

**45-14-BZ**

APPLICANT – Eric Palatnik, P.C., for Athina Orthodoxou, owner.

SUBJECT – Application March 18, 2014 – Special Permit (§73-622) to enlarge an existing semi-detached two story dwelling and to vary the floor area ratio requirements, and to convert the one family home into a two family home. R4-1 zoning district.

PREMISES AFFECTED – 337 99th Street, between 3rd and 4th Avenues, Block 6130, Lot 43, Borough of Brooklyn.

**COMMUNITY BOARD #10BK**

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

**THE VOTE TO GRANT** –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown and Commissioner Montanez.....4  
Negative:.....0

**THE RESOLUTION** –

WHEREAS, the decision of the New York City Department of Buildings (“DOB”), dated June 28, 2014, acting on DOB Application No. 320921909, denied the application on the basis of the bulk of the proposed building; and

WHEREAS, this is an application under ZR § 73-622, to permit, on a site within an R4-1 zoning district, within the Special Bay Ridge District, the proposed enlargement of a non-complying two-story, two-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”) and rear yards contrary to ZR §§ 23-141 and 23-47; and

WHEREAS, a public hearing was held on this application on October 21, 2014, after due notice by publication in *The City Record*, with continued hearings on November 25, 2014, January 6, 2015 and February 10, 2015, and then to decision on March 10, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site and neighborhood; and

WHEREAS, Community Board 10, Brooklyn, recommends approval of the application; and

WHEREAS, the subject non-complying site is located on the north side of 99<sup>th</sup> Street, between 3<sup>rd</sup> Avenue and 4<sup>th</sup> Avenue, within an R4-1 zoning district within the Special Bay Ridge District; and

WHEREAS, the site has 22 feet of frontage along 99<sup>th</sup> Street, a depth of 100 feet, and 2,200 sq. ft. of lot area; and

WHEREAS, the site is occupied by a two-story, two-family home with 2,137.81 sq. ft. of floor area (0.97 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 to enlarge the building, resulting in an increase in the floor area

from 2,137.81 sq. ft. (0.97 FAR) to 2,563.85 sq. ft. (1.16 FAR); the maximum permitted floor area is 1,650 sq. ft. (0.75 FAR); and

WHEREAS, the applicant seeks to decrease its rear yard from 35’-8” to 20’-0”; the requirement is a minimum depth of 30’-0”; 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, at a hearing, the Board expressed concern about the impact of the proposed FAR and 20’-0” rear yard; and

WHEREAS, the applicant stated that the proposed enlargement of the building is at the basement level only, which has a height of approximately 9’-0” above curb level, and that only the basement level will encroach into the 30’-0” required rear yard; and

WHEREAS, the applicant submitted a rear yard study to support its assertion that the proposed 20’-0” rear yard at the basement level was characteristic of buildings on the block and consistent with neighborhood character; and

WHEREAS, the applicant submitted a land use study showing sites within 400’ of the subject site which are 40 feet or less in width containing residential buildings with an FAR of .9 or greater, including 22 buildings with an FAR equal to or in excess of the proposed building; and

WHEREAS, the Board notes that the total height of the subject building (27’-0”) and the wall height of the subject building (15’-0”) will not be increased; 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, on a site within an R4-1 zoning district, within the Special Bay Ridge District, the proposed enlargement of a two-story, two-family home, which does not comply with the zoning requirements for FAR, and rear yards, contrary to ZR §§ 23-141 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 November 12, 2014”– (9) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 2,563.85 sq.

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ft. (1.16 FAR) 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 March 10, 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, March 10, 2015.

**A true copy of resolution adopted by the Board of Standards and Appeals, March 10, 2015.**

**Printed in Bulletin No. 12, Vol. 100.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

