

**\*CORRECTION**

**The resolution adopted on March 4, 2014, under Calendar No. 128-13-BZ and printed in Volume 99, Bulletin No. 10, is hereby corrected to read as follows:**

**128-13-BZ**

APPLICANT – Sheldon Lobel, PC, for Zev and Renee Marmustein, owner.

SUBJECT – Application May 3, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to floor area, open space and lot coverage (§23-141(b)); side yards (§23-461(a)); less than the required rear yard (§23-47) and perimeter wall height (§23-631(b)) regulations. R3-2 zoning district.

PREMISES AFFECTED – 1668 East 28th Street, west side of East 28th Street 200' north of the intersection formed by East 28th Street and Quentin Road, Block 6790, Lot 23, Borough of Brooklyn.

**COMMUNITY BOARD #15BK**

**ACTION OF THE BOARD** – Application granted on condition.

**THE VOTE TO GRANT** –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez .....5  
Negative:.....0

**THE RESOLUTION** –

WHEREAS, the decision of the Brooklyn Borough Commissioner of the New York City Department of Buildings (“DOB”), dated April 16, 2013, acting on DOB Application No. 301408046, reads in pertinent part:

1. Proposed plans are contrary to ZR § 23-141(b), in that the proposed floor area ratio exceeds the maximum permitted;
2. Proposed plans are contrary to ZR § 23-141(b), in that the open space provided is less than the minimum required;
3. Proposed plans are contrary to ZR § 23-141(b), in that the lot coverage proposed exceeds the maximum permitted;
4. Proposed plans are contrary to ZR § 23-461(a) in that the proposed enlargement increases the degree of non-compliance with respect to the minimum required side yards;
5. Proposed plans are contrary to ZR § 23-47, in that the proposed enlargement increases the degree of non-compliance with respect to the minimum required rear yard;
6. Proposed plans are contrary to ZR § 23-631(b), in that the proposed enlargement increases the degree of non-compliance

with respect to the maximum permitted wall height; and

WHEREAS, this is an application under ZR § 73-622, to permit, within an R3-2 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, lot coverage, side yards, rear yard, and perimeter wall height, contrary to ZR §§ 23-141, 23-461, 23-47 and 23-631; and

WHEREAS, a public hearing was held on this application on December 17, 2013, after due notice by publication in *The City Record*, with a continued hearing on January 28, 2014, and then to decision on March 4, 2014; and

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

WHEREAS, Community Board 15, Brooklyn, recommends disapproval of the original the application; and

WHEREAS, certain members of the surrounding community testified in opposition to this application (the “Opposition”), alleging that the proposed floor area (5,009.21 sq. ft. (1.0 FAR)) and absence of a side yard along the north side of the site (which was an extension of an existing zero lot line condition) were inconsistent with the character of the neighborhood; and

WHEREAS, in response, the applicant reduced the floor area from 5,009.21 sq. ft. (1.0 FAR) to 4,885 sq. ft. (0.98 FAR), eliminated the zero lot line condition, and provided a side yard with a minimum width of 3’-8¾”, which the Opposition found acceptable; as a result, the Opposition withdrew its objection to the application; and

WHEREAS, the subject site is located on the west side of East 28th Street, between Avenue P and Quentin Road, within an R3-2 zoning district; and

WHEREAS, the site has a total lot area of 5,000 sq. ft. and is occupied by a single-family home with a floor area of 2,795 sq. ft. (0.56 FAR); 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 an increase in the floor area from 2,795 sq. ft. (0.56 FAR) to 4,885 sq. ft. (0.98 FAR); the maximum permitted floor area is 2,500 sq. ft. (0.5 FAR); and

WHEREAS, the applicant seeks to reduce the open space from 72 percent to 62 percent; the minimum required open space is 65 percent; and

WHEREAS, the applicant seeks to increase the lot coverage from 28 percent to 38 percent; the maximum permitted lot coverage is 35 percent; and

WHEREAS, the applicant seeks to maintain one existing, complying side yard with a width of 8’-3” and increase the width of the existing non-complying side yard from 0’-0” (at its narrowest point) to 3’-8¾” (the

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requirement is two side yards with a minimum total width of 13'-0" and a minimum width of 5'-0" each); and

WHEREAS, the applicant also seeks to decrease its non-complying rear yard depth from 28'-5¼" to 20'-0"; a rear yard with a minimum depth of 30'-0" is required; and

WHEREAS, finally, the applicant seeks to maintain and extend its existing, non-complying perimeter wall height of 22'-6⅞"; the maximum permitted perimeter wall height is 21'-0"; and

WHEREAS, the Board notes that ZR § 73-622(3) allows the Board to waive the perimeter wall height only in instances where the proposed perimeter wall height is equal to or less than the height of the adjacent building's non-complying perimeter wall facing the street; and

WHEREAS, the applicant represents that the proposed perimeter wall height (22'-6⅞") is less than the height of the adjacent building's non-complying perimeter walls facing the street (22'-8¼"), and the applicant submitted a survey in support of this representation; and

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, in particular, the applicant represents that the proposed 0.98 FAR is consistent with the bulk in the surrounding area and notes that, in recent years, the Board has granted special permits for home enlargements on nearby streets (East 21st, East 22nd, and Avenue S) with FARs in excess of 1.0; and

WHEREAS, additionally, the applicant notes that a portion of the existing home is built to the north side lot line and the proposal includes the removal of that portion and the inclusion of a side yard with a width of 3'-8¾"; and

WHEREAS, accordingly, the Board agrees with the applicant that the proposed bulk is compatible with the character of the neighborhood; 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

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, within an R3-2 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, lot coverage, side yards, rear yard, and perimeter wall height, contrary to ZR §§ 23-141, 23-461, 23-47 and 23-631; *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 February 18, 2014" – Twelve (12) sheets; and *on further condition:*

THAT the following will be the bulk parameters of the building: a maximum floor area of 4,885 sq. ft. (0.98 FAR), a minimum open space of 62 percent, a maximum lot coverage of 38 percent, a minimum rear yard depth of 20'-0", side yards with minimum widths of 8'-3" and 3'-8¾", and a maximum perimeter wall height of 22'-6⅞", as illustrated on 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 objections(s);

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

THAT substantial construction be completed in accordance with ZR § 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 the plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, March 4, 2014.

**\*The resolution has been amended. Corrected in Bulletin Nos. 12-13, Vo. 99, dated April 3, 2014.**

**A true copy of resolution adopted by the Board of Standards and Appeals, March 4, 2014.  
Printed in Bulletin No. 10, Vol. 99.**

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

