

2016-4289-A

APPLICANT – NYC Mayor’s Office of Housing Recovery Operation (“HRO”)

SUBJECT – Application October 31, 2016 – General City Law 35 Waiver for the reconstruction of properties located within the bed of a mapped street, damaged/destroyed by Hurricane Sandy, which are registered in the NYC Build it Back Program.

PREMISES AFFECTED – 630 Midland Avenue, Block 03875, Lot 26. 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 Ottley-Brown, Commissioner Montanez and Commissioner Chanda.....5

Negative:0

THE RESOLUTION –

WHEREAS, this is an application for waiver of certain of the Board’s Rules of Practice and Procedure and to allow for the elevation or reconstruction of a 5 units home on a portion of a site that lies within the bed of a mapped street, contrary to General City Law (“GCL”) § 35; and

WHEREAS, a public hearing was held on this application on November 15, 2016, after due notice by publication in *The City Record*, and then to decision on the same date; and

WHEREAS, this application is brought on behalf of the owner by the Mayor’s Office of Housing Recovery Operations (“HRO”) and the Build it Back Program, which was created to assist New York City residents affected by Hurricane Sandy; and

WHEREAS, in order to accept the application from HRO on behalf of the owner, and in furtherance of the City’s effort to rebuild homes impacted by Hurricane Sandy expeditiously and efficiently, the Board waives, pursuant to 2 RCNY § 1-14.2, the following of its Rules of Practice and Procedure: (1) 2 RCNY § 1-06.1(b) (Objection Issued by the Department of Buildings), (2) 2 RCNY § 1-06.3(b) (Filing Period), (3) 2 RCNY § 1-06.4(b) (Application Referral), (4) 2 RCNY § 1-06.5(b) (Hearing Notice), and (5) 2 RCNY § 1-09.4 (Owner’s Authorization); and

WHEREAS, the Board notes that the subject application is exempt from fees pursuant to 2 RCNY § 1-09.2 and NYC Admin. Code § 25-202(6); and

WHEREAS, the subject site is located on Midland Avenue within a R3-2 zoning district, in Staten Island; and

WHEREAS, by letter dated October 19, 2016, the Department of Environmental Protection (“DEP”) states that a DEP Capital Project extends into the subject site, but that DEP has no objections to the proposed application, on condition that (1) no building or other structure may be constructed over an existing DEP-managed water or sewer main, as confirmed by a survey prepared by a New York State licensed land surveyor; (2)

if a proposed building or other structure is not within the exact footprint of the pre-Hurricane Sandy building or other structure being replaced or repaired, the proposed building or other structure may not be within 5 feet of a DEP-managed existing water or sewer main, as confirmed by a survey prepared by a New York State licensed land surveyor, unless DEP has notified DOB that such limitation does not apply; (3) if a proposed building or other structure is within the exact footprint of the pre-Hurricane Sandy building or other structure being replaced or repaired, the proposed building or other structure may be within 5 feet of a DEP-managed existing water or sewer main, as confirmed by a survey prepared by a New York State licensed land surveyor; and (4) if a proposed building or other structure is not within the exact footprint of the pre-Hurricane Sandy building or other structure being replaced or repaired solely because of the addition of a new landing, lift, ramp, staircase and/or porch required to accommodate elevation of the proposed building or other structure, that portion of the proposed building or other structure that is within the exact footprint of the pre-Hurricane Sandy building or other structure may remain within 5 feet of a DEP-managed existing water or sewer main but such new landing, lift, ramp, staircase and/or porch may not be within 5 feet of a DEP-managed existing water or sewer main, as confirmed by a survey prepared by a New York State licensed land surveyor, unless DEP has notified DOB that such limitation does not apply; and

WHEREAS, by letter dated October 20, 2016, the Department of Transportation (“DOT”) states that there is a planned and finalized DOT Capital Project associated with the subject site; and

WHEREAS, accordingly, DOT and DEP further condition the subject application on all buildings or other structures, including exterior stairs, not being constructed within either a planned DEP Capital Project, as indicated on the Department of Design and Construction’s (“DDC”) Damages Map and/or Acquisition plans as of September 15, 2015, or a planned DOT Capital Project, as indicated on DDC’s Right of Way Acquisition Plan as of September 15, 2015, or as indicated in writing by the DDC; and

WHEREAS, DOT states that the foregoing condition shall not apply where the subject building or other structure does not extend further into the privately mapped right-of-way than the footprint of the pre-Hurricane Sandy building or other structure that is being replaced or repaired, the location of such existing building or other structure having been established through a survey prepared by a New York State licensed land surveyor; and

WHEREAS, by letter dated October 5, 2016, the Fire Department states that it has no objections to the proposal on the condition that where the curb-to-curb

2016-4289-A

width of the street is less than 34 feet or the building is setback more than 40 feet from the curb line: (1) the building shall have a fire sprinkler system in accordance with Chapter 9 and Appendix Q of the New York City Building Code; (2) the building will be provided with interconnected smoke and carbon monoxide alarms, designed and installed in accordance with Section 907.2.11 of the New York City Building Code; (3) the underside of the building, where the foundation is not completely closed, shall have an exterior assembly that provides a 2-hour fire resistance rating; and (4) the height from grade plane to the highest window-sill leading to a habitable space may not exceed 32'-0"; and

WHEREAS, the Fire Department further stated that, in circumstances where the construction consists primarily of structural elevation and the Fire Department has determined that the home has been mostly repaired, with the exception of work associated with elevating the home, elevating and moving mechanical, electrical, and plumbing equipment, roof construction or other minor work associated with elevating the home in compliance with the New York City Building Code Appendix G, the Department of Buildings ("DOB") may waive the requirement that the building has a sprinkler system in accordance with Chapter 9 and Appendix Q of the New York City Building Code upon notice from the Fire Department; 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 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 of Standards and Appeals waives the above-referenced Rules of Practice and Procedure, and authorizes a waiver of GCL § 35 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 *on condition* that the proposed elevation or reconstruction will comply with all applicable zoning

district requirements; and that all other applicable laws, rules and regulations shall be complied with; and *on further condition*:

THAT no building or other structure may be constructed over an existing DEP-managed water or sewer main, as confirmed by a survey prepared by a New York State licensed land surveyor;

THAT if a proposed building or other structure is not within the exact footprint of the pre-Hurricane Sandy building or other structure being replaced or repaired, the proposed building or other structure may not be within 5 feet of a DEP-managed existing water or sewer main, as confirmed by a survey prepared by a New York State licensed land surveyor, unless DEP has notified DOB that such limitation does not apply;

THAT if a proposed building or other structure is within the exact footprint of the pre-Hurricane Sandy building or other structure being replaced or repaired, the proposed building or other structure may be within 5 feet of a DEP-managed existing water or sewer main, as confirmed by a survey prepared by a New York State licensed land surveyor;

THAT if a proposed building or other structure is not within the exact footprint of the pre-Hurricane Sandy building or other structure being replaced or repaired solely because of the addition of a new landing, lift, ramp, staircase and/or porch required to accommodate elevation of the proposed building or other structure, that portion of the proposed building or other structure that is within the exact footprint of the pre-Hurricane Sandy building or other structure may remain within 5 feet of a DEP-managed existing water or sewer main but such new landing, lift, ramp, staircase and/or porch may not be within 5 feet of a DEP-managed existing water or sewer main, as confirmed by a survey prepared by a New York State licensed land surveyor, unless DEP has notified DOB that such limitation does not apply;

THAT all buildings or other structures, including exterior stairs, not be constructed within a planned DEP Capital Project as indicated on the DDC's Damages Map and/or Acquisitions plan as of September 15, 2015;

THAT all buildings or other structures, including exterior stairs, not be constructed within a planned DOT Capital Project as indicated on the DDC's Right of Way Acquisition Plan as of September 15, 2015, or as indicated in writing by the DDC, unless the subject building or other structure does not extend further into the privately mapped right-of-way than the footprint of the pre-Hurricane Sandy building or other structure that is being replaced or repaired, the location of such existing building or other structure having been established through a survey prepared by a New York State licensed land surveyor;

THAT, if the curb-to-curb width of the street is less than 34 feet or the building is setback more than 40 feet from the curb line: (1) the building shall have a fire

2016-4289-A

sprinkler system in accordance with Chapter 9 and Appendix Q of the New York City Building Code, unless the Fire Department has notified DOB that the building is exempt; (2) the building will be provided with interconnected smoke and carbon monoxide alarms, designed and installed in accordance with Section 907.2.11 of the New York City Building Code; (3) the underside of the building, where the foundation is not completely closed, shall have an exterior assembly that provides a 2-hour fire resistance rating; and (4) the height from grade plane to the highest window-sill leading to a habitable space may not exceed 32'-0";

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

THAT this approval is limited to proposals for the elevation or reconstruction of previously existing structures and insofar as the applicant proposes, instead, to repair the building or other structure on the subject lot, this waiver shall be void as unnecessary;

THAT the applicant provide the Board with a full set of approved plans upon DOB's issuance of a Certificate of Occupancy for the subject building or other structure;

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 November 15, 2020;

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; 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, November 15, 2016.

**A true copy of resolution adopted by the Board of Standards and Appeals, November 15, 2016
Printed in Bulletin Nos. 46-47, Vol. 101.**

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

