

MEETING OF: May 25, 2017
CALENDAR NO.: 2017-176-BZ
PREMISES: 32 Stanton Road, Brooklyn
Block 8800, Lot 52
BIN No. 3247755

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –
Affirmative: Chair Perlmutter, Vice-Chair Chanda, Commissioner Ottley-Brown,
Commissioner Montanez.....4
Negative:0

THE RESOLUTION –

WHEREAS, this is an application for a waiver of the Board’s Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92 to permit, on a site within an R4-1 zoning district, the elevation of a single-family detached home in compliance with flood-resistant construction standards that does not comply with the zoning requirements for front yards, side yards rear yards, open space and lot coverage, contrary to ZR §§ 23-45, 23-461(a), 23-47, 23-142, 64-A351, 64-A352, 64-A353 and 64-A311; and

WHEREAS, a public hearing was held on this application on May 25, 2017, and then to decision on the same date; and

WHEREAS, this application is brought on behalf of the property owner by the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in furtherance of the City’s effort to rebuilt homes impacted by Superstorm Sandy expeditiously and effectively, the Board, pursuant to 2 RCNY § 1-14.2, waives the following of its Rules of Practice and Procedure: (1) 2 RCNY § 1-05.1 (Objection Issued by the Department of Buildings); (2) 2 RCNY § 1-05.3 (Filing Period); (3) 2 RCNY § 1-05.4 (Application Referral); (4) 2 RCNY § 1-05.6 (Hearing Notice); (5) 2 RCNY § 1-05.7 (List of Affected Property Owners); (6) 2 RCNY § 1-09.4 (Owner’s Authorization); and (7) 2 RCNY § 1-10.7 (Proof of Service for Application Referral and Hearing Notice); and

WHEREAS, the Board notes that the subject application is exempt from fees pursuant to 2 RCNY § 1-09.2 and NYC Admin. Code § 25-202(6); and

WHEREAS, the subject site is located on the east side of Stanton Road, between Gunnison Court and Losee Terrace, in an R4-1 zoning district, in Brooklyn; and

WHEREAS, the site has approximately 25 feet of frontage along Stanton Road, 1,375 square feet of lot area and is occupied by a one-story single-family detached home, which is setback between 0.8 and 1.4 feet from the northern lot line, 14.1 feet from the eastern lot line, between 3.2 and 3.7 feet from the southern lot line, 0.2 feet from the western lot line and is non-compliant with the applicable yard regulations; and

WHEREAS, the Board has exercised jurisdiction over the subject site since January 22, 2016, when, under BSA Cal. No. 2016-454-A, the Board granted a waiver of General City Law (“GCL”) § 36 permitting the elevation or reconstruction of a one-family dwelling that does not front on a mapped street; and

WHEREAS, the waiver was conditioned, *inter alia*, upon the elevated dwelling having a fire sprinkler system in accordance with Chapter 9 and Appendix Q of the New York City Building Code; the dwelling being provided with interconnected smoke and carbon monoxide alarms, designed and installed in accordance with Section 907.2.11 of the New York City Building Code; the underside of the exterior of the dwelling where the foundation is not closed having a floor assembly that provides a 2-hour fire resistance rating; and the height from grade plane to the highest window-sill leading to a habitable space not exceeding 32 feet; and

WHEREAS, the applicant now seeks a special permit, pursuant to ZR § 64-92, to allow the elevation of the existing residence in the same footprint, resulting in a two-story single-family detached dwelling with the same lot line setbacks; and

WHEREAS, at the subject site, the minimum lot area required for a single-family detached residence is 2,375 square feet and the minimum lot width required is 25 feet, pursuant to ZR § 25-32; and

WHEREAS, yard requirements for the subject site are set forth as follows: minimum front yard depth requirements are set forth in ZR §§ 23-45 and 64-A351; side yard requirements are set forth in ZR § 23-461(a), and 64-A352; and rear yard requirements are set forth in ZR § 23-47 and 64-A353; and

WHEREAS, open area and lot coverage requirements for the subject site are set forth in ZR §§ 23-142 and 64-A311; and

WHEREAS, the requirement of an open area of at least 8 feet between residences on adjacent zoning lots set forth in ZR § 23-461(c) is waived at the site pursuant to ZR § 64-A352(c); and

WHEREAS, the subject site does not front a “street,” as defined in ZR § 12-10, and is accessed, instead, by a private path having an average width of 4 feet, allowing from ingress and egress to the surrounding public streets; and

WHEREAS, consequently the subject site lacks a “front lot line,” a “front yard,” a “rear lot line,” a “rear yard” and “side yards,” as those terms are defined in the same section and, therefore, proposes open areas, in lieu of yards, along its lot lines and seeks waivers of the applicable yard regulations; and

WHEREAS, ZR § 64-92 provides:

In order to allow for the alteration of existing *buildings* in compliance with *flood-resistant construction standards* and for *developments* and *enlargements* in compliance with *flood-resistant construction standards*, the Board of Standards and Appeals may permit modification of Section 64-60 (DESIGN REQUIREMENTS), the *bulk* regulations of Section 64-30, 64-40 (SPECIAL BULK REGULATIONS FOR BUILDINGS EXISTING ON OCTOBER 28, 2012) and 64-70 (SPECIAL REGULATIONS FOR NON-CONFORMING USES AND NON-COMPLYING BUILDINGS), as well as all other applicable *bulk* regulations of the Zoning Resolution, except *floor area ratio* regulations, provided the following findings are made:

- (a) that there would be a practical difficulty in complying with *flood-resistant construction standards* without such modifications, and that such modifications are the minimum necessary to allow for an appropriate *building* in compliance with *flood-resistant construction standards*;
- (b) that any modifications of *bulk* regulations related to height is limited to no more than 10 feet in height or 10 percent of permitted height as measured from *flood-resistant construction elevation*, whichever is less; and
- (c) the proposed modifications will not alter the essential character of the neighborhood in which the *building* is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood’s potential development in accordance with *flood-resistant construction standards*.

The Board may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area; and

WHEREAS, in accordance with ZR § 64-92(a), the need to elevate the existing residence, which, as it exists, is non-compliant with yard regulations, creates practical difficulties in complying with flood-resistant construction standards without the modification of the yard requirements and

that waivers of the same is the minimum necessary to allow for a building compliant with flood-resistant construction standards; and

WHEREAS, the applicant notes and the Board finds that the proposal does not include a request to modify the maximum permitted height in the underlying district; thus, the finding pursuant to ZR § 64-92(b) is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposal will not alter the essential character of the neighborhood in which the dwelling is located, nor impair the future use or development of the surrounding area in consideration of the neighborhood's potential development in accordance with flood-resistant construction standards; and

WHEREAS, the applicant states that the surrounding neighborhood is a mixed density waterfront community that the majority of homes within a 200 foot radius of the subject site are one- and two- story detached bungalows, a significant number of which are also participating in the Build it Back program by being elevated or reconstructed; and

WHEREAS, accordingly, the Board has reviewed the proposal and determined that the proposed alteration and elevation satisfies all of the relevant requirements of ZR § 64-92; and

WHEREAS, the project is classified as a Type II action pursuant to 6 NYCRR Part 617.5; and

WHEREAS, the Board has conducted a review of the proposed Type II action noted in the CEQR Checklist No. 17BSA128K, dated May 19, 2017; and

Therefore, it is Resolved, that the Board of Standards and Appeals *waives* its Rules of Practice and Procedure and issues a Type II determination under 6 NYCRR Part 617.5 and 617.3 and §§ 5-02(a) and 5-02(b)(2) of the Rules of Procedure for City Environmental Quality Review, and makes the required findings under ZR § 64-92 to permit, on a site within an R4-1 zoning district, the elevation of a single-family detached dwelling in compliance with flood-resistant construction standards that does not comply with the zoning requirements for front yards, side yards rear yards, open space and lot coverage, contrary to ZR §§ 23-45, 23-461(a), 23-47, 23-142, 64-A351, 64-A352, 64-A353 and 64-A311; *on condition* that all work shall substantially conform to the drawings filed with this application and marked "Received May 19, 2017"- Five (5) sheets; and *on further condition*:

THAT the bulk parameters of the building shall be as follows: setback at least 0.8 feet from the northern lot line, setback at least 14.1 feet from the eastern lot line, setback at least 3.2 feet from the southern lot line and setback at least 0.2 feet from the western lot line, as illustrated on the BSA-approved plans;

THAT the building shall have a fire sprinkler system in accordance with Chapter 9 and Appendix Q of the New York City Building Code;

THAT the dwelling shall be provided with interconnected smoke and carbon monoxide alarms, designed and installed in accordance with Section 907.2.11 of the New York City Building Code;

THAT the underside of the exterior of the dwelling where the foundation is not closed shall have a floor assembly that provides a 2-hour fire resistance rating;

THAT the height from grade plane to the highest window-sill leading to a habitable space may not exceed 32 feet;

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorize use and/or bulk shall be signed off by DOB and all other relevant agencies by May 25, 2021;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; 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, May 25, 2017.