

**122-14-BZ**

APPLICANT – Lewis E Garfinkel, for Ariel Boiangiu, owner.

SUBJECT – Application October 21, 2014 – Special Permit (§73-622) for the enlargement of an existing single family semi-detached home contrary to floor area and open space ZR 23-141; side yards ZR 23-461 and less than the required rear yard ZR 23-47. R2 zoning district.

PREMISES AFFECTED – 1318 East 28th Street, west side of 28th Street 140 feet of Avenue M, Block 7663, Lot 56, 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 Montanez.....4  
Negative:.....0

**THE RESOLUTION** –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated May 22, 2014, acting on DOB Application No. 320595129, reads in pertinent part:

1. The proposed enlargement exceeds the 0.50 maximum permitted floor area ratio contrary to ZR 23-141(a);
2. The proposed enlargement exceeds the 150 maximum permitted open space ratio contrary to ZR 23-141(a);
3. Two side yards are required for a total of 13’-0” with any side yard a minimum width of 5’-0”; the proposed side yards are contrary to ZR 23-461(a);
4. The proposed rear yard is less than the 30 feet required contrary to ZR 23-47; 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 semi-detached, two-story, single-family home, which does not comply with the zoning requirements for floor area ratio (“FAR”), open space ratio, and rear and side yards, contrary to ZR §§ 23-141, 23-461, 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, February 10, 2015, and March 10, 2015, and then to decision on March 31, 2015; and

WHEREAS, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Ottley-Brown performed inspections of the subject site and 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 M and Avenue N, within an R2 zoning district; and

WHEREAS, the site has 20 feet of frontage along East 28th Street and 2,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a semi-detached, two-story, single-family home with 1,372 sq. ft. of floor area (0.68 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 1,372 sq. ft. (0.68 FAR) to 2,000 sq. ft. (1.0 FAR); the maximum permitted floor area is 1,000 sq. ft. (0.50 FAR); and

WHEREAS, the applicant seeks to maintain and extend its non-complying side yards, which have widths of 6’-10” and 0’-0” (the home is semi-detached with the home directly south of the site); 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 seeks to decrease its non-complying open space ratio from 91 percent and to 54 percent; a minimum open space ratio of 150 percent is required; and

WHEREAS, the applicant seeks to decrease its rear yard from 32’-10” 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 directed the applicant to: (1) modify the attic to reduce the apparent height and mass of the home; and (2) provide analysis of the surrounding rear yard conditions to support the assertion that a rear yard with a depth of 20’-0” is consistent with neighborhood character; and

WHEREAS, in response, the applicant modified the attic at the front and at the rear; the applicant also provided photos and a land use study, which demonstrate that the proposed rear yard depth does not negatively impact 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

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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 semi-detached, two-story, single-family home, which does not comply with the zoning requirements for FAR, open space ratio, and rear and side 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 March 19, 2015"– twelve (12) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 2,000 sq. ft. (1.0 FAR), one side yard with a minimum width of 6'-10", a minimum open space ratio of 54 percent, 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 31, 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 31, 2015.

**A true copy of resolution adopted by the Board of Standards and Appeals, March 31, 2015.**

**Printed in Bulletin No. 15, Vol. 100.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

