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# BULLETIN

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

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Volume 93, No. 38

September 25, 2008

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### DIRECTORY

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**Affecting Calendar Numbers:**

196-07-A thru        9 Federal Place, Staten Island  
199-07-A

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# DOCKET

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New Case Filed Up to September 16, 2008  
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**235-08-BZ**

1508 Union Street, Located at the southwest corner of Union Street and Albany Avenue., Block 1279, Lot(s) 41, Borough of **Brooklyn**, **Community Board: 9**. Special Permit pursuant to §73-50 to legalize the enlargement of a commerical building within the required 30 foot rear yard required along a residential district boundary line coincident with a rear lot line. C8-2 District  
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**DESIGNATIONS: D-Department of Buildings; B.BK.-Department of Buildings, Brooklyn; B.M.-Department of Buildings, Manhattan; B.Q.-Department of Buildings, Queens; B.S.I.-Department of Buildings, Staten Island; B.BX.-Department of Building, The Bronx; H.D.-Health Department; F.D.-Fire Department.**

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# CALENDAR

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**OCTOBER 8, 2008, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, October 8, 2008, 10:00 A.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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**SPECIAL PUBLIC HEARING**

**229-06-A**

APPLICANT – Sheldon Lobel, P.C., for Breezy Point Cooperative, Incorporated, owner; Thomas Carroll, lessee. SUBJECT – Application September 6, 2006 – Appeal seeking to revoke permits and approvals for the reconstruction and enlargement of an existing one family dwelling which creates new non-compliances, increases the degree of existing non-compliances with the bulk provisions of the Zoning Resolutions and violates provisions of the Building Code, regarding access and fire safety. R4 - Zoning District.

PREMISES AFFECTED – 607 Bayside Drive, Adjacent to service road, Block 16350, Lot 300, Borough of Queens.

**COMMUNITY BOARD #14Q**

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**140-07-A**

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Breezy Point Cooperative, Incorporated, owner; Thomas Carroll, lessee.

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

PREMISES AFFECTED – 607 Bayside Drive, Adjacent to service road, Block 16350, Lot 300, Borough of Queens.

**COMMUNITY BOARD #14Q**

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*Jeff Mulligan, Executive Director*

**OCTOBER 28, 2008, 10:00 A.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday morning, October 28, 2008, 10:00 A.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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**SPECIAL ORDER CALENDAR**

**739-76-BZ**

APPLICANT – Joseph P. Morsellino, Esq., for Cord Meyer Development Company, owner; Peter Pan Games of Bayside, lessee.

SUBJECT – Application September 16, 2008 – Extension of Term & Extension Time to obtain a Certificate of Occupancy for a (UG15) Amusement Arcade (Peter Pan Games), in a C4-1 zoning district which will expire on April 10, 2009.

PREMISES AFFECTED – 212-95 26<sup>th</sup> Avenue, 26<sup>th</sup> Avenue and Bell Boulevard, Block 5900, Lot 2, Borough of Queens.

**COMMUNITY BOARD #7Q**

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**117-97-BZ**

APPLICANT – Vito J. Fossella, P.E. (LPEC), for Gosehine Garcia, owner.

SUBJECT – Application August 28, 2008 – Extension of Term of a previously granted Variance (§72-21) for the continued operation of a legal non-conforming (UG6) eating and drinking establishment (Basille's) in an R3-2 zoning district which expired on September 15, 2008.

PREMISES AFFECTED – 1112 Forest Avenue, south side of Forest Avenue, 25' west of the intersection of Forest Avenue and Greenleaf Place, Block 352, Lot 47, Borough of Staten Island.

**COMMUNITY BOARD #1SI**

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**197-00-BZ**

APPLICANT – Rothkrug, Rothkrug & Spector LLP, for SLG Graybar Sublease LLC, owner; Equinox 44th Street, Incorporated, lessee.

SUBJECT – Application August 8, 2008 – Application to amend a special permit previously granted by the Board of Standards and Appeals to permit, in a C5-3 (MiD) zoning district, a 1,010 sq. ft. extension of an existing physical culture establishment ("Equinox Fitness") within an existing commercial building.

PREMISES AFFECTED – 420 Lexington Avenue, west side of Lexington Avenue, 208'4" north of East 42nd Street, Block 1280, Lot 60, Borough of Manhattan.

**COMMUNITY BOARD #5M**

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# CALENDAR

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## APPEALS CALENDAR

### 149-08-A

APPLICANT – Jack Lester, for Neighbors, et al, owner.  
SUBJECT – Application May 29, 2008 – Appeal seeking to revoke permits and approvals for a 30 story mixed use building that allow violations of the zoning regulations on open space, parking, curb cuts and proper use group classification. R7-2/C1-5 zoning district.  
PREMISES AFFECTED – 808 Columbus Avenue, 97<sup>th</sup> and 100<sup>th</sup> Street and Columbus Avenue, Block 1852, Lots 5, 15, 20, 23, 25, 31, Borough of Manhattan.  
**COMMUNITY BOARD #7M**

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### 217-08-BZY

APPLICANT – Bryan Cave LLP by Margery Perlmutter, for Steven Reich, owner.  
SUBJECT – Application October 28, 2008 – Extension of time to complete construction (11-332) of an enlargement to an existing development commenced prior to the text amendment on July 23, 2008. R6 zoning district.  
PREMISES AFFECTED – 126 First Place, southside of First Place, 300' east of the intersection of Court Street and First Place, Block 459, Lot 17, Borough of Brooklyn.  
**COMMUNITY BOARD #6BK**

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**OCTOBER 28, 2008, 1:30 P.M.**

**NOTICE IS HEREBY GIVEN** of a public hearing, Tuesday afternoon, October 28, 2008, at 1:30 P.M., at 40 Rector Street, 6<sup>th</sup> Floor, New York, N.Y. 10006, on the following matters:

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## ZONING CALENDAR

### 134-08-BZ

APPLICANT – Eric Palatnik, P.C., for Asher Goldstein, owner.  
SUBJECT – Application April 30, 2008 – Variance (72-21) to construct a third floor to an existing two story, two family semi-detached residence partially located in an R-5 and M1-1 zoning district.  
PREMISES AFFECTED – 34 Lawrence Avenue, Lawrence Avenue, 80' west of McDonald Avenue, Block 5441, Lot 17, Borough of Brooklyn.  
**COMMUNITY BOARD #12BK**

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### 195-08-BZ

APPLICANT – Sheldon Lobel, P.C., for Aron Bistrizky, owner.  
SUBJECT – Application July 16, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary open space and floor area (23-141); less than the required rear yard (23-47) and less than the required side yard (23-461) in an R-2 zoning district.  
PREMISES AFFECTED – 1350 East 27<sup>th</sup> Street, west side of East 27<sup>th</sup> Street, between Avenue N and Avenue M, Block 7662, Lot 72, Borough of Brooklyn.  
**COMMUNITY BOARD #14BK**

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### 196-08-BZ

APPLICANT – DID Architects, for 53-10 Associates, LLC, owner.  
SUBJECT – Application July 21, 2008 – Special Permit (§§11-411 & 73-03) the reinstatement of a Board of Standards and Appeals variance, originally granted under calendar number 346-47-BZ, to permit the continued operation of a public parking garage. The lot is located in a C6-2 zoning district within the Clinton Special District Area A Preservation area.  
PREMISES AFFECTED – 792 Tenth Avenue aka 455 West 53rd Street, north east corner of Tenth Avenue and West 53rd Street, Block 1063, Lot 1, Borough of Manhattan.  
**COMMUNITY BOARD #4M**

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*Jeff Mulligan, Executive Director*

# MINUTES

**REGULAR MEETING  
TUESDAY MORNING, SEPTEMBER 16, 2008  
10:00 A.M.**

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

**SPECIAL ORDER CALENDAR**

**217-03-BZ**

APPLICANT – Sheldon Lobel, P.C., for 140 Pennsylvania Avenue, LLC, owner.

SUBJECT – Application July 17, 2008 – Extension of Time to Complete Construction of a previously granted variance for the proposed expansion of a one story and cellar building in an R-5 zoning district.

PREMISES AFFECTED – 142 Pennsylvania Avenue, southeast corner of Pennsylvania Avenue and Liberty Avenue, Block 3703, Lot 21, Borough of Brooklyn.

**COMMUNITY BOARD #5BK**

APPEARANCES –

For Applicant: Josh Rinesmith.

**ACTION OF THE BOARD** – Laid over to October 28, 2008, at 10 A.M., for continued hearing.

**182-85-BZ**

APPLICANT – Dominick Salvati & Son Architects, for Salvatore Meeina, owner.

SUBJECT – Application November 19, 2007 – Extension of Term/Waiver of a previously granted Variance (§72-21) for a one story building for the storage of commercial vehicles for a (UG16) contractor's establishment (Fox Glass), in an R6B zoning district, which expired on September 9, 2006.

PREMISES AFFECTED – 206-08 20<sup>th</sup> Street, between 4<sup>th</sup> and 5<sup>th</sup> Avenue, Block 640, Lots 21 & 22, Borough of Brooklyn.

**COMMUNITY BOARD #7BK**

APPEARANCES –

For Applicant: Mark McCarthy.

**ACTION OF THE BOARD** – Laid over to October 7, 2008, at 10 A.M., for continued hearing.

**183-85-BZ**

APPLICANT – Dominick Salvati & Son Architects, for Salvatore Meeina, owner.

SUBJECT – Application November 9, 2007 – Extension of Term/waiver of a previously granted Variance (§72-21) for the operation of a (UG16) open storage yard for building materials and accessory parking for four cars with an accessory office and showroom building, in an R6B zoning district, which expired on November 18, 2006.

PREMISES AFFECTED – 206-08 20<sup>th</sup> Street, between 4<sup>th</sup> and 5<sup>th</sup> Avenue, Block 640, Lots 21 & 22, Borough of

Brooklyn.

**COMMUNITY BOARD #7BK**

APPEARANCES –

For Applicant: Mark McCarthy.

**ACTION OF THE BOARD** – Laid over to October 7, 2008, at 10 A.M., for continued hearing.

**605-86-BZ**

APPLICANT – Anthony M. Salvati, Architects, for Bernard Wechsler, owner.

SUBJECT – Application November 19, 2007 – Extension of Term of a Variance (§72-21) previously granted for a (UG4) two story medical office building in an R5B(BR) zoning district which expired on March 31, 2007; an Extension of Time to obtain a Certificate of Occupancy which expired on June 10, 1998 and a Waiver of the rules.

PREMISES AFFECTED – 7606 7<sup>th</sup> Avenue, southeast corner of 76<sup>th</sup> Street and 7<sup>th</sup> Avenue, Block 5953, Lot 31, Borough of Brooklyn.

**COMMUNITY BOARD #10BK**

APPEARANCES –

For Applicant: Mark McCarthy.

THE VOTE TO CLOSE HEARING –

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

**ACTION OF THE BOARD** – Laid over to October 7, 2008, at 10 A.M., for decision, hearing closed.

**APPEALS CALENDAR**

**47-08-A**

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Elizabeth Ave Realty Corp., owner.

SUBJECT – Application March 3, 2008 – Proposed construction of a two family dwelling located partially within the bed of a mapped street contrary to General City Law Section 35. R3-2.

PREMISES AFFECTED – 7228 Thursby Avenue, north side Thursby Avenue, 247.50' west of intersection with Beach 72<sup>nd</sup> Street, Bock 16066, Lot 46, Borough of Queens.

**COMMUNITY BOARD #14Q**

APPEARANCES – None.

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

THE VOTE TO CLOSE HEARING –

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

THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated January 31, 2008, acting on Department of Buildings Application No. 410031665 reads, in pertinent

# MINUTES

part:

“1). Proposed construction is located within the bed of a mapped street contrary to section 35 of the General City Law. Refer to the Board of Standard and Appeals;” and

WHEREAS, a public hearing was held on this application on June 3, 2008 after due notice by publication in the *City Record*, with continued hearings on June 24, 2008, July 29, 2008, and August 26, 2008, then to closure and decision on September 16, 2008; and

WHEREAS, by letter dated March 11, 2008, the Fire Department states that it has reviewed the subject proposal and has no objections; and

WHEREAS, by letter dated May 9, 2008, the Department of Environmental Protection (DEP) states that it has reviewed the subject proposal and has no objections; and

WHEREAS, by letter dated August 26, 2008, the Department of Transportation states that it has reviewed the subject proposal and has no objections; and

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

*Therefore it is Resolved* that the decision of the Queens Borough Commissioner, dated January 31, 2008, acting on Department of Buildings Application No. 410031665, is modified by the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received March 3, 2008”-(1) sheet; that the proposal shall comply with all applicable zoning district requirements; that all other applicable laws, rules, and regulations shall be complied with and; *on further condition*:

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

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

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

Adopted by the Board of Standards and Appeals, September 16, 2008.

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## 176-08-A

APPLICANT – Gary D. Lenhart, R.A., for The Breezy Point Cooperative, Inc., owner; Elizabeth Conlon, lessee.

SUBJECT – Application July 7, 2008 – Proposed reconstruction and enlargement of an existing single family dwelling not fronting on a mapped street contrary to General City Law Section 36. R4.

PREMISES AFFECTED – 105 Beach 217<sup>th</sup> Street, east side Beach 217<sup>th</sup> Street, 80’ south of Breezy Point Boulevard, Block 16450, p/o Lot 400, Borough of Queens.

## COMMUNITY BOARD #14Q

## APPEARANCES –

For Applicant: Gary Lenhart.

## ACTION OF THE BOARD –

### THE VOTE TO GRANT –

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

Negative:.....0

### THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated June 10, 2008, acting on Department of Buildings Application No. 410094838, reads in pertinent part:

- “A1- The street giving access to the existing building to be altered is not duly placed on the map of the City of New York, therefore
- A. a Certificate of Occupancy may not be issued as per Article 3, Section 36 of the General City Law.
- B. Existing dwelling to be altered does not have at least 8% of the total perimeter of the building fronting directly upon a legally mapped street, contrary to Section 27-291 of the Administrative Code;” and

WHEREAS, a public hearing was held on this application on September 16, 2008 after due notice by publication in the *City Record*, then to closure and decision on this same date; and

WHEREAS, by letter dated, July 28, 2008 the Fire Department states that it has reviewed the subject proposal and has no objections; and

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

*Therefore it is Resolved* that the decision of the Queens Borough Commissioner, dated June 10, 2008, acting on Department of Buildings Application No. 410094838 is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawing filed with the application marked “Received July 7, 2008 – one (1) sheet; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

THAT DOB shall review the proposed plans to ensure that it complies with all relevant provisions of the Zoning Resolution;

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

# MINUTES

plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, September 16, 2008.

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## 33-08-A

APPLICANT – Yury Menzak, for Robert M. Scarano Jr., owner.

SUBJECT – Application February 20, 2008 – Proposed construction of a six story multi-family home not fronting a legally mapped street contrary to General City Law Section 36. R6/Ocean Parkway Zoning District.

PREMISES AFFECTED – 67 Brighton 1<sup>st</sup> Lane, a/k/a 209-213 Brighton 1<sup>st</sup> Lane, north side of Brighton 1<sup>st</sup> lane, 63.19' W of Brighton 1<sup>st</sup> Street, Block 8670, Lot 80, Borough of Brooklyn.

### COMMUNITY BOARD #13BK

APPEARANCES –

For Applicant: Yuriy Menzak.

For Administration: Anthony Scaduto.

**ACTION OF THE BOARD** – Laid over to October 20, 2008, at 10 A.M., for continued hearing.

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*Jeffrey Mulligan, Executive Director*

Adjourned: 10:15 A.M.

## REGULAR MEETING

TUESDAY AFTERNOON, SEPTEMBER 16, 2008

1:30 P.M.

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

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## ZONING CALENDAR

### 201-07-BZ

#### CEQR #08-BSA-012K

APPLICANT – Cozen O'Connor Attorneys, for Kapsin & Dallis Realty, Corp., owner.

SUBJECT – Application August 14, 2007 – Variance (§72-21) to permit a new one-story bank. The proposal is contrary to §22-00. R3-2 district.

PREMISES AFFECTED – 2317 Ralph Avenue, southwest corner of Ralph Avenue and Avenue M, Block 8364, Lot 34, Borough of Brooklyn.

### COMMUNITY BOARD #18BK

APPEARANCES –

For Applicant: Peter Geis.

#### **ACTION OF THE BOARD** –

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Superintendent, dated July 20, 2007, acting on Department of Buildings Application No. 301935057, reads in pertinent part:

“Proposed bank Use Group 6 in an R3-2 district is contrary to ZR 22-00 and BSA Calendar No. 07-57-BZ; and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R3-2 zoning district, the construction of a one-story commercial building (Use Group 6) to be used as a bank branch with accessory parking which does not conform to district use regulations, contrary to ZR § 22-00; and

WHEREAS, a public hearing was held on this application on December 4, 2007, after due notice by publication in *The City Record*, with a continued hearing on January 15, 2008; and

WHEREAS, the subject application was withdrawn at the request of the applicant on January 30, 2008; the applicant rescinded said withdrawal on February 22, 2008 and the application was set for continued hearing on February 26, 2008 and May 20, 2008, and then to decision on July 29, 2008 which was deferred until September 16, 2008; and

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

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WHEREAS, Community Board 18, Brooklyn, recommended approval of this application, subject to a condition limiting parking to bank patrons; and

WHEREAS, the proposed building will have one story with a total floor area of 3,258 sq. ft., an FAR of 0.17, a front yard of 7'-3", a side yard of 16'-6", a total height of approximately 25'-11" and 16 parking spaces; and

WHEREAS, the subject site is located within an R3-2 zoning district on the southeast corner of Ralph Avenue and Avenue M; and

WHEREAS, the site has an irregular trapezoidal shape, with approximately 100'-0" feet of frontage on Ralph Avenue, 110'-0" of frontage on Avenue M and 170'-0" of frontage on East 65<sup>th</sup> Street; and

WHEREAS, the site is currently occupied by a gasoline service station and has a lot area of 18,654 sq. ft.; and

WHEREAS, the Board has exercised jurisdiction over the subject site since July 23, 1957, when, under BSA Cal. No. 7-57-BZ, the Board granted an application to permit the use of the site as a gasoline service station, with accessory lubricatorium, minor repairs, car wash, store room, office, store, parking and storage of motor vehicles; and

WHEREAS, subsequently, the term of this grant has been extended by the Board at various times, most recently on February 28, 2006 for a term of 10 years, expiring on September 30, 2015; and

WHEREAS, the applicant proposes to demolish the existing gasoline service station and to develop a commercial Use Group 6 building to be operated as a Commerce Bank branch with drive-up banking services; and

WHEREAS, as noted above, the proposal requires a use waiver; thus, the instant variance application was filed; and

WHEREAS, the applicant states that the following are unique physical conditions which create unnecessary hardship and practical difficulties in developing the site with a complying development: (1) the site's irregular shape; (2) the site's soil conditions; and (3) the preponderance of adjacent commercial uses; and

WHEREAS, as to the site's irregular shape, the applicant represents that it is a through lot/ corner parcel that is irregularly shaped due to its location at the intersection of Ralph Avenue, Avenue M and East 65<sup>th</sup> Street; and

WHEREAS, the subject lot has a lot depth ranging from 109 feet at its shortest point, to 170 feet at its longest point; the applicant states that the lot's shape and dimensions enable complying homes to be built on only one of its three frontages; and

WHEREAS, the applicant further states that an attempt to develop housing at relatively normal depths results in oversized and oddly-shaped yards; and

WHEREAS, as to the soil conditions, the applicant represents that soil tests reflect that there is contamination by several chemical pollutants; and

WHEREAS, specifically, the soil boring analysis reflects that there are at least ten volatile and semi-volatile organic compounds, among other contaminants, present at the site; and

WHEREAS, the Board notes that the prior approved use of the site as a gasoline service station, automotive repair shop and vehicle storage facility predates the enactment of modern environmental standards and regulations; and

WHEREAS, the applicant states that the site's environmental conditions impede the development of the site for a conforming residential use; and

WHEREAS, the applicant has documented substantial premium construction costs associated with the remediation of the site for a conforming residential use; and

WHEREAS, as to its location, the applicant states that the area in which the site is located is characterized by a high degree of commercial uses; and

WHEREAS, the applicant further states that the site is bordered on the north, south and east by zoning districts permitting commercial uses; and

WHEREAS, the applicant represents that the preponderance of adjacent commercial uses stifles demand for a complying residential development; and

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

WHEREAS, the applicant initially submitted a feasibility study which analyzed an as of right development consisting of four two-family homes totaling 11,192 square feet of floor area; and

WHEREAS, the study concluded that the conforming scenario would not realize a reasonable return; and

WHEREAS, at hearing, the Board directed the applicant to analyze the feasibility of a development consisting of five two-family homes; and

WHEREAS, feasibility study determined that the development of five two-family homes also would not realize a reasonable return; and

WHEREAS, the applicant represents that residential development would also entail significantly higher remediation costs than the proposed development; and

WHEREAS, the applicant further represents that the excavation, soil removal and vapor mitigation costs which would be necessitated by a residential development would not be necessary for the proposed development, which will be built on a slab, which was determined to be feasible; and

WHEREAS, at hearing, the Board asked the applicant to explain why the existing automotive service station use was no longer viable; and

WHEREAS, a response by the applicant stated that modern automotive service stations rely largely on accessory uses, such as convenience stores or car washes to generate profits, but that neither such use is permitted under the existing Board grant; and

WHEREAS, based upon the above, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformance with zoning district regulations will

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provide a reasonable return; and

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

WHEREAS, the applicant states that the bank branch will operate seven days a week, but will open no earlier than 7:30 a.m. on Mondays through Saturdays and will close before 8:30 p.m. on those days; on Sundays the bank would open no earlier than 10:00 a.m. and close no later than 6:00 p.m.;

WHEREAS, as noted above, the applicant further represents that the surrounding area is occupied by an abundance of commercial uses; and

WHEREAS, the applicant has submitted a land use map of the area indicating that within a 400-ft. radius of the site, approximately three-quarters of the frontage along the east and west sides of Ralph Avenue and the north side of Avenue M are zoned for commercial uses; and

WHEREAS, the applicant further represents that it is fully compliant with the bulk and signage regulations applying to nearby commercial districts, as well as with the bulk regulations applying to the R3-2 district; and

WHEREAS, the applicant states that the proposed variance would replace a gasoline service station (UG 16) with a bank (UG 6), which would be a use more compatible with the residential district; and

WHEREAS, the site plan indicates that landscaping, including shrubbery and plantings will screen the open parking area, in conformance with the new landscaping standards set forth in ZR §§ 25-60, Article III Chapter 6, and 37-90; and

WHEREAS, at hearing, the Board raised concerns regarding the original proposal which included an entrance from East 65<sup>th</sup> Street, a primarily residential street, as well as with the location of the bank building and drive through and their proximity to an adjacent residential area; and

WHEREAS, in a submission to the Board, the applicant provided two alternative site plans showing the bank building situated closer to Avenue M and Ralph Avenue, and further from residential uses; and

WHEREAS, the applicant represents that the alternative plans are infeasible because they reduce the number of parking spaces and create a less efficient traffic flow for automobiles and bank patrons; and

WHEREAS, the Board notes that given the traffic patterns and circulation on local streets in the area, the elimination of a curb cut would reduce the number of vehicles traveling on East 65<sup>th</sup> Street; and

WHEREAS, the Board directed the applicant to eliminate vehicular access from East 65<sup>th</sup> Street; and

WHEREAS, the applicant submitted a revised site plan showing the elimination of the East 65<sup>th</sup> Street curb cut; and

WHEREAS, Community Board 18, Brooklyn recommended limiting parking to bank patrons; the Board notes that the parking on the site is accessory to the bank and that no public parking is provided; and

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

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is the result of the site's pre-existing subsoil conditions, slope and its location on an intersection adjacent to commercial uses; and

WHEREAS, the Board notes that the applicant had originally proposed to provide a curb cut within 18 feet of the intersection of East 65<sup>th</sup> Street and Avenue M, adjacent to residential uses; and

WHEREAS, the revised plans now propose to relocate the curb cut to Avenue M, which is characterized by commercial uses; and

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

WHEREAS, based upon the above, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, a Restrictive Declaration was executed on September 6, 2008 and recorded against the subject property on September 12, 2008 to address hazardous materials concerns; and

WHEREAS, the applicant shall conduct additional Phase II testing to determine whether remediation is required; if remediation is necessary, the applicant shall prepare a Remedial Action Plan (RAP) which shall be subject to review and approval by the Department of Environmental Protection ("DEP"); and

WHEREAS, if a RAP is required, DEP shall issue a Notice to Proceed letter to the applicant; and

WHEREAS, if a RAP is not required, DEP shall issue a Notice of No Objections; and

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

*Therefore it is Resolved*, that the Board of Standards and Appeals adopts DCP's Negative Declaration under Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended and makes each and every one of the required findings under ZR § 72-21 and grants a variance to permit, on a site within an R3-2 zoning district, the proposed construction of a one-story commercial building, which does not conform with applicable zoning use regulations, contrary to ZR § 22-00; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received May 6, 2008"—seven (7) sheets; and *on further condition*:

THAT the following are the bulk parameters of the proposed building: a total floor area of 3,258 sq. ft., an FAR of

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0.17, a front yard of 7'-3", a side yard of 16'-6", a total height of approximately 25'-11" and 16 parking spaces;

THAT landscaping, including shrubbery and plantings screening the open parking area, shall comply with the commercial parking lot regulations set forth in ZR §§ 25-60, Article III Chapter 6, and 37-90;

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

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

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

Adopted by the Board of Standards and Appeals, September 16, 2008.

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## 248-07-BZ

APPLICANT – Akeeb Shekoni, for Bhola Trilok, owner.  
SUBJECT – Application October 31, 2007 – Variance (§72-21) for legalization of three story, two family home, in an R5 zoning district, which was built on an undersized lot contrary to (§ 23-33) for minimum lot width.

PREMISES AFFECTED – 32-15 60<sup>th</sup> Street, between Northern Boulevard and 32<sup>nd</sup> Avenue, Block 1161, Lot 29, Borough of Queens.

### COMMUNITY BOARD #1Q

APPEARANCES –

For Applicant: Eric Palatnik.

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

**THE VOTE TO WITHDRAW** –

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

Adopted by the Board of Standards and Appeals, September 16, 2008.

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## 271-07-BZ

### CEQR #08-BSA-037M

APPLICANT – The Rizzo Group, for Mitchell Marks, owner; Club Ventures II, LLC., lessee.

SUBJECT – Application November 28, 2007 – Special Permit (§73-36) to permit the legalization of a Physical Culture Establishment (PCE) in the C2-7A portion of the zoning district. A variance is also requested to allow the PCE use in the 22'3" portion of the site in the R8A zoning district. The proposal is contrary to §§ 22-10 and 32-18.

PREMISES AFFECTED – 213-219 West 23<sup>rd</sup> Street, north side of 23<sup>rd</sup> Street between Seventh and Eighth Avenues, Block 773, Lot 34, Borough of Manhattan.

### COMMUNITY BOARD #4M

APPEARANCES –

For Applicant: Kenneth Barbina, Esq.

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

**THE VOTE TO GRANT** –

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

Negative:.....0

**THE RESOLUTION:**

WHEREAS, the decision of the Manhattan Borough Commissioner, dated October 5, 2007, acting on Department of Buildings Application No. 104856648, reads in pertinent part:

- “1. The proposed Physical Culture Establishment is not permitted in the R8A residential district as and is contrary to ZR 22-10
2. The proposed Physical Culture Establishment is not permitted as of right within the C2-7A district and thus is contrary to ZR 32-18. PCE must be legalized pursuant to 73-36;” and

WHEREAS, this is an application under ZR § 73-36 and 73-03, to permit, on a site partially within an R8A zoning district and partially within a C2-7A zoning district, the legalization of a physical culture establishment (PCE) on the first floor, second floor, cellar and cellar mezzanine level of a ten-story residential building; and an application under ZR § 72-21 to permit, on a site, within an R8A zoning district, a PCE use on a portion of the first floor, second floor, and cellar level of the same residential building, contrary to ZR § 22-10; and

WHEREAS, a public hearing was held on this application on April 1, 2008 after due notice by publication in *The City Record*, with a continued hearings on May 13, 2008 and August 26, 2008, and then to decision on September 16, 2008; and

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

WHEREAS, Community Board 4, Manhattan, has no objection to approval of this application; and

WHEREAS, the subject site is located on the north side of West 23<sup>rd</sup> Street, between Seventh Avenue and Eighth Avenue; and

WHEREAS, the subject site is occupied by a ten-story building previously occupied by the McBurney YMCA which is now occupied by residential condominiums; and

WHEREAS, the PCE is operated as the David Barton Gym; and

WHEREAS, the PCE occupies a total of 31,809 sq. ft of floor area, with 8,852 sq. ft. of floor area on the first floor, second floor, and cellar levels, respectively, and 5,253 sq. ft. of floor area on the cellar mezzanine level; and

WHEREAS, subject site and building has a frontage along 23<sup>rd</sup> Street of 75'-0" and a depth of 121'-0"; and

WHEREAS, the applicant states that the subject building was constructed in 1869, predating the mapping of the current zoning district; and

WHEREAS, Tax Lot 34 is divided horizontally by a

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zoning district boundary, with the southern portion, extending to a depth of 98'-9" from the 23<sup>rd</sup> Street lot line, located within a C2-7A district, and a northern interior portion, extending 22'-3" south from the northern lot line, located within an R8AA zoning district; and

WHEREAS, a variance is required because 4,338 sq. ft. of the PCE's floor area (approximately 14 percent of the total PCE floor area) is located within the R8A zoning district, in which a special permit for a PCE use may not be granted; and

WHEREAS, the applicant states that the following unique physical conditions inherent to the existing building create an unnecessary hardship in complying strictly with the applicable use provisions of the Zoning Resolution: (i) the division of the lot by a district zoning boundary; and (ii) the inaccessibility of the R8A portion of the subject property; and

WHEREAS, the applicant states that subject building was constructed in 1869 and was occupied from 1904 until 2000 by the YMCA as a non-residential building with sleeping accommodations; and

WHEREAS, the applicant states that subject building was formerly part of a larger through-block building which extended from 23<sup>rd</sup> Street to 24<sup>th</sup> Street (the "former building"), with a total depth of 197'-6" and that, beginning in 1904, recreational uses were sited in the portion of the building which fronted 23<sup>rd</sup> Street; and

WHEREAS, a certificate of occupancy indicates that recreational uses including a weight room, exercise rooms, running track and swimming pool were located in the cellar through eighth floor of the former building; and

WHEREAS, the applicant further states that the former building was vertically divided in 2000 into two buildings now consisting of (i) a building fronting 24<sup>th</sup> Street which is owned and operated as a community facility with sleeping accommodations (the "24<sup>th</sup> Street Building"), and (ii) a market-rate residential building fronting 23<sup>rd</sup> Street (the "23<sup>rd</sup> Street Building"); and

WHEREAS, according to plans submitted by the applicant, the two buildings were divided at a depth of 121 feet from the southern lot line at 23<sup>rd</sup> Street; and

WHEREAS, the applicant represents that the dividing point for the 23<sup>rd</sup> Street Building and the 24<sup>th</sup> Street Building was determined by the structural system of the former building, in which recreational uses were located in the portion fronting on 23<sup>rd</sup> Street and residential uses were located in the portion fronting on 24<sup>th</sup> Street; and

WHEREAS, the boundary of the C2-7A zoning district extends to a depth of 100 feet from the street frontage of the 23<sup>rd</sup> Street Building, with an interior portion of Lot 24 comprising approximately 1,669 sq. ft. of lot area thereby lying within the R8A zoning district; and

WHEREAS, the applicant states that only residential or community facility uses are permitted as-of-right within the portion of the subject site which is within the R8A zoning district; and

WHEREAS, the applicant states that a conforming use of this interior lot area is constrained by its "landlocked"

location which can only be accessed from the area fronting 23<sup>rd</sup> Street within the C2-7A district; and

WHEREAS, the applicant states that the impracticability of access burdens the use of the space for residential or community facility use, which would result in its vacancy and in an inability to produce income; thus creating an economic hardship; and

WHEREAS, the Board finds that there are unique physical conditions inherent to the site created by the location of a zoning district boundary which bisects an existing building and creates space within the cellar, first and second floor which is inaccessible from a street and which can be accessed only through an area which is zoned for commercial use; and

WHEREAS, the Board further finds that the limitations of the R8A area in terms of use, create an unnecessary hardship in complying strictly with the applicable use provisions of the Zoning Resolution; and

WHEREAS, the applicant has submitted a feasibility study which examined the economic viability of using only the floor area within the C2-7A district for PCE use and for conforming uses; the analysis demonstrated that neither a conforming use, nor a PCE, within the C2-7A area alone would yield the owner a reasonable return; and

WHEREAS, the applicant states that the existing configuration of the 23<sup>rd</sup> Street Building constrains the ability to use the three stories within the R8A district for residential purposes and therefore that alternative was not analyzed; and

WHEREAS, the Board raised concerns regarding the calculation of site value and questioned the calculations of revenue generated by the mezzanine and cellar space which were satisfied by a subsequent submission by the applicant; and

WHEREAS, the hours of operation will be: Monday through Friday from 5:30 a.m. to midnight; Saturday from 8:00 a.m. to 9:00 p.m., and Sunday from 5:00 a.m. to 11:00 p.m.; and

WHEREAS, at hearing, the Board directed the applicant to remove non-complying banners and other signage; and

WHEREAS, the applicant submitted photographs indicating that all non-complying signage had been removed; and

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

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 its location; and

WHEREAS, the hardship results from the 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

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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 the subject application meets all the requirements of the special permit for a PCE, except for the required zoning district; and

WHEREAS, the applicant represents that the services at the PCE will include fitness training and cardiovascular and equipment; 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 PCE will not interfere with any pending public improvement project; and

WHEREAS, the applicant states that the subject site has been used as a PCE since 1904; and

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

WHEREAS, 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 project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2 (ak); and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 08BSA037M, dated March 24 2008; and

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

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

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

*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 of the required findings

under ZR § 73-36 and 73-03, to permit, on a site partially within an R8A zoning district and partially within a C2-7A zoning district, the legalization of a physical culture establishment (PCE) on the first floor, second floor, cellar and cellar mezzanine level of a residential building; and makes each of the required findings under ZR § 72-21 to permit, on a site, within an R8A zoning district, a PCE use on an 4,338 sq. ft. area of the first floor, second floor, and cellar level of a residential building, contrary to ZR § 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 November 28, 2007-(5) sheets; and *on further condition*;

THAT the grant of this variance and term of the special permit shall be ten years, expiring on September 19, 2015;

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 Monday through Friday from 5:30 a.m. to midnight; Saturday from 8:00 a.m. to 9:00 p.m., and Sunday from 5:00 a.m. to 11:00 p.m.; and

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

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

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

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, September 16, 2008.

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**41-08-BZ**

**CEQR #08-BSA-062Q**

APPLICANT – Omnipoint Communications Inc., for Mid Queens Ltd., owner; Omnipoint Communications Inc., lessee.

SUBJECT – Application February 27, 2008 – Special Permit (§73-30) to permit a proposed 65 foot non-accessory radio tower and related equipment at grade.

PREMISES AFFECTED – 64-35 223<sup>rd</sup> Place, Block 7658, Lot 2, Borough of Queens.

**COMMUNITY BOARD #11Q**

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## APPEARANCES –

For Applicant: Robert Gardioso.

For Opposition: Antonio Whitaker and Steven E.

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

## THE VOTE TO GRANT –

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

Negative:.....0

## THE RESOLUTION:

WHEREAS, the decision of the Queens Borough Commissioner, dated February 20, 2008, acting on Department of Buildings Application No. 410029963, reads in pertinent part:

“Proposed monopole (Use Group 6) is contrary to ZR § 22-00 and therefore not allowable within R3-2 district. Refer to the Board of Standards and Appeals for review pursuant to section 73-30 of the NYC zoning resolution;” and

WHEREAS, this is an application under ZR §§ 73-30 and 73-03, to permit, within an R3-2 zoning district, the proposed construction of a telecommunications pole (non-accessory radio tower) for public utility wireless communications, which is contrary to ZR § 22-00; and

WHEREAS, a public hearing was held on this application on August 19, 2008, after due notice by publication in *The City Record*, and then to decision on September 16, 2008; and

WHEREAS, Community Board 11, Queens, recommends disapproval of this application; and

WHEREAS, a representative of Council Member Weprin testified on his behalf in opposition to the application; and

WHEREAS, a number of local residents testified in opposition to the application citing concerns with aesthetics and health; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Commissioner Hinkson, and Commissioner Montanez; and

WHEREAS, the proposed telecommunications pole will be located at a site which is occupied by a two-story apartment complex with 180-dwelling units; and

WHEREAS, the applicant states that the proposed telecommunications pole will consist of a light pole with a height of 65 feet, with internally-mounted antennas and related equipment, located within a fenced in area; and

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

WHEREAS, the applicant represents that the pole has been designed and sited to minimize adverse visual effects on the environment and adjacent residents; that the construction and operation of the pole will comply with all applicable laws, that no noise or smoke, odor or dust will be

emitted; and that no adverse traffic impacts are anticipated; and

WHEREAS, the applicant further represents that the height of the pole is the minimum necessary to provide the required wireless coverage; and

WHEREAS, the applicant states that the telecommunications pole and related equipment cabinets will be installed within an opaque fence enclosure; and

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

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

WHEREAS, at hearing the Board asked the applicant to clarify whether the siting of the monopole and equipment would result in the loss of parking spaces within the residential complex; and

WHEREAS, the applicant stated that additional parking spaces would be made available to replace any lost parking spaces; and

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

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

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

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

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

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 08-BSA-062Q, dated February 27, 2008; and

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

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

*Therefore it is Resolved* that the Board of Standards and

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Appeals issues a Type I Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes the required findings and grants a special permit under ZR § 73-03 and § 73-30 to permit, within an R3-2 zoning district, the proposed construction of a 65-foot telecommunications pole (non-accessory radio tower) for public utility wireless communications, which is contrary to ZR § 22-00, on condition that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application marked "Received February 27, 2008"-(6) sheets; and on further condition;

THAT any fencing will be maintained in accordance with BSA-approved plans;

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

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

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

Adopted by the Board of Standards and Appeals, September 16, 2008.

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## 67-08-BZ

APPLICANT – Sheldon Lobel, P.C., for Jack M. Skaba, owner.

SUBJECT – Application March 31, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary open space, lot coverage and floor area (§23-141); less than the minimum side yards (§23-461) and less than the required rear yard (§23-47) in an R3-2 zoning district.

PREMISES AFFECTED – 3842 Bedford Avenue, west side of Bedford Avenue, Block 6807, Lot 22, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Richard Lobel.

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

**THE VOTE TO GRANT** –

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

Negative:.....0

**THE RESOLUTION:**

WHEREAS, the decision of the Brooklyn Borough Superintendent, dated March 11, 2008, acting on Department of Buildings Application No. 310067799, reads in pertinent part:

“Proposed enlargement of a single family residence within an R3-2 zoning district:

- 1) Exceeds floor area ratio as per ZR § 23-141,
- 2) Exceeds permitted lot coverage ratio as per ZR § 23-141,
- 3) Provides less than required open space ratio as per ZR § 23-141,
- 4) Provides less than 30’-0” rear yard required per ZR § 23-47,
- 5) Provides side yards less than required as per ZR § 23-461;” and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03, to permit, within an R3-2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space ratio, side yards and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; and

WHEREAS, a public hearing was held on this application on July 29, 2008, 2008, after due notice by publication in *The City Record*, and then to decision on September 16, 2008; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Hinkson and Commissioner Montanez; and

WHEREAS, Community Board 15, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is located on the west side of Bedford Avenue, between Quentin Road and Avenue R; and

WHEREAS, the subject site has a total lot area of 4,000 sq. ft., and is occupied by a single-family home with floor area of 1,838.5 sq. ft. (0.46 FAR); and

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

WHEREAS, the applicant seeks an increase in the floor area from 1,838.5 sq. ft. (0.46 FAR), to 4,000 sq. ft. (1.0 FAR); the maximum floor area permitted is 2,000 sq. ft. (0.50 FAR); and

WHEREAS, the proposed enlargement will provide an open space ratio of 50 percent (a minimum of 65 percent is required) and a lot coverage ratio of 50 percent (a maximum of 35 percent is permitted); and

WHEREAS, the proposed enlargement will provide one side yard along the southern lot line with a width of 8’-0” and will maintain the existing non-complying side yard along the northern lot line with a width of 3’-10” (two side yards with minimum widths of 5’-0” and 8’-0”, respectively and a total minimum width of 13’-0” are required); and

WHEREAS, the proposed enlargement will provide a rear yard with a depth of 20’-0” (a minimum rear yard of 30’-0” is required); and

WHEREAS, the existing non-complying front yard has a depth of 7’-1”; the applicant does not propose to increase the degree of non-compliance; and

WHEREAS, at hearing the Board questioned how

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much of the original home was being retained; and

WHEREAS, the applicant submitted revised plans showing which portions of the existing home were being retained; and

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

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

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

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

*Therefore it is Resolved*, that the Board of Standards and Appeals issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 of the Rules of Procedure for City Environmental Quality Review and makes the required findings under ZR §§ 73-622 and 73-03, to permit, within an R3-2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio, lot coverage, open space ratio, side yards and rear yard, contrary to ZR §§ 23-141, 23-461 and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received August 28, 2008"-(10) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a total floor area of 4,000 sq. ft. (1.0 FAR), lot coverage of 50 percent, an open space ratio of 50 percent, one side yard with a minimum width of 8'-0", one side yard with a minimum width of 3'-10", and a rear yard with a minimum depth of 20'-0", as illustrated on the BSA-approved plans;

THAT DOB shall review and approve the perimeter wall height and compliance with the sky exposure plane;

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

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

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

Adopted by the Board of Standards and Appeals,

September 16, 2008.

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## 102-08-BZ

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Cee Jay Real Estate Development Company, owner.

SUBJECT – Application April 21, 2008 – Variance (§72-21) for the construction of a one family residence on a vacant undersized lot that does not provide sufficient side yards (§23-461) and does not provide one of the required parking spaces (§25-22) within a R3-1 zoning Low Density Growth Management district.

PREMISES AFFECTED – 103 Beachview Avenue, 40' west of intersection of Beachview Avenue and Idlease Place, Block 3724, Lot 30, Borough of Staten Island.

## COMMUNITY BOARD #2SI

APPEARANCES –

For Applicant: Eric Palatnik.

## ACTION OF THE BOARD –

THE VOTE TO GRANT –

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

Negative:.....0

## THE RESOLUTION:

WHEREAS, the decision of the Staten Island Borough Commissioner, dated March 19, 2008, acting on Department of Buildings Application No. 510016313, reads in pertinent part:

"The proposed construction of a one family, Use Group 1 building in zoning district R3-1 with deficient side yard is contrary to ZR 23-461, and proposed parking . . . is contrary to ZR 25-22"; and

WHEREAS, this is an application under ZR § 72-21, to permit, within an R3-1 zoning district within a Lower Density Growth Management Area (LDGMA), the proposed construction of a two-story single-family home that does not provide the required side yards or off-street parking spaces and is contrary to ZR §§ 23-461 and 25-22; and

WHEREAS, a public hearing was held on this application on June 24, 2008, after due notice by publication in *The City Record*, with a continued hearing on August 19, 2008, and then to decision on September 16, 2008; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan, Commissioner Hinkson, and Commissioner Montanez; and

WHEREAS, Community Board 2, Staten Island, recommends disapproval of this application; and

WHEREAS, a number of local residents testified in opposition to the application citing concerns with parking and over-development; and

WHEREAS, Council Member James S. Oddo provided written testimony in opposition to the application; and

WHEREAS, the site is located on the north side of Beachview Avenue, between Idlease Place and Laconia Avenue, in an R3-1 zoning district; and

WHEREAS, the site has a width of 20 feet, a depth of 75 feet, and a total lot area of approximately 1,500 sq. ft.; and

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WHEREAS, the site is currently vacant; and

WHEREAS, the applicant proposes to construct a two-story with cellar single-family home with one off-street parking space; and

WHEREAS, the proposed home will have the following complying parameters: 900 sq. ft. of floor area (0.6 FAR), a wall height of 25'-0", a total height of 31 feet, a front yard of 15'-0", and a rear yard of 30'-0"; and

WHEREAS, however, the applicant proposes to provide two side yards each with a width of 2'-6" (two side yards with widths of 5'-0" each are the minimum required); and

WHEREAS, additionally, the LDGMA regulations require two off-street parking spaces; and

WHEREAS, the applicant proposes to provide one parking space in the cellar of the proposed home; and

WHEREAS, the applicant states that side yard and parking relief is necessary for reasons stated below; thus, the instant application was filed; and

WHEREAS, the applicant states that the following is a unique physical condition, which creates practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: the narrowness of the subject lot; and

WHEREAS, the applicant has provided documentation establishing that the subject lot is an undersized lot pursuant to ZR § 23-33; and

WHEREAS, the Board notes that that Z.R. § 23-33 would eliminate a lot area requirement for a single-family dwelling, but not the side yard and parking objections; and

WHEREAS, the applicant represents that the requested side yard and parking waivers are therefore necessary to develop the site with a habitable home; and

WHEREAS, specifically, the applicant represents that the pre-existing lot width of 20 feet cannot feasibly accommodate as-of-right development; and

WHEREAS, the applicant states that the building would have an exterior width of only ten feet if side yard regulations were complied with fully; and

WHEREAS, accordingly, the applicant represents that the side yard waiver is necessary to create a home of a reasonable width; and

WHEREAS, as to parking, because of the site's narrow width, a driveway cannot be accommodated at the side of the house; and

WHEREAS, the applicant represents that providing a driveway would reduce the width of the house to seven feet; and

WHEREAS, the applicant submitted plans, which reflect the constraints associated with providing two off-street parking spaces on such a narrow site with a modestly sized home, particularly since there is no option to provide parking in the front yard; and

WHEREAS, the Board notes that open parking in the front yard is not permitted in the LDGMA; and

WHEREAS, accordingly, since parking cannot be provided at the side or front of the home, the applicant proposes to provide one off-street parking space in the cellar of

the home; and

WHEREAS, based upon the above, the Board finds that the cited unique physical condition creates practical difficulties in developing the site in strict compliance with the applicable side yard regulations; and

WHEREAS, the Board has determined that because of the subject lot's unique physical condition, there is no reasonable possibility that compliance with applicable zoning regulations will result in a habitable home; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, or impact adjacent uses; and

WHEREAS, the applicant notes that the proposed bulk is compatible with nearby residential development and the home complies with all relevant bulk regulations; and

WHEREAS, the applicant states that the height and design of the proposed home is dictated by its location within a designated flood hazard area, which requires that building floor area be located above the Base Flood Elevation; and

WHEREAS, the Department of Buildings' Technical Policy and Procedure Notice #1/04 respecting Special Flood Hazard Areas states that, "[e]xcept for floodproofed spaces . . . the floor level of any space below the base flood elevation shall be no lower than the level of adjacent grade on at least one side of the structure"; and

WHEREAS, the applicant states that, in the instant case, the adjacent grade is below the level of the base flood elevation on both sides of the home, so that the lowest level would not be useable for living purposes; and

WHEREAS, at hearing the Board asked the applicant whether the cellar height could be lowered; and

WHEREAS, the applicant states that lowering the cellar height so that the first floor was located at the Base Flood elevation would reduce the total building height by approximately three feet, but would also result in the elimination of the proposed interior garage space; and

WHEREAS, the applicant further states that the proposed perimeter wall height is less than 21 feet above the base flood elevation and is therefore compliant with the district height limitations; and

WHEREAS, the applicant represents that the home is similar in height to other recently constructed homes in the surrounding area, which were also required to conform to the floor hazard regulations; and

WHEREAS, the applicant submitted photographs showing that the subject site abuts a home of with a similar height and that other two-story homes are located in the surrounding area; and

WHEREAS, therefore, the Board finds that this action will neither 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 applicant has established that the subject lot is an undersized lot pursuant to ZR § 23-33; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title, but is a result

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of the historic lot dimensions; and

WHEREAS, as noted above, the applicant complies with all R3-1 zoning district and LDGMA regulations except for the required side yards and off-street parking; and

WHEREAS, the applicant reduced the height of the first floor by one foot to a height of eight feet; and

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

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

WHEREAS, a submission by the applicant confirms that the subject property is outside the jurisdiction of the Freshwater Wetlands Act and the Tidal Wetlands Act, and therefore that no permits from the NYS Department of Environmental Conservation are required for development of the property; and

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Type II Declaration under 6 NYCRR Part 617.5 and 617.13, §§ 5-02(a), 5-02(b)(2), and 6-15 of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 72-21 to permit, within an R3-1 zoning district within a Lower Density Growth Management Area, the proposed construction of a two-story single-family home that does not provide the required side yards or off-street parking spaces and is contrary to ZR §§ 23-462 and 25-22; *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 June 20, 2008" – (5) sheets and "August 11, 2008," – (5) sheets; and *on further condition*:

THAT the parameters of the proposed building shall be as follows: 900 sq. ft. of floor area (0.6 FAR), a wall height of 25'-0", a total height of 31 feet, and two side yards with widths of 2'-6", as per the BSA-approved plans;

THAT the bonus area of 0.10 FAR shall be located only within the attic area beneath the sloped plane, as per the BSA-approved plans;

THAT the use of the cellar shall be limited to unfinished parking and storage;

THAT the above condition shall be included 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 significant construction shall proceed in accordance with ZR § 72-23;

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

Adopted by the Board of Standards and Appeals, September 16, 2008.

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**167-08-BZ**

**CEQR #08-BSA-098M**

APPLICANT – Sheldon Lobel, P.C., for Profile Enterprises, L.P., owner; for Garden Retreat Spa, LLC, lessee.

SUBJECT – Application June 19, 2008 – Special Permit (§73-36) to allow the legalization of a physical culture establishment on the second floor of an existing seven-story building. The proposal is contrary to ZR §32-10. C5-2 district.

PREMISES AFFECTED – 253 5<sup>th</sup> Avenue, northeast corner of the intersection formed by 5<sup>th</sup> Avenue and West 28<sup>th</sup> Street, Block 858, Lot 1, Borough of Manhattan.

**COMMUNITY BOARD #5M**

APPEARANCES –

For Applicant: Elizabeth Safian.

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

**THE VOTE TO GRANT** –

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

Negative:.....0

**THE RESOLUTION:**

WHEREAS, the decision of the Manhattan Borough Commissioner, dated May 20, 2008, acting on Department of Buildings Application No. 110112477, reads in pertinent part:

“Proposed use of a portion of the second floor as a physical culture health establishment is contrary to ZR section 32-10 in C5-2 zoning district and shall be referred to the Board of Standards and Appeals for approval;” and

WHEREAS, this is an application under ZR §§ 73-36 and 73-03, to legalize, on a site located within a C5-2 zoning district, the operation of a physical culture establishment (PCE) on a portion of the second floor of a seven-story commercial office building, contrary to ZR § 32-10; and

WHEREAS, a public hearing was held on this application on July 22, 2008, after due notice by publication in *The City Record*, with a continued hearing on August 26, 2008 and then to decision on September 16, 2008; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by Commissioner Montanez; and

WHEREAS, Community Board 5, Manhattan, recommends disapproval of this application; and

WHEREAS, the subject site is located at the northeast corner of the intersection of Fifth Avenue and East 28<sup>th</sup> Street; and

WHEREAS, the PCE occupies approximately 1,874 sq. ft. of floor area on the second floor of the subject site; and

WHEREAS, the PCE is operated as Garden Retreat Spa and began operations on December 1, 2007; and

WHEREAS, the applicant represents that the services at the PCE include those of a full-service day spa including

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massage by licensed professionals; and

WHEREAS, the hours of operation are from: 10:00 a.m. to 12:00 a.m., seven days a week; and

WHEREAS, at hearing, the Board inquired as to the means of ingress and egress to and from the PCE after business hours; and

WHEREAS, the applicant responded that access to the PCE from the primary entrance on Fifth Avenue will be provided by a security system consisting of a closed circuit camera and door buzzer; and

WHEREAS, the Board finds that this action will neither alter the essential character of the surrounding neighborhood, impair the use or development of adjacent properties, nor be detrimental to the public welfare; and

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

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

WHEREAS, therefore, the Board has determined that the evidence in the record supports the requisite findings pursuant to ZR §§ 73-36 and 73-03; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2 (ak); and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement, CEQR No. 08BSA097M, dated June 18, 2008; and

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

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

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

*Therefore it is Resolved* that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617 and the Rules of Procedure for City Environmental Quality Review and

Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR §§ 73-36 and 73-03, to legalize, on a site within a C5-2 zoning district, the operation of a physical culture establishment on a portion of the second floor of a seven-story commercial office building, contrary to ZR § 32-10; *on condition* that all work shall substantially conform to drawings filed with this application marked "Received July 17, 2008"-(2) sheets; and *on further condition*:

THAT the term of this grant shall expire on December 1, 2017;

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 all massages shall be performed by New York State licensed massage therapists;

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

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

THAT prior to the issuance of any permits, DOB shall review compliance with all requirements concerning ingress and egress;

THAT fire safety measures shall be installed and/or maintained as shown on the Board-approved plans;

THAT prior to the issuance of any permits, DOB shall review the floor area and location of the PCE for compliance with all relevant commercial use regulations;

THAT sound attenuation measures shall be installed and maintained in accordance with the approved plans;

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

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

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

Adopted by the Board of Standards and Appeals, September 16, 2008.

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**220-07-BZ**

APPLICANT – Moshe M. Friedman, P.E., for Relly Bodansky, owner.

SUBJECT – Application September 25, 2007 – Variance (§72-21) to allow the erection of a new 4-story residential building containing 4 dwelling units on a site containing an existing legal, nonconforming 3-story multiple dwelling which is proposed to be razed; contrary to use regulations (§ 42-10). M1-1 district.

PREMISES AFFECTED – 847 Kent Avenue, east side of Kent Avenue, 300' north of intersection of Kent Avenue and Myrtle Avenue, Block 1898, Lot 10, Borough of Brooklyn.

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## COMMUNITY BOARD #3BK

APPEARANCES – None.

**ACTION OF THE BOARD** – Laid over to November 25, 2008, at 1:30 P.M., for an adjourned hearing.

## 268-07-BZ

APPLICANT – Eric Palatnik, P.C., for Congregation Adath Jacob, owner.

SUBJECT – Application March 21, 2008 – Variance (§72-21) to permit the development of a new Use Group 4 synagogue with two accessory Use Group 4 apartments (for Rabbi and visiting dignitaries). The proposal is contrary to §24-11 (Total Floor Area and Lot Coverage), §24-35 (Side Yard), §24-36 (Rear Yard), §24-551 (Setback), and §25-31 (Community facility parking). R5 district.

PREMISES AFFECTED – 1644 48<sup>th</sup> Street, south side of 48<sup>th</sup> Street, between 16<sup>th</sup> and 17<sup>th</sup> Avenues, Block 5448, Lot 27, Borough of Brooklyn.

## COMMUNITY BOARD #12BK

APPEARANCES –

For Applicant: Eric Palatnik.

**ACTION OF THE BOARD** – Laid over to October 7, 2008, at 1:30 P.M., for continued hearing.

## 9-08-BZ

APPLICANT – Rampulla Associates Architects, for Joseph Vitacco, owner.

SUBJECT – Application January 3, 2008 – Variance (§ 72-21) to construct a single family detached residence on a vacant, corner lot that has less than the minimum lot area (§ 107-42); to vary side yards (§ 23-462) and front yards (§ 23-45) in an R3-X SRD (Special Richmond District) SGM (Special Growth Management District) zoning district.

PREMISES AFFECTED – 555 Foster Road, east side from the intersection of Foster Road and Stafford Avenue, Block 6892, Lot 8, Borough of Staten Island.

## COMMUNITY BOARD #3SI

APPEARANCES –

For Applicant: Philip Rampulla.

THE VOTE TO CLOSE HEARING –

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

**ACTION OF THE BOARD** – Laid over to October 7, 2008, at 1:30 P.M., for decision, hearing closed.

## 178-07-BZ

APPLICANT – Dominick Salvati and Son Architects, for Bronx Jewish Boys, owners.

SUBJECT – Application July 12, 2007 – Variance (§72-21) to permit the proposed seven-story residential building above the existing three-story community facility building. The proposal is contrary to residential floor area and FAR and lot coverage (§23-141(b)), number of dwelling units

(§23-222), rear yard (§23-47 & §24-36), sky exposure plane and setback, (§23-631(d)), required residential and community facility parking (§25-23 & §25-31). R5 district. PREMISES AFFECTED – 2261-2289 Bragg Street, 220' north from intersection of Bragg Street and Avenue W, Block 7392, Lot 57, Borough of Brooklyn.

## COMMUNITY BOARD #15BK

APPEARANCES –

For Applicant: Peter Hirshman and Eliot Berry.

**ACTION OF THE BOARD** – Laid over to November 25, 2008, at 1:30 P.M., for continued hearing.

## 135-08-BZ

APPLICANT – Sheldon Lobel, P.C., for Fresh Meadows Bukharian Synagogue, Inc. owner.

SUBJECT – Application April 30, 2008 – Variance (§72-21) to permit a one-story and mezzanine synagogue. The proposal is contrary to ZR §24-34 (minimum front yard) and §25-31 (minimum parking requirements). R2 district.

PREMISES AFFECTED – 71-52 172<sup>nd</sup> Street, northwest corner of the intersection of 73<sup>rd</sup> Avenue and 172<sup>nd</sup> Street, Block 6959, Lot 1, Borough of Queens.

## COMMUNITY BOARD #8Q

APPEARANCES –

For Applicant: Richard Lobel and Boris Munor.

For Opposition: Michael Spedalle and Laurence Lande.

**ACTION OF THE BOARD** – Laid over to October 28, 2008, at 1:30 P.M., for continued hearing.

## 157-08-BZ

APPLICANT – Sheldon Lobel, P.C., for Waterfront Owners, LLC, owners.

SUBJECT – Application June 5, 2008 – Variance (§72-21) to permit the proposed seven-story residential building above the existing three-story community facility building. The proposal is contrary to residential floor area and FAR and lot coverage (§23-141(b)), number of dwelling units (§23-222), rear yard (§23-47 & §24-36), sky exposure plane and setback, (§23-631(d)), required residential and community facility parking (§25-23 & §25-31). R5 district. PREMISES AFFECTED – 365 Bay Street, east side of Bay Street between Grant Street and St. Julian Place, Block 488, Lot 71, Borough of Staten Island.

## COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Joshua Rinesmith.

**ACTION OF THE BOARD** – Laid over to October 28, 2008, at 1:30 P.M., for continued hearing.

## 208-08-BZ

APPLICANT – Law Office of Fredrick A. Becker, for Desiree Eisenstadt and 2123 Avenue M, LLC, owner.

SUBJECT – Application August 11, 2008 – Special Permit (§73-622) for the enlargement of an existing single family residence. This application seeks to vary floor area and open

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space ratio (§23-141) and less than the minimum side yard (§23-461) in an R-2 zoning district.

PREMISES AFFECTED – 2117-2123 Avenue M, northwest corner of Avenue M and East 22<sup>nd</sup> Street, Block 7639, Lot 1 & 3 (tent 1), Borough of Brooklyn.

**COMMUNITY BOARD #14BK**

APPEARANCES –

For Applicant: Lyra J. Altman.

**ACTION OF THE BOARD** – Laid over to October 7, 2008, at 1:30 P.M., for continued hearing.

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*Jeff Mulligan, Executive Director*

*Adjourned: 4:00 P.M.*

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## \*CORRECTION

This resolution adopted on January 15, 2008, under Calendar Nos. 196-07-A thru 199-07-A and printed in Volume 93, Bulletin No. 3, is hereby corrected to read as follows:

### 196-07-A thru 199-07-A

APPLICANT – Willy C. Yuin, R.A., for Carmine Lacertosa, owner.

SUBJECT – Application August 9, 2007 – Proposed construction of one & two family homes not fronting on a legally mapped street contrary to Article 3 Section 36 of the General City Law. R-5 Zoning district.

PREMISES AFFECTED – 9 Federal Place, west of Federal Place 195.91’ south of the corner of Richmond Terrace and Federal Place, Block 1272, Lot 72, 76, 77, 79, Borough of Staten Island.

### COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Willy C. Yuin, R.A.

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

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION:

WHEREAS, the decisions of the Staten Island Borough Commissioner, dated August 4, 2007, acting on Department of Buildings Application Nos. 510006208 and 510006217, read in pertinent part:

“The street giving access to the proposed construction of a new two family attached building Use Group 2 in R-5 Residential District is not duly placed on the official map of the City of New York contrary to General City Law 36 and therefore is referred to the Board of Standards and Appeals for approval.”; and

WHEREAS, the decisions of the Staten Island Borough Commissioner, dated January 9, 2008, acting on Department of Buildings Application Nos. 510006226 and 510006235, read in pertinent part:

“The street giving access to the proposed construction of a new one family attached building Use Group 2 in R-5 Residential District is not duly placed on the official map of the City of New York contrary to General City Law 36 and therefore is referred to the Board of Standards and Appeals for approval.”; and

WHEREAS, a public hearing was held on this application on December 4, 2007, after due notice by publication in the *City Record*, and then to continued hearing on January 15, 2008, with decision on that same date; and

WHEREAS, this application requests to build two one-family homes (at 15 and 11 Federal Place) and two two-family

homes (at 9 and 17 Federal Place) which do not front on a legally mapped street, contrary to Section 36 of the General City Law; and

WHEREAS, by letter dated September 8, 2007, the Fire Department states that it has reviewed the application and raised objections regarding access to the site as well as the layout of the proposed homes; and

WHEREAS, in response, the applicant states that all proposed homes will be fully sprinklered; the applicant submitted revised site plans which note that the homes will comply with Local Law 10 of 1999; and

WHEREAS, by letter dated December 24, 2007, the Fire Department states that it has reviewed the revised site plans and does not have any objections; and

WHEREAS, based upon the above, the Board has determined that the applicant has submitted adequate evidence to warrant this approval.

*Therefore it is Resolved* that the decision of the Staten Island Borough Commissioner, dated August 4, 2007, and January 9, 2008, acting on Department of Buildings Application Nos. 510006208, 510006217, 510006226, and 510006235 are modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction shall substantially conform to the drawings filed with the application marked “Received January 7, 2008”-(2) sheets; that the proposal shall comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations shall be complied with; and *on further condition*:

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

THAT DOB shall approve the lot subdivision prior to the issuance of permits;

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

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

Adopted by the Board of Standards and Appeals, January 15, 2008.

**\*The resolution has been corrected in the 4<sup>th</sup> WHEREAS. Corrected in Bulletin Nos. 38, Vol. 93, dated September 25, 2008.**

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*Jeff Mulligan, Executive Director*