



The City of New York

Queens Community Board 11

Serving the Communities of Auburndale, Bayside, Douglaston, Hollis Hills
Little Neck and Oakland Gardens

Jerry Iannece Chairperson / **Susan Seinfeld** District Manager

COMMITTEE REPORT

TO: Board Members
FROM: Christine Haider, Chair
North Bayside/East Flushing Zoning Committee
RE: BSA Cal. No. 23-14 A
198-35 51 Avenue
DATE: March 20, 2014

On March 19, 2014, the North Bayside/East Flushing Zoning Committee met to discuss the above-referenced BSA application. Present were board members Christine Haider, Henry Euler, Andy Rothman, Mohan Jethwani, Christina Scherer, Ocelia Claro, Joanne Ferrari, Daniel Baek, Susan Macinick, Eileen Miller and Dina Quondamatteo, community representative. Also present were Christina Coutinho, Community Associate, and Michael Nacmias, Esq. from Eric Palatnik, P.C., attorney for the applicant.

Mr. Nacmias presented the BSA application to allow the owner to complete the construction of the home built on this property pursuant to common law vested rights. On October 27, 2010 the Auburndale Zoning Text was enacted and changed the zoning from R3-2 to R2A. The rezoning created non-compliance with respect to lot coverage from 35% to 30%. The owner started construction in August 2010 but had not obtained a Certificate of Occupancy within two years of the zoning change and, therefore, had to file to complete construction under the common law doctrine of vested rights. The home is built as a 1600 s.f. two-story, two-family home. The lot is about 4,800 s.f. It has a width of 40 ft. and a depth of 120 ft. Mr. Nacmias stated that they meet the threshold required, namely, that the foundation was complete at the time of rezoning, substantial expenditures were made, a \$100,000 investment and potential serious loss would occur if denied the right to proceed. It would require demolition, redesign and development.

Discussion ensued regarding the current non-compliance of a two-family home in the current single-family home zone. Mr. Nacmias was not sure if that had to be included in this application. If so, there would be a revision of the application. Questions were raised about the date of the pouring of the foundation. Mr. Nacmias said that the foundation was completed 11 weeks before the rezoning. On October 29, 2010, DOB inspected the property to confirm that the foundation was laid.*

Also discussed was whether the width of the side yard was 5 ft., the need for green space pursuant to the Yards Text Amendment, the configuration of the home with the second dwelling space at the rear of the first floor, the three utility meters on the side of the house, and the parking of a commercial vehicle overnight on the property.

Henry Euler made a motion to postpone the vote until the following information is received. Joanne Ferrari seconded the motion. It was approved unanimously.

The information to be provided by the April 7th Board meeting is:

- 1- Provide date of foundation completion
- 2- Verify that the side yard width is 5 ft.
- 3- Explain the reason for the delay in completing construction and obtaining the Certificate of Occupancy.
- 4- Explain why there are three utility meters**

District Manager's notes-

*Dept. of Buildings must inspect all new construction in areas immediately following rezoning to verify whether foundations have been completed in order to comply with vested rights.

**Pursuant to a law suit, in two-family homes, Con Edison is required to install three meters to insure, that should the owner rent both dwelling units, the hallway and basement utility bills are paid by the owner and not by the tenants. If the owner lives in the building, then the bills must be paid by the owner.