

93-15-BZ

CEQR #15-BSA-197Q

APPLICANT – Sheldon Lobel, P.C., for Shalom Stein, owner.

SUBJECT – Application April 27, 2015 – Variance (§72-21) to construct a new UG4 Synagogue at the premises to certain bulk and parking regulations and waiver of the floor area side yard, located within an R2X zoning district.

PREMISES AFFECTED – 1011 Reads Lane, between Cornaga Court and Mobile Road, Block 15553, Lot 28, Borough of Queens.

COMMUNITY BOARD #14Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:0

THE RESOLUTION –

WHEREAS, the decision of the Queens Borough Commissioner, dated March 27, 2015, acting on DOB Application No. 421075794 reads in pertinent part:

1. The proposed plans are contrary to ZR Section 24-11 in that the proposed floor area and FAR exceeds the maximum permitted;
2. The proposed plans are contrary to ZR Section 24-35 in that the proposed side yard is less than the minimum required;
3. The proposed plans are contrary to ZR Section 25-31 in that the proposed parking spaces are less than the minimum required; and

WHEREAS, this is an application under ZR § 72-21 to permit, on a site located in an R2X zoning district, the construction of a Use Group 4 hours of worship that does not comply with the floor area, FAR, side yard and parking requirements of ZR §§ 24-11, 25-35 and 25-31; and

WHEREAS, this application is filed on behalf of Congregation Zichron Moshe Dov (the “Congregation”), a non-profit religious organization; and

WHEREAS, a public hearing was held on this application on May 24, 2016, after due notice by publication in *The City Record*, with continued hearings on July 19, 2016, and September 13, 2016, and then to decision on November 1, 2016; and

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

WHEREAS, Community Board 14, Queens, recommends approval of this application on condition that no kitchen or cooking facility be permitted in the proposed building; and

WHEREAS, the subject site is located on the west side of Reads Lane, between Mobile Road and Cornaga Avenue, in an R2X zoning district, in Queens; and

WHEREAS, the site has approximately 58 feet of frontage along Reads Lane, 6,640 sq. ft. of lot area and is occupied by single-family residential building; and

WHEREAS, the Congregation proposes to demolish the existing building and construct a two-story, plus cellar, Use Group 4 synagogue with 7,239 sq. ft. of floor area, a floor area ratio (“FAR”) of 1.09, side yards measuring 3’-0” and 7’-0” wide and one parking space; and

WHEREAS, the cellar level of the proposed synagogue will consist of 2,282 sq. ft. of floor space to be utilized as a multi-purpose room that can accommodate 190 people and the first and second floors will contain sanctuary spaces sufficient to accommodate 223 persons and 184 persons, respectively; and

WHEREAS, a maximum of 6,640 sq. ft. floor area and 1.0 FAR is permitted at the subject site pursuant to ZR § 24-11; two side yards each with a minimum width of 8’-0” are required pursuant to ZR § 24-35; and 42 parking spaces are required pursuant to ZR § 25-31; and

WHEREAS, because the proposed synagogue does not comply with the applicable bulk regulations for the use in the subject zoning district, the applicant seeks the requested variance; and

WHEREAS, the Congregation states that the waivers sought are essential to its ability to meet its programmatic needs, including the accommodation of its steadily growing membership, which currently numbers approximately 400 adults and children who all live within a three-quarter mile radius of the subject site; and

WHEREAS, the Congregation is currently housed in a temporary rented facility—the basement of a yeshiva—where it unable to conduct services during the day, must set up and take down its sanctuary space daily and is unable to provide necessary separate worship spaces for its male and female congregants; and

WHEREAS, the Congregation states that no public programs or social services will operate from the proposed building, that the proposed synagogue will not contain any residential units and that no rooms or spaces therein will be used for commercial purposes that would serve food or beverages; and

WHEREAS, the Congregation represents that although the site is ideally located, the lot does not have a large enough floor plate to provide sanctuary space sufficient for the members of the congregation and that the irregular shape of the lot creates practical difficulties or unnecessary hardship in strictly complying with the bulk provisions of the Zoning Resolution; and

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WHEREAS, the lot is an irregular trapezoid that ranges in width from 28 feet to 58 feet, ranges in depth from 151 feet to 170 feet and, thus, an as-of-right building would have an irregular trapezoidal shape too narrow to meet the Congregation's programmatic needs, much less the 42 parking spaces required under the Zoning Resolution; and

WHEREAS, specifically, a synagogue constructed at the premises as-of-right would provide sanctuary spaces on the first and second floors that would accommodate a total of only 322 persons, insufficient for the Congregation's current membership, whereas the subject proposal provides worship space to accommodate a total of 407 persons; and

WHEREAS, the Board acknowledges that the Congregation, as a religious institution, is entitled to deference under the law of the State of New York as to zoning and its ability to rely upon programmatic needs in support of the subject variance application; and

WHEREAS, specifically, as held in *Cornell University v. Bagnardi*, 68 NY2d 583 (1986), an educational or religious institution's application is to be permitted unless it can be shown to have an adverse effect upon the health, safety, or welfare of the community, and general concerns about traffic and disruption of the residential character of a neighborhood are insufficient grounds for the denial of an application; and

WHEREAS, based on the above, the Board finds that the programmatic needs of the Congregation create unnecessary hardship and practical difficulty in developing the premises in compliance with the applicable zoning regulations; and

WHEREAS, because the Congregation is a non-profit organization and the variance is needed to further its non-profit mission, the finding set forth in ZR § 72-21(b) does not have to be made in order the grant the variance requested in this application; and

WHEREAS, the Congregation represents that, pursuant to ZR § 72-21(c), the variance, if granted, will not alter the character of the neighborhood, impair the appropriate use or development of adjacent property, or be detrimental to the public welfare; and

WHEREAS, the Congregation submits that though the character of the subject block is primarily residential, there are several religious institutions in the surrounding area; and

WHEREAS, in addition, the Congregation represents that an acoustical fence with an STC rating of 28 will be installed along both side lot lines and shrubs of approximately 3 feet in width and a minimum height of 6 feet will be planted along the same in order to minimize the impact of the requested reduced side yards on adjacent property owners; and

WHEREAS, the Congregation further submits that the requested parking waiver will not materially

increase the use of street parking in the surrounding area because the proposed synagogue is located in close proximity to all of its congregants, the majority of which reside within one-quarter mile of the site, and such congregants will access the synagogue by foot in accordance with religious law; and

WHEREAS, the Congregation also submitted a study of on-street parking spaces in the vicinity of the subject site during a weekday morning, weekday afternoon and Sunday morning and concluded that there is sufficient available on-street parking to meet the projected demand of the synagogue use; and

WHEREAS, the Board agrees with the Congregation that the proposal will not alter the essential character of the surrounding neighborhood, not impair the use or development of adjacent properties, and not be detrimental to the public welfare; and

WHEREAS, the Congregation states that, per ZR § 72-21(d), the hardship was not self-created; and

WHEREAS, the Board finds that the hardship herein was not created by the Congregation; and

WHEREAS, the Congregation represents that, consistent with ZR § 72-21(e), the proposal represents the minimum variance needed to accommodate its programmatic needs; and

WHEREAS, accordingly, the Board finds that this proposal is the minimum necessary to allow the synagogue to fulfill its programmatic needs; and

WHEREAS, therefore, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board conducted an environmental review of the proposed action and documented relevant information about the project in the Final Environmental Assessment ("EAS") CEQR No. 15-BSA-197Q, dated August 15, 2016; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning and Public Policy; Socioeconomic Conditions; Community Facilities; Open Space; Shadows; Historic and Cultural Resources; Urban Design; Natural Resources; Hazardous Materials; Infrastructure; Solid Waste and Sanitation Services; Energy; Transportation; Air Quality; Greenhouse Gas Emissions; Noise; Public Health; Neighborhood Character; and Construction; and

WHEREAS, by correspondence dated August 23, 2016, the New York City Department of City Planning states that the proposal will not substantially hinder the achievement of any Waterfront Revitalization Program ("WRP") policy; and

WHEREAS, no other significant effects upon the environment that would require an Environmental

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Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment; and

Therefore it is Resolved, that the Board of Standards and Appeals issues a Negative Declaration, with conditions as stipulated below, prepared in accordance with Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended, and makes each and every one of the required findings under ZR § 72-21, and grants a variance to permit, on a site located in an R2X zoning district, the construction of a Use Group 4 hours of worship that does not comply with the floor area, FAR, side yard and parking requirements of ZR §§ 24-11, 25-35 and 25-31, *on condition* that all work will substantially conform to drawings filed with this application marked "Received October 14, 2016"-Fifteen (15) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: 7,239 sq. ft. of floor area (1.09 FAR), minimum side-yard depths of 3'-0" and 7'-0" and one parking space, as indicated on the BSA-approved plans;

THAT all building windows shall have a minimum STC rating of 32;

THAT landscaping at the site shall be maintained as show on BSA-approved plans;

THAT the building shall be fully sprinklered;

THAT the acoustical fencing shown on the BSA-approved plans shall be maintained;

THAT the synagogue shall engage a monitor to ensure that sidewalks are kept clear for pedestrian traffic caused by synagogue activities and prevent double parking in front of the building;

THAT the above conditions shall be listed on the Certificate of Occupancy;

THAT substantial construction shall be completed pursuant to ZR § 72-23;

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

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

THAT DOB must ensure compliance with all other applicable provisions of the Zoning Resolution,

A true copy of resolution adopted by the Board of Standards and Appeals, November 1, 2016

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

the Administrative Code, and any other relevant laws under its jurisdiction irrespective of plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 1, 2016.

