

2017-67-BZ

CEQR #17-BSA-108K

APPLICANT – Salim Abraham Jr., for Safanaya Matatov, owner.

SUBJECT – Application March 21, 2017 – Special Permit (§73-622) for the enlargement of an existing single family home contrary to floor area, open space and lot coverage (ZR §23-141); perimeter wall height (ZR §23-631) and side yards (ZR §23-461). R3-2 zoning district.

PREMISES AFFECTED – 2714 Avenue R, Block 6833, Lot 7, Borough of Brooklyn.

COMMUNITY BOARD #15BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Chanda, Commissioner Ottley-Brown and Commissioner Sheta.....4

Negative:0

WHEREAS, the decision of the Department of Buildings (“DOB”), dated March 20, 2017, acting on Alteration Application No. 321395227, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141 in that the proposed floor area ratio exceeds the maximum permitted.
2. Proposed plans are contrary to ZR 23-461 in that the proposed side yard is less than the minimum required.
3. Proposed plans are contrary to ZR 23-141 in that the proposed open space is less than the minimum required.
4. Proposed plans are contrary to ZR 23-631 in that the perimeter wall height exceeds the maximum permitted; and

WHEREAS, this is an application under ZR §§ 73-622 and 73-03 to permit, in an R3-2 zoning district, the enlargement of an existing residence that does not comply with zoning regulations for floor area ratio (“FAR”), side yards, open space and perimeter wall height, contrary to ZR §§ 23-141, 23-461, 23-631; and

WHEREAS, a public hearing was held on this application on October 3, 2017, after due notice by publication in *The City Record*, with a continued hearing on December 12, 2017, and then to decision on January 9, 2018; and

WHEREAS, Vice-Chair Chanda and Commissioner Ottley-Brown performed inspections of the site and surrounding neighborhood; and

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

WHEREAS, the subject site is located on the south side of Avenue R, between East 27th Street and East 28th Street, in an R3-2 zoning district, in Brooklyn; and

WHEREAS, the site has approximately 33 feet of

frontage along Avenue R, 100 feet of depth, 3,300 square feet of lot area and is occupied by an existing 2-story, with attic, detached single-family residence; and

WHEREAS, ZR § 73-622 provides that:

The Board of Standards and Appeals may permit an *enlargement* of an existing *single- or two-family detached or semi-detached residence* within the following areas:

- (a) Community Districts 11 and 15, in the Borough of Brooklyn; and
- (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 (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 (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; and

WHEREAS, the Board notes that in addition to the foregoing, its determination herein is also subject to and guided by, inter alia, ZR §§ 73-01 through 73-04; and

WHEREAS, as a threshold matter, the Board notes that the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the Board notes further that the subject application seeks to enlarge an existing detached single-family residence, as contemplated in ZR § 73-622; and

WHEREAS, the applicant proposed to enlarge the existing residence from 1,400 square feet of floor area (0.42 FAR) to 2,251 square feet of floor area (0.68 FAR), maintain the existing 3'-10" side yard, decrease the open space from 69.2 percent to 58.48 percent and increase the perimeter wall height from 20'-8" to 22'-0"; and

WHEREAS, the applicant represents that, at the subject site, floor area may not exceed 1,650 square feet (0.50 FAR) under ZR § 23-141, side yards must have a minimum depth of 5 feet under ZR § 23-461, minimum required open space must be at least 65 percent under ZR § 23-141 and the perimeter wall height may not exceed 21 feet under ZR § 23-631; and

WHEREAS, the applicant submits that the proposed building as enlarged is consistent with the essential character of the neighborhood; and

WHEREAS, in support of this contention, the applicant surveyed properties within the immediate area surrounding the subject site occupied by single- or two-family residences, finding that 29 residences have

FARs in excess of 0.71, ranging from 0.75 FAR to 1.23 FAR; and

WHEREAS, in addition to the floor area study, the applicant also submitted a photographic streetscape study, lot coverage diagram and rear yard diagram to support that the enlarged building would not alter the neighborhood's character; and

WHEREAS, based upon its review of the record and inspections of the subject site and surrounding neighborhood, the Board finds that the proposed building as enlarged will not alter the essential character of the neighborhood or district in which the subject building is located, nor impair the future use or development of the surrounding area; and

WHEREAS, the Board finds that, under the conditions and safeguards imposed, any hazard or disadvantage to the community at large due to the proposed bulk modifications is outweighed by the advantages to be derived by the community and finds no adverse effect on the privacy, quiet, light and air in the neighborhood; and

WHEREAS, the proposed modification of bulk regulations will not interfere with any pending public improvement project; and

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

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action noted in the CEQR Checklist No. 17BSA108K, dated July 24, 2017; and

WHEREAS, the Board finds that the evidence in the record supports the findings required to be made under ZR §§ 73-622 and 73-03 and that the applicant has substantiated a basis to warrant exercise of discretion.

Therefore it is Resolved, that the Board of Standards and Appeals does hereby *issue* a Type II determination under 6 NYCRR 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 each and every one of the required findings under ZR §§ 73-622 and 73-03 to *permit*, in an R3-2 zoning district, the enlargement of an existing residence that does not comply with zoning regulations for floor area ratio, side yards, open space and perimeter wall height, contrary to ZR §§ 23-141, 23-461, 23-631; *on condition* that all work and site conditions shall substantially conform to drawings filed with this application marked "Received December 22, 2017"-Twelve (12) sheets; and *on further condition*:

THAT the bulk parameters of the building shall be as follows: floor area shall be limited to a maximum of 2,251 square feet (0.68 FAR), side yards shall have minimum depths of 3'-10" and 8'-9", there shall be a

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minimum of 58.48 percent open space and height of the perimeter wall shall be no more than 22'-0", as illustrated on the Board-approved plans;

THAT all existing exterior walls and wall joists indicated to remain undisturbed on the Board-approved plans shall remain or the special permit is void;

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

THAT a certificate of occupancy shall be obtained within four (4) years, by January 9, 2022;

THAT this approval is limited to the relief granted by the Board in response to objections cited and filed by the Department of Buildings;

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 plans or configurations not related to the relief granted.

Adopted by the Board of Standards and Appeals, January 9, 2018.

A true copy of resolution adopted by the Board of Standards and Appeals, January 9, 2018.

Printed in Bulletin Nos. 1-3, Vol. 103.

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

