

**137-14-BZ**

APPLICANT – Department of Housing Preservation & Development.

SUBJECT – Application June 16, 2014 – Special Permit (§64-92) to waive yard regulations for the replacement of homes damaged/destroyed by Hurricane Sandy, on properties which are registered in the NYC Build it Back Program. R3-1 Zoning District.

PREMISES AFFECTED – 174 Kiswick Street, Block 3736, Lot 21, Borough of Staten Island.

**COMMUNITY BOARD #2SI**

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

**THE VOTE TO GRANT –**

Affirmative: Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez .....4  
Negative:.....0

**THE RESOLUTION –**

WHEREAS, this is an application for a waiver of the Rules of Practice and Procedure and a special permit, pursuant to ZR § 64-92, to permit, on a site within an R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for vertical extension of non-complying side yards, contrary to ZR §§ 23-461, 54-313 and 54-41; and

WHEREAS, a public hearing was held on this application on July 22, 2014, after due notice by publication in *The City Record*, and then to decision on July 29, 2014; and

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

WHEREAS, Community Board 2, Staten Island, recommends approval of this application; and

WHEREAS, this application is brought by the Department of Housing Preservation and Development (“HPD”) on behalf of the owner and in connection with the Mayor’s Office of Housing Recovery Operations and the Build it Back Program, which was created to assist New York City residents affected by Superstorm Sandy; and

WHEREAS, in order to accept the application from HPD on behalf of the owner, the Board adopts a waiver of 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the subject site is located on the east side of Kiswick Street, between Bedford Avenue and Midland Avenue, within an R3-1 zoning district; and

WHEREAS, the site has 20 feet of frontage along Kiswick Street and 2,000 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged one-story, single-family home with 1,030 sq. ft. of floor area (0.52 FAR); the existing home has the following non-compliances: a front yard depth of 5’-0” (a minimum front yard depth of 15’-0” is required, per ZR § 23-45); and side yards with widths of 3’-4” (northern side yard) and 1’-2” (southern side yard) (the requirement is two side yards with a minimum total width of 13’-0” and a minimum width of 5’-0” each, per ZR § 23-461); and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,082 sq. ft. of floor area (0.54 FAR); the new building will provide a front yard depth of 15’-0”, a rear yard depth of 40’-0”, a northern side yard width of 3’-2”, and southern side yard width of 3’-3”; and

WHEREAS, the applicant represents that the building directly north of the proposed building is built to the both sites’ common side lot line; as such, the building directly north of the site is located 3’-2” from the proposed building; in addition, the building on the adjoining zoning lot to the south of the site is located 6’-6” from the proposed building; and

WHEREAS, the applicant notes that pursuant to ZR §§ 54-313 (Single- or Two-family Residences with Non-complying Front Yards or Side Yards), 54-41 (Permitted Reconstruction) and 64-723 (Non-complying Single- and Two-family Residences), the existing non-complying yards may be maintained in a reconstruction and vertically enlarged, provided that, per ZR § 54-313, a minimum distance of 8’-0” is maintained between the non-complying side yards and the building on the adjoining zoning lot; and

WHEREAS, thus, the applicant the applicant seeks a special permit to allow the reduction of the width of the northern side yard from 3’-4” to 3’-2”, and construction of the new building with a distance of less than 8’-0” from the buildings directly north and south of the site; and

WHEREAS, pursuant to ZR § 64-92, in order to allow for alterations, developments, and enlargements in accordance with flood-resistant construction standards, the Board may permit modifications of ZR §§ 64-30 and 64-40 (Special Bulk Regulations for Buildings Existing on October 28, 2012), 64-60 (Design Requirements), 64-70 (Special Regulations for Non-conforming Uses and Non-complying Buildings), as well as all other applicable bulk regulations except floor area ratio; and

WHEREAS, in order to grant a special permit pursuant to ZR § 64-92, the Board must make the following findings: (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 ten feet in height or ten percent of the permitted height as measure from the 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; and

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

WHEREAS, the applicant states that there would be a practical difficulty complying with the flood-resistant construction standards without the modification of the front yard requirement, in accordance with ZR § 64-92(a); and

WHEREAS, specifically, the applicant states that the proposed building is required to have exterior walls that are 12 inches thick, which diminishes the amount of interior floor space; thus, the proposed side yard waivers allow the construction of a flood-resistant building with a viable building footprint to compensate for the loss of interior space; and

WHEREAS, the Board agrees that there would be a practical difficulty complying with the flood-resistant construction standards without the requested side yard waivers; 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 Board finds that the ZR § 64-92(b) finding is inapplicable in this case; and

WHEREAS, the applicant states that, pursuant to ZR § 64-92(c), the proposed modification 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; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by one- and two-story, single- and two-family homes; as such, the applicant states that the proposal is consistent with the existing context; and

WHEREAS, the applicant also contends that the proposal reflects a smaller footprint, a rear yard depth of 40'-0" where a depth of only 30'-0" is required, and increase in front yard from a non-complying 5'-0" to a complying 15'-0"; in addition, it increases one side yard width by 2'-1" and decreases the other side yard width by only 0'-2"; and

WHEREAS, the Board finds that the proposed modification 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; and

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

*Therefore it is Resolved*, that the Board of Standards and Appeals waives the Rules of Practice and Procedure, issues a Type II determination under 6 N.Y.C.R.R. Part 617.5 and 617.3 and §§ 5-02(a), 5-02(b)(2) and 6-15 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 R3-1 zoning district, the construction of a single-family home, which does not comply with the zoning requirements for vertical extension of non-complying side yards, contrary to ZR §§ 23-461, 54-313 and 54-41; *on condition* that all work shall substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received June 16, 2014"-(1) sheet and "July 11, 2014"-(2) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 1,082 sq. ft. (0.54 FAR) and side yard with minimum widths of 3'-2" and 3'-3", as illustrated on the BSA-approved plans;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objections(s) only; no approval has been given by the Board as to the use and layout of the cellar;

THAT this approval is limited to the Build it Back program;

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, July 29, 2014.

**A true copy of resolution adopted by the Board of Standards and Appeals, July 29, 2014.**

**Printed in Bulletin No. 31, Vol. 99.**

**Copies Sent**

**To Applicant**

**Fire Com'r.**

**Borough Com'r.**

