

**256-13-BZ thru 259-13-BZ**

**CEQR #14-BSA-034R**

APPLICANT – Eric Palatnik PC, for Block 3162 LLC, owner.

SUBJECT – Application August 15, 2013 – Variance (§72-21) to permit four detached and semi-detached homes, contrary to side yard (§23-461) and open area (§23-891) regulations, and bulk non-compliances resulting from the location of a mapped street (§23-45).

PREMISES AFFECTED – 25, 27, 31, 33, Sheridan Avenue aka 2080 Clove Road, between Giles Place and the Staten Island Rapid Transit right of way, Block 3162, Lot 22, 23, 24, 25, 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, the decision of the Department of Buildings (“DOB”), dated March 19, 2014, and acting on DOB Application No. 520074035, reads, in pertinent part:

ZR 23-00 – Proposed new building has bulk non-compliances resulting from the location of mapped streets; and

WHEREAS, the decision of the Department of Buildings (“DOB”), dated March 19, 2014, and acting on DOB Application No. 520141980, reads, in pertinent part:

ZR 23-00 – Proposed new building has bulk non-compliances resulting from the location of mapped streets; and

WHEREAS, the decision of the Department of Buildings (“DOB”), dated March 19, 2014, and acting on DOB Application No. 520141999, reads, in pertinent part:

ZR 23-00 – Proposed new building has bulk non-compliances resulting from the location of mapped streets; and

ZR 23-461 – Proposed new construction is required to comply with required 20 foot side yard as the subject lot is the corner lot by definition from record line; and

ZR 23-891 – Proposed new construction is required to comply with required 30 foot open area when measured perpendicular to each rear wall; and

WHEREAS, the decision of the Department of Buildings (“DOB”), dated March 19, 2014, and acting on DOB Application No. 520142006, reads, in pertinent part:

ZR 23-00 – Proposed new building has bulk non-compliances resulting from the location of

mapped streets; and

ZR 23-461 – Proposed new construction is required to comply with required 20 foot side yard as the subject lot is the corner lot by definition from record line; and

ZR 23-891 – Proposed new construction is required to comply with required 30 foot open area when measured perpendicular to each rear wall; and

WHEREAS, this is an application under ZR § 72-21, to permit, on a site within an R3-2 zoning district, the construction of three semi-detached, two-story, single-family homes (Use Group 2), and one semi-detached, three-story, two-family home (Use Group 2) that do not comply with the underlying zoning district regulations for front yards, side yards, and open area perpendicular to a rear wall, contrary to ZR §§ 23-00, 23-45, 23-461 and 23-891; and

WHEREAS, a public hearing was held on this application on June 10, 2014, after due notice by publication in *The City Record*, with a continued hearing on July 15, 2014, and then to decision on July 29, 2014; and

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

WHEREAS, Community Board 2, Staten Island, recommends disapproval of this application, citing general concerns regarding construction within the bed of a mapped but unimproved street; and

WHEREAS, companion applications to waive General City Law (“GCL”) § 35 for the portions of the proposal within the beds of a mapped but unimproved streets were filed, pursuant to ZR § 72-01(g), under BSA Cal. Nos. 260-13-A, 261-13-A, 262-13-A, and 263-13-A, and decided at the same hearing; and

WHEREAS, the subject site is a trapezoidal lot bounded Sheridan Avenue, Giles Place, Clove Road, and a right of way for the Staten Island Rapid Transit line, within an R3-2 zoning district; and

WHEREAS, the site, which is vacant, has 148 feet of frontage along Sheridan Avenue, 100 feet of frontage along Giles Place, 72 feet of frontage along Clove Road, and 11,000 sq. ft. of lot area; the site will be divided into four tax lots (Lots 22, 23, 24, and 25) in connection with the proposed development; and

WHEREAS, the applicant notes that portions of the site are within proposed street widening areas for Sheridan Avenue (which has an improved width of 30’-0” and a mapped width of 40’-0”) and Clove Road (which has an improved width of 40’-0” and a mapped width of 80’-0”); in addition, the site is encumbered by an easement for the Staten Island Rapid Transit line; and

WHEREAS, the applicant proposes to construct three semi-detached, two-story, 1,530 sq.-ft. single-family homes (Use Group 2) and one semi-detached, three-story,

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two-family home (use Group 2) with 2,010 sq. ft. of floor area, for a total proposed floor area of 6,600 sq. ft. (0.6 FAR); and

WHEREAS, the applicant states that all four homes will front on Sheridan Avenue and provide a front yard depth of 15'-0" as measured from the built street (a front yard depth of 15'-0"—as measured from the street widening line—is required, per ZR § 23-45); two homes will have side yard widths of 20'-0", one home (on Lot 24) will have a side yard width of 17'-0", and one home (on Lot 25) will have a side yard width of 10'-0" (a minimum side yard width of 20'-0" is required, per ZR § 23-461); and

WHEREAS, in addition, the applicant states that two homes will provide open areas with depths of 40'-0", one home (on Lot 24) will have an open area with a depth of 28'-1", and one home (on Lot 25) will have an open area of with a depth of 21'-0", all measured perpendicular from the improved street line to the rear wall (a minimum depth of 30'-0" is required, per ZR § 23-891, and the depth is measured from the street widening line); and

WHEREAS, the applicant notes that the widening line for Clove Road extends to a depth of 40'-0" within the site; as such, absent relief pursuant to ZR § 72-01(g) and GCL § 35, the rear open areas proposed for the four buildings would be effectively 0'-0"; and

WHEREAS, the applicant states that the proposed measurement of the buildings' front yards from the improved width of Sheridan Avenue and the buildings' rear open areas from the improved width of Clove Road are permitted by the Board pursuant to ZR § 72-01(g) pursuant to the above-referenced GCL § 35 waiver applications; and

WHEREAS, accordingly, the applicant seeks a variance pursuant to ZR § 72-21 to allow the proposed side yards and rear open areas for the buildings on Lots 24 and 25, which are contrary to ZR §§ 23-461 and 23-891, respectively, which exist even in the absence of the mapped unbuilt street, and, thus, which the Board does not waive pursuant to ZR § 72-01(g); and

WHEREAS, the applicant states that the site's trapezoidal shape and three street frontages, and the presence of a transit easement and widening lines for two streets within are unique physical conditions, which create practical difficulties and unnecessary hardship in developing the subject site in compliance with underlying zoning regulations, in accordance with ZR § 72-21(a); and

WHEREAS, the applicant states that the site's trapezoidal shape—formed by the intersection of the railroad tracks for the Staten Island Rapid Transit line with an otherwise rectangular parcel—is both unique in the surrounding neighborhood and an impediment to complying development of the site; and

WHEREAS, as to the uniqueness, the applicant represents that the site is one of only four sites within a 400-foot radius that have a trapezoid shape; additionally, the other three sites have significantly less lot area, front on only one street (instead of three) and are not reduced in buildable as-of-right lot area by street widening lines; and

WHEREAS, as to the shape's impact on complying development, the applicant states that such shape, in combination with the R3-2 district yard and open space requirements, prevents efficient use of the site's available floor area, resulting in significant underdevelopment; and

WHEREAS, specifically, the applicant states that due to the sharp angle of the southern boundary, half of the site is too shallow to accommodate residences with complying rear and front yards; and

WHEREAS, in addition, the applicant asserts that because one of the three streets (Clove Road) is a heavily-trafficked commercial thoroughfare and another (Giles Place) is unsuitably narrow, conforming uses in the R3-2 district front most appropriately on residence-oriented Sheridan Avenue, resulting in a further constraint on the configuration of any building(s) on the site; and

WHEREAS, the applicant states that the presence of the transit easement along Clove Road and the widening lines for Sheridan Avenue and Clove Road contribute to the site's uniqueness; and

WHEREAS, the applicant represents that among vacant sites within the study area, the subject site is the only site with two street widening lines; and

WHEREAS, the applicant also states that the easement and the widening lines effectively reduce the buildable lot area of the site from 11,000 sq. ft. to 6,600 sq. ft.; and

WHEREAS, based upon the above, the Board finds that the cited unique physical conditions create practical difficulties in developing the site in strict compliance with the applicable zoning regulations; and

WHEREAS, the applicant asserts that, per ZR § 72-21(b), there is no reasonable possibility that the development of the site in conformance with the Zoning Resolution will bring a reasonable return; and

WHEREAS, to demonstrate the infeasibility of developing the site without the requested waivers, the applicant explored three alternative development scenarios: (1) a complying community facility use without any waivers of GCL § 35; (2) a complying residential development (two single-family homes) without any waivers of GCL § 35; (3) a complying community facility with GCL § 35 waivers to build irrespective of the widening lines along Clove Road and Sheridan Avenue; and (4) a complying residential development (four single-family homes) with GCL § 35 waivers to build irrespective of the widening lines along Clove Road and Sheridan Avenue; and

WHEREAS, the applicant states that all four

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scenarios result in significantly underdeveloped and financially infeasible developments, and that only the proposal—five total dwelling units—provide a reasonable return; and

WHEREAS, the Board agrees with the applicant that because of the site’s unique physical conditions, there is no reasonable possibility that compliance with applicable zoning regulations will result in a reasonable return; and

WHEREAS, the applicant represents that, per ZR § 72-21(c), the proposed variance will not negatively affect the character of the neighborhood, or impact adjacent uses; and

WHEREAS, the applicant states that the surrounding neighborhood is characterized by low rise detached and semi-detached one- and two-family dwellings; and

WHEREAS, the applicant notes that the use is permitted as-of-right in the subject R3-2 district; and

WHEREAS, as to bulk, the applicant states that the proposal’s floor area, wall and building height comply with the subject R3-2 regulations and that open areas and yards are consistent with the built character of the area, particularly in light of the unique constraints of the site; and

WHEREAS, the applicant states that the proposal has no impact on nearby uses, which include a mixed residential and commercial building across Giles Place, a commercial building across Clove Road, and a row of single-family dwellings across Sheridan Avenue; and

WHEREAS, the Board notes that by letter dated July 23, 2014, the Department of Transportation (“DOT”) indicates that it has reviewed and approved the site plan, on condition that 20 feet of unobstructed space is maintained within the driveway of 33 Sheridan Avenue and left open and available for vehicle turnaround at all times; and

WHEREAS, therefore, the Board finds that, in accordance with ZR § 72-21(c), this action will neither alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that, per ZR § 72-21(d), the hardship herein was not created by the owner or a predecessor in title, but is a result of the site’s unique physical conditions; and

WHEREAS, the Board also finds that this proposal is the minimum necessary to afford the owner relief, in accordance with ZR § 72-21(e); and

WHEREAS, thus, the Board has determined that the evidence in the record supports the findings required to be made under ZR § 72-21; and

WHEREAS, the project is classified as an unlisted action pursuant to 6 NYCRR, Part 617.2; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement CEQR No. 14-BSA-034R, dated August 12, 2013; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Waterfront Revitalization Program; Infrastructure; Hazardous Materials; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; and Public Health; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

*Therefore it is Resolved*, that the Board of Standards and Appeals issues a Negative Declaration under 6 NYCRR Part 617.5 and 617.13, §§ 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 § 72-21 to permit, on a site within an R3-2 zoning district, the construction of three semi-detached, two-story, single-family homes (Use Group 2), and one semi-detached, three-story, two-family home (Use Group 2) that do not comply with the underlying zoning district regulations for side yards, and open area perpendicular to a rear wall, contrary to ZR §§ 23-461 and 23-891; *on condition* that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked “Received July 25, 2014”– twenty-five (25) sheets; and *on further condition*:

THAT the parameters of the development will be as follows: three (25, 27, and 31 Sheridan Avenue) semi-detached, two-story, 1,530 sq.-ft. single-family homes; one (33 Sheridan Avenue) semi-detached, three-story, two-family home (use Group 2) with 2,010 sq. ft. of floor area; a total maximum floor area of 6,600 sq. ft. (0.6 FAR);

THAT 25 Sheridan Avenue (Lot 22) will have a minimum front yard depth of 15’-0”, a minimum side yard width of 20’-0”, a minimum rear open area depth of 40’-0”, and two parking spaces;

THAT 27 Sheridan Avenue (Lot 23) will have a minimum front yard depth of 15’-0”, a minimum side yard width of 20’-0” and a minimum rear open area depth of 40’-0”, and two parking spaces;

THAT 31 Sheridan Avenue (Lot 24) will have a minimum front yard depth of 15’-0”, a minimum side yard width of 17’-0”, a minimum rear open area depth of

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28'-1", and two parking spaces;

THAT 33 Sheridan Avenue (Lot 25) will have a minimum front yard depth of 15'-0", a minimum side yard width of 10'-0", a minimum rear open area depth of 20'-0", and three parking spaces;

THAT 20 feet of unobstructed space is maintained within the driveway of 33 Sheridan Avenue (Lot 25) and left open and available for vehicle turnaround at all times;

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 shall be considered approved only for the portions related to the specific relief granted;

THAT substantial construction will be completed pursuant to ZR § 72-23;

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, 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.**

