

218-14-A

APPLICANT – Paul F. Bonfilio, R.A., for Bo Qian, owner.

SUBJECT – Application September 4, 2014 – Proposed construction of a four-story residential building for eleven units within the bed of 45th Avenue at its intersection within a bed of unmapped street, contrary to GCL 35. R5 zoning district.

PREMISES AFFECTED – 46-03 88th Street, 45th Avenue at intersection of 88th Street, Block 1584, Lot 16, Borough of Queens.

COMMUNITY BOARD #4Q

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

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

THE RESOLUTION –

WHEREAS, the decision of the Department of Buildings (“DOB”), dated August 12, 2014, acting on DOB Application No. 420996630, reads in pertinent part:

The proposed development is contrary to General City Law #35, building in the bed of a mapped street, and requires approval and a Special Permit from the Board of Standards and Appeals...; and

WHEREAS, a public hearing was held on this application on April 14, 2015, after due notice by publication in *The City Record*, and then to decision on April 28, 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 four-story residential building which will be partially located within the bed of a mapped but unbuilt portion of 45th Avenue, at the intersection of the 45th Avenue and 88th Street, in Queens; and

WHEREAS, the subject site is located within an R5 zoning district; and

WHEREAS, the site has a lot area of approximately 7,340 sq. ft.; and

WHEREAS, by letter dated September 29, 2014, the New York City Fire Department (“FDNY”) states that it has no objections to the proposed application; and

WHEREAS, by letter dated October 22, 2014, the New York City Department of Environmental Protection (“DEP”) states that it has no objections to the proposed application; and

WHEREAS, by letter dated February 6, 2015, the New York City Department of Transportation (“DOT”) states that the site is presently included in DOT’s Capital Improvement Program, but does not object to the proposed application provided that the applicant’s site

plan is reflected in its Builders Pavement Plan of 45th Avenue; 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 decision of the DOB, dated August 12, 2014, acting on DOB Application No. 420996630, 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 April 16, 2015”-(1) sheet; and *on further condition*:

THAT DOB will 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 to the extent required by DOB and/or DOT, a Builder’s Pavement Plan shall be filed and approved prior to the issuance of the C of O;

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 April 28, 2015.

A true copy of resolution adopted by the Board of Standards and Appeals, April 28, 2015.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

