

LAW OFFICE OF LYRA J. ALTMAN
23 MORNINGSIDES DRIVE
GREENWICH, CONNECTICUT 06830
(212) 452-4284

May 8, 2024

STATEMENT OF FACTS AND FINDINGS

BSA Calendar No.:
DOB Application No: B01021712-I1
Premises: 1224 Avenue V
Brooklyn, New York

This application is filed pursuant to Section 73-622 of the Zoning Resolution of the City of New York, as amended (hereinafter “Zoning Resolution”), to request a special permit to allow the enlargement of an existing single family semi-detached residence. The premises is located in a residential (R4) zoning district. The subject premises, located on the south side of Avenue V between East 12th Street and Homecrest Avenue, has the address of 1224 Avenue V, Brooklyn, New York and is known as Block 7372, Lot 8 on the New York City tax map. The site is located within Community District 15 and has a lot area of 2,000 square feet.

The property is currently occupied by a semi-detached two story and cellar single family home with 1,353.64 square feet (.68 FAR). The existing front yard is twelve feet (12’-0”) on the first floor and twenty feet (20’-0”) on the second floor. The existing rear yard is forty-two feet (42’-0”). The existing building has one side yard of four feet (4’-0”) on the east side of the building. The building has a perimeter wall height of twenty-one feet five inches (21’-5”) and a total height of twenty-one feet five inches (21’-5”). Lastly, the home has one parking space located in a garage in the rear yard.

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The proposal expands the existing two story and cellar building to 2,532.28 square feet (1.27 FAR), comprised of an additional 389.36 square feet of floor area on the first floor, an additional 352 square feet of floor area on the second floor and a new 37.28 square foot attic. The additional square footage is accomplished with extensions in the front of the building and the rear of the building. The front yard is proposed to be reduced to a permitted depth of ten feet (10'-0") on the first floor and remain at twenty feet (20'-0") on the second floor. The rear yard is proposed to be reduced to twenty feet (20'-0"). The proposal also continues the eastern side yard of four feet (4'-0"). The perimeter wall height is proposed to be reduced slightly to twenty-one feet (21'-0") and increases the total height of thirty-two feet eleven inches (32'-11").

As shown on the plans, the proposal maintains sixty-seven and seventy-four hundredths percent (67.74%) of the existing exterior walls on the first floor and eighty-five and fifty-nine hundredths percent (85.59%) of the existing exterior walls on the second floor for a total of seventy-six and sixty-seven hundredths percent (76.67%) of the existing exterior walls. The proposal also maintains floor joists on the first floor, second floor and attic level.

Plans have been filed with the Department of Buildings to permit the desired enlargement. On April 10, 2024, the following objections were issued for the subject Premises (verbatim):

1. *Proposed plans are contrary to Z.R. 23-142 in that the proposed Floor Area Ratio (FAR) exceeds the permitted 50%.*
2. *Proposed plans are contrary to Z.R. 23-142 in that the proposed open space is less than the required 65%.*
3. *Proposed plans are contrary to Z.R. 23-142 in that the proposed lot coverage exceeds the maximum required 35%.*

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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. 23-461 in that the proposed minimum side yard is less than the required 5'-0"*

BSA SPECIAL PERMIT

Pursuant to Sections 73-622, 73-01 and 73-03 of the Zoning Resolution, the Board of Standards and Appeals has the power to grant special permits for use or bulk, and to impose appropriate conditions and safeguards. A review of the instant application and the accompanying materials shows that the proposed enlargement meets the required findings for a special permit.

COMPLIANCE WITH ZONING RESOLUTION SECTION 73-622

Enlargements of single- and two-family detached and semi-detached residences

The Board of Standards and Appeals may permit an *enlargement* of an existing *single-* or *two-family detached* or *semi-detached residence*, except *cottage envelope buildings* as such term is defined in Section 64-11 (Definitions), utilizing the provisions of Section 64-33 (Special Bulk Regulations for Cottage Envelope Buildings), within the following areas:

- (a) Community Districts 11 and 15, in the Borough of Brooklyn;
- (b) R2 Districts within the area bounded by Avenue I, Nostrand Avenue, Kings Highway, Avenue O and Ocean Avenue, Community District 14, in the Borough of Brooklyn; and
- (c) within Community District 10 in the Borough of Brooklyn, after October 27, 2016, only the following applications, Board of Standards and Appeals Calendar numbers 2016-4218-BZ, 234-15-BZ and 2016-4163-BZ, may be granted a special permit pursuant to this Section. In addition, the provisions of Section 73-70

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(LAPSE OF PERMIT) and paragraph (f) of Section 73-03 (General Findings Required for All Special Permit Uses and Modifications), shall not apply to such applications and such special permit shall automatically lapse and shall not be renewed if substantial construction, in compliance with the approved plans for which the special permit was granted, has not been completed within two years from the effective date of issuance of such special permit.

Such *enlargement* may create a new *non-compliance*, or increase the amount or degree of any existing *non-compliance*, with the applicable *bulk* regulations for *lot coverage*, *open space*, *floor area*, *side yard*, *rear yard* or perimeter wall height regulations, provided that:

- (1) any *enlargement* within a *side yard* shall be limited to an *enlargement* within an existing *non-complying side yard* and such *enlargement* shall not result in a decrease in the existing minimum width of open area between the *building* that is being *enlarged* and the *side lot line*;
- (2) any *enlargement* that is located in a *rear yard* is not located within 20 feet of the *rear lot line*; and
- (3) any *enlargement* resulting in a *non-complying* perimeter wall height shall only be permitted in R2X, R3, R4, R4A and R4-1 Districts, and only where the *enlarged building* is adjacent to a *single- or two-family detached or semi-detached residence* with an existing *non-complying* perimeter wall facing the *street*. The increased height of the perimeter wall of the *enlarged building* shall be equal to or less than the height of the adjacent *building's non-complying* perimeter wall facing the *street*, measured at the lowest point before a setback or pitched roof begins. Above such height, the setback regulations of Section 23-631, paragraph

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(b), shall continue to apply.

The Board shall find that the *enlarged building* 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 Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

SECTION 73-622

Pursuant to Section 73-622 of the Zoning Resolution, the Board of Standards and Appeals has the authority to permit the enlargement of one and two family residences creating new non-compliances within designated areas provided that several conditions and findings of the said section can be satisfied. I submit that those conditions have been met and that the findings can be made in the instant matter as set forth below.

LOCATION

The Premises is located within Community District 15 in the Borough of Brooklyn which is the area described under subsection (a) of Section 73-622 of the Zoning Resolution.

NON-COMPLIANCES

Floor Area Ratio:

Section 23-142 of the Zoning Resolution provides a maximum permitted floor area ratio of .75 (1,500 square feet). The existing home has a floor area ratio of .68 (1,353.64 square feet). The instant proposal increases the floor area ratio to 1.27 (2,532.28 square feet). Said floor area ratio is permitted pursuant to Section 73-622 of the Zoning Resolution.

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Open Space:

Section 23-142 of the Zoning Resolution provides a minimum required open space of fifty-five percent (55%). The instant proposal calls for open space of forty-four percent (44%), a decrease from the existing open space of sixty-three and forty-seven hundredths percent (63.47%). Said open space is permitted pursuant to Section 73-622 of the Zoning Resolution.

Lot Coverage:

Section 23-142 of the Zoning Resolution provides a maximum permitted lot coverage of forty-five percent (45%). The instant proposal calls for a lot coverage of fifty-six percent (56%), an increase from the existing lot coverage of thirty-six and fifty-three hundredths percent (36.53%). Said lot coverage is permitted pursuant to Section 73-622 of the Zoning Resolution.

Rear Yard:

Section 23-47 of the Zoning Resolution requires a rear yard of thirty feet (30'). The existing home has a rear yard of forty-two feet (42'-0"). The instant proposal provides a rear yard of twenty feet (20'-0"). Said rear yard is permitted pursuant to Section 73-622 (2) of the Zoning Resolution, which states that "any enlargement that is located in a rear yard [shall not be] located within 20 feet of the rear lot line."

Side Yard:

Section 23-461 of the Zoning Resolution requires one eight foot (8'-0") side yard. The existing home has a non-complying side yard of four feet (4'-0") on the eastern side of the home. The proposal continues the existing non-complying yard of four feet (4'-0"). Said side yard is

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permitted pursuant to Section 73-622 (1) of the Zoning Resolution which states that “any *enlargement* within a *side yard* shall be limited to an *enlargement* within an existing *non-complying side yard* and such *enlargement* shall not result in a decrease in the existing minimum width of open area between the *building* that is being *enlarged* and the *side lot line*.”

FINDINGS

In order to permit the proposed enlargement, the Board of Standards and Appeals must find that the proposal “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.” This proposal is consistent with the development of the area. The proposed use is a single-family residence and the design is similar to neighborhood conditions. The Zoning Resolution permits single-family residential use; therefore, the essential character of the area will not be altered, nor will this proposal impair the future use or development of the surrounding area.

An analysis of the neighborhood conditions shows that the proposed floor area ratio fits within the character of the neighborhood. As shown on the floor area ratio study prepared by Urban Cartographics, within the surrounding area in the R4 zoning district, not including the premises, eleven buildings have floor area ratios of 1.27 or greater. Of the eleven buildings, three are located on the same block as the premises and two of those are entirely within one hundred feet of the premises. Further, in the R5 zoning district across Avenue V are eight additional buildings that each have a floor area ratio of at least 1.27.

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The proposed lot coverage of fifty-six percent (56%) is also consistent with the surrounding area. As shown on the submitted lot coverage study prepared by Urban Cartographics, within four hundred feet of the premises, twenty-two buildings have a lot coverage of fifty-six percent (56%) or greater. Of the twenty-two homes, four are on the same block as the premises.

With respect to the rear yard, the submitted study shows that the proposed rear yard is consistent with the existing conditions surrounding this proposal. The proposal provides a twenty-foot (20'-0") rear yard. On block 7372, fifteen other homes already have rear yards of twenty feet (20'-0") or less. The home that is attached to the premises has a rear yard of twenty feet (20'-0") and the next three buildings to the west all have rear yards of nineteen feet (19'-0").

Based on the above, the proposed floor area, lot coverage and rear yard fit the character of the neighborhood.

COMPLIANCE WITH ZONING RESOLUTION SECTION 73-03

General Findings Required for All Special Permit Uses and Modifications

The Board of Standards and Appeals shall have the power, as authorized by Section 73-01, paragraph (a) or (b), and subject to such appropriate conditions and safeguards as the Board shall prescribe, to grant special permit *uses* or modifications of *use*, parking, or *bulk* regulations as specifically provided in this Chapter, provided in each case:

- (a) The Board shall make all of the findings required in the applicable sections of this Chapter with respect to each such special permit *use* or modification of *use*, parking or *bulk* regulations and shall find that, under the conditions and safeguards imposed, the hazards or

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disadvantages to the community at large of such special permit *use* or modification of *use*, parking or *bulk* regulations at the particular site are outweighed by the advantages to be derived by the community by the grant of such special permit. In each case the Board shall determine that the adverse effect, if any, on the privacy, quiet, light and air in the neighborhood of such special permit *use* or modification of *use*, parking or *bulk* regulations will be minimized by appropriate conditions governing location of the site, design and method of operation.

- a. The subject use will have no adverse impact on the community. There are no potential hazards that impact the privacy, quiet, light and air of the neighborhood and this single family home will have similar characteristics to other homes on the block.
- (b) In all cases the Board shall deny a special permit whenever such proposed special permit *use* or modification of *use*, parking or *bulk* regulations will interfere with any public improvement project (including housing, highways, public *buildings* or facilities, redevelopment or renewal projects, or right-of-way for sewers, transit or other public facilities) which is approved by or pending before the Board of Estimate, Site Selection Board or the City Planning Commission as determined from the calendars of each such agency issued prior to the date of the public hearings before the Board of Standards and Appeals.
 - a. The subject project will not interfere with any public improvement project.

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- (c) When under the applicable findings the Board is required to determine whether the special permit *use* or modification of *use*, parking or *bulk* regulations is appropriately located in relation to the *street* system, the Board shall in its discretion make such determination on the basis of the Master Plan of Arterial Highways and Major Streets on the official City Map. Whenever the Board is required to make a finding on the location of a proposed special permit *use* or modification of *use*, parking or *bulk* regulations in relation to secondary or local *streets* and such classification of *streets* is not shown on the Master Plan, the Board in its discretion shall request the City Planning Commission to establish a report on the appropriate classification of such *street*.
 - a. The subject project will not interfere with the existing street system; therefore, this provision is not applicable.
- (d) For applications relating to Sections 73-243, 73-48 and 73-49, the Board in its discretion shall request from the Department of Transportation a report with respect to the anticipated traffic congestion resulting from such special permit *use* or modification of *use*, parking or *bulk* regulations in the proposed location. If such a report is requested, the Board shall in its decision or determination give due consideration to such report and further shall have the power to substantiate the appropriate finding solely on the basis of the report of the Department of Transportation with respect to the issue referred.
 - a. The subject project does not relate to Sections 73-243, 73-48 or 73-49; therefore, this provision is not applicable.

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- (e) If a term of years is specified in the applicable section, the Board shall establish a term of years not to exceed such maximum. For those special permit *uses* or modification of *use* parking or *bulk* regulations for which a maximum term has not been specified, the Board may fix an appropriate term for any such special permit *use* or modification of *use* parking or *bulk* regulations.
 - a. There is no term of years specified in Section 73-622; therefore, this provision is not applicable.
- (f) On application for renewal of any such special permit authorized in this Chapter, the Board shall determine whether the circumstances warranting the original grant still obtain. In addition, the Board shall ascertain whether the applicant has complied with the conditions and safeguards theretofore described by the Board during the prior term. In the event that the Board shall find the applicant has been in substantial violation thereof, it shall deny the application for renewal.
 - a. This is a new application; therefore, the renewal provisions are not applicable.
- (g) The Board may permit the *enlargement* or *extension* of any existing *use*, which, if new, would be permitted by special permit in the specified districts under the provisions of Section 73-01 and other applicable provisions of this Chapter, provided that before granting any such permit for *enlargement* or *extension* within the permitted districts, the Board shall make all of the required findings applicable to the special permit *use*, except that:

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- (1) in the case of colleges or universities in R1 or R2 Districts, the Board may waive all such required findings set forth in Section 73-121 (Colleges or universities); and
 - (2) in the case of public utility *uses*, the Board may waive all such required findings set forth in Sections 73-14 (Public Service Establishments) or 73-16 (Public Transit, Railroad or Electric Utility Substations).
- a. The existing use does not require a special permit in the subject zoning district; therefore, this provision is not applicable.

No such *enlargement* or *extension* shall create a new *non-compliance* or increase the existing degree of *non-compliance* with the applicable *bulk* regulations, except as may be permitted in accordance with the provisions of Sections 73-62 to 73-68, inclusive, relating to Modification of Bulk Regulations.

CONCLUSION

As set forth above, the proposed enlargement is located within a designated area and meets the conditions and findings of Zoning Resolution Section 73-622. The proposal also conforms to the character of the neighborhood and will not impair the future use or development of the area. Accordingly, we respectfully request that the Board grant the special permit as it is both appropriate and fully supported by the facts.

Respectfully submitted,



Lyra J. Altman