

**131-11-A thru 133-11-A**

**159-14-A thru 161-14-A**

APPLICANT – Rothkrug Rothkrug & Spector, LLP, for Dalip Karpuzzi, Luizime Karpuzzi, owners.

SUBJECT – Application September 6, 2011& July 7, 2014 – Proposed construction of three two story dwellings with parking garages located within the bed of a mapped street, contrary to General City Law Section 35. R3-1 zoning district.

PREMISES AFFECTED – 464, 468 Arthur Kill Road, 120 Pemberton Avenue, intersection of Arthur Kill Road and Giffords Lane, Block 5450, Lot 35, 36, 37, Borough of Staten Island.

**COMMUNITY BOARD #3SI**

**ACTION OF THE BOARD** – Application granted on condition.

**THE VOTE TO GRANT** –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Otley-Brown and Commissioner Montanez.....4

Negative:.....0

**THE RESOLUTION** –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated June 6, 2014, acting on DOB Application Nos. 520055216, 520059463, 520055225, 520194888, 520194904, and 520194897, reads in pertinent part:

Proposed construction located within the bed of a mapped street is contrary to Section 35 of the General City Law; and

WHEREAS, a public hearing was held on this application on January 27, 2015, after due notice by publication in *The City Record*, with continued hearings on March 10, 2015 and April 21, 2015 and then to decision on May 12, 2015; and

WHEREAS, Vice-Chair Hinkson and Commissioner Montanez performed inspections of the site and premises, as well as the surrounding neighborhood; and

WHEREAS, this is an application to allow the construction of a three two-story, two-family homes and three accessory parking garages that will be partially or entirely located within the bed of a mapped but unbuilt portion of Pemberton Avenue, south of Arthur Kill Road, between Elverton Avenue and Giffords Lane; and

WHEREAS, the subject site is located within an R3-1 zoning district; and

WHEREAS, the site comprises Tax Lots 35, 36, and 37; it has approximately 16,082 sq. ft. of lot area; and

WHEREAS, by letter dated April 15, 2015, the New York City Fire Department (“FDNY”) states that it has no objections to the proposed application; and

WHEREAS, by letter dated March 10, 2015, the New York City Department of Environmental Protection (“DEP”) states that it has no objections to the proposed application; and

WHEREAS, by letter dated March 11, 2015, the New York City Department of Transportation (“DOT”) states that Pemberton Avenue is not presently included in

DOT’s Capital Improvement Program; and

WHEREAS, the Board notes that pursuant to GCL § 35, it may authorize construction within the bed of the mapped street subject to reasonable requirements; and

WHEREAS, the Board notes that pursuant to ZR § 72-01(g), the Board may waive bulk regulations where construction is proposed in part within the bed of a mapped street; such bulk waivers will be only as necessary to address non-compliances resulting from the location of construction within and outside of the mapped street, and the zoning lot will comply to the maximum extent feasible with all applicable zoning regulations as if the street were not mapped; and

WHEREAS, therefore, consistent with GCL § 35 and ZR § 72-01(g), the Board finds that applying the bulk regulations across the portion of the subject lot within the mapped street and the portion of the subject lot outside the mapped street as if the lot were unencumbered by a mapped street is both reasonable and necessary to allow the proposed construction; 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 Board modifies the decisions of the DOB, dated June 6, 2014, acting on DOB Application Nos. 520055216, 520059463, 520055225, 520194888, 520194904, and 520194897, by the power vested in it by Section 35 of the General City Law, and also waives the bulk regulations associated with the presence of the mapped but unbuilt street pursuant to Section 72-01(g) of the Zoning Resolution to grant this appeal, limited to the decision noted above *on condition* that construction will substantially conform to the drawing filed with the application marked “Received May 7, 2015”- (1) sheet; and *on further condition*:

THAT DOB shall review and approve plans associated with the Board’s approval for compliance with the underlying zoning regulations as if the unbuilt portion of the street were not mapped;

THAT the drainage plan for the site shall be submitted to DEP prior to the issuance of any DOB permit(s);

THAT DEP approval of the drainage plan shall be obtained prior to the issuance of the temporary certificate(s) of occupancy;

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 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 May 12, 2015.

**A true copy of resolution adopted by the Board of Standards and Appeals, May 12, 2015.**

**Printed in Bulletin Nos. 20-21, Vol. 100.**

**Copies Sent**

**To Applicant**

**Fire Com’r.**

**Borough Com’r.**

