

2017-311-BZ

MEETING OF: December 12, 2017
CALENDAR NO.: 2017-311-BZ
PREMISES: 211 East 8 Road, Queens
Block 15458, Lot 8
BIN No. 4297437

ACTION OF BOARD — Application granted on condition.

THE VOTE TO GRANT —

Affirmative: Chair Perlmutter, Vice-Chair Chanda, Commissioner Ottley-Brown and Commissioner Sheta.....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 and 64-A71, to permit, in an R3A zoning district and the Special Coastal Risk District, the reconstruction of a two-family detached residence in compliance with flood-resistant construction standards that does not comply with the zoning requirements for front yards and residential use, contrary to ZR §§ 64-A354 and 137-21; and

WHEREAS, a public hearing was held on this application on December 12, 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 rebuild residences 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 northwest corner of East 8 Road and Lanark Road, in an R3A zoning district and the Special Coastal Risk District, in Queens; and

WHEREAS, the site has approximately 25 feet of frontage along East 8 Road, 100 feet of frontage along Lanark Road, 2,500 square feet of lot area and is occupied by a two-family detached residence; and

WHEREAS, the Board has exercised jurisdiction over the subject site since March 8, 2016, when, under BSA Cal. No. 2016-3325-A, the Board granted a waiver of General City Law (“GCL”) § 35 permitting the elevation or reconstruction of a residence that lies within the bed of a mapped street; and

WHEREAS, the waiver was conditioned, inter alia, upon the reconstructed residence having a fire sprinkler system in accordance with Chapter 9 and Appendix Q of the New York City Building Code; the residence 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 residence 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 windowsill 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 reconstruction of a two-story two-family detached residence with front yard with a depth of 3 feet along Lanark Road, contrary to the zoning requirements for front yards; and

WHEREAS, at the subject site, zoning requirements for front yards are set forth in ZR § 64-A354; 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 Sections 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 modification 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.

WHEREAS, in accordance with ZR § 64-92(a), the need to reconstruct 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 requirements for front yards and that waiving 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 bulk regulations pertaining to height, so ZR § 64-92 is inapplicable; 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 residence 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, accordingly, the Board has reviewed the proposal and determined that the proposed reconstruction satisfies all of the relevant requirements of ZR § 64-92; and

WHEREAS, in addition, the applicant seeks a special permit under ZR § 64-A71 to establish the non-conformance of two or more dwelling units existing at the subject site on October 28, 2012, to permit the vertical elevation or reconstruction of up to two dwelling units at the subject site; and

WHEREAS, the applicant submits that there were two dwelling units at the subject site on October 28, 2012; and

WHEREAS, in support of this contention, the applicant provided evidence in the form of a flood insurance policy, utility bills, tax records and affidavits; and

WHEREAS, the Board credits the evidence in the record and finds that there were two dwelling units at the subject site on October 28, 2012; and

WHEREAS, accordingly, the Board finds that the evidence in the record supports establishing the non-conformance of two dwelling units at the subject site and that the applicant has substantiated a basis to warrant exercise of discretion to grant under ZR § 64-A71; 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. 18BSA069Q, dated December 7, 2011.

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 and 64-A71 to *permit*, in an R3A zoning district

and the Special Coastal Risk District, the reconstruction of a two-family detached residence in compliance with flood-resistant construction standards that does not comply with the zoning requirements for front yards and residential use, contrary to ZR §§ 64-A354 and 137-21; *on condition* that all work shall substantially conform to the drawings filed with this application and marked “Received December 7, 2017”-Six (6) sheets; and *on further condition*:

THAT the bulk parameters of the building shall be as follows: a front yard with a depth of 3 feet along Lanark Road, as illustrated on the Board-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 residence 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 residence 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 windowsill 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 December 12, 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, December 12, 2017.

CERTIFICATION

***This copy of the Resolution
dated December 12, 2017
is hereby filed by
the Board of Standards and Appeals
dated January 9, 2018***



***Carlo Costanza
Executive Director***