

32-14-A

APPLICANT – Rothkrug, Rothkrug & Spector, LLP, for Little Morrow LLC, owner.

SUBJECT – Application February 13, 2014 – Proposed construction of a retail/warehouse building located partially within the bed of a mapped street contrary to Article 3, Section 35 of the General City Law and waiver of bulk non-compliances under §72-01-(g). M-2-1 Zoning District.

PREMISES AFFECTED – 2560 Forest Avenue, southwest corner of intersection of Forest Avenue and Elizabeth Grove Road, Block 1384, Lot 1, Borough of Staten Island.

COMMUNITY BOARD #1SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Staten Island Commissioner Borough Commissioner, dated January 24, 2014, acting on Department of Buildings Application No. 520144683, reads in pertinent part:

Proposed construction located in the bed of a mapped street is contrary to section 35 of the General City Law. Therefore, Board of Standards and Appeals approval is required; and

Proposed new building has bulk non-compliances resulting from the location of such mapped street obtain BSA approval; and

WHEREAS, this is an application to allow the construction of a one-story retail /warehouse space located on the southern portion of the subject zoning lot. The proposed building will be located partially in the bed of a mapped but unbuilt portion of Morrow Street; and

WHEREAS, a public hearing was held on this application on December 9, 2014, after due notice by publication in *The City Record*, with a continued hearing on January 27, 2015, and then to decision on February 10, 2015; and

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

WHEREAS, the subject site has 142.99 ft. of frontage on the south side of Forest Avenue, 170.44 ft. of frontage on the west side of Elizabeth Grove Road, and 100 ft. of frontage on the north side of Morrow Street for a total lot area of 12,497 sq. ft., and is located within an M2-1 zoning district within Community Board 1, Staten Island; and

WHEREAS, by letter dated October 16, 2014, the Fire Department states that it has reviewed the proposal and has offered no objections; and

WHEREAS, by letter dated March 14, 2014, the

Department of Environmental Protection (“DEP”) states that (1) there are no existing City sewers in the bed of Morrow Street; (2) there is an existing 12” inch diameter City water main in the bed of Morrow Street between Forest Avenue and Elizabeth Grove Road; and (3) City Drainage Plan No. D9-2, Amendment D-9 (R-4), sheet 2 of 6, dated March 5, 1968, for the above-referenced location calls for a future 10-inch diameter sanitary sewer and a 39”/42” diameter storm sewer in the bed of Morrow Street east of Forest Avenue; and

WHEREAS, DEP further states that it requires the applicant to submit a survey/plan (1) showing the width of mapped Morrow Street, the width of the widening portion of the street, and the width of the traveled portion of the street at the above-referenced location; (2) providing the location of the hydrants and the distances from the hydrants to the lot lines of tentative lot #1; and (3) providing the distance between the 12” diamtere water main and the lot line of tentative lot #1 in Morrow Street; and

WHEREAS, in response to DEP’s request, the applicant submitted a topographical survey which shows 70’ of the adopted width of the mapped Morrow Street at the above-referenced location, and the 27.6’ of the width to the edge of the pavement of the street at the narrowest point, which will be available for the installation, maintenance and or reconstruction of the existing and future water mains and sewers; and

WHEREAS, by letter dated June 30, 2014, DEP states that, based on the drawing submitted by the applicant, it has no objection to the proposed application; and

WHEREAS, by correspondence dated December 9, 2014, the Department of Transportation (“DOT”) requested that the applicant (1) provide information regarding the number of vehicles entering and exiting out of the parking area and commercial delivery vehicles for warehouses and the daily anticipated left turns in and out of this development; (2) address what effect this development will have on the level of service on Forest Avenue; (3) perform a title search of the street and, when title issues are resolved, provide an 8 ft. wide uniform sidewalk along Elizabeth Grove Road, maintaining the existing roadway width; (4) provide a 20 ft. wide sidewalk along Forest Avenue and keep the same alignment as on Block 1380 east of Elizabeth Grove Road; and (5) provide a 5 ft. wide continuous uniform sidewalk along Morrow Street frontage, aligning the sidewalk on Block 1380 east of Elizabeth Grove Road; and

WHEREAS, by letter dated January 14, 2015 in response to DOT’s request, the applicant submitted a revised plan (1) demonstrating that the proposed building would be in compliance with applicable M1-2 yard regulations; (2) depicting proposed street trees; (3) showing proposed sidewalks, including a 20 ft. sidewalk along Forest Avenue, a 5 ft. sidewalk along Morrow Street, and an 8 ft. sidewalk along Elizabeth Grove Road;

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and (4) showing that the widening line of Morrow Street has been extended; and

WHEREAS, the applicant also states that although no specific tenants are in place at this time they do not reasonably anticipate any adverse impacts, on Forrest Avenue or surrounding streets, from the planned as-of-right use of the premises; and

WHEREAS, the applicant notes that notwithstanding that the initially proposed development included building within the bed of mapped Elizabeth Grove Road, the applicant no longer plans to build within the bed of Elizabeth Grove Road were abandoned; and

WHEREAS, the applicant represents that Morrow Street is not part of the City's ten-year capital improvement plan; and

WHEREAS, there are other structures along Morrow Street that would require demolition if the street were mapped to its full width; and

WHEREAS, the Board notes that pursuant to GCL Section 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, that 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 that the zoning lot will comply to the maximum extent feasible with all applicable zoning regulations as if the street were not mapped; and

Therefore it is Resolved, that the decision of the Staten Island Borough Commissioner, dated January 24, 2014 acting on Department of Buildings Application No. 520144683 is modified by the power vested in the Board by Section 35 of the General City Law, and that this appeal is granted, limited to the decision noted above, and that the Board 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; *on condition* that construction will substantially conform to the drawings filed with the application marked "Received February 6, 2015," one (1) sheet; that the proposal will comply with all applicable zoning district requirements; and that all other applicable laws, rules, and regulations will be complied with; and *on further condition*:

THAT this approval is limited to the relief granted

A true copy of resolution adopted by the Board of Standards and Appeals, February 10, 2015.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s);

THAT DOT confirms in writing that Morrow Street is not a part of the City's ten-year capital improvement plan;

THAT DOB will review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution, including planting strip requirements;

THAT the approved plans will be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings 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 February 10, 2015.

