

**299-14-BZ & 300-14-A**

APPLICANT – Department of Housing Preservation and Development, for Build it Back Program.

SUBJECT – Application November 6, 2014 – Special Permit (ZR 64-92) to waive bulk regulations for the replacement of homes damaged/destroyed by Hurricane Sandy. (GCL 36) waiver for properties located on an unmapped street on properties which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 28 Topping Street, between Roma Avenue and Cedar Grove Avenue, Block 0408, Lot 50043. Borough of Staten Island.

**COMMUNITY BOARD #2SI**

**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, 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 R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461, 23-47, and 23-52; and

WHEREAS, a public hearing was held on this application on December 16, 2014, after due notice by publication in *The City Record*, and then to decision on February 10, 2015; and

WHEREAS, the premises and surrounding area had site and neighborhood examinations by Vice-Chair Hinkson, 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 south side of Topping Street between Dustan Street and Cedar Grove Avenue, within an R3X zoning district; and

WHEREAS, the site has 40 feet of frontage along Topping Street, a lot depth of 62 feet, and 2,480 sq. ft. of lot area; and

WHEREAS, the site is occupied by a flood-damaged, one-story, single-family home with 1,093 sq. ft. of floor area (0.44 FAR); the existing site has the following yard non-compliances: a front yard with a depth of 9’-7” (a minimum front yard depth of 18’-0” is required, per ZR § 23-45); a rear yard depth of 4’-7” (a minimum front yard depth of 22’-0” is required, per ZR §§ 23-47 and 23-52; and one side yard with a width of 3’-6” (western side yard) and one side yard with a width of 10’-0” (eastern side yard) (the requirement is two

side yards with minimum widths of 5’-0”, a minimum combined width of 13’-0”, and a minimum distance between adjacent buildings along a side lot line of 8’-0”, per ZR § 23-461); and

WHEREAS, the applicant represents and the Board accepts that all information regarding the size and location of the existing building at the site and the existing buildings at adjacent sites are based on MapPLUTO and Department of Finance records; as such, the distances between the existing building and the neighboring buildings are estimates; and

WHEREAS, similarly, the applicant represents and the Board accepts that the existing building has certain lawful non-compliances as depicted in the site plan, which existed as of December 15, 1961 and/or the date of any applicable subsequent amendment of the Zoning Resolution; as such, the Board acknowledges the applicability of ZR §54-00 to the site and to the building; and

WHEREAS, finally, the applicant represents and the Board accepts that the site was owned separately and individually from all other adjoining tracts of land on December 15, 1961; as such, provided that the site remains in separate and individual ownership on the date of application for a building permit, the site shall be governed by ZR §§ 23-33 and 23-52; and

WHEREAS, the applicant proposes to demolish the existing building and construct a two-story, single-family home with 1,272 sq. ft. of floor area (0.51 FAR); the new building will provide a front yard depth of 18’-0”, a rear yard depth of 18’-1¼”, a western side yard width of 5’-0”, an eastern side yard width of 10’-5¼”, and two parking spaces; and

WHEREAS, in addition, the applicant states that the proposed building may be less than 8’-0” from the building directly west of the site; and

WHEREAS, thus, the applicant seeks a special permit to allow construction of the new building with a rear yard depth of 18’-1¼”, and a minimum distance of less than 8’-0” from the building directly west 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

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of the permitted height as measured 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

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 rear and side yard requirements, 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 rear and 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, an increase in front yard depth from 9'-7" to 18'-", increases in the widths of both side yards, an increase in the rear yard depth from 4'-7" to 18'-1¼" and an increase in the number of parking spaces from one to two; and

WHEREAS, the Board finds that the proposed

**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.**

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 R3X zoning district, the construction of a single-family home, which does not comply with the zoning requirements for rear and side yards, contrary to ZR §§ 23-461, 23-47, and 23-52; *on condition* that all work will substantially conform to drawings as they apply to the objections above-noted, filed with this application and marked "Received January 22, 2015"- four (4) sheets; and *on further condition*:

THAT the following shall be the bulk parameters of the building: a maximum floor area of 1,272 sq. ft. (0.51 FAR), a minimum front yard depth of 18'-0", a minimum rear yard depth of 18'-1¼", and side yards with widths of 5'-0" and 10'-5¼", as illustrated on the BSA-approved plans;

THAT the building may be located less than 8'-0" from the building directly west of the site;

THAT this approval shall be limited to the relief granted by the Board in response to specifically cited DOB/other jurisdiction objections(s);

THAT this approval shall be limited to the Build it Back program;

THAT all DOB and related agency application(s) filed in connection with the authorized use and/or bulk will be signed off by DOB and all other relevant agencies by February 10, 2019;

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, February 10, 2015.

