

76-13-BZ

APPLICANT – Eric Palatnik, P.C., for Victor Pometko, owner.

SUBJECT – Application February 21, 2013 – Special Permit (§73-622) for the enlargement of an existing single family home, contrary to lot coverage and floor area (§23-141), side yards (§23-461), and less than the minimum required rear yard (§23-47). R3-1 zoning district.

PREMISES AFFECTED – 176 Oxford Street, between Oriental Boulevard and Shore Boulevard, Block 8757, Lot 10, 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 Montanez5
Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner of the New York City Department of Buildings (“DOB”), dated November 15, 2013, acting on DOB Application No. 301408046, reads in pertinent part:

The proposed horizontal and vertical enlargement of the existing one-family residence in an R3-1 zoning district:

1. Creates a new non-compliance with respect to lot coverage, contrary to Section 23-141(b) of the Zoning Resolution;
2. Creates a new non-compliance with respect to floor area ratio, contrary to Section 23-141(b) of the Zoning Resolution
3. Creates a new non-compliance with respect to rear yard, contrary to 23-47 of the Zoning Resolution
4. Increases the degree of non-compliance with respect to side yards, contrary 23-461(a); and

WHEREAS, this is an application under ZR § 73-622, to permit, within an R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), lot coverage, side yards, and rear yard, contrary to ZR §§ 23-141, 23-461, and 23-47; and

WHEREAS, a public hearing was held on this application on January 28, 2014, after due notice by publication in *The City Record*, with a continued hearing on February 25, 2014, and then to decision on March 25, 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 approval of the application; and

WHEREAS, the subject site is located on the west side of Oxford Street, between Shore Boulevard and Oriental Boulevard, within an R3-1 zoning district; and

WHEREAS, the site has a total lot area of 2,500 sq. ft. and is occupied by a single-family home with a floor area of 1,267 sq. ft. (0.51 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 1,267 sq. ft. (0.51 FAR) to 2,280 sq. ft. (0.91 FAR); the maximum permitted floor area is 1,500 sq. ft. (0.6 FAR); and

WHEREAS, the applicant seeks to increase the lot coverage from 41 percent to 47 percent; the maximum permitted lot coverage is 35 percent; and

WHEREAS, the applicant seeks to maintain and extend the building’s existing non-complying yard widths of 2’-9” and 0’-1” (the 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 24’-8” to 20’-0”; a rear yard with a minimum depth of 30’-0” is required; 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, the applicant represents and the Board agrees that the proposed 0.91 FAR is consistent with the bulk in the surrounding area; and

WHEREAS, further, the Board acknowledges that, in recent years, it has granted special permits authorizing enlargements resulting in similar FARs for buildings in the surrounding area; and

WHEREAS, at hearing, the Board directed the applicant to submit additional evidence regarding the legality of the north side yard; and

WHEREAS, in response, the applicant submitted: (1) the DOB-approved plans from 1974; (2) a 1974 letter from the DOB Borough Superintendent stating that the work has been completed; and (3) a letter from a professional engineer stating that the yard is legal; and

WHEREAS, the Board finds that DOB’s approval of the plans and sign-off of the completed work are, when considered together, sufficient evidence of the legality of the north side yard; 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

76-13-BZ

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 R3-1 zoning district, the proposed enlargement of a single-family home, which does not comply with the zoning requirements for FAR, lot coverage, side yards, and rear yard, 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 March 11, 2014" – (11) sheets; and *on further condition*:

THAT the following will be the bulk parameters of the building: a maximum floor area of 2,280 sq. ft. (0.91 FAR), a maximum lot coverage of 47 percent, side yards with minimum widths of 2'-9" and 0'-1", and a minimum rear yard 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 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 25, 2014.

**A true copy of resolution adopted by the Board of Standards and Appeals, March 25, 2014.
Printed in Bulletin Nos. 12-13, Vol. 99.**

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

