

98-13-A

APPLICANT – Eric Palatnik, P.C., for Scott Berman, owner.

SUBJECT – Application April 8, 2013 – Proposed two-story two family residential development which is within the unbuilt portion of the mapped street on the corner of Haven Avenue and Hull Street, contrary to General City Law 35. R3-1 zoning district.

PREMISES AFFECTED – 107 Haven Avenue, Corner of Hull Avenue and Haven Avenue, Block 3671, Lot 15, Borough of Staten Island.

COMMUNITY BOARD #2SI

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Srinivasan, Vice Chair Collins, Commissioner Ottley-Brown, Commissioner Hinkson and Commissioner Montanez5

Negative:.....0

THE RESOLUTION –

WHEREAS, the decision of the Staten Island Borough Commissioner, dated July 15, 2013, acting on Department of Buildings Application No. 520124552, reads in pertinent part:

Proposed construction on a 12-10 (a) Zoning Lot 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 August 13, 2013, after due notice by publication in *The City Record*, with continued hearings on November 19, 2013 and March 4, 2014, and then to decision on March 25, 2014; and

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

WHEREAS, this is an application to allow the construction of a two-story, two-family home within mapped but unbuilt portions of Hull Avenue; and

WHEREAS, the subject site is a corner lot located at the southwest corner of the intersection of Haven Avenue and Hull Avenue, within an R3-1 zoning district; and

WHEREAS, Hull Avenue is mapped to terminate at Haven Avenue but currently terminates in a dead-end near the western boundary of the site; and

WHEREAS, the applicant states that the site has a lot width of approximately 45 feet, a lot depth of approximately 80 feet, and approximately 3,502 sq. ft. of lot area; and

WHEREAS, the applicant notes that the proposed building will have approximately 1,961 sq. ft. of floor area (0.56 FAR) and that the site will include three accessory off-street parking spaces; and

WHEREAS, by letter dated May 9, 2013, the Fire

Department states that it has reviewed the proposal and offers no objections; and

WHEREAS, by letter dated May 13, 2013, the Department of Environmental Protection (“DEP”) states that: (1) there is an existing eight-inch diameter city water main in the bed of Hull Avenue between Haven Avenue and Boundary Avenue; (2) there is an existing ten-inch diameter sanitary sewer and an existing eight-inch diameter city water main in the bed of Haven Avenue between Hull Avenue and Adams Avenue; (3) the preliminary proposed Drainage Plan Sheet 8 of 12, dated June 5, 2012, calls for a future ten-inch diameter sanitary sewer and a 12-inch storm sewer to be installed in hull Avenue between Haven Avenue and Boundary Avenue, and for a future 10-inch sanitary sewer and a 12-inch diameter storm sewer in Haven Avenue between Hill Avenue and Adams Avenue; and

WHEREAS, DEP further states that it requires the applicant to submit a survey/plan showing: (1) the width of mapped Hull Avenue between Haven Avenue and Boundary Avenue, the width of the widening portions of the street and available portion of the street; (2) the width of mapped Haven Avenue between Hull Avenue and Adams Avenue and the width of widening portions of the street and available portions of the street; (3) the distances between the lot line of Lot 15 and end cap of the eight-inch diameter city water main in Hill Avenue; (4) the distance from the lot line of Lot 15 to the hydrant in Hull Avenue; and (5) a 32-foot wide sewer corridor in the bed of Haven Avenue between Hull Avenue and Adams Avenue for the installation, maintenance, and/or reconstruction of the future ten-inch diameter sanitary sewer, the 12-inch diameter storm sewer, the existing ten-inch diameter sanitary sewer and the 8-inch diameter water main; and

WHEREAS, in response to DEP’s request, by letter dated July 29, 2013, the applicant submitted a revised survey; and

WHEREAS, by letter dated August 12, 2013, DEP states that, based on its review of the applicant’s response, it has no objections to the proposal; and

WHEREAS, by email correspondence dated September 6, 2013, the Department of Transportation (“DOT”) requested that the applicant perform a title search for the following streets: (1) Haven Avenue from Jefferson Avenue to Adams Avenue; and (2) Hull Avenue from Haven Avenue to Boundary Avenue ; and

WHEREAS, DOT also states that according to the Staten Island Topographical Bureau’s records, the city does not have title to or a Corporation Counsel Opinion of Dedication (“CCO”) for Hull Avenue at this location and that the city has a CCO for Haven Avenue at this location for 29 to 50 feet, as-in-use on April 4, 1991; and

WHEREAS, accordingly, DOT directed the applicant to perform a title search to determine the ownership of the portions of Hull Avenue and Haven Avenue in question; and

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WHEREAS, following a series of correspondences between DOT and the applicant, DOT states that: (1) because the Staten Island Topographical Bureau identified Haven Avenue at this location as a CCO as-in-use, DOT cannot authorize the proposed clearing of the vegetation and the guardrail that juts into the mapped width of Haven Avenue; and (2) although the applicant has title to Haven Avenue up to the center line of Hull Avenue, the city does not own the other half and, as such, DOT cannot authorize the construction of continuous street infrastructure along Haven Avenue, which is required; and

WHEREAS, by letter dated March 18, 2014, the applicant states that based on its title company's representation, ownership of Haven Avenue to the center line of Hull Avenue remains with the city; and

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

WHEREAS, the Board also notes that Haven Avenue has been a mapped street since December 5, 1929 and that DOT has not represented that construction within the unbuilt portions of Haven Avenue would either conflict or interfere with the its Capital Improvement Program; and

WHEREAS, accordingly, the Board finds that DOT's remaining concern regarding the identity of the owner of Haven Avenue beyond the guardrail is not a basis to deny the application; however, the applicant must determine the identity of the owner of that portion of Haven Avenue and obtain permission for the proposed improvements prior to the issuance of a building permit; and

WHEREAS, at hearing, the Board requested clarification regarding: (1) the proposed street setback's compliance with the Zoning Resolution; and (2) whether the proposed building could be aligned with the adjoining homes; and

WHEREAS, in response, the applicant states that setback is permitted from the record line because the site is a ZR § 12-10(a) zoning lot; as to aligning with the adjacent homes, the applicant notes that the adjacent site are larger than the subject site and, as such, can provide a setback without losing important marketable floor area; the subject site, in contrast, would lose bedrooms if it were to be aligned with the adjacent homes; 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 Staten Island Borough Commissioner, dated July 15, 2013, acting on Department of Buildings Application No. 520124552, by the power vested in it by Section 35 of the General City Law, limited to the decision noted above *on condition* that construction will substantially conform to the drawing filed with the application marked "Received March 5, 2014" – one (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 street were not mapped;

THAT owner's authorization for the proposed improvements of Haven Avenue will be obtained prior to the issuance of the DOB permit(s);

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 DOB will review the proposed plans to ensure compliance with all relevant provisions of the Zoning Resolution;

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 March 25, 2014.

A true copy of resolution adopted by the Board of Standards and Appeals, March 25, 2014.

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**Copies Sent
To Applicant
Fire Com'r.
Borough Com'r.**

