

268-13-BZ

APPLICANT – Belkin Burden Wenig & Goldman, LLP, for Rachel H.Opland, Adrienne & Maurice Hayon, owner.

SUBJECT – Application September 13, 2013 – Special Permit (§73-621) to permit legalize an enlargement to a three-story mixed use building, contrary to lot coverage regulations (§23-141). R5 zoning district.

PREMISES AFFECTED – 2849 Cropsey Avenue, north east side of Cropsey Avenue, approximately 25.9 feet northwest from the corner formed by the intersection of Bay 50th St. and Cropsey Avenue, Block 6917, Lot 55, Borough of Brooklyn.

COMMUNITY BOARD #13BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez.....4
Negative:.....0
Absent: Vice Chair Collins.....1

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner of the Department of Buildings (“DOB”), dated July 16, 2013, acting on DOB Application No. 302287200, reads in pertinent part:

Proposed lot coverage of 58.5 percent . . .
[is] an increase in lot coverage of 3.3 percent; and

WHEREAS, this is an application under ZR § 73-621, to permit, within an R5 (C2-2) zoning district, legalization of an enlargement of an existing two-family home, which does not comply with the zoning requirements for lot coverage, contrary to ZR § 23-141; and

WHEREAS, a public hearing was held on this application February 25, 2014, after due notice by publication in *The City Record*, with a continued hearing on March 25, 2014, and then to decision on April 8, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Commissioner Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown; and

WHEREAS, Community Board 13, Brooklyn, recommends approval of this application; and

WHEREAS, the subject site is an irregularly-shaped lot located on the east side of Cropsey Avenue, between Bay 49th Street and Bay 50th Street, within an R5 (C2-2) zoning district; and

WHEREAS, the site has 20 feet of frontage along Cropsey Avenue, approximately 31 feet of frontage along Bay 50th Street, and 1,845 sq. ft. of lot area; and

WHEREAS, the site is currently occupied by a three-story, two-family home with 3,240 sq. ft. of floor area (1.75 FAR); and

WHEREAS, the applicant represents that, in 2009, DOB approved plans for the redevelopment of the building under Application No. 302287200; the redevelopment included the construction of a third story, the relocation of the dwelling unit on the first story to the third story, and the conversion of commercial space on the first story to a community facility; and

WHEREAS, the applicant states that permits were issued in 2009, and construction proceeded; in 2011, DOB determined that the approval was erroneous, in that it permitted the filling-in of an existing courtyard, which increased the non-complying lot coverage for the building from 55.28 percent to 58.53 percent, which is not permitted under ZR §§ 23-141 and 54-31; and

WHEREAS, accordingly, the applicant now seeks to legalize the increase in lot coverage; and

WHEREAS, the special permit authorized by ZR § 73-621 is available to enlarge buildings containing residential uses that existed on December 15, 1961, or, in certain districts, on June 20, 1989; therefore, as a threshold matter, the applicant must establish that the subject building existed as of that date; and

WHEREAS, the applicant submitted excerpts from the 1968, 1987, and 1989 Sanborn Maps to demonstrate that the building existed as a residence well before June 20, 1989, which is the operative date within the subject R5 (C2-2) district; the applicant also submitted an affidavit from one of the owners of the building and photographs from 1988 and 1989 to further support its representation that the building existed as a residence before June 20, 1989; and

WHEREAS, accordingly, the Board acknowledges that the special permit under ZR § 73-621 is available to enlarge the building; and

WHEREAS, ZR § 73-621 permits the enlargement of a residential building, provided that the proposed lot coverage does not exceed 110 percent of the maximum permitted (55 percent); and

WHEREAS, the applicant represents that the proposed lot coverage (58.53 percent) is 106 percent of the maximum permitted (55 percent); and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed enlargement satisfies all of the relevant requirements of ZR § 73-621; and

WHEREAS, based on its review of the record, the Board finds that the proposed enlargement will neither alter the essential character of the surrounding neighborhood, nor impair the future use and development of the surrounding area; and

WHEREAS, the Board finds that the legalization does not interfere with any pending public improvement project; 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 special permit use is outweighed by the

268-13-BZ

advantages to be derived by the community; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR §§ 73-621 and 73-03.

Therefore it is Resolved, that the Board of Standards and Appeals issues a Type II determination under 6 NYCRR Part 617.5 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 ZR §§ 72-21 and 73-621, to permit, within an R5 (C2-2) zoning district, legalization of an enlargement of an existing two-family home, which does not comply with the zoning requirements for lot coverage, contrary to ZR § 23-141; *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 December 12, 2013"- (1) sheet and "January 14, 2014"- (6) sheets; and *on further condition*:

THAT the parameters of the proposed building will be limited to: three stories, two dwelling units, a maximum floor area of 3,240 sq. ft. (1.75 FAR), a maximum building height of 33'-6", 58.53 percent lot coverage, and a minimum rear yard depth of 46'-0", as per the BSA-approved plans;

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

THAT the approved plans will be considered approved only for the portions related to the specific relief granted;

THAT significant construction will proceed in accordance with ZR §§ 72-23 and 73-70; and

THAT DOB 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, April 8, 2014.

A true copy of resolution adopted by the Board of Standards and Appeals, April 8, 2014.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

