

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, January 11, 2024 at 7:30 p.m. in the Court Room of the Municipal Building, 1 Heineman Place, Harrison, New York.

Members Present

Paul Katz, Acting Chairman
Ernest Fiore
Steven Lowenthal
Michael Tiesi
Jerome Valenti

Members Absent

Thomas Haynes
Thomas Foristel

The Chairman called the meeting to order at 7:30 p.m.

<u>Cal. #</u>	<u>Applicant</u>	<u>Block</u>	<u>Lot</u>	<u>Decision</u>
Z23-031	Zempachi Tanaka	266	1	Variance Granted
Z23-032	Cosmo Micalone	116	25	Variance Granted
Z23-033	Joseph Fasciglione	244	62	Variance Granted
Z23-024	120 Cottage LLC	961	7	Variance Granted
Z23-035	Thomas Sullivan & Patricia Foley	544	28	Heard – Adjourned to the February Meeting
Z23-036	Marie & Ray Zeek	644	27	Heard – Adjourned to the February Meeting
Z23-037	Soverato LLC	251	42	Heard – Closed – Findings being prepared

The next meeting was scheduled to February 8, 2024.

There being no further business to come before the Board, on a Motion duly made and seconded, the meeting was declared adjourned.

Jacqueline Kheer

Town Clerk's Office

Rosemarie Cusumano

Rosemarie Cusumano, Secretary

THE FORMAL RECORD OF THE ABOVE PROCEEDINGS ARE THE TAPES THEREOF.

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BOARD OF ZONING APPEALS
TOWN/VILLAGE OF HARRISON, NEW YORK

Calendar No. Z23-031

Date: January 11, 2024

Property Owner: Zempachi Tanaka

Property Address: 45 Holland Street

Block 266, Lot 1

WHEREAS, the applicant, the property owner, applied for a Building Permit to replace an existing 4-foot fence with a 6-foot fence and that application was denied by a determination of Harrison's Building Inspector (the administrative official charged with the enforcement of Harrison's Town Code, Chapter 235 (Zoning)) that the application did not strictly comply with the Code's requirements; and

WHEREAS, Tamaki Kojima, Property Manager filed an application on behalf of the property owner Zempachi Tanaka on November 16, 2023 for a variance from the Zoning Ordinance to replace an existing 4-foot fence with a 6-foot fence at 45 Holland Street. This property is located in a B Zoning District on a corner lot with two front yards (Holland Street and Ellsworth Avenue). Pursuant to the Code of the Town/Village of Harrison §235-26 C (1) No fence or wall in a required front yard shall have a height greater than four feet. The proposed 6' fence on the front property line adjacent to Ellsworth Avenue; *thus requiring a 2' height variance*; and

WHEREAS, a Public Hearing on this application was duly scheduled and held by the Board of Zoning Appeals, at the Municipal Building, 1 Heineman Place, Harrison, New York, at 7:30 p.m., on December 14, 2023, after due notice and publication pursuant to Town Law 267-a (7) at which the following members were either present in person or indicated that they had listened to tapes of the Hearing: Paul Katz, Ernest Fiore, Steven Lowenthal, Tom Foristel, Michael Tiesi and Jerome Valenti; and

WHEREAS, the Board reviewed the Short Environmental Assessment Form submitted by the applicant, declared itself to be Lead Agency within the meaning of New York State Environmental Quality Review Act, Environmental Conservation Law, Article 8, §§8-0101 et seq., and the regulations there under, 6 N.Y.C.R.R. Part 617, and determined that the action was a Type II Action for which no Environmental Impact Statement was required; and

WHEREAS, Board Members had inspected the site; and

WHEREAS, at said Hearing, the applicant appeared in support of the variance and no one appeared in opposition. All those who desired to be heard were heard and the Board reviewed the documents submitted to it; and

WHEREAS, the Board reviewed all testimony and documents submitted and have carefully considered:

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Tanaka

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- (A) The benefits to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant;
- (B) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;
- (C) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than a variance;
- (D) Whether the requested variance is substantial;
- (E) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- (F) Whether the alleged difficulty was self-created.

WHEREUPON, the Board found, after due deliberation, based upon the testimony and documents submitted and its site visit, pursuant to Town Law §§267-a and 267-b and Harrison Town Code §§235-56 et seq., it has jurisdiction to grant the requested variance and that the variance sought was the minimum variance necessary and adequate and at the same time preserved and protected the character of the neighborhood and the health, safety and welfare of the community.

The Board found that:

- A) The property is located at 45 Holland Street in a B Zoning District and is a corner lot with two front yards (Holland Street and Ellsworth Avenue).
- B) The applicant is proposing to remove an existing 4-foot fence in disrepair along Ellsworth Avenue and replace it with a 6-foot solid PVC fence.
- C) There would be no apparent detriment to the surrounding properties or to the neighborhood.
- D) There were no objections from any of the neighbors.

NOW THEREFORE BE IT RESOLVED, that the application for permission to install a 6-foot solid PVC fence as indicated in the plans submitted with this application be, and the same is hereby granted.

Except as specifically set forth above, nothing herein shall be construed to indicate this Board's approval of any architectural, design, or structural elements of the submitted plans.

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Tanaka
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This variance shall lapse unless construction begins within two years from the date this variance is recorded in the Clerk's Office and is completed no more than four years from said date.

Construction shall be deemed to have begun when all required footings and foundations have been completed, or when actual work of a substantial nature has begun on projects that do not require footings or foundations. Site preparation shall not satisfy the terms of this condition. Construction shall be deemed to have been completed when the Building Department has issued a Certificate of Occupancy.

An application for an extension of these periods may be granted by the Board of Zoning Appeals if good cause is shown by the applicant and, if in the Board's judgment, the facts and circumstances which existed at the time of the original application have not materially changed.

Foregoing Resolution submitted by Zoning Board Member Steven Lowenthal, seconded by Zoning Board Member Jerome Valenti at the January 11, 2024 meeting.

ADOPTED:

AYES: Paul Katz, Ernest Fiore, Steven Lowenthal, Michael Tiesi and Jerome Valenti

NAYS: None

ABSTAINED: None

ABSENT: Thomas Foristel and Thomas Haynes

Rosemarie Cusumano
Secretary, Board of Zoning Appeals

Paul Katz

Acting Chairman, Board of Zoning Appeals

THIS IS NOT A BUILDING PERMIT. A Building Permit must be obtained from the Building Inspector before any work is started. Other permits or approvals may also be required before work starts. If you have any questions, please call the Building Department.

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CHARTER

BOARD OF ZONING APPEALS
TOWN/VILLAGE OF HARRISON, NEW YORK

Calendar No. Z23-032

Date: January 11, 2024

Property Owner: Cosmo Micalone

Property Address: 157-159 Franklin Avenue Block 116, Lot 25

WHEREAS, the applicant, the property owner, applied for a Building Permit to construct a second driveway, off-street parking and spaces with excessive slope and that application was denied by a determination of Harrison's Building Inspector (the administrative official charged with the enforcement of Harrison's Town Code, Chapter 235 (Zoning)) that the application did not strictly comply with the Code's requirements; and

WHEREAS, Aldo Vitagliano, Attorney on behalf of the property owner, Cosmo Micalone filed an application on filed an application on November 17, 2023 for a variance from the Zoning Ordinance to construct a second driveway, off-street parking with excessive slope at 157-159 Franklin Avenue. This property is located in a B Zoning District and pursuant to the Code of the Town/Village of Harrison the new Two-Family Home will require 2 variances: *1)* §235-18 b. (3) Permits a second driveway on a property, provided that: (a) The property has a lot width of 100 feet or more and (b) the nearest points of the driveways shall be no closer than 50 feet to each other measured at the street and at the property line nearest the street. The proposed second driveway on the property with a lot width of 75 feet and the distance between the driveways is 3 feet; ***thus requiring a variance.*** *2)* §235-33. B B. (5) Off -street parking. No required off-street parking spaces shall have a slope in excess of 5% in any direction. The proposed 2 driveways (off street parking) with a slope of 9%; ***thus requiring a variance***; and

WHEREAS, a Public Hearing on this application was duly scheduled and held by the Board of Zoning Appeals, at the Municipal Building, 1 Heineman Place, Harrison, New York, at 7:30 p.m., on December 14, 2023, after due notice and publication pursuant to Town Law 267-a (7) at which the following members were either present in person or indicated that they had listened to tapes of the Hearing: Paul Katz, Ernest Fiore, Steven Lowenthal, Tom Foristel, Michael Tiesi and Jerome Valenti; and

WHEREAS, the Board reviewed the Short Environmental Assessment Form submitted by the applicant, declared itself to be Lead Agency within the meaning of New York State Environmental Quality Review Act, Environmental Conservation Law, Article 8, §§8-0101 et seq., and the regulations there under, 6 N.Y.C.R.R. Part 617, and determined that the action was a Type II Action for which no Environmental Impact Statement was required; and

WHEREAS, Board Members had inspected the site; and

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WHEREAS, at said Hearing, the applicant appeared in support of the variance and two neighbors appeared in opposition. All those who desired to be heard were heard and the Board reviewed the documents submitted to it; and

WHEREAS, the Board reviewed all testimony and documents submitted and have carefully considered:

- (A) The benefits to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant;
- (B) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;
- (C) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than a variance;
- (D) Whether the requested variance is substantial;
- (E) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- (F) Whether the alleged difficulty was self-created.

WHEREUPON, the Board found, after due deliberation, based upon the testimony and documents submitted and its site visit, pursuant to Town Law §§267-a and 267-b and Harrison Town Code §§235-56 et seq., it has jurisdiction to grant the requested variance and that the variance sought was the minimum variance necessary and adequate and at the same time preserved and protected the character of the neighborhood and the health, safety and welfare of the community.

The Board found that:

- A) The property is located at 157-159 Franklin Avenue in a B Zoning District.
- B) The applicant is proposing to construct a second driveway, off-street parking and spaces with excessive slope.
- C) There is a parking issue on Franklin Avenue, three of the six homes on Franklin Avenue between Marion Avenue and Oak Street do not have driveways.
- D) There were two neighbors who spoke at the meeting, one concerned with water and the other in opposition of the project.

NOW THEREFORE BE IT RESOLVED, that the application for permission to construct a second driveway, off-street parking spaces with excessive slope as indicated in the plans submitted with this application be, and the same is hereby granted.

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Micalone
1/11/2024

Except as specifically set forth above, nothing herein shall be construed to indicate this Board's approval of any architectural, design, or structural elements of the submitted plans.

This variance shall lapse unless construction begins within two years from the date this variance is recorded in the Clerk's Office and is completed no more than four years from said date.

Construction shall be deemed to have begun when all required footings and foundations have been completed, or when actual work of a substantial nature has begun on projects that do not require footings or foundations. Site preparation shall not satisfy the terms of this condition. Construction shall be deemed to have been completed when the Building Department has issued a Certificate of Occupancy.

An application for an extension of these periods may be granted by the Board of Zoning Appeals if good cause is shown by the applicant and, if in the Board's judgment, the facts and circumstances which existed at the time of the original application have not materially changed.

Foregoing Resolution submitted by Zoning Board Member Ernest Fiore, seconded by Zoning Board Member Michael Tiesi at the January 11, 2024 meeting.

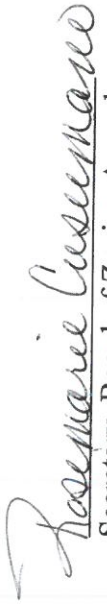
ADOPTED:

AYES: Paul Katz, Ernest Fiore, Steven Lowenthal, Michael Tiesi and
Jerome Valenti

NAYS: None

ABSTAINED: None

ABSENT: Thomas Foristel and Thomas Haynes


Secretary, Board of Zoning Appeals



Acting Chairman, Board of Zoning Appeals

THIS IS NOT A BUILDING PERMIT. A Building Permit must be obtained from the Building Inspector before any work is started. Other permits or approvals may also be required before work starts. If you have any questions, please call the Building Department.

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Micalone
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BOARD OF ZONING APPEALS
TOWN/VILLAGE OF HARRISON, NEW YORK

Calendar No. Z23-033

Date: January 11, 2024

Property Owner: Joseph Fasciglione

Property Address: 52 Bates Road

Block 224, Lot 62

WHEREAS, the applicant, the property owner, applied for a Building Permit to construct a roof over an existing rear yard patio and that application was denied by a determination of Harrison's Building Inspector (the administrative official charged with the enforcement of Harrison's Town Code, Chapter 235 (Zoning)) that the application did not strictly comply with the Code's requirements; and

WHEREAS, Mark Mustacato, Architect on behalf of the property owner, Joseph Fasciglione filed an application on filed an application on November 17, 2023 for a variance from the Zoning Ordinance to construct a roof over an existing rear yard patio at 52 Bates Road. This property is located in an R-1/3 Zoning District and is legally existing non-conforming with regards to the lot area (11,998 square feet) and Pursuant to the Code of the Town/Village of Harrison §235-9 B of the Table of Dimensional Regulations the maximum allowable lot coverage is 20%. The proposed Roof Over an Existing Patio increases the lot coverage of 24%; *thus requiring a variance of 4%*; and

WHEREAS, a Public Hearing on this application was duly scheduled and held by the Board of Zoning Appeals, at the Municipal Building, 1 Heineman Place, Harrison, New York, at 7:30 p.m., on December 14, 2023, after due notice and publication pursuant to Town Law 267-a (7) at which the following members were either present in person or indicated that they had listened to tapes of the Hearing: Paul Katz, Ernest Fiore, Steven Lowenthal, Tom Foristel, Michael Tiesi and Jerome Valenti; and

WHEREAS, the Board reviewed the Short Environmental Assessment Form submitted by the applicant, declared itself to be Lead Agency within the meaning of New York State Environmental Quality Review Act, Environmental Conservation Law, Article 8, §§8-0101 et seq., and the regulations there under, 6 N.Y.C.R.R. Part 617, and determined that the action was a Type II Action for which no Environmental Impact Statement was required; and

WHEREAS, Board Members had inspected the site; and

WHEREAS, at said Hearing, the applicant appeared in support of the variance and no neighbors appeared in opposition. All those who desired to be heard were heard and the Board reviewed the documents submitted to it; and

WHEREAS, the Board reviewed all testimony and documents submitted and have carefully considered:

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Fasciglione

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- (A) The benefits to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant;
- (B) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;
- (C) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than a variance;
- (D) Whether the requested variance is substantial;
- (E) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- (F) Whether the alleged difficulty was self-created.

WHEREUPON, the Board found, after due deliberation, based upon the testimony and documents submitted and its site visit, pursuant to Town Law §§267-a and 267-b and Harrison Town Code §§235-56 et seq., it has jurisdiction to grant the requested variance and that the variance sought was the minimum variance necessary and adequate and at the same time preserved and protected the character of the neighborhood and the health, safety and welfare of the community.

The Board found that:

- A) The property is located at 52 Bates Road in a R 1/3 Zoning District and is legally existing non-conforming with regards to the lot area (11,998 square feet).
- B) The applicant is proposing to construct roof over an existing rear yard patio.
- C) The proposed roof on columns will use the existing stone walls, patio will not be enlarged or closed in.
- D) There would be no apparent detriment to the surrounding properties or to the neighborhood.
- E) There were no objections from any of the neighbors.

NOW THEREFORE BE IT RESOLVED, that the application for permission to construct a roof over an existing rear yard patio as indicated in the plans submitted with this application be, and the same is hereby granted.

Except as specifically set forth above, nothing herein shall be construed to indicate this Board's approval of any architectural, design, or structural elements of the submitted plans.

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Fasciglione
1/11/2024

This variance shall lapse unless construction begins within two years from the date this variance is recorded in the Clerk's Office and is completed no more than four years from said date.

Construction shall be deemed to have begun when all required footings and foundations have been completed, or when actual work of a substantial nature has begun on projects that do not require footings or foundations. Site preparation shall not satisfy the terms of this condition. Construction shall be deemed to have been completed when the Building Department has issued a Certificate of Occupancy.

An application for an extension of these periods may be granted by the Board of Zoning Appeals if good cause is shown by the applicant and, if in the Board's judgment, the facts and circumstances which existed at the time of the original application have not materially changed.

Foregoing Resolution submitted by Zoning Board Member Michael Tiesi, seconded by Zoning Board Member Ernest Fiore at the January 11, 2024 meeting.

ADOPTED:

AYES: Paul Katz, Ernest Fiore, Steven Lowenthal, Michael Tiesi and
Jerome Valenti

NAYS: None

ABSTAINED: None

ABSENT: Thomas Foristel and Thomas Haynes


Secretary, Board of Zoning Appeals



Acting Chairman, Board of Zoning Appeals

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Fasciglione
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BOARD OF ZONING APPEALS
TOWN/VILLAGE OF HARRISON, NEW YORK

Calendar No. Z23-034

Date: January 11, 2024

Property Owner: David and Naomi Proctor

Property Address: 120 Cottage Avenue

Block 961, Lot 7

WHEREAS, the applicant, the property owner, applied for a Building Permit to construct a wall / fence, the relocation of an existing driveway, and the establishment of bio retention areas within the 100-foot buffer along Cottage Avenue and that application was denied by a determination of Harrison's Building Inspector (the administrative official charged with the enforcement of Harrison's Town Code, Chapter 235 (Zoning)) since that application did not strictly comply with the Code's requirements; and

WHEREAS, Anthony Gioffre, Attorney on behalf of the property owners, David and Naomi Proctor filed an application on filed an application on November 17, 2023 for a variance from the Zoning Ordinance to construct a wall / fence within the 100-foot, the relocation of an existing driveway, and the establishment of bio retention areas within the 100-foot buffer setback at 120 Cottage Avenue. This property is located in an R-2 Zoning District and Pursuant to the Code of the Town/Village of Harrison §235-24.1 B. Roadway Buffer Setback. A minimum buffer setback of 100 feet shall be established along each of the following roadways: Purchase St, Barnes Ln, Lincoln Ave, Cottage Ave and Anderson Hill Rd. This setback shall be maintained in its natural state or landscaped, in accordance with the determination of the Planning Board, and shall be maintained by the property owner. Except where approved street or streets cross such buffer setback areas, a permanent open space preservation easement may be required by the Planning Board prior to the granting of any building permit for any development abutting any of Purchase St, Barnes Ln, Lincoln Ave, Cottage Ave and Anderson Hill Rd. The proposed construction of a wall / fence with a total height of 4-feet in the 100-foot buffer setback; *thus requiring a variance*; and

WHEREAS, a Public Hearing on this application was duly scheduled and held by the Board of Zoning Appeals, at the Municipal Building, 1 Heineman Place, Harrison, New York, at 7:30 p.m., on December 14, 2023, after due notice and publication pursuant to Town Law 267-a (7) at which the following members were either present in person or indicated that they had listened to tapes of the Hearing: Paul Katz, Ernest Fiore, Steven Lowenthal, Tom Foristel, Michael Tiesi and Jerome Valenti; and

WHEREAS, the Board reviewed the Short Environmental Assessment Form submitted by the applicant, declared itself to be Lead Agency within the meaning of New York State Environmental Quality Review Act, Environmental Conservation Law, Article 8, §§8-0101 et seq., and the regulations there under, 6 N.Y.C.R.R. Part 617, and determined that the action was a Type II Action for which no Environmental Impact Statement was required; and

WHEREAS, Board Members had inspected the site; and

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WHEREAS, at said Hearing, the applicant appeared in support of the variance and no neighbors appeared in opposition. All those who desired to be heard were heard and the Board reviewed the documents submitted to it; and

WHEREAS, the Board reviewed all testimony and documents submitted and have carefully considered:

- (A) The benefits to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant;
- (B) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;
- (C) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than a variance;
- (D) Whether the requested variance is substantial;
- (E) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- (F) Whether the alleged difficulty was self-created.

WHEREUPON, the Board found, after due deliberation, based upon the testimony and documents submitted and its site visit, pursuant to Town Law §§267-a and 267-b and Harrison Town Code §§235-56 et seq., it has jurisdiction to grant the requested variance and that the variance sought was the minimum variance necessary and adequate and at the same time preserved and protected the character of the neighborhood and the health, safety and welfare of the community.

The Board found that:

- A) The property is located at 120 Cottage Avenue in a R-2 Zoning District and has a 100-foot buffer setback to be maintained in its natural state or landscaped.
- B) The applicant is proposing to demolish the existing residence, barn, several smaller structures and corrals to be replaced with a new single-family residence, tennis court, pickleball court and barn.
- C) The proposed four-foot stone wall and fence, the relocation of the existing driveway, and bio retention areas along portions of Cottage Avenue are located within the 100-foot buffer.
- D) There would be no apparent detriment to the surrounding properties or to the neighborhood.
- E) There were no objections from any of the neighbors.

NOW THEREFORE BE IT RESOLVED, that the application for permission to construct a 4-foot stone wall and fence, the relocation of the existing driveway, and bio

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retention areas within the 100-foot buffer along Cottage Avenue as indicated in the plans submitted with this application, be granted.

Except as specifically set forth above, nothing herein shall be construed to indicate this Board's approval of any architectural, design, or structural elements of the submitted plans.

This variance shall lapse unless construction begins within two years from the date this variance is recorded in the Clerk's Office and is completed no more than four years from said date.

Construction shall be deemed to have begun when all required footings and foundations have been completed, or when actual work of a substantial nature has begun on projects that do not require footings or foundations. Site preparation shall not satisfy the terms of this condition. Construction shall be deemed to have been completed when the Building Department has issued a Certificate of Occupancy.

An application for an extension of these periods may be granted by the Board of Zoning Appeals if good cause is shown by the applicant and, if in the Board's judgment, the facts and circumstances which existed at the time of the original application have not materially changed.

Foregoing Resolution submitted by Zoning Board Member Michael Tiesi, seconded by Zoning Board Member Ernest Fiore at the January 11, 2024 meeting.

ADOPTED:

AYES: Paul Katz, Ernest Fiore, Steven Lowenthal, Michael Tiesi and Jerome Valenti

NAYS: None

ABSTAINED: None

ABSENT: Thomas Foristel and Thomas Haynes


Secretary, Board of Zoning Appeals



Acting Chairman, Board of Zoning Appeals

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Proctor
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