

Brooklyn Borough President Recommendation
CITY PLANNING COMMISSION
120 Broadway, 31st Floor, New York, NY 10271
calendaroffice@planning.nyc.gov



INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representatives as indicated on the Notice of Certification.

APPLICATION #: 1247 ATLANTIC AVENUE – 190379 ZSK

An application submitted by 1247 M&F Management pursuant to Sections 197-c and 200 of the New York City Charter for the grant of a special permit, pursuant to Section 74-86 of the New York City Zoning Resolution (ZR) ("Accessory Outdoor Swimming Pools for Residences") to reduce the required distance from the edge of an accessory outdoor swimming pool to any zoning lot line, in connection with a 10-story mixed-use residential building at 1247 Atlantic Avenue in Brooklyn Community District 3 (CD 3). Such action would legalize an outdoor swimming pool and spa constructed as an accessory use to the residences of 1247 Atlantic Avenue.

COMMUNITY DISTRICT NO. 3

BOROUGH OF BROOKLYN

RECOMMENDATION

APPROVE
 APPROVE WITH
MODIFICATIONS/CONDITIONS

DISAPPROVE
 DISAPPROVE WITH
MODIFICATIONS/CONDITIONS

SEE ATTACHED

BROOKLYN BOROUGH PRESIDENT

August 15, 2019

DATE

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On July 2, 2019, Brooklyn Borough President Eric L. Adams held a public hearing on this special permit request. There were no speakers on the item.

In response to Borough President Adams’ inquiry as to what findings the City Planning Commission (CPC) would have to make to allow the reduction below 50 feet (of the lot line), the applicant’s representative stated that CPC would have to deem the pool sufficiently buffered, visually and acoustically, to prevent disruption to the neighborhood’s character.

Consideration

Brooklyn Community Board 3 (CB 3) approved this application on June 24, 2019.

1247 Atlantic Avenue is a 27,800 square-foot (sq. ft.) mixed-use residential building occupying the southern portion of an irregular lot consisting of approximately 6,642 sq. ft. The development is built to a height of 10 stories and contains 39 residential units, with 1,200 sq. ft. of ground-floor commercial space. The aforementioned in-ground pool and spa are located in the northern portion of the building’s rear yard, which is approximately 25 feet wide and 68 feet deep. The rectangular pool is 13 feet wide and 35 feet long, while the spa is oval-shaped, and approximately 11 feet by eight feet. The two facilities are situated 12 feet apart.

The applicant’s lot is located at the edge of a C4-5D zoning district, which has a residential height and bulk equivalent to an R7D district. Adjacent zoning districts include C8-2, M1-1, R6A, and R6B. The surrounding context is primarily residential, with a mix of apartment buildings and single family homes. In addition to Atlantic Avenue, local commercial corridors include Fulton Street and Nostrand Avenue. There are two clusters of industrial properties east and west of the site. The pool portion abuts the rear yards of three lots: 1269 Atlantic Avenue, a two-story warehouse; 126 Herkimer Street, a four-story residential building; 535 Nostrand Avenue, a three-story mixed commercial and residential building, and 537 Nostrand Avenue, a one-story commercial building.

The applicant started construction on 1247 Atlantic Avenue in 2015. The pool and spa were added via an amendment to the original New York City Department of Buildings (DOB) filing in 2017. DOB and the New York City Department of Health and Mental Hygiene (DOHMH) granted the necessary approvals in 2018. However, the applicant was unaware that the project did not comply with ZR Section 12-10 (5)(ii) until DOB issued an objection after the pool was built. This section requires accessory swimming pools for multi-family buildings (Use Group 2) to be at least 100 feet from any lot line. In order for DOB to permit the pool as constructed, CPC must first grant a special permit pursuant to ZR Section 74-86.

ZR Section 74-86 stipulates that CPC may permit an accessory “outdoor swimming pool to be located not less than 50 feet from any lot line, provided that such pool is so located as not to impair the essential character of the residential neighborhood” and “in special circumstances where the Commission finds that the design operates as a suitable buffer...the minimum distance

of 50 feet may be reduced or waived.” The primary consideration for this finding is the potential effect of the pool on adjacent residential properties and the overall street, where the main structure is located.

As the 1247 Atlantic Avenue pool and spa do not comply with the as-of-right requirement for setbacks from its side and rear lot lines, the applicant is seeking the grant of a special permit to waive 48 feet, five inches of the required 50-foot distance from the pool and spa to the lot lines.

Consistent with the special permit requirements, the pool and spa are already entirely enclosed by an eight-foot-high, solid wood fence around the rear yard that provides visual screening and minimizes potential impacts on the adjacent lots. Between the pool and the rear of the building, the perimeter fence transitions to a height of six feet to provide supplementary screening for residences located along the lot line. As represented by the applicant, the pool area would be separated from the rest of the rear yard by a six-foot high semi-open fence with controlled access facilitated by a self-latching gate. The pool would be accessible to residents via stairs that connect to amenity spaces in the building’s cellar. Use is intended be limited to the building’s residents, with daily hours of 11:00 AM to 7:00 PM from late June to early September.

Borough President Adams supports the applicant’s quest to have the yard setbacks of the swimming pool and spa accepted based on the screening treatments. He believes that resident access to the swimming pool promotes a healthy lifestyle by providing opportunities for exercise and relaxation. To further such benefits, Borough President Adams would encourage the applicant and CPC to authorize extended hours of operation that would better accommodate residents’ schedules.

Furthermore, Borough President Adams believes that for multifamily developments of a certain scale, the ZR requirements impede the provision of accessory swimming pools in otherwise as-of-right developments for zoning lots less than one quarter acre in size (the majority of zoning lots). Therefore, in order to facilitate the construction of outdoor accessory swimming pools for developments of three or more residences, he believes that the New York City Department of City Planning (DCP) should consider whether existing yard setback standards for accessory swimming pools according to ZR 12-10 (5)(ii) warrant modification, and advance a zoning text amendment, as appropriate.

Recommendation

Be it resolved that the Brooklyn borough president, pursuant to Section 201 of the New York City Charter, recommends that the City Planning Commission (CPC) and City Council approve this application.

Be it Further Resolved:

1. That the New York City Department of City Planning (DCP) should consider whether existing yard setback standards for accessory swimming pools according to ZR 12-10 (5)(ii) warrant modification, and advance a zoning text amendment, as appropriate.