



Board of Standards and Appeals

250 Broadway, 29th Floor
 New York, NY 10007
 212-386-0009 - Phone
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 www.nyc.gov/bsa

ZONING (BZ) CALENDAR
 Application Form

BSA APPLICATION NO. _____
 CEQR NO. _____

Section A
 Applicant/ Owner

Eric Palatnik, P.C. NAME OF APPLICANT	Joseph Toiv OWNER OF RECORD
32 Broadway, Suite 114 ADDRESS	2502 Kings Highway ADDRESS
New York NY 10004 CITY STATE ZIP	Brooklyn NY 11229 CITY STATE ZIP
212 425-4343 AREA CODE TELEPHONE	_____ LESSEE / CONTRACT VENDEE
212 968-7129 AREA CODE FAX	_____ ADDRESS
Eric@EricPalatnikPC.com EMAIL	_____ CITY STATE ZIP

Section B
 Site Data

2617 Avenue R 11229
 STREET ADDRESS (INCLUDE ANY A/K/A) ZIP CODE

Avenue R, between East 26th and East 27th Street
 DESCRIPTION OF PROPERTY BY BOUNDING OR CROSS STREETS

6809 BLOCK	49 LOT(S)	Brooklyn BOROUGH	15 COMMUNITY DISTRICT	n/a LANDMARK/HISTORIC DISTRICT
Hon. Chaim M. Deutsch CITY COUNCIL MEMBER	R3-2 ZONING DISTRICT (include special district, if any)	23b ZONING MAP NUMBER		

Section C
 Dept of Building Decision

BSA AUTHORIZING SECTION(S) 73-622 for VARIANCE SPECIAL PERMIT (Including 11-41)
 Section(s) of the Zoning Resolution to be varied 23-141 (b); 23-47; 23-631 (b)
 DOB Decision (Objection/ Denial) date: February 6, 2015 Acting on Application No: 321045926

Section D
 Description

(LEGALIZATION YES NO IN PART)

Special permit pursuant to ZR §73-622 to enlarge an existing two story dwelling in a residential zoning district (R3-2). The application seeks to vary the floor area ratio (23-141(b)); lot coverage (23-141(b)); open space (23-161(b)); rear yard (23-47) and perimeter wall height (23-631(b)) requirements of the Zoning Resolution.

Section E
 BSA History and Related Actions

If "YES" to any of the below questions, please explain in the STATEMENT OF FACTS

	YES	NO
1. Has the premises been the subject of any previous BSA application(s)? PRIOR BSA APPLICATION NO(S): _____	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Are there any applications concerning the premises pending before any other government agency?....	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Is the property the subject of any court action?.....	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Section F
 Signature

I HEREBY AFFIRM THAT BASED ON INFORMATION AND BELIEF, THE ABOVE STATEMENTS AND THE STATEMENTS CONTAINED IN THE PAPERS ARE TRUE

Signature of Applicant, Corporate Officer or Other Authorized Representative: Eric Palatnik
 Title: Attorney

NOTARY PUBLIC STATE OF NEW YORK
 SWORN TO ME THIS 9 DAY OF March 2015
 QUALIFIED IN KINGS COUNTY
 COMMISSION EXPIRES 08/18/17

NOTARY PUBLIC

ERIC PALATNIK, P.C.

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March 4, 2015

STATEMENT OF FACTS AND FINDING

*Premises: 2617 Avenue R
Block 6809 - Lot 49
Brooklyn, New York (the "Premises")*

This application is filed pursuant to § 73-622 of the Zoning Resolution of the City of New York, as amended (hereinafter the "Zoning Resolution"). It requests a Special Permit to enlarge an existing two story dwelling in a residential zoning district (R3-2). The application seeks to vary the floor area ratio; lot coverage; open space; rear yard and perimeter wall height requirements of the Zoning Resolution.

Located within Community Board 15, the Premises is situated on a three thousand three hundred thirty three (3,333) square foot lot, further identified on the New York City Tax Map as Block 6809, Lot 49. It is located on the north side of Avenue R, between East 26th and East 27th Street.

The Premises is improved upon with an existing two-story, single family residential dwelling with a cellar. The building is currently occupied as a single family home with a total floor area of 1,352 sq. ft.; a floor area ratio of 0.41; a lot coverage of 27.5%; and an open space of 72.5%. The existing building has a front yard of 9'11"; two side yards of a combined width of 13'2" and a rear yard of 40'5".

The requested approval seeks permission to enlarge the existing single family residential structure in accordance with §73-622 of the Zoning Resolution. More specifically, the enlargement will occur by expanding the north (rear) and west (side) walls of the property.

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The rear of the building has an existing one story 11'7" x 11'9" extension which is currently utilized as a dining area. It is proposed to construct a second floor on top of it and to further expand the rear of the building with a two story enlargement. A portion of the rear, in the northeast corner of the proposed building will remain one story. Additionally, there will be a 2'0" x 14'8" addition on the west side wall of the building. The enlargement will allow a den to be built on the first floor and will allow the creation of a new bedroom, bathroom and closets on the second floor.

The proposed enlargement will increase the floor area from 1,352 square feet to 2,272.84 square feet, for a floor area ratio of 0.68. The combined side yards will be 13'2", compliant with the underlying regulations. The open space will be 61.5% and the lot coverage will be 38.5%. The total height of the building will remain at 28'4' and the perimeter wall height will remain at 21'8".

The front yard will remain at 9'11". This condition constitutes a lawful pre-existing non-compliance. As shown on the 1932 Sanborn Map, prior to 1961, Avenue R was developed with a series of homes that had identical front yards. As shown on the streetscape and photographs which are included along with this application, this condition still persists on the Avenue R frontage which is consistent with a finding that the front yard predates the 1961 Zoning Resolution. Accordingly, as the 9'11" front yard predates the 1961 Zoning Resolution, it may remain at its current dimension.

Accordingly, plans were filed with the Department of Buildings ("DOB") under Job Number: 321045926 in order to permit the enlargements. On February 6, 2015, the following objections were issued:

1. *"Proposed plans are contrary to Z.R. 23-141(b) in that the proposed Floor Area Ratio (FAR) exceeds the permitted 50%"*
2. *"Proposed plans are contrary to Z.R. 23-141(b) in that the proposed Open Space is less than the required 65%"*

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3. *“Proposed plans are contrary to Z.R. 23-141(b) in that the proposed Lot Coverage exceeds the maximum required 35%”*
4. *“Proposed plans are contrary to Z.R. 23-47 in that the proposed rear yard is less than 30’0””*
5. *“Proposed plans are contrary to Z.R. 23-631(b) in that the perimeter wall height exceeds 21’0””*

AUTHORITY OF SECTION 73-622

Pursuant to Zoning Resolution §73-622, the Board of Standards and Appeals (“BSA”) may permit the enlargement of detached and semi-detached, qualifying single and two-family residences. This authority allows for the creation of new non-compliances or the extension of existing non-compliances within designated areas provided that several conditions and findings are satisfied. We submit that those conditions have been met and that the findings should be made with respect to this application.

Zoning Resolution §73-622(a) lists “*Community Districts 10, 11 and 15, in the Borough of Brooklyn*” as a designated Special Permit area. As evidenced by the enclosed application materials, the Premises, which is located in Community District 15, qualifies as the subject of a Special Permit application.

DESCRIPTION OF OBJECTIONS

“Proposed plans are contrary to Z.R. 23-141(b) in that the proposed Floor Area Ratio (FAR) exceeds the permitted 50%”

The proposal will increase the floor area ratio from 0.41 to 0.68 (1,352 sq. ft. to 2,272.84 sq. ft.). This will create a new non-compliance. Under Zoning Resolution §23-141(b), the maximum permitted floor area ratio is 0.50.

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Zoning Resolution §73-622 allows the Board to create a new non-compliance with respect to floor area ratio, provided that the enlargement does not alter the existing character of the neighborhood or impair the future use or development of the surrounding area.

“Proposed plans are contrary to Z.R. 23-141(b) in that the proposed Open Space is less than the required 65%”

The proposal will create a new non-compliance with respect to open space. Under Zoning Resolution §23-141(b), the minimum required open space is 65%. The existing open space is 72.5%. The proposed open space is 61.5%.

Zoning Resolution §73-622 allows the creation of such non-compliances, provided that the enlargement does not alter the existing character of the neighborhood or impair the future use or development of the surrounding area.

“Proposed plans are contrary to Z.R. 23-141(b) in that the proposed Lot Coverage exceeds the maximum required 35%”

The proposal will create a non-compliance with respect to lot coverage. Under Zoning Resolution §23-141(b), the maximum permitted lot coverage is 35%. The existing lot coverage is 27.5%. The proposed lot coverage is 38.5%.

Zoning Resolution §73-622 allows the creation of such non-compliances, provided that the enlargement does not alter the existing character of the neighborhood or impair the future use or development of the surrounding area.

“Proposed plans are contrary to Z.R. 23-47 in that the proposed rear yard is less than 30’0””

The proposal will decrease the rear yard from 40’5” to 25’2”. This will create a new non-compliance. Under Zoning Resolution §23-47, a rear yard with a depth of not less than 30 feet shall be provided at every rear lot line, except as otherwise provided.

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Zoning Resolution §73-622 allows the Board to create a new non-compliance or increase the amount or degree of such an existing non-compliance where there is a minimum 20'0" rear yard measurement (ZR §73-622(b)(2)), provided that the enlargement does not alter the existing character of the neighborhood or impair the future use or development of the surrounding area.

“Proposed plans are contrary to Z.R. 23-631(b) in that the perimeter wall height exceeds 21'0””

The proposal seeks to extend the non-complying perimeter wall height into the rear yard as part of the enlargement. Under Zoning Resolution §23-631(b), the maximum permitted perimeter wall height is 21 feet. The existing perimeter wall height is 21'8". The proposed perimeter wall height is 21'8".

Zoning Resolution §73-622 allows the Board to create a new non-compliance with respect to perimeter wall height in the underlying district where the enlarged building is adjacent to a single or two-family detached or semidetached residence with an existing non-complying perimeter wall facing the street. Such an enlargement is permitted provided that the proposed perimeter wall height is equal or less to the height of an adjacent building's perimeter wall height. As shown on the streetscape, Drawing A-10 of the proposed plans, the proposed perimeter wall height would be equal to that of adjacent buildings.

SATISFACTION OF FINDINGS

In order to permit the enlargement, the BSA must find that the enlargement “will not alter the essential character of the neighborhood or district in which the building is located, nor impair the future use or development of the surrounding area.” The proposed dwelling will not alter the essential character of the neighborhood. The attached photographs show that the dwelling's proposed architectural design will allow it to blend in with the homes which exist on either side of it. As the enlargement will occur primarily in the rear, the streetscape will not be altered by this application.