

248-13-BZ

APPLICANT – Sheldon Lobel, P.C., for Moshe Benefeld, owner.

SUBJECT – Application August 23, 2014 – Special Permit (§73-622) for the enlargement of an existing single-family home, contrary to floor area and open space (23-141a); side yards (23-461). R2 zoning district.

PREMISES AFFECTED – 1179 East 28th Street, east side of East 28th Street, approximately 127’ north of Avenue L, Block 7628, Lot 13, Borough of Brooklyn.

COMMUNITY BOARD #14BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez4
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated July 26, 2013, acting on DOB Application No. 301411363, reads in pertinent part:

1. Proposed plans are contrary to ZR 23-141(a) in that the proposed floor area ratio exceeds the permitted 50 percent;
2. Proposed plans are contrary to ZR 23-141(a) in that the proposed open space ratio is less than the required 150 percent;
3. Plans are contrary to ZR 23-461(a) in that the existing minimum side yards is less than the required minimum 5’-0”;
4. Proposed plans are contrary to ZR 23-47 in that the proposed rear yard is less than 30’-0” and

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, and side and rear yards, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on January 6, 2015, after due notice by publication in *The City Record*, with continued hearings on February 10, 2015, March 10, 2015, and April 14, 2015 and then to decision on May 12, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez, and Commissioner Ottley-Brown performed inspections of the site and premises, as well as the surrounding neighborhood; and

WHEREAS, Community Board 14, Brooklyn, recommends approval of the application; and

WHEREAS, the subject site is located on the east side of East 28th Street, between Avenue K and Avenue L, within an R2 zoning district; and

WHEREAS, the site has 26.67 feet of frontage along East 28th Street and approximately 2,667 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story, single-family home with approximately 2,306 sq. ft. of floor area (0.86 FAR); and

WHEREAS, the applicant notes that the existing home was constructed pursuant to a BSA special permit (ZR § 73-622) issued under BSA Cal. No. 29-03-BZ; and

WHEREAS, the site is within the boundaries of a designated area in which the subject special permit is available; and

WHEREAS, the applicant now seeks to enlarge the building, resulting in an increase in the floor area from 2,306 sq. ft. (0.86 FAR) to 2,686 sq. ft. (1.01 FAR); the maximum permitted floor area is 1,333 sq. ft. (0.5 FAR); and

WHEREAS, the applicant seeks to reduce the non-complying open space ratio of the site from 65 percent to 58 percent; the minimum open space ratio is 150 percent; and

WHEREAS, the applicant seeks to maintain and extend its non-complying side yards, which have widths of 3’-11” and 4’-5”;

WHEREAS, the applicant seeks to increase its non-complying rear yard from 19’-6” to 20’-0”;

WHEREAS, the applicant represents that the proposed building will not alter the essential character of the neighborhood and will not impair the future use or development of the surrounding area; and

WHEREAS, the applicant contends that the proposed FAR is entirely consistent with the neighborhood and submitted a land use study in support of that contention; and

WHEREAS, at hearing, the Board expressed concerns regarding the compatibility of the proposed home’s massing with the prevailing character of the streetscape; the Board also directed the applicant to amend its plans to include complete and accurate floor area calculations and proposed plantings; and

WHEREAS, in response, the applicant made changes to the roofline to reduce the apparent mass of the streetwall and roof; the applicant also amended its plans, as directed; and

WHEREAS, based upon 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

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WHEREAS, therefore, 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 N.Y.C.R.R. 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, on a site within an R2 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for FAR, open space ratio, and side and rear yards, contrary to ZR §§ 23-141, 23-461, and 23-47; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked “Received April 30, 2015”–(11) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 2,686 sq. ft. (1.01 FAR), a minimum open space ratio of 58 percent, side yards with minimum widths of 3’-11” and 4’-5”, and a rear yard with a minimum depth of 20’-0”, as illustrated on the BSA-approved plans;

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

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

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by May 12, 2019; 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 the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, May 12, 2015.

**A true copy of resolution adopted by the Board of Standards and Appeals, May 12, 2015.
Printed in Bulletin Nos. 20-21, Vol. 100.**

**Copies Sent
To Applicant
Fire Com'r.
Borough Com'r.**

