

***CORRECTION**

These resolutions adopted on January 28, 2014, under Calendar Nos. 131-13-A & 132-13-A and printed in Volume 99, Bulletin Nos. 4-5, is hereby corrected to read as follows:

131-13-A & 132-13-A

APPLICANT – Sheldon Lobel, P.C., for Rick Russo, owner.

SUBJECT – Application May 10, 2013 – Proposed construction of a residence not fronting on a legally mapped street, contrary to General City Law Section 36. R2 & R1-1 (SHPD) zoning districts.

PREMISES AFFECTED – 43 & 47 Cecilia Court, Block 615, Lots 210 and 205, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown and Commissioner Hinkson.....4

Negative: Commissioner Montanez.....1

THE RESOLUTION –

WHEREAS, the decisions of the Staten Island Borough Commissioner, dated May 6, 2013 and April 24, 2013, acting on Department of Buildings Application Nos. 520117506 and 520117490 read, in pertinent part:

The street giving access to proposed building is not duly placed on the official map of the City of New York therefore:

- A) No Certificate of Occupancy can be issued pursuant to Article 3, Section 36 of the General City Law
- B) Proposed construction does not have at least 8% of the total perimeter of building fronting directly upon a legally mapped street or frontage space contrary to Section 502.1 of the 2008 NYC Building Code; and

WHEREAS, a public hearing was held on this application on September 24, 2013, after due notice by publication in *The City Record*, with continued hearings on October 22, 2013, November 26, 2013, and December 17, 2013, and then to decision on January 28, 2014; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Chair Srinivasan and Commissioner Montanez; and

WHEREAS, City Councilmember Debbie Rose submitted testimony in opposition to the application, citing fire safety concerns; and

WHEREAS, certain members of the surrounding community, including a community group known as the Serpentine Art & Nature Commons, Inc. (the "Opposition"), provided written and oral testimony in opposition to the application citing the following concerns: (1) the slope of the roadway and its distance will interfere with firefighting operations; (2) the proposal is contrary to a private agreement (a November 1950 restrictive covenant) concerning the site and other

nearby parcels; and (3) the Board previously denied a GCL § 36 waiver application concerning the site in part because the Fire Department disapproved the application; and

WHEREAS, the subject site is located on Cecilia Court off of Howard Avenue, partially within an R1-1 zoning district and partially within an R2 zoning district, within the Special Hillside Preservation District; and

WHEREAS, the applicant states that the site does not front a mapped street, but has access to Howard Avenue, a mapped street, via a private utility and access easement formerly known as Howard Lane and now known as Cecilia Court, which was recorded on December 12, 1950 but does not appear on the City Map; the applicant notes that Cecilia Court has a width of 16 feet, a slope of approximately 12.2 percent and that the distance between the proposed building and Howard Avenue along Cecilia Court is 550 feet; and

WHEREAS, the applicant states that the site is vacant; however, it has been the subject of a series of Board and City Planning actions over the years; specifically, on February 28, 1989, under BSA Cal Nos. 26-86-A, 27-86-A and 28-86-A, the Board denied applications filed pursuant to GCL § 36 to permit construction of three single-family residences not fronting on a mapped street; on January 6, 1998, under BSA Cal. No. 209-07-A, the Board granted an application filed pursuant to GCL § 36 to permit the construction of one single-family residence not fronting on a mapped street; in 2001, the Department of City Planning approved an authorization application filed under ULURP No. N000523 ZAR to allow the construction of a single-family residence on former Lot 210; and

WHEREAS, the applicant now seeks to construct two, three-story, single-family residences contrary to GCL § 36; and

WHEREAS, by letter dated August 26, 2013, the Fire Department stated that the residences are proposed on a private roadway having a substandard width, contrary to the Fire Code, but that it would not object to their construction provided that the residences are fully-sprinklered in accordance with New York City Building Code § 903 and the Fire Interim guidelines, which state that the Fire Department will grant a modification for construction of new occupancy group R-3 (one-family and two-family) dwellings with modified fire apparatus access if the building is designed, constructed, and maintained in accordance with New York City Building Code § 903; and

WHEREAS, on September 3, 2013, the applicant submitted a revised site plan to address the request of the Fire Department; and

WHEREAS, at hearing, the Board raised concerns regarding the slope of the roadway and the firefighting apparatus access; and

WHEREAS, in response, the applicant submitted a letter, a survey, and a site plan, which contends that: (1) the existing roadway was constructed prior to the current Fire Code requirements and Special Hillside Preservation District regulations and has served as access for

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emergency services to the existing homes fronting the roadway for many years; and (2) the Fire Department firefighting manual indicates that the maximum roadway slope for a tower ladder is 15 percent, which is more than the existing mean slope of 12.2 percent and significantly more than the proposed slope of 7.3 percent for the proposed cul-de-sac; therefore, the applicant asserts that either slope is within the acceptable slope for firefighting purposes; and

WHEREAS, by letter dated October 22, 2013, the Opposition raises concerns regarding the information provided by the applicant as to the length and slope of the grade; and

WHEREAS, by letter dated October 28, 2013, the Fire Department informed the Board that, based on additional information regarding the site, it now objected to the proposed roadway because it included grades substantially in excess of ten percent, contrary to Fire Code § 503.2.7; and

WHEREAS, following a series of discussions and letters among the parties, the Fire Department approved the revised proposal, subject to the following conditions: (1) the residences will be fully-sprinklered; (2) a Fire Code-compliant apparatus turnaround will be installed; (3) two new fire hydrants will be installed; (4) a new eight-inch water main from Howard Avenue to the northerly end of the private road will be installed; and (5) the applicant will provide satisfactory evidence to the Department of Buildings that there is unrestricted permanent access along the length of the private road to the applicant's property line; and

WHEREAS, in response to the issues identified by the Opposition regarding Cecilia Court, which is a private easement, the applicant acknowledged that it would be required to seek authorization from the other parties to the 1950 restrictive covenant in order to implement certain Fire Department conditions; and

WHEREAS, on January 15, 2014, the applicant submitted a revised site plan that was reviewed and approved by the Fire Department; and

WHEREAS, accordingly, the Board has determined that the applicant has submitted adequate evidence to warrant this approval under certain conditions.

Therefore it is Resolved, that the decisions of the Staten Island Borough Commissioner, dated July 15, 2013, acting on Department of Buildings Application Nos. 520117506 and 520117490 is modified by the power vested in the Board by Section 36 of the General City Law, and that this appeal is granted, limited to the decision noted above; *on condition* that construction will substantially conform to the drawings filed with the

application marked "Received January 15, 2014" (2) sheets; and *on further condition*

THAT the proposal will comply with all applicable zoning district requirements and all other applicable laws, rules, and regulations;

THAT all required approvals from the Department of City Planning will be obtained prior to the issuance of building permits;

THAT the building will be fully sprinklered in accordance with BSA-approved plans;

THAT a Fire Code-compliant apparatus turnaround will be installed;

THAT two new fire hydrants will be installed;

THAT a new eight-inch water main from Howard Avenue to the northerly end of the private road will be installed;

THAT the applicant will provide satisfactory evidence to the Department of Buildings that there is unrestricted permanent access along the length of the private road to the applicant's property line;

THAT there will be "No Parking" along the entire length of the easement;

THAT the conditions requested by the Fire Department be implemented before the Temporary Certificate of Occupancy and Certificate of Occupancy are issued;

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 DOB will review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

THAT the approved plans will 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 plan(s)/configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals on January 28, 2014.

The resolutions have been amended. Corrected in Bulletin No. 11, Vo. 99, dated March 19, 2014.

A true copy of resolution adopted by the Board of Standards and Appeals, January 28, 2014.

Printed in Bulletin Nos. 4-5, Vol. 99.

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

