

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Wednesday Evening, November 8, 2023 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
Thomas Foristel
Michael Tiesi
Jerome Valenti

Members Absent

Thomas Haynes

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>
Z23-024	Kevin McSedon	841	23	Variance Granted
Z23-027	15 Halstead Property, LLC	42	11	Variance Granted
Z23-028	632 Anderson Hill Associates LLC	644	21	Heard – Closed – Findings being prepared
Z23-029	9 Orchard Place Harrison LLC	21	3	Heard – Closed – Findings being prepared
Z23-030	Joan Walsh	691	109	Heard – Closed – Finding being prepared

The next meeting was scheduled to December 14, 2023

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

Jacqueline Shear

Town Clerk's Office

Rosemarie Cusumano
Rosemarie Cusumano, Secretary

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

TOWN CLERK
HARRISON, NY

2023 NOV 13 P 3:58

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

Calendar No. Z23-024

Date: November 8, 2023

Property Owner: Kevin McSpedon

Property Address: 251 Columbus Avenue

Block 841 Lot 23

WHEREAS, the applicant, the property owner, applied for a Building Permit to convert a single family home to a two family home at the property 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, Frank Smith, Esq, on behalf of the property owner, Kevin McSpedon, filed an application on August 16, 2023 to convert an existing one family home to a two family home. This property is located in a B Zoning District and is legally existing non-conforming with regards to the minimum required front yard setback of 13.5 feet and the minimum required side yard setback 3.9 feet and the total for both side yards 13 feet. Pursuant to the Code of the Town/Village of Harrison §235-9B of the Table of Dimensional Regulations this application will require 2 variances. *1)* The total minimum habitable floor area for a two dwelling unit is 2,400 square feet, the proposed indicating a habitable floor area for the two-dwelling units is 2,318 square feet; ***thus, requiring a variance of 82 square feet.*** *2)* The minimum habitable floor area for one dwelling unit is 800 square feet, the proposed indicating a floor area for one dwelling unit of 713 square feet, ***thus, requiring a variance of 87 square feet***; 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 October 12, 2023 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were either present or indicated that they had listened to tapes of the meeting: Paul Katz, Ernest Fiore, Steven Lowenthal, Thomas 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 variances 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

Z23-024
McSpedon
11/8/2023

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 variances and that the variances sought were the minimum variances 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:

1. The property is located at 251 Columbus Avenue in a B Zoning District and is legally existing non-conforming with regards to the minimum required front yard setback of 13.5 feet and the minimum required side yard setback 3.9 feet and the total for both side yards 13 feet.
2. The applicant purchased the home in April of 2022 and was told by the realtor that it was a legal two-family home.
3. The applicant became aware that it was not a legal two-family home; no structural modification has been made and the applicant is merely attempting to legalize what is existing.
4. There were no objections from any neighbors.

NOW THEREFORE BE IT RESOLVED, that the application for variances to convert a one-family home to a two-family home, 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.

Z23-024
McSpedon
11/8/2023

These variances shall lapse unless construction begins within two years from the date these variances are 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 Thomas Foristel at the November 8, 2023 meeting.

ADOPTED:

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

NAYS: None

ABSTAINED: None

ABSENT: 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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Z23-024
McSpedon
11/8/2023

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

Calendar No. Z23-027

Date: November 8, 2023

Property Owner: 15 Halstead Property, LLC

Property Address: 15 Halstead Avenue

Block 42 Lot 11

WHEREAS, the applicant, the property owner, applied for a Building Permit for addition and alterations to an existing retail building at the property 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, Joseph Fernandez, Architect, on behalf of the property owner, 15 Halstead Property, LLC, filed an application on September 15, 2023 for addition and alterations to an existing retail building. This property is located in an NB Zoning District and is legally existing non-conforming with regards to the side yard setback adjoining a Business District (4.53 feet and 7.3 feet) and the rear yard setback (9.98 feet). Pursuant to the Code of the Town/Village of Harrison §235-12(B) of the Tabel of Dimensional Regulation the application requires 4 variances: 1) The required rear yard setback is 20 feet. The proposed Entry Vestibule with a rear yard setback of 2.48 feet; **thus, requiring a variance of 17.52 feet.** 2) The required side yard setback adjoining a Business District is 10 feet if provided. The proposed Entry Vestibule with a side yard setback of 7.3 feet; **thus, requiring a variance of 2.7 feet.** 3) The required rear yard setback is 20 feet. The proposed Trash Container Area with a rear yard setback of 5 feet; **thus, requiring a variance of 15 feet.** 4) The required side yard setback adjoining a Business District is 10 feet if provided. The proposed Trash Container Area with a side yard setback of 5.5 feet; **thus, requiring a variance of 4.5 feet;** 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 October 12, 2023 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were either present or indicated that they had listened to tapes of the meeting: Paul Katz, Ernest Fiore, Steven Lowenthal, Thomas 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

*Z23-027
15 Halstead Property, LLC
11/8/2023*

WHEREAS, at said Hearing, the applicant appeared in support of the variances 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:

- (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 variances and that the variances sought were the minimum variances 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:

1. The property is located at 15 Halstead Avenue in a NB Zoning District and is legally existing non-conforming with regards to the side yard setback adjoining a Business District (4.53 feet and 7.3 feet) and the rear yard setback (9.98 feet). This application requires 4 variances.
2. The applicant purchased the existing pharmacy in November of 1999, in 2007 renovated the business by taking over the adjacent drycleaners and laundromat; in August of 2023 purchase the building.
3. The addition and alteration will create a more refined building and match similarly to its immediate neighboring retail store.
4. No undesirable change in the character of the neighborhood or detriment to nearby properties will be created by the granting of the variance.
5. There were no objections from any neighbors.

Z23-027
15 Halstead Property, LLC
11/8/2023

NOW THEREFORE BE IT RESOLVED, that the application for variances for an addition and alterations, 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.

These variances shall lapse unless construction begins within two years from the date these variances are 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 Steven Lowenthal at the November 8, 2023 meeting.

ADOPTED:

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

NAYS: None

ABSENT: Thomas Haynes


Secretary, Board of Zoning Appeals



Acting Chairman, Board of Zoning Appeals

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Z23-027
15 Halstead Property, LLC
11/8/2023