

2016-4227-A

APPLICANT – Cozen O’Connor, for Boys Town New York, Inc. (f/k/a Girls and Boys Town of New York, Inc.), owner.

SUBJECT – Application July 13, 2016 – Proposed development which is within the bed of a mapped but unopened portion of Fleet Place, located on the north west corner of Willoughby Street and Fleet Place, contrary to General City Law 35 and related bulk waivers pursuant to ZR Section 72-01(g). C6-4 (Special Downtown Brooklyn District) zoning district.

PREMISES AFFECTED – 112 Fleet Place (aka 167 Willoughby Street), Block 2062, Lot 23, Borough of Brooklyn.

COMMUNITY BOARD #2BK

ACTION OF THE BOARD – Application granted on condition.

THE VOTE TO GRANT –

Affirmative: Chair Perlmutter, Vice-Chair Hinkson, Commissioner Montanez and Commissioner Chanda...4

Negative:0

Absent: Commissioner Ottley-Brown.....1

THE RESOLUTION –

WHEREAS, the decision of the Brooklyn Borough Commissioner, dated July 12, 2016, acting on Department of Buildings (“DOB”) Application No. 321183312, reads in pertinent part:

1. Proposed construction located partially within the bed of a mapped street is contrary to Section 35 of the General City Law. Obtain Board of Standards and Appeals approval;
2. Proposed new building has bulk-non-compliances resulting from the location of such mapped street. Obtain Board of Standards and Appeals waiver pursuant to Zoning Resolution § 72-01(g); and

WHEREAS, this is an application to permit the development of an 11-story residential building partially within the bed of a mapped street, contrary to General City Law (“GCL”) § 35, and that affects compliance with the following applicable bulk regulations: minimum lot area (ZR §§ 34-11 and 23-32), minimum lot width (ZR §§ 34-11 and 23-32) and maximum floor area and floor area ratio (“FAR”) (ZR §§ 34-11 and 23-152); and

WHEREAS, accordingly, a waiver pursuant to ZR § 72-01(g) is requested to permit the inclusion of the mapped, but unbuilt, portion of the street into the zoning calculation for lot area, lot width, floor area and FAR; and

WHEREAS, a public hearing was held on this application on January 10, 2017, after due notice by publication in *The City Record*, and then to decision on January 24, 2017; and

WHEREAS, Vice-Chair Hinkson, Commissioner Ottley-Brown, Commissioner Montanez and Commissioner Chanda performed inspections of the site and surrounding neighborhood; and

WHEREAS, Community Board 2, Brooklyn,

waived, in writing, the holding of a public hearing regarding this application,

WHEREAS, the subject site is located on the northwestern corner of the intersection of Fleet Place and Willoughby Street, in a C6-4 zoning district within the Special Downtown Brooklyn District, in Brooklyn; and

WHEREAS, the site has approximately 100 feet of frontage along Fleet Place, 24 feet of frontage along Willoughby Street, 2,435 square feet of lot area and is occupied by a three-story building; and

WHEREAS, the site is traversed by a 10 foot wide mapped but unbuilt portion of Fleet Place; and

WHEREAS, the mapped width of Fleet Place between Willoughby Street and Fair Street was increased from 50 feet to 60 feet, effective August 12, 2006, pursuant to a 2004 Amendment to the Brooklyn Center Urban Renewal Plan proposed by the New York City Department of City Planning (“DCP”) and the New York City Economic Development Corporation (“EDC”) and adopted by the City Planning Commission; and

WHEREAS, the street was never physical widened and EDC states, by an undated letter, that no widening of the street at the subject site is anticipated and that EDC has no objection to the subject application; and

WHEREAS, by letter dated September 1, 2016, the New York City Department of Transportation (“DOT”) confirms that Fleet Place between Willoughby Street and Myrtle Avenue is mapped to a width of 50 feet and has a Corporation Council Opinion of Dedication (“CCO”) for the entire width; and

WHEREAS, DOT additionally states that the subject lot is not presently included in DOT’s Capital Improvement Program; and

WHEREAS, the applicant proposes to demolish the existing building and construct an 11-story residential building with 24,111 square feet of floor area (9.94 FAR); and

WHEREAS, the applicant represents that the proposal complies with all bulk regulations applicable in a C6-4 zoning district except regulations regarding minimum lot area, minimum lot width and maximum floor area and FAR due to the fact that the lot is partially located within the bed of a mapped, but unbuilt portion, of Fleet Place; and

WHEREAS, in the subject zoning district, the minimum lot area for multi-family residential buildings is 1,700 square feet pursuant to ZR §§ 34-11 and 23-32; the minimum lot width required is 18 feet pursuant to ZR §§ 34-11 and 23-32; and the maximum floor area permitted is 24,250 square feet (10 FAR) pursuant to ZR §§ 34-11 and 23-152; and

WHEREAS, because of the 10 foot wide by 100 foot long portion of the subject site located in the bed of a mapped, but unbuilt portion, of Fleet Place, the maximum lot area of the site available for development as-of-right is

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1,425 square feet and the maximum width of the lot developable as-of-right is approximately 14 feet; and

WHEREAS, accordingly, the applicant seeks a waiver, pursuant to ZR § 72-01(g), to permit the inclusion of the portion of the subject site in a mapped, but unbuilt portion, of Fleet Place in the calculation of lot area and lot width for the premises; and

WHEREAS, in addition, the proposed floor area of 24,111 square feet is greater than 14,250 square feet, the maximum permitted floor area for the portion of the lot not located in the bed of the mapped, but unbuilt portion of Fleet Place, which is developable as-of-right; and

WHEREAS, because the proposed 24,111 square feet of floor area does, however, comply with the maximum floor area permitted at the site if the area located in the mapped, but unbuilt portion of the street, is included in the floor area calculation, the applicant seeks a waiver pursuant to ZR § 72-01(g) to permit the inclusion of that area in such calculation; and

WHEREAS, in addition to the representation provided by EDC that widening of Fleet Place at this location is not anticipated, the applicant suggests that such widening is impracticable because of, *inter alia*, significant development in the area, which would need to be demolished to effectuate such widening, and the availability of public transportation in the area which makes widening Fleet Place in order to accommodate additional automobile traffic unnecessary; and

WHEREAS, by letter dated January 9, 2017, the New York City Department of Environmental Preservation (“DEP”) states that there is a 12-inch diameter combined sewer and an 8-inch diameter city water main in Fleet Place between Willoughby Street and Myrtle Avenue and a 15-inch diameter combined sewer in the bed of Fleet Place between Willoughby Street and Myrtle Avenue, but that DEP has no objections to the proposed application; and

WHEREAS, by letter dated January 18, 2017, the New York City Fire Department confirms that there are no plans to widen Fleet Place, that the proposed project complies with site access requirements and that the Fire Department has no objections to the proposed application; 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 additionally 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 Department of Buildings (“DOB”), dated July 12, 2016, acting on DOB Application No. 321183312, 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 drawings filed with the application marked “Received July 13, 2016”– One (1) sheet; and *on further condition*:

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 January 24, 2021;

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 Certificate of Occupancy;

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, January 24, 2017.

A true copy of resolution adopted by the Board of Standards and Appeals, January 24, 2017.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

