

123-06-BZ

APPLICANT – Rampulla Associates Architects, for Dr. Ronald Avis, owner.

SUBJECT – Application June 13, 2006 – Variance (§72-21) to permit the legalization of the existing one room, one-story addition which encroaches upon the required 30' rear yard of the existing single-family detached house. The Premise is located in an R3X SHPD/LOGMA zoning district. The proposal is contrary to rear yard (§23-47).

PREMISES AFFECTED – 21 Cheshire Place, north side 905.04' to Victory Boulevard, Block 240, Lot 77, Borough of Staten Island.

COMMUNITY BOARD #1SI

APPEARANCES –

For Applicant: Philip L. Rampulla.

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Otley-Brown and Commissioner Hinkson.....4

Negative:.....0

THE RESOLUTION:

WHEREAS, the decision of the Staten Island Borough Commissioner, dated January 5, 2007, acting on Department of Buildings Application No. 500825093, reads, in pertinent part:

“The proposed legalization of a one room addition at the rear of the premises encroaches into the thirty feet (30'-0”) rear yard and is contrary to the zoning resolution. ZR 23-47.”; and

WHEREAS, this is an application under ZR § 72-21, to permit, in an R3X zoning district, within the Special Hillside Preservation District and the Special Growth Management District, the legalization of an enlargement to a one-story with cellar single-family home, which results in noncompliance as to rear yard, contrary to ZR § 23-47; and

WHEREAS, a public hearing was held on this application on February 27, 2007, after due notice by publication in *The City Record*, and then to decision on March 20, 2007; and

WHEREAS, the site and surrounding area had a site and neighborhood examination by a committee of the Board, including Chair Srinivasan and Commissioner Hinkson; and

WHEREAS, Community Board 1, Staten Island recommends approval of the application; and

WHEREAS, the site is located on the north side of Cheshire Place, east of Melrose Avenue and north of Beverly Avenue; and

WHEREAS, the site is 99.09 ft. in width and has a depth of between 68.08 feet and 69.78 feet, with a total lot area of 6,813 sq. ft.; and

WHEREAS, the site is currently improved upon with a 2,606 sq. ft. (0.38 FAR) one-story with cellar

single-family home; and

WHEREAS, the legal floor area of the home, which was built in 1953, is 2,310 sq. ft. (0.33 FAR); and

WHEREAS, applicant proposes to legalize the as-built condition which includes a 296 sq. ft. addition at the rear at the rear of the home, characterized as a sunroom and built after 1961; and

WHEREAS, the main portion of the house, without the subject addition, has a pre-existing non-complying rear yard depth of 22.30 feet; and

WHEREAS, the site's rear yard abuts the 17th fairway of the Silver Lake Golf Course, which is owned by the New York City Parks Department; and

WHEREAS, the enlargement maintains the two complying side yards; and

WHEREAS, the applicant states that the following are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying district regulations: (1) the shallow depth of the site, (2) the existing non-complying rear and front yards, and (3) the site's adjacency to a City Park/public golf course; and

WHEREAS, as to the site's shallow depth, the applicant states that the range in depth from 68.06 feet to 69.78 feet is an existing non-complying condition from before 1961, when the home was built; and

WHEREAS, as to the uniqueness of this condition, the applicant submitted a 400-ft. radius diagram which shows that the subject site has the shallowest depth of the 14 lots within the radius, with frontage on the golf course; and

WHEREAS, as to the yard conditions, the applicant states that the shallow depth of the lot provided for non-complying front and rear yards; and

WHEREAS, the applicant represents that the home, which was under built at 0.33 FAR (0.50 FAR is the maximum permitted) could not have been enlarged horizontally (1) at the rear without encroaching into the required rear yard since the existing rear yard was only 22.23 feet (a rear yard of 30 feet is the minimum required); (2) at the 16.65 ft. front yard because it is also non-complying (a front yard of 18 feet is the minimum required); or (3) at the side yards because there is not sufficient space to enlarge at the west side of the home and there is a one-story garage at the east side; and

WHEREAS, additionally, the applicant represents that a vertical enlargement would not be feasible because, in order avoid further encroachment into the required front and rear yards, the second floor would have to be setback at both the front and the rear; and

WHEREAS, the applicant notes that in order to accommodate the setbacks, the second floor would require new load-bearing columns and steel structural support because it could not rest on the exterior walls; and

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WHEREAS, the applicant asserts that this requirement would make a second-floor addition prohibitively expensive; and

WHEREAS, as to the site's adjacency to the Silver Lake Golf Course, the applicant represents that ZR § 23-67 (Special Provisions for Zoning Lots adjoining Public Parks) requires that in addition to the rear yard requirement, the rear lot line of the house shall be treated as a front yard and the provisions of ZR § 23-63 (Maximum Height of Front Wall and Required Front Setbacks) shall apply; and

WHEREAS, the applicant represents that these requirements put additional restrictions on any development of the home at the rear; and

WHEREAS, the Board finds that the aforementioned unique physical conditions create a practical difficulty in developing the site in compliance with the applicable zoning provisions; and

WHEREAS, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that a complying enlargement using available floor area would be feasible; and

WHEREAS, the applicant represents that the proposed variance will not negatively affect the character of the neighborhood, nor impact adjacent uses; and

WHEREAS, the applicant represents that most of the houses along both sides of the block are existing one-story single-family detached homes and that the enlargement is compatible with this context; and

WHEREAS, the applicant states that the modest enlargement is completely at the rear of the home and is not visible from the street or from the adjacent golf course because of screening; and

WHEREAS, moreover, the Board notes that the requested FAR increase to 0.38 is within the zoning district parameters; 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; and

WHEREAS, the Board finds that this proposal is for a minor increase in FAR, from 0.33 to 0.38, reflects the minimum necessary to afford the applicant 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.

**A true copy of resolution adopted by the Board of Standards and Appeals, March 20, 2007.
Printed in Bulletin No. 13, Vol. 92.**

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

Therefore it is Resolved that the Board of Standards and Appeals issues a Type II Declaration under 6 NYCRR Part 617.4 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, in an R3X zoning district, within the Special Hillside Preservation District and the Special Growth Management District, the legalization of an enlargement to a one-story with cellar single-family home, which results in noncompliance as rear yard, contrary to ZR § 23-47; *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 November 21, 2006"—three (3) sheets; and *on further condition*:

THAT the parameters of the building shall be as follows: an FAR of 0.38; a floor area of 2,606 sq. ft.; a front yard of 16.65 feet; and a rear yard of 12.23 feet;

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,
March 20, 2007.