avenue, north side, 465.62' west of Willowbrook Road, Block 2091, Lot 76, Borough of Staten Island.

55 Hall Avenue, north side, 435.62' west of Willowbrook

Harlem Hand Carwash, lessee.

SUBJECT - Application November 18, 2003 - reopening for an extension of time to complete construction which expires on November 23, 2003.

PREMISES AFFECTED - 2600-2614 Adam Clayton Powell Jr. Boulevard, a/k/a 2600-2614 7th Avenue, west side of Adam Clayton Powell Jr. Boulevard, blockfront from W. 150th Street to W. 151st Street, Block 2036, Lot 29, Borough of Manhattan.

COMMUNITY BOARD #10M

APPEARANCES -

For Applicant: L. Kmomu.

ACTION OF THE BOARD - Laid over to June 8, 2004, at 10 A.M., for continued hearing.

274-90-BZ

APPLICANT - George E. Berger, for Long Island University, owner.

SUBJECT - Application December 22, 2003 - request for a waiver of the Rules of Practice and Procedure, reopening for an extension of term of variance which expired January 27, 2002 and for an amendment to the resolution.

PREMISES AFFECTED - 85 DeKalb Avenue, north side DeKalb Avenue, west of Ashland Place, Block 2086, Lot 34, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: George Berger.

ACTION OF THE BOARD - Laid over to May 25, 2004, at 10 A.M., for continued hearing.

Road, Block 2091, Lot 75, Borough of Staten Island.
53 Hall Avenue, north side, 410.62' west of Willowbrook Road, Block 2091, Lot 74, Borough of Staten Island.
51 Hall Avenue, north side, 385.62' west of Willowbrook Road, Block 2091, Lot 73, Borough of Staten Island.
49 Hall Avenue, north side, 355.62' west of Willowbrook Road, Block 2091, Lot 72, Borough of Staten Island.
45 Hall Avenue, north side, 325.62' west of Willowbrook Road, Block 2091, Lot 71, Borough of Staten Island.
43 Hall Avenue, north side, 300.62' west of Willowbrook Road, Block 2091, Lot 70, Borough of Staten Island.
41 Hall Avenue, north side, 275.62' west of Willowbrook Road, Block 2091, Lot 69, Borough of Staten Island.
39 Hall Avenue, north side, 250.62' west of Willowbrook Road, Block 2091, Lot 68, Borough of Staten Island.
37 Hall Avenue, north side, 225.62' west of Willowbrook Road, Block 2091, Lot 67, Borough of Staten Island.
35 Hall Avenue, north side, 200.62' west of Willowbrook Road, Block 2091, Lot 66, Borough of Staten Island.
31 Hall Avenue, north side, 267.12' west of Willowbrook Road, Block 2091, Lot 65, Borough of Staten Island.

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29 Hall Avenue, north side, 143.62' west of Willowbrook
Road, Block 2091, Lot 63, Borough of Staten Island.

COMMUNITY BOARD #2SI

APPEARANCES -

For Applicant: Robert E. Englert.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Caliendo, Commissioner Miele and
Commissioner Chin.....5

Negative:0

ACTION OF THE BOARD - Laid over to May 11, 2004, at
10 A.M., for decision, hearing closed.

Pasquale Pacifico, Executive Director.

Adjourned: 11:20 A.M.

**REGULAR MEETING
TUESDAY AFTERNOON, APRIL 27, 2004
2:00 P.M.**

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner
Caliendo, Commissioner Miele and Commissioner Chin.

ZONING CALENDAR

69-03-BZ

APPLICANT - Friedman & Gotbaum, LLP, by Shelly S. Friedman,
Esq., for Bond Street, LLC, owner.

SUBJECT - Application February 12, 2003 - under Z.R. § 72-21 to
permit the proposed development of a 15-story mixed-use building,
consisting of residential apartments and local retail usage, located in
an M1-5B zoning district, where residential use is not permitted is
contrary to Z.R. §42-10.

PREMISES AFFECTED - 32/40 Bond Street, mid-block portion
fronting on north side, of Bond Street between Lafayette and the
Bowery, Block 530, Lot 48, Borough of Manhattan.

COMMUNITY BOARD #2M

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar,
Commissioner Caliendo, Commissioner Miele and
Commissioner Chin.....5

Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough
Commissioner, dated March 11, 2004, acting on
Department of Buildings Application No. 103340396, reads,
in part:

"1) The proposed 10 story plus penthouse building
containing residential use in an M1-5B zoning district is
not permitted as of right and its contrary to ZR 42-10";
and

WHEREAS, the above DOB decision is a new, revised
version, obtained by the applicant at the request of the
Board; DOB issued an earlier objection on July 10, 2003
based on a prior iteration of the application, which
requested bulk, height and setback waivers, in addition to
the use change; and

WHEREAS, the Department of Buildings also issued
the following objection to the subject application: "Proposed
commercial use (UG6) below the level of the 2nd floor in an
M1-5B zoning district is not permitted pursuant to ZR
42-14(D)(2)(b)"; the applicant represents that this objection
was waived by the City Planning Commission through a
special permit granted on November 20, 2002; and

WHEREAS, a public hearing was held on this
application on October 8, 2003 after due notice by
publication in the City Record; with continued hearings on
November 12, 2003, December 10, 2003, February 3,
2004, and March 10, 2004 and then laid over for decision
on April 20, 2004; the decision was deferred on April 20,
2004 and laid over for decision on April 27, 2004; and

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

WHEREAS, Community Board 2, Manhattan,
recommended disapproval of the earlier version of this
application; and

WHEREAS, the Department of City Planning appeared
in opposition to the earlier version of the subject

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application, objecting to the FAR increase request but not to the proposed use change; and

WHEREAS, Councilmember Gerson submitted letters in opposition to the earlier and current version of the subject application; and

WHEREAS, the majority of the community based opposition was to the earlier version of the proposal, which, as noted above, requested bulk waivers in addition to the use variance; and

WHEREAS, this is an application under Z.R. §72-21 to permit the proposed erection of a 120' high, ten-story mixed-use building, Use Groups 2 and 6, consisting of residential apartments and local retail usage, located in an M1-5B zoning district, which is contrary to Z.R. §42-10; and

WHEREAS, the subject premises: is a vacant lot situated in the mid-block and fronting for 136 feet on the

WHEREAS, the initial proposal was for a 15-story, 205' high building (including mechanicals), with 122,322 square feet of floor area, 20' rear yard, and an 8.57 FAR; and

WHEREAS, the first amended proposal, submitted July of 2003, was for a 14-story, 194' high building (including mechanicals), with 108,870 square feet of floor area, 30' rear yard, and a 7.6 FAR; and

WHEREAS, the second amended proposal, submitted November of 2003, was for a 12- story (plus penthouse), 179' high building (including mechanicals), with 97,543 square feet of floor area, 30' rear yard, and a 6.83 FAR; and

WHEREAS, the third amended proposal, submitted December of 2003, was for a 11-story (plus penthouse), 151' high building (including mechanicals), with 96,254 square feet of floor area, 30' rear yard, and a 6.74 FAR; and

WHEREAS, the Board continued to express reservations about the proposed bulk of the building, and urged the applicant to further reduce the FAR to what is permitted in the zoning district (5.0 FAR); the applicant then made the subject proposal; and

WHEREAS, the only variance required under the final version of the application is for conversion of the building from manufacturing to residential use; and

WHEREAS, the applicant represents that the following are unique physical conditions, which create practical difficulties and unnecessary hardships in constructing the proposed building in conformity with underlying district regulations: (1) the site is a mid-block vacant lot within an M1-5B zoning district; and (2) the surrounding over-built conditions; specifically, the site is surrounded by buildings with high walls on its side and rear property lines; and

WHEREAS, the applicant argues that the physical conditions of the site and its immediate surroundings converge with the zoning regulations applicable to the M1-5B zoning district and the market conditions for conforming commercial and manufacturing development in the vicinity to create a hardship in developing the site as of right; and

WHEREAS, the applicant argues also that the permitted

north side of Bond Street between Lafayette Street and the Bowery, has a total lot area of approximately 14,276 square feet, and is currently used as an open air parking lot; and

WHEREAS, the site borders on the NoHo Historic District and is approximately one block north of the newly designated NoHo East Historic District; and

WHEREAS, the proposed ten-story mixed use building will have 71,348 square feet of floor area, with retail space to be located on the ground floor; rise 74 feet along the Bond Street property line before setting back 20 feet (at the seventh floor); and have an overall height on 134 feet (including mechanicals); and

WHEREAS, since initially submitted to the Board in February 2003, the proposal has been amended four times, in response to Board and community objections to the proposed height and additional bulk; and

FAR is far lower than the existing built conditions surrounding the site and no residential alternatives are allowed for new construction on vacant land in the M1-5B zoning district; and

WHEREAS, the applicant claims that the overbuilt conditions surrounding the site necessitate the provision of a deep rear yard, which overcomes the hardship created by the surrounding conditions but then reduces the floor plate of the building, creating a building footprint that is too narrow to permit the construction of a building suitable and marketable for either commercial or manufacturing use; and

WHEREAS, the applicant claims that if a deep rear yard was not provided, the lower floors of the building would only have windows on the front, and these lower floors would be less marketable and greatly diminish the overall viability of a conforming development; and

WHEREAS, the applicant states that none of the factors set forth above, standing alone, would qualify as the basis for a claim of a unique physical condition leading to hardship; rather, it is the combination of the factors which prevent as of right development of the subject site from generating a reasonable return; and

WHEREAS, the applicant further represents that the above combination of conditions do not occur on any other site within the subject zoning district aside from two others; and

WHEREAS, the Board's site visit confirmed the applicant's representation regarding the over-built conditions surrounding the site; and

WHEREAS, the Board recognizes that the regulations of the M1-5B zoning district may be onerous as applied to vacant lots, but emphasizes that vacant lots situated within M1-5B zoning districts are not inherently unique; an actual unique physical condition must be present; and

WHEREAS, the Board also concludes that market conditions do not constitute a unique physical condition, either standing alone or in combination with other factors, for purposes of meeting the finding set forth at Z.R. §72-21(a), but may be relevant for purposes of meeting the

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finding set forth at Z.R. §72-21(b); and

WHEREAS, based upon the foregoing, the Board finds that the fact that the land is one of the few vacant parcels in the subject zoning district surrounded by significantly overbuilt buildings to be a unique physical condition that creates practical difficulties and unnecessary hardships in developing the site in strict conformity with current applicable zoning regulations; and

WHEREAS, the applicant has submitted a feasibility study purporting to demonstrate that developing the entire

WHEREAS, the applicant, through submissions from its financial consultant, has adequately addressed concerns from the community regarding the proposed unit size that the Board requested the applicant investigate, concluding that the proposed unit sizes were necessary to obtain a reasonable return; and

WHEREAS, based upon its review of the record, the Board determines that because of the subject lot's unique physical conditions, there is no reasonable possibility that development of the site in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the applicant states that the proposed building would be an appropriate addition to the mixed use neighborhood surrounding the site, which is characterized by residential, commercial and manufacturing buildings, and community facility uses; and

WHEREAS, the applicant further states that a street level residential and retail façade will enhance the Bond Street frontage, and the retail use will provide new jobs and expanded neighborhood services; and

WHEREAS, the Board notes that the applicant has committed to creating a façade that is contextual with the district; and

WHEREAS, opposition has made various claims about the proposed building's impact on the character of the neighborhood, suggesting that the height of the building is excessive given the height of neighboring buildings; and

WHEREAS, the Board notes that no height waiver is sought by the applicant, and that an as of right building would have the same alleged impact; and

WHEREAS, the Board has conducted its own site visit and has ascertained that the proposed building will be contextual with the as built conditions in the immediate and surrounding area; and

WHEREAS, the Board finds that the residential use of the proposed building is not incompatible with other uses in the area, and notes that there are other mixed use and residential buildings in the immediate and surrounding area; and

WHEREAS, based on the above, the Board finds that the subject application, if granted, 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 Board finds that the hardship herein

premises with a conforming use would not yield the owner a reasonable return, due to the unique physical conditions existing on the zoning lot; and

WHEREAS, the feasibility study analyzed two as of right scenarios (office building and hotel) and showed that neither produced a reasonable rate of return; and

WHEREAS, the applicant maintains that the current market conditions in the Lower Manhattan area do not support manufacturing, office or hotel use at the site; and

was not created by the owner or a predecessor in title; and

WHEREAS, after taking guidance from the Board as to the need for additional bulk and height, the applicant has drastically reduced the scope of the proposal, limiting the requested variance to conversion from manufacturing to residential use; and

WHEREAS, consequently, the Board finds that the current proposal is the minimum necessary to afford the owner relief; and

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

WHEREAS, a Restrictive Declaration was requested by the New York City Department of Environmental Protection ("DEP") to address potential hazardous materials concerns on the subject site prior to development of the proposed project; the Restrictive Declaration was submitted to DEP's Legal Affairs Office for review and approval and following DEP's approval, the Restrictive Declaration was executed and recorded on April 5, 2004; and

WHEREAS, DEP conducted a review of the Applicant's Air Quality and Noise Assessments and submitted a letter dated March 11, 2004 to the BSA stating there would not be any potential adverse air quality or noise impacts due to the proposed project; and

WHEREAS, the applicant has submitted a revised shadow analysis assessment, previously submitted to the Landmarks Preservation Commission ("LPC") and the BSA on April 5, 2004, in addition to plans showing that the potential shadow impacts of the proposed building will not be perceptibly greater than the potential impacts of an as-of-right development; the applicant also submitted revisions to LPC and the BSA regarding Attachment A, "Historic Resources" in the Environmental Assessment Statement; on April 6, 2004, LPC approved the revised shadows analysis assessment and revised Historic Resources section; and

WHEREAS, the applicant's Stage 1A Archaeological Assessment had determined that there was the potential for the site to host historical archaeological resources dating from the 1830s-1850s; based on LPC's review of the Stage 1A Archaeological Assessment, they determined that field testing was necessary to address potential archaeological concerns identified on the site; in response to LPC's

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determination, the applicant's consultant prepared an archaeological field testing protocol which LPC approved on March 17, 2004; and

WHEREAS, the Board has conducted an environmental review of the proposed action and the Final Environmental Assessment Statement and has carefully considered all

Resolved, that the Board of Standards and Appeals issues a Negative Declaration with the conditions noted below 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 the proposed erection of a 120' high, 10 story mixed use building, Use Groups 2 and 6, consisting of residential apartments and local retail usage, located in an M1-5B zoning district, which is contrary to Z.R. §§42-10; on condition that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received April 22, 2004" - (10) sheets and on further condition:

THAT no retail/commercial use will be permitted in the rear yard; no retail/commercial access will be permitted to the rear yard;

THAT the above condition will appear on the certificate of occupancy;

THAT any non-retail/commercial use of, or access to, the rear yard as may be required by the Building Code or any other applicable law is subject to approval of the Department of Buildings;

THAT the applicant shall comply with the conditions stipulated in the Restrictive Declaration;

THAT archaeological field testing of the project site shall take place before construction of the proposed project commences; upon completion of field testing, a report on the field investigation shall be submitted to LPC for review;

THAT the proposal shall comply with all applicable fires safety regulations;

THAT substantial construction will 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 27, 2004.

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.

299-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Josette Said, owner.

SUBJECT - Application September 15, 2003 - under Z.R. §72-21 to permit the proposed construction of a detached one-family dwelling, Use Group 1, located in an R1-2 zoning district, which does not comply with the zoning requirements for front yard, rear yard and setback, is contrary to Z.R. §23-45, §23-52 and §23-631. PREMISES AFFECTED - 179-16 Grand Central Parkway, between Midland Parkway and Edgerton Boulevard, Block 9943, Lot 43, Borough of Queens.

COMMUNITY BOARD #8

APPEARANCES -

For Applicant: Irving E. Minkin.

ACTION OF THE BOARD -Application granted on condition.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:0

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated December 9, 2003 acting on Application No. 401588242 reads:

"A Zoning Variance will be required by the Board of Standards and Appeals as follows:

Z1. Proposed 15 foot front yard is contrary to Section 23-45, Z.R.

Z2. Proposed 8 foot rear yard in interior lot portion of site is contrary to Section 23-47, Z.R.

Z3. Proposed 5 foot encroachment of the front wall into the required front yard is contrary to the setback requirements of Section 23-631, Z.R."; and

WHEREAS, a public hearing was held on this application on March 23, 2004 after due notice by publication in The City Record, with a continued hearing on April 13, 2004, and then to April 27, 2004 for decision; and

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

WHEREAS, Community Board 8, Queens, recommends conditional approval of this application; and

WHEREAS, this is an application under Z.R. §72-21, to permit the proposed construction of a one family dwelling (Use

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Group 1) located in an R1-2 zoning district, which does not comply with the zoning requirements for front yard, rear yard and setback,

WHEREAS, the subject premises is a corner lot located at the southwest corner of the Grand Central Parkway and Midland Parkway, with a frontage of 405.84 feet along Grand Central Parkway and 15.15 feet along Midland Parkway; and

WHEREAS, the applicant represents that the subject zoning lot is irregularly shaped with varying depth-the narrowest portion of the site is only 15 feet and the widest is only 57 feet; and

WHEREAS, the applicant further represents that the zoning lot is also burdened with a steep slope upwards from Grand Central Parkway of approximately 20 degrees; and

WHEREAS, the unique physical conditions, namely the irregular shape and steep slope of the subject lot, necessitate that the building be located on the lot in such a way that provision of complying front and rear yards is impractical; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, namely the irregular shape and steep slope of the subject lot, create an unnecessary hardship and practical difficulty in developing the site in conformity with the current zoning; and

WHEREAS, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that development in strict compliance with zoning will provide a reasonable return; and

WHEREAS, the record indicates that the use and floor area of the subject proposal are consistent with the surrounding residential uses and the underlying zoning regulations; and

WHEREAS, the Board observes that as presented by the applicant, the adjacent parcel to the rear of the subject premises is developed with a building that sets back from the lot line approximately 58 feet, and the adjacent parcel to the side of the subject premises is developed with a building that sets back from the lot line approximately 35 feet; and

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

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

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

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under 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
Negative:0

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated

contrary to Z.R. §§23-45, 23-47 and 23-631; and

of an Environmental Impact Statement; and

Resolved, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617 and §6-07(b) of the Rules of Procedure for City Environmental Quality Review and makes each and every one of the required findings under Z.R. §72-21 and grants a variance, to permit the proposed construction of a one-family dwelling (Use Group 1) located in an R1-2 zoning district, which does not comply with the zoning requirements for front yard, rear yard and setback, which is contrary to Z.R. §§23-45, 23-47 and 23-631; on condition that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "April 16, 2004" - (1) sheet; and on further condition:

THAT substantial construction 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;

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 27, 2004.

347-03-BZ

APPLICANT - Eric Palatnik, P.C., for Shaul and Sara Taub, owners.

SUBJECT - Application November 14, 2003 - under Z.R. § 73-622 to permit the proposed enlargement of an existing single family residence, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio and open space ratio, is contrary to Z.R. §23-141(a).

PREMISES AFFECTED - 2611 Avenue "N", between East 26th and East 27th Streets, Block 7662, Lot 5, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant: Eric Palatnik.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

November 3, 2003, acting on Alt. 1 Application No. 301654430, reads:

"1. Plans are contrary to Z.R. 23-141(a) in that the proposed

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Floor Area Ratio (FAR) exceeds the permitted .5.

- Plans are contrary to Z.R. 23-141(a) in that the proposed Open Space Ratio (OSR) is less than the minimum required 150.0."; and

WHEREAS, a public hearing was held on this application April 13, 2004 and laid over for decision to April 27, 2004; and

WHEREAS, a special permit is sought under Z.R. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliances with regard to floor area ratio and open space ratio, contrary to Z.R. §23-141(a); and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Commissioner Caliendo, Commissioner Miele, and Commissioner Chin; and

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

WHEREAS, the enlargement of the building into the rear yard is not located within 20 feet of the rear lot line; and

WHEREAS, the perimeter wall height will comply with all applicable zoning regulations; 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 Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed special permit use are outweighed by the advantages to be derived by the community; 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. §73-622 to permit the proposed enlargement of an existing single-family dwelling in an R2 zoning district, which creates non-compliances with regard to floor area ratio and open space ratio, and which is contrary to Z.R. §23-141(a), on condition that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and SUBJECT - Application April 29, 2003 - under Z.R. §72-21 to permit the proposed erection of a two family dwelling, Use Group 2A, located in an R3-A zoning district, which does not comply with the zoning requirements, for rear yard and floor area ratio, is contrary to Z.R. §23-47 and §23-141(b).

PREMISES AFFECTED - 247-54 90th Avenue, south side, 225.51' west of Commonwealth Boulevard, Block 8662, Lot 28, Borough of Queens.

COMMUNITY BOARD #13Q

marked "January 14, 2004"-(12) sheets; and on further condition;

THAT there shall be no habitable room in the cellar;

THAT the use and layout of the cellar shall be as approved by the Department of Buildings;

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

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

THAT 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 27 2004.

84-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Nissan Perla, Partner: N.P. Holdings, LLC, owner.

SUBJECT - Application October 24, 2003 - under Z.R. §72-21 to permit the proposed nine (9) story plus penthouse residential building, Use Group 2, located in an R5, C1-2 overlay zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, lot coverage, total height, perimeter wall height, lot area per dwelling unit and the required number of parking spaces, is contrary to Z.R. §23-141, §23-631, §23-222 and §25-521.

PREMISES AFFECTED - 35-40 30th Street, a/k/a 35-37 29th Street, between 35th and 36th Avenues, Block 341, Lot 6, Borough of Queens.

COMMUNITY BOARD #1Q

APPEARANCES -

For Applicant: Jordan Most.

For Opposition: Maura Stone and Caroline Adams.

ACTION OF THE BOARD - Laid over to June 8, 2004, at 1:30 P.M., for continued hearing.

139-03-BZ

APPLICANT - Alfonso Duarte, for Sanjoy Augustine, owner.

APPEARANCES -

For Applicant: Alfonso Duarte, Sanjoy Augustine, Hari Nainami and others.

For Opposition: Angela Angregliaso, Carol Gomez and others.

ACTION OF THE BOARD - Laid over to June 8, 2004, at 1:30 P.M., for continued hearing.

183-03-BZ

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APPLICANT - Agusta & Ross, for North Berry Capital Group, LLC, owner.

SUBJECT - Application June 3, 2003- under Z.R. §72-21 to permit the proposed forty-three unit multiple dwelling, with retail space on the ground floor, and underground accessory parking throughout for twenty-two vehicles, Use Groups 2 and 6, located in an M1-2 zoning district, which is contrary to Z.R. §42-10.

PREMISES AFFECTED - 118 Berry Street, 116 North Seventh Street, a/k/a 116/26 North Seventh Street and 118/20 Berry Street, northwest corner, Block 2326, Lots 18 and 19 (tentative Lot 18), Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Mitchell Ross.

ACTION OF THE BOARD- Laid over to May 25, 2004, at 1:30 P.M., for continued hearing.

186-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Mount Carmel Plaza, LLC, owner.

SUBJECT - Application June 4, 2003 - under Z.R. §72-21 to permit the proposed seven story multiple dwelling, Use Group 2, with a total of sixty residential units and twenty-four parking spaces, located in an M1-2 zoning district, which is contrary to Z.R. §42-00. PREMISES AFFECTED - 525 Union Avenue, west side, 48' south of Withers Street, Block 2315, Lot 14, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Jordan Most and Robert B. Pauls.

For Opposition: Rep. Assemblyman Joseph R. Lentoe, Jos Linda Zambrutta, Patty Gioverco, Anthony B., Guido Cianciotti, Pat Iandiorio, Theresa Cianciotta and others.

ACTION OF THE BOARD- Laid over to June 15, 2004, at 1:30 P.M., for continued hearing.

249-03-BZ

APPLICANT - Sheldon Lobel, P.C., for D & J Herms Realty, Inc., owner.

288-03-BZ

APPLICANT - H. Irving Sigman, for Aggressive Realty Corp., owner.

SUBJECT - Application August 29, 2003 - under Z.R. §72-21 to permit the proposed construction of a three story vertical and horizontal enlargement to an existing two story hotel, Use Group 5, located in a C2-2 within an R6 zoning district, which does not comply with the zoning requirements for floor area ratio, height and non-complying signs, is contrary to Z.R. §33-121, §33-341, §32-641-643, §32-652 and §32-655.

PREMISES AFFECTED - 109-17 Horace Harding Expressway, northeast corner of Saultell Avenue, Block 1969, Tentative Lot 2,

SUBJECT - Application July 31, 2003 - under Z.R. §72-21 to permit the proposed four story building, with penthouse and cellar, to contain nine residential units on the second, third and fourth floors, and one commercial unit on the ground floor, on a site that is located in C8-2 zoning district, which does not permit residential use, is contrary to §32-10.

PREMISES AFFECTED - 265 Bedford Avenue, southeast corner of North First Street, Block 2381, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant: Janice Cahalane.

ACTION OF THE BOARD - Laid over to June 8, 2004, at 1:30 P.M., for continued hearing.

270-03-BZ

APPLICANT - Joseph P. Morsellino, for Cord Meyer Development, LLC, owner.

SUBJECT - Application August 26, 2003 - under Z.R. §72-21 to permit the proposed erection and maintenance of a mixed use building, Use Groups 2 and 6, with less than the required open space, and which exceeds the permitted floor area ratio, located on a site that is divided by two zoning districts (C4-2 and R7-1), is contrary to §35-23, §23-142, §35-33 and §35-32.

PREMISES AFFECTED - 108-36/50 Queens Boulevard, southeast corner of 71st Road, Block 3257, Lot 1 (formerly 1 and 42), Borough of Queens.

COMMUNITY BOARD #6Q

APPEARANCES -

For Applicant: Joseph P. Morsellino, Sal Panico.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and

Commissioner Chin.....5
Negative:0

ACTION OF THE BOARD - Laid over to May 11, 2003, at 1:30 P.M., for decision, hearing closed.

Borough of Queens.

COMMUNITY BOARD #4Q

APPEARANCES -

For Applicant: H Irving Sigman and Hiram Monserritz.

For Administration: Battalion Chief Eugene Carty, Fire Department.

ACTION OF THE BOARD - Laid over to May 25, 2004, at 1:30 P.M., for continued hearing.

296-03-BZ

APPLICANT - Moshe M. Friedman, P.E., for Kigsway Realty,

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LLC, owner.

SUBJECT - Application September 10, 2003 - under Z.R. §72-21 to permit the proposed extension of an existing two story (2) commercial building, Use Group 6, to three stories, located in a C4-3 zoning district, which is in compliance with the NYC Zoning Resolution for the addition, but does not comply with the required parking requirements, as per Z.R. §36-21.

PREMISES AFFECTED - 1619 Kings Highway, a/k/a 1601/1621 Kings Highway and 1639/1651 East 17th Street, Block 6779, Lot 22, Borough of Brooklyn.

COMMUNITY BOARD #15BK

APPEARANCES -

For Applicant: Moshe Friedman.

For Administration: Battalion Chief Eugene Carty, Fire Department.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:0

ACTION OF THE BOARD - Laid over to May 18, 2004, at 1:30 P.M., for decision, hearing closed.

306-03-BZ

APPLICANT - Law Offices of Howard Goldman, LLC, for Kay Water Properties, LLC, owner.

SUBJECT - Application September 29, 2003 - under Z.R. §72-21 to permit the proposed conversion of a four story industrial building, located in an M1-2 zoning district, into a residential dwelling, also the addition of two floors, for a total of 18 loft-style dwelling units, is contrary to Z.R. §§42-00 and 43-00.

PREMISES AFFECTED - 192 Water Street, between Jay and Bridge Streets, Block 41, Lot 11, Borough of Brooklyn.

COMMUNITY BOARD #2BK

APPEARANCES -

For Applicant: Emily Simons, Roben B. Caults.

PREMISES AFFECTED - 343 West 16th Street, between Eighth and Ninth Avenues, Block 740, Lot 12, Borough of Manhattan.

COMMUNITY BOARD #4M

APPEARANCES -

For Applicant:

ACTION OF THE BOARD - Laid over to June 8, 2004, at 1:30 P.M., for continued hearing.

384-03-BZ

APPLICANT - Kramer Levin Naftalis & Frankel, LLP, for Renewal Arts Realty Corp., owner; Albert Einstein College of Medicine of Yeshiva University, lessee.

SUBJECT - Application December 10, 2003 - under Z.R. §72-21 to permit the proposed operation of a Use Group 4A health facility, on a portion of a zoning lot, located in an M1-2 zoning district, which

For Administration: Battalion Chief Eugene Carty, Fire Department.

ACTION OF THE BOARD - Laid over to June 15, 2004, at 1:30 P.M., for continued hearing.

339-03-BZ

APPLICANT - Snyder and Snyder, LLP, for United Hebrew Cemetery, Inc., owner; Omnipoint Communications, Inc., lessee.

SUBJECT - Application October 31, 2003 - under Z.R. §73-30 to permit the proposed installation of a non-accessory radio tower, disguised as an eighty-two feet (82') flagpole, together with related equipment at the base thereof ("facility"), on said premises, located in an R3-2 zoning district, which requires a special permit.

PREMISES AFFECTED - 122 Arthur Kill Road, between Clarke and Newvale Avenues, Blocks 4475 and 4463, Lots 1 and 175, Borough of Staten Island.

COMMUNITY BOARD #3S.I.

APPEARANCES -

For Applicant: Robert Gaudio.

ACTION OF THE BOARD - Laid over to May 18, 2004, at 1:30 P.M., for continued hearing.

341-03-BZ

APPLICANT - Sheldon Lobel, P.C., for Chelsea Ventura, LLC, owner.

SUBJECT - Application November 6, 2003 - under Z.R. §72-21 to permit the proposed construction of a new residential building, on a merged zoning lot with an existing multiple dwelling, which creates non-compliances with respect, floor area ratio, number of dwelling units, and rear yard equivalent, is contrary to Z.R. §23-145, §23-22 and §23-533.

is contrary to Z.R. §42-11.

PREMISES AFFECTED - 804 East 138th Street, south side, 155.52' east of Willow Avenue, Block 2589, Lots 15 and 16, Borough of The Bronx.

COMMUNITY BOARD #1BX

APPEARANCES -

For Applicant: Albert Fredericks, Gary Tarnoff, Lawrence Watts and Ira Marion.

For Opposition: Leslie Lyga and Boyd Adelman.

THE VOTE TO CLOSE HEARING -

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

Negative:0

Abstain: Commissioner Caliendo.....1

ACTION OF THE BOARD - Laid over to May 11, 2003, at 1:30 P.M., for decision, hearing closed.

MINUTES

10-04-BZ

APPLICANT - Paul Hasting Janofsky & Walker LLP, for AFP Holding Inc., owner; Aldona Fire Protection, Inc., lessee.

SUBJECT - Application January 12, 2004 - under Z.R. §72-21 to permit the proposed enlargement of an existing building, located in an M1-1 zoning district, which does not comply with the zoning requirements for floor area ratio, rear yards, height of front wall and required setback, also accessory off-street parking, is contrary to Z.R. §43-12, §43-26, §43-43 and §43-20.

PREMISES AFFECTED - 54-14 74th Street, west of Grand Avenue, Block 2803, Lot 28, Borough of Queens.

COMMUNITY BOARD #5Q

APPEARANCES -

For Applicant:

ACTION OF THE BOARD - Laid over to May 25, 2004, at 1:30 P.M., for continued hearing.

23-04-BZ

APPLICANT - Moshe M. Friedman, P.E., for Yossi Kraus, owner.

SUBJECT - Application February 10, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, rear yard and minimum required side yard, is contrary to Z.R. §23-141(a), §23-47 and §23-48.

PREMISES AFFECTED - 1150 East 23rd Street, west side, 380'-0" north of Avenue "L", Block 7622, Lot 66, Borough of Brooklyn.

COMMUNITY BOARD #14BK

SUBJECT - Application March 19, 2004 - under Z.R. § 72-22 & 1-05(e) to permit the proposed construction of a public esplanade between the building and bulkhead line, also the proposed construction of an additional forty-seven residential units, located in an M3-1 zoning district, is contrary to a previous variance granted under Cal. No. 191-00-BZ.

PREMISES AFFECTED - 184 Kent Avenue, northwest corner of North Third Street, Block 2348, Lot 1, Borough of Brooklyn.

COMMUNITY BOARD #1BK

APPEARANCES -

For Applicant:

ACTION OF THE BOARD - Laid over to June 15, 2004, at 1:30 P.M., for continued hearing.

Pasquale Pacifico, Executive Director.

Adjourned: 7:40 P.M.

SPECIAL CALENDAR

APPEARANCES -

For Applicant:

ACTION OF THE BOARD - Laid over to May 18, 2004, at 1:30 P.M., for continued hearing.

24-04-BZ

APPLICANT - Moshe M. Friedman, P.E., for Rachel Edelstein, owner.

SUBJECT - Application February 10, 2004 - under Z.R. §73-622 to permit the proposed enlargement of an existing single family residence, Use Group 1, located in an R2 zoning district, which does not comply with the zoning requirements for floor area ratio, open space ratio, rear and side yards, is contrary to Z.R. §23-141(a), §23-47 and §23-461(a).

PREMISES AFFECTED - 1129 East 27th Street, east side, 220' south of Avenue "K", Block 7627, Lot 33, Borough of Brooklyn.

COMMUNITY BOARD #14BK

APPEARANCES -

For Applicant:

ACTION OF THE BOARD - Laid over to June 15, 2004, at 1:30 P.M., for continued hearing.

134-04-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for 184 Kent Avenue Associates, owner.

WEDNESDAY MORNING, APRIL 28, 2004

10:00 A.M.

Present: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.

406-03-BZY thru 409-03-BZY

APPLICANT - Eric Palatnik, Esq., for Morning Star Development Corp., owner.

SUBJECT - Application December 31, 2003 - Proposed extension of time to complete construction for a minor development for a period of six months pursuant to Z.R. §11-331.

PREMISES AFFECTED -

2 Wenlock Street, south side, 30' west of Morning Star Road, Block 1179, Lot 32, Tentative Lot 33, Borough of Staten Island.

4 Wenlock Street, south side, 48' west of Morning Star Road, Block 1179, Lot 32, Tentative Lot 32, Borough of Staten Island.

8 Wenlock Street, south side, 56' west of Morning Star Road, Block 1179, Lot 32, Tentative Lot 30, Borough of Staten Island.

10 Wenlock Street, south side, 82' west of Morning Star Road,

MINUTES

Block 1179, Lot 32, Tentative Lot 20, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES -

In Favor: Eric Palatnik.

ACTION OF THE BOARD - Laid over to May 18, 2004, at 10:00 A.M., for continued hearing on the SOC Calendar.

410-03-BZY thru 412-03-BZY

APPLICANT - Ciro Asperti, R.A., for Alan Christofferson, owner.

SUBJECT - Application December 31, 2003 - Proposed extension of time to complete construction for a minor development for a period of six months pursuant to Z.R.§11-331.

PREMISES AFFECTED -

95 Lansing Street, southwest corner of South Beach Avenue, Block 3404, Lots 31 and 34, Borough of Staten Island.

97 Lansing Street, southwest corner of South Beach Avenue, Block 3404, Lot 36, Borough of Staten Island.

99 Lansing Street, southwest corner of South Beach Avenue, Block 3404, Lot 37, Borough of Staten Island.

THE VOTE TO CLOSE HEARING -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Caliendo, Commissioner Miele and Commissioner Chin.....5

Negative:0

ACTION OF THE BOARD - Laid over to May 11, 2004, at 10:00 A.M., for continued hearing on the SOC Calendar.

COMPLIANCE CALENDAR

283-90-BZ

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLP, for OPM Holdings, LLC, owner.

SUBJECT - Application January 7, 2004 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 1400 Clove Road, a/k/a Oswego Street, southwest corner of Clove Road and Oswego Street, Block 658, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES -

For Applicant: Adam W. Rothkrug and Ali Alsaede

For Opposition: Mary Ann McGowan.

ACTION OF THE BOARD - Laid over to June 8, 2004, at 10:00 A.M., for continued hearing on the SOC Calendar.

COMMUNITY BOARD #1SI

APPEARANCES - None.

ACTION OF THE BOARD - Laid over to May 25, 2004, at 10:00 A.M., for continued hearing on the SOC Calendar.

1-04-BZY thru 2-04-BZY

APPLICANT - Rothkrug Rothkrug Weinberg & Spector, LLC, for Woodrow Estates North, LLC, owners.

SUBJECT - Application January 2, 2004 - Proposed extension of time to complete construction for a major development for a period of six months pursuant to Z.R. §11-331.

PREMISES AFFECTED -

28 Webster Avenue, west side, 34.4' north of Stanley Avenue, Block 111, Lot 15, Borough of Staten Island.

32 Webster Avenue, northwest corner of Stanley Avenue, Block 111, Lot 16, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES -

In Favor: Adam W. Rothkrug.

Pasquale Pacifico, Executive Director.

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CORRECTIONS

*CORRECTION

This resolution adopted on April 13, 2004, under Calendar No. 354-03-BZ and printed in Volume 89, Bulletin Nos. 16-17, is hereby corrected to read as follows:

354-03-BZ

CEQR#04-BSA-081M

APPLICANT - Sheldon Lobel, P.C., for Edelman, Edward & UNED Associates, LLC, owner.

SUBJECT - Application November 18, 2003 - under Z.R. §72-21 to permit the proposed physical culture establishment, in the cellar of a multi-story mixed-use building which sits on property divided by an R8-B and a C6-6/R8-B district boundary, which is contrary to Z.R. §22-10 and §32-10.

PREMISES AFFECTED - 209/15 East 51st Street, between Second and Third Avenues, Block 1325, Lot 6, Borough of Manhattan.

COMMUNITY BOARD #6M

APPEARANCES -

For Applicant: Janice Calahane.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

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

Negative:0

Absent: Commissioner Miele 1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner dated September 10, 2003, acting on Department of Buildings Alt. I Application number 103548626, reads;

"Proposed Physical Culture Establishment is not permitted in R8B and C6-6 zoning district as per Section 22-10 and Section 32-10 of the Zoning Resolution"; and

WHEREAS, a public hearing was held on this application on February 3, 2004 after due notice by publication in The City Record, with a continued hearing on March 9, 2004, and then laid over to April 13, 2004 for decision; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board; and

WHEREAS, this is an application for under Z.R. §72-21, to permit a proposed physical culture establishment ("PCE") use in the cellar of an existing mixed-use building, located partially within an R8B zoning district and partially within a C6-6 overlay, which is contrary to Z.R. §§32-10 and 22-10; and

WHEREAS, the subject building is located on the north side of East 51st Street, between Second and Third Avenues, and is situated within the Special Transit Land Use District and Special Midtown District; and

WHEREAS, the applicant represents that 40 feet of the subject building is located within the C6-6 commercial overlay along Third Avenue, while 50 feet of the subject building is located within the underlying R8-B zoning district; and

WHEREAS, a variance, rather than a special permit, is required because 1,211.5 square feet of the proposed PCE (27.92 % of the total PCE floor area) would be in the R8B zoning district in which a special permit may not be granted; and

WHEREAS, the proposed PCE would occupy a total of 4,338.8 square feet of area in the cellar; and

WHEREAS, the record indicates that the cellar area and the ground floor of the subject building have been used for commercial use since 1960; and

WHEREAS, through a supplemental submission dated March 29, 2004, the applicant reiterates that the subject cellar area has always been maintained as one commercial unit, and that the rear portion of the cellar area is only accessible through the front portion; thus, to gain access to the rear portion in some other way would require relocation of the boiler, storage room, laundry room, locker room and workshop, causing an unfair burden to the owner; and

WHEREAS, the Board finds that there are unique physical conditions inherent to the existing building, namely the division of the lot by a district zoning boundary, the history of commercial use in the cellar, and the limitations of the cellar in terms of use, which create an unnecessary hardship in complying strictly with the applicable use provisions of the Zoning Resolution; and

WHEREAS, the applicant has submitted a letter, dated March 29, 2004, from a commercial real estate broker involved with marketing of the cellar area, which states that the space was difficult to lease and that it is only suitable for use as a health club type facility due to its size, configuration, cellar location and lack of street visibility; and

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

WHEREAS, the applicant represents that many of the buildings in the area are mixed-use with commercial use on the ground and cellar levels and residential occupancy above; and

WHEREAS, the ground floor commercial use acts a buffer between the proposed PCE and the residential uses in the building, and the portion of the cellar to be used as a PCE within the R8B zoning district would not be visible from adjacent properties or lots; and

WHEREAS, the hours of operation for the proposed PCE will be 10 AM to 10 PM Monday through Friday, 9 AM to 8 PM Saturday, and 9 AM to 7 PM Sunday; and

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

CORRECTIONS

WHEREAS, the unnecessary hardship associated with a conforming use of the zoning lot was not caused by the owner, nor by a predecessor in interest, but is inherent in the site; and

WHEREAS, the hardship results from the strict application of the Zoning Resolution to the subject zoning lot; and

WHEREAS, therefore, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

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

WHEREAS, the Board notes that although a variance is being requested, the subject application meets all the requirements of the special permit for a PCE, except for the required zoning district; and

WHEREAS, the proposed physical cultural establishment will contain facilities for the practice of massage by New York State licensed masseurs or masseuses; and

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

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §§73-03 & 73-36; and

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

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

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, to permit a proposed physical culture establishment use, in the cellar of an existing mixed-use building, located partially within an R8B zoning district and partially within a C6-6 overlay, which is contrary to Z.R. §§32-10 and 22-10, on condition that all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received February 18, 2004"- (3) sheets; and on further condition;

THAT the term of this variance will be ten (10) years, starting on April 13, 2004 and expiring on April 13, 2014;

THAT a minimum 4 foot wide path of travel to all exits shall be maintained and kept free of any equipment or obstructions at all times;

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

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

THAT the hours of operation shall be limited to 10 AM to 10 PM Monday through Friday, 9 AM to 8 PM Saturday, and 9 AM to 7 PM Sunday;

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

THAT substantial construction shall be completed in

accordance with Z.R. §72-23; and

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 13, 2004.

****The resolution has been corrected in the part of the 5th WHEREAS which read: "...First and Second Avenues..." now reads: "...Second and Third Avenues..." and also in the part of the 6th WHEREAS which read: "...Second Avenue..." now reads: "...Third Avenue...". Corrected in Bulletin No. 19, Vol. 89, dated May 6, 2004.**

Pasquale Pacifico, Executive Director.