

2018-4-BZ

CEQR #18-BSA-083K

APPLICANT – Law Office of Lyra J. Altman, for Laura Betesh and Isaac A. Cabasso, owners.

SUBJECT – Application January 16, 2018 – Special Permit (§73-622) for the enlargement of an existing single-family home contrary ZR §23-142 (floor area, open space and lot coverage); ZR §23-48 (side yards) and ZR §23-47 (rear yard). R4 zoning district.

PREMISES AFFECTED – 2213 East 13th Street, Block 7374, Lot 79, 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, Commissioner Sheta and Commissioner Scibetta.....5

Negative:0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated December 19, 2017, acting on Department of Buildings (“DOB”) Application No. 321636011 reads in pertinent part:

The proposed enlargement of the existing one family residence in an R4 zoning district:

1. Creates non-compliance with respect to floor area by exceeding the allowable floor area ratio and is contrary to Section 23-142 of the Zoning Resolution;
2. Creates non-compliance with respect to the lot coverage and is contrary to Section 23-142 of the Zoning Resolution;
3. Creates non-compliance with respect to the side yards by not meeting the maximum requirement of Section 23-48 of the Zoning Resolution;
4. Creates non-compliance with respect to the rear yard by not meeting the minimum requirements of Section 23-47 of the Zoning Resolution;
5. Creates non-compliance with respect to the open space by not meeting the minimum requirements of Section 23-142 of the Zoning Resolution; and

WHEREAS, this is an application under ZR § 73-622 to permit, in an R4 zoning district, the enlargement of a detached one-family dwelling that does not comply with the zoning requirements for floor area ratio (“FAR”), open space, lot coverage, side yards, and rear yards contrary to ZR §§ 23-142, 23-48, and 23-47; and

WHEREAS, a public hearing was held on this application on August 14, 2018, after due notice by publication in *The City Record*, with a continued hearing on August 21, 2018, and November 8, 2018, and then to decision on that date; and

WHEREAS, Commissioner Ottley-Brown and Commissioner Scibetta 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 east side of East 13th Street, between Avenue V and Gravesend Neck Road, in an R4 zoning district, in Brooklyn; and

WHEREAS, the site has approximately 25 feet of frontage, 100 feet of depth, 2,500 square feet of lot area and is occupied by a detached one-story plus cellar one-family dwelling containing 1,085 square feet of floor area (0.43 FAR), 43 percent of lot coverage, 57 percent of open space, two (2) side yards with widths of 2’-11.25” and 3’-5.25”, and a rear yard with a depth of 34’-4”; and

WHEREAS, ZR § 73-622 provides that:

The Board of Standards and Appeals may permit an *enlargement* of an existing *single* 1- 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,

1 Words in *italics* are defined in Section 12-10 of the Zoning Resolution.

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 this application located within an area in which the special permit is available; and

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

WHEREAS, the applicant proposes to enlarge the existing detached dwelling by horizontally extending the dwelling into the rear yard, constructing a front yard porch, and vertically enlarging the dwelling, resulting in a two-story plus attic and cellar dwelling with 3,106 square feet of floor area (1.24 FAR), 51 percent of lot coverage, 49 percent of open space, and a rear yard with a depth of 24'-11"; and

WHEREAS, the applicant proposes to maintain the

two (2) existing side yards with depths of 2'-11.25" and 3'-5.25", and front yard of 6'-6"; and

WHEREAS, the proposed enlargement includes a vertical and horizontal extension of the two (2) existing non-complying side yards with widths of 2'-11.25" and 3'-5.25", and the applicant has submitted a 1929 Desk Atlas map of the immediate area, including the subject site, demonstrating that the subject site was developed with a semi-detached dwelling in approximately the same orientation as the site is occupied today and, thus, the non-complying side yards predated the 1961 Zoning Resolution and are legal non-compliances; and

WHEREAS, at the subject site, a maximum of 0.75 FAR (1,875 square feet of floor area) or 0.9 FAR (2,250 square feet of floor area), including an increase in the permissible FAR by 20 percent if such increase in floor area is located directly under a sloping roof that rises at least three (3) and one half (1/2) inches in vertical distance for each foot of horizontal distance and the structural headroom of such floor area is between five (5) and eight (8) feet, a maximum of 45 percent lot coverage is permitted, and a minimum of 55 percent open space is required pursuant to ZR § 23-142, two (2) side yards, each with a minimum width of five (5) feet, are required pursuant to ZR § 23-48, and a minimum rear yard depth of 30 feet is required pursuant to ZR § 23-47; and

WHEREAS, the applicant provided an analysis of single- or two-family dwellings located within 400 feet of the subject premises within an R4 zoning district (the "Study Area") concluding that, of the 105 qualifying residences, 49 residences (47 percent) have an FAR greater than 0.75, and 37 residences (35 percent) have FARs ranging from 0.90 to 1.75; and

WHEREAS, with regards to lot coverage and open space, the applicant demonstrated that 60 residences (57 percent) within the Study Area have a lot coverage greater than 45 percent, ranging from 46 percent to 66 percent, and open space of less than 55 percent, ranging from 54 percent to 34 percent; and

WHEREAS, with regards to the proposed rear yard, the applicant provided an analysis of the rear yard conditions on the subject block demonstrating that, of the 43 other lots on the subject block occupied by single- or two-family dwellings, 12 lots (28 percent) have rear yards with a depth of less than 30 feet, with rear yards ranging in depth from 21 feet to 29 feet; and

WHEREAS, the applicant also submitted a photographic streetscape demonstrating that the proposed building will fit in with the built conditions of the surrounding area; 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

2018-4-BZ

CEQR #18-BSA-083K

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 modification of bulk regulations 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 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. 18-BSA-083K, dated January 18, 2018; and

WHEREAS, in light of the foregoing, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 73-622.

Therefore, it is Resolved, that the Board of Standards and Appeals issues 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 the required findings under ZR § 73-622 to permit, in an R4 zoning district, the enlargement of a detached one-family dwelling that does not comply with the zoning requirements floor area ratio, open space, lot coverage, side yards, and rear yards contrary to ZR §§ 23-142, 23-48, and 23-47; *on condition* that all work shall substantially conform to drawings as they apply to the objection above-noted, filed with this application and marked "October 18, 2018"—Nineteen(19) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area ratio of 1.24 (3,106 square feet of floor area), a minimum of 49 percent open space, a maximum of 51 percent lot coverage, side yards with minimum widths of 2'-11.25" and 3'-5.25", and a rear yard with a minimum depth of 24'-11", as illustrated on BSA-approved plans;

THAT the removal of exterior walls and/or joists in excess of those indicated on the BSA-approved plans is prohibited and shall void the special permit;

THAT the above conditions shall be indicated on the certificate of occupancy;

THAT a certificate of occupancy indicating this approval and calendar number ("BSA Cal. No. 2018-4-BZ") shall be obtained within four (4) years, by

A true copy of resolution adopted by the Board of Standards and Appeals, November 8, 2018.

Printed in Bulletin No. 46, Vol. 103.

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

November 8, 2022;

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

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

THAT DOB shall 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, November 8, 2018.

