

E-6

ALBERT J. PIRRO, JR.
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WHITE PLAINS, NEW YORK 10601
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February 4, 2022

Honorable Rich Dionisio, Mayor
and Members of the Town Board
Town/Village of Harrison
Town Hall
One Heineman Place
Harrison, New York 10528

Re: Petition of Halstead Group Inc. for a Zoning
Text Amendment relevant to the NB Zone

Dear Honorable Mayor and Members of the Town Board:

This communication is submitted in support of a filed verified petition which seeks a zoning text amendment regarding the Neighborhood Business (NB) Zoning District. Certain irregularities and ambiguities exist in the Harrison Code regarding multiple residential dwellings in the NB zoning district. This matter has been the subject of several conferences with Mr. Pat Cleary and the Building Inspector. The primary purpose of the petition is to make clear that a property located in the NB zoning district need not be within 1,500 feet of the Harrison Metro-North Train Station to be developed for multiple dwellings.

The undersigned is the attorney for Halstead Group Inc., owner of 47-49 Halstead Avenue, Harrison, New York which is located in the Neighborhood Business (NB) Zoning District. Halstead Group Inc has filed an application with the Planning Board for environmental, site plan and special exception use permits and approvals. In the Neighborhood Business (NB) Zone, multiple-family dwellings are permitted as a special exception use. There are several areas in the Town which are in the Neighborhood Business Zone including downtown and Silver Lake.

If the general and special conditions of the Harrison Zoning Code §§235-14 and 235-15 are satisfied, the Planning Board, subject to confirmation by the Town Board, may issue a special exception use permit.

NB PROPERTIES WITHIN 1,500 FEET OF THE TRAIN STATION

Section 235-17(V), adopted in 2011, provides that properties in the NB zoning district which were within 1,500 linear feet of the train station could be built 45 feet high in four (4)

stories. Apparently, this provision was intended to accommodate a proposed development on property owned by Emilio's restaurant.

As a result, the Town Code only specifies special conditions for multiple dwellings that are within 1,500 linear feet of the train station and does not address multiple dwellings in the NB zone which is not within 1,500 linear feet of the train station. A plain reading of §235-17(V) would imply that if the property was in the NB zone but not within 1,500 linear feet of the train station, no special conditions needed to be satisfied. On the other hand, although developments outside 1,500 feet have already been built in Harrison NB zone, it could be interpreted that multiple dwelling units cannot be built in NB areas unless within 1,500 feet of the train station.

If you are within 1,500 linear feet and in the NB zoning district, the application for multiple dwellings must meet the general conditions of §235-17(V) for the special permit to issue and a qualifying property may build to four (4) stories and 45 feet. If not within 1,500 feet, then, pursuant to the dimensional regulations in §235, attachment 4, you could only build to two (2) stories, 35 feet.

THE TOD ZONING DISTRICT

In 2017, for purposes of developing property around the Harrison Train Station, the Town created the Transit Oriented Development (TOD) Zoning District. (See, Article XVI of the Town of Harrison Town Code; §235-86, et. seq.).

In brief, the TOD was designed to facilitate high quality development around the train station. The purpose of the TOD zoning is set forth in §235-87.

For the TOD development to proceed it requires a special exception use permit and, therefore, must meet the general conditions set forth in Town Code §235-17(BB). However, although the TOD zoning was clearly intended for development of the MTA property with a commuter parking garage, there already existed a provision in the Code which anticipated development at and around the train station. [See, §235-17(V)]. The TOD generally permits buildings 50 feet in height in four (4) stories except that on the MTA property the building may be 75 feet and five (5) stories. [See, Table of Dimensional Regulations, Business Districts; §235, Attachment 4, footnotes (f), (h) and (i)].

THE PROPOSED REVISION

To avoid further ambiguity, it has been recommended by the Planning Consultant to the Town that your petitioner file this verified petition to amend the Harrison Zoning Code to make it clear that multiple family dwellings may be built in the NB zoning district even if outside 1,500 linear feet from the train station. Other changes were discussed.

In that regard since the TOD zoning district, adopted in 2017, and further amended in 2018, has in effect dealt with the Town's Master Plan Policy for development of the MTA property. Further, the provisions in the special provisions of the Code set forth in §235-17(V) which permit multi-residential dwellings at four (4) stories and 45 feet for properties within

1,500 linear feet are preserved in a new proposed §235-17(V) which also addresses multiple dwellings in NB properties which are not within 1,500 feet of the train station. Therefore, it is proposed that §235-17(V) will be deleted in its entirety and replaced by a new §235-17(V) to read as follows:

“V. NB Multiple Dwellings.
[added ____ by LL No. _____-2022]

(1) NB multiple dwellings shall be located on lots within the NB District.

(2) The dimensional regulations set forth in §235 attachment 4 shall apply to all multiple-family dwelling units in an NB zone except as provided in §235-17(V)(3) AND §235-17(V)(4).

(3) Notwithstanding the Dimensional Regulations in §235, Attachment 4, where the proposed multiple residential dwelling in the NB zone is within 1,500 linear feet of the closet point of the Harrison Metro-North Train Station, the maximum height shall be 45 feet and 4 stories.

(4) Notwithstanding Article X of the Harrison Town Code regarding the Harrison Zoning Board of Appeals and the powers set forth therein, and further notwithstanding the dimensional regulations in §235, Attachment 4 with regard to stories and height, where the proposed multiple-residential dwelling in an NB district is on Halstead Avenue, the maximum height shall be 40 feet and 3 stories.

(5) This authorization set forth in §§235-17(V)(3) and (V)(4) above shall in no way diminish power or authority of the Zoning Board of Appeals to issue a variance with regard to either height or stories in an appropriate matter upon satisfaction of the criteria set forth in Harrison Town Code §235-60 and New York Town Law §267-b.

(6) Notwithstanding the provisions of §235-25 of the Zoning Ordinance, usable open space shall be provided to NB Multiple Dwellings as determined by the Planning Board as part of the site plan approval process.”

As this Board is aware, the Verified Petition proposes a zoning text amendment and will therefore be referred to the Planning Board for a recommendation to the Town Board. While the clarification to the 1,500 linear feet requirement is rather straight forward, I would like to discuss the provisions in proposed §235-17(V)(4) above.

As stated, the proposal would allow the Planning Board to grant site plan and special exception use permit and approvals for properties located in the NB zoning district and if located on Halstead Avenue may approve a height of up to forty (40') feet and three (3) stories. This new provision derives from the recommendations in the 2013 Harrison Comprehensive Plan relevant to downtown development along Halstead Avenue.

The 2013 Harrison Comprehensive Plan identified Halstead Avenue (Harrison's "Main Street") as a corridor which serves as Harrison's primary commercial thoroughfare. (Harrison Comprehensive Plan, 2013, page 80). The area to the west of Harrison Avenue on Halstead Avenue is identified as a part of the corridor which has variation in heights, types and land uses. The Master Plan recognizes that the western end of Halstead Avenue is comprised of buildings which range in height from two (2) to four (4) stories. (Id.).

Importantly, the Harrison Comprehensive Plan supports a higher density along Halstead Avenue: "The Town should promote higher density along Halstead Avenue..." (Ibid., page 91). Further, the Master Plan characterized Halstead Avenue as "underutilized" and an increase in density needed along with architectural controls. (Id.).

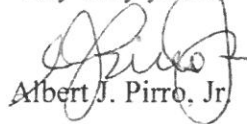
A review of the 2013 Master Plan makes plain that there is little discussion of the NB zone since it appears to be a very minor amount of land area in the Town.

The proposal would continue to permit buildings of four (4) stories and forty-five (45') feet in any NB zoning district which may be within 1,500 linear feet of the train station. The provision in the TOD zoning district amply handles projects at the train station. On the other hand, with regard to multiple residential dwellings on Halstead Avenue, the provision gives the Planning Board the authority, in an appropriate case, to permit a residential building of forty (40') feet rather than thirty-five (35') feet and three (3) stories rather than two (2) stories as set forth in the Table of Dimensional Regulations. Proposals for multiple residential dwelling units which are located in areas other than Halstead Avenue will continue to be limited to two (2) stories and 35 feet.

As the Board is aware, the amount of area in a NB zoning district in the Town is minimal; and, the ability to build a multiple dwelling in the NB zone on Halstead Avenue with a height of forty (40') feet and three (3) stories would permit an adaptive reuse of several properties within 1,000 feet of the intersection of West Street and Halstead Avenue. This is consistent with the 2013 Comprehensive Plan. The petition, as required, has been filed with the Town Clerk.

Thank you for your attention and consideration to this matter.

Very truly yours,


Albert J. Pirro, Jr.

AJP:dat

cc: Halstead Group Inc.

LAW

TOWN OF HARRISON
VILLAGE OF HARRISON
TOWN CLERK'S OFFICE

MEMORANDUM

To: Town Attorney's Office
From: Jackie Greer, Town Clerk
Date: February 7, 2022

The attached papers were served as follows:

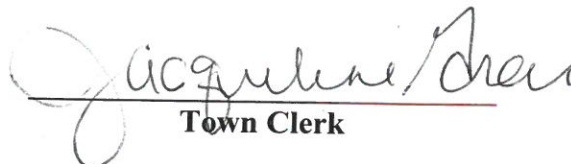
Date delivered: February 7, 2022

Town of Harrison, New York, County of Westchester, State of New York
In the Matter of the Application of the Halstead Group Inc.,
47-49 Halstead Avenue, Harrison, New York for an Amendment to 235-17 (V)
Of the Town of Harrison Zoning Code

Index # none

☐ Claim
☐ Summons & Complaint
☐ Order to Show Cause
☐ Notice of Verified Petition
☐ Verified Petition and Complaint
☒ Verified Petition
☐ Request for Judicial Intervention
☐ Notice of Appeal
☐ Other (specify)
☐ Regular Mail
☐ Personally delivered ☐ served by E-mail
☐ by: U.S. First Class Mail (save envelope)
USPS Priority Mail
☐ by: Certified Mail (save envelope) ☒ by FedEx Express Mail
(save envelope)

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LAW DEPARTMENT
TOWN OF HARRISON, N.Y.
2022 FEB - 7 P 2:49


Town Clerk

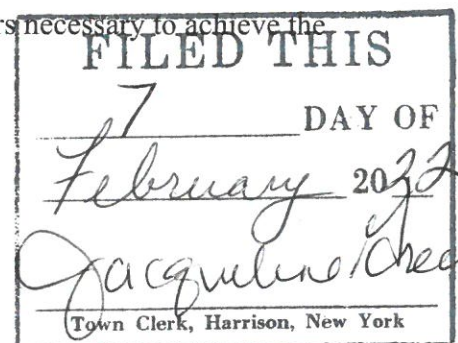
TOWN OF HARRISON, NEW YORK
COUNTY OF WESTCHESTER, STATE OF NEW YORK

-----X
In the Matter of the Application of the Halstead Group Inc.,
47-49 Halstead Avenue, Harrison, New York for an
Amendment to §235-17(V) of the Town of Harrison
Zoning Code
-----X

RECEIVED
LAW DEPARTMENT
TOWN-CLERK HARRISON, N.Y.
2022 FEB - 7 10:25:50
**VERIFIED PETITION FOR
AN AMENDMENT TO THE
TOWN OF HARRISON
ZONING CODE**

Halstead Group Inc. as and for its Verified Petition to the Town Board of the Town of
Harrison, under penalties of perjury states:

1. Petitioner Halstead Group Inc., a New York domestic corporation, is the owner of real property in the Town of Harrison, New York in a Neighborhood Business Zone (NB), and is also known on the tax map of the Town of Harrison as Block 44, Lot 9.
2. This petition is for an ordinance amendment in accord with §235-76 and does not require a map amendment.
3. The property at 47 Halstead Avenue was once a successful 13,000 square foot office building which, as a result of the depressed office market, which has been exacerbated by the pandemic and the remote virtual office, is now virtually vacant.
4. Despite years of attempting to market and rent the building it has remained vacant except for two (2) small month-to-month occupants.
5. As a result, your petitioner has filed an application with the Town of Harrison Planning Board to convert the building to a twenty (20) unit residential structure.
6. The proposed adaptive reuse will house the twenty (20) residential units in a 24,219 square foot residential building with all required parking on site.
7. Due to the architectural style of the office building, substantial renovations are required with approximately Six Million (\$6,000,000.00) Dollars necessary to achieve the adaptive reuse.



8. The application which has been filed with the Planning Board seeks environmental, site plan and special exception use permits. Further, there exists extraordinary cost in the conversion to cover the construction debt to make the conversion financially palatable, twenty (20) residential units are required.

9. The building will be 38.3 linear feet high in three (3) stories.

10. This is where certain confusion exists in the Town of Harrison Zoning Code.

11. In the Neighborhood Business Zone in which the property is located, multiple-family dwellings are permitted as a special exception use. There are several properties in the Neighborhood Business Zone in the Town including downtown and Silver Lake.

12. If the general and special conditions of the Harrison Zoning Code §§235-14 and 235-15 are satisfied, the Planning Board, subject to confirmation by the Town Board may issue a special exception use permit.

13. In 2017, for purposes of developing property around the Harrison Train Station, the Town created the Transit Oriented Development (TOD) Zoning District. (See, Article XVI of the Town of Harrison Town Code; §235-86, et. seq.).

14. In brief, the TOD was designed to facilitate high quality development around the train station. The purpose of the TOD zoning is set forth in §235-87.

15. For the TOD development to proceed it requires a special exception use permit, and therefore, must meet the general conditions set forth in Town Code §235-17(BB). However, although the TOD zoning was clearly intended for development of the MTA property with a commuter parking garage, there already existed a provision in the Code which anticipated development near the train station i.e., the Emilio property. [See, §235-17(V)].

16. Parenthetically, §235-17(V) provided that properties in the NB zoning district which were within 1,500 linear feet of the train station could be built 45 feet high in four (4) stories. However, as the Code reads, it could be argued that no multiple dwellings are permitted in an NB zone unless within 1,500 feet of the train station. Clearly, not the intention since multiple dwellings have been built in the NB zone which are outside the 1,500 feet. On the other hand, the TOD generally permits buildings 50 feet in height in four (4) stories except that on the MTA property the building may be 75 feet and five (5) stories. [See, Table of Dimensional Regulations, Business Districts; §235, Attachment 4, footnotes (f), (h) and (i)].

17. Apparently although the TOD was created in 2017, §235-17(V) was never deleted or amended. The special conditions adopted in 2011 and set forth in §235-17(V) had to be satisfied for multi-residential dwellings which were within 1,500 linear feet of Harrison Metro-North Train Station. [See, §235-17(V)(1)]. A plain reading of §235-17(V) would imply that if the property was in the NB zone but not within 1,500 linear feet of the train station, no special conditions needed to be satisfied.

18. If you are within 1,500 linear feet and in the NB zoning district, the application for multiple dwellings must meet the general conditions of §235-17(V) for the special permit to issue and may build to four (4) stories and 45 feet. If not within 1,500 feet, then, pursuant to the dimensional regulations in §235, attachment 4, you could only build to two (2) stories, 35 feet.

19. If you are in the TOD district the application for multiple residential development must meet the general conditions in §235-16 and the special conditions in §235-17(BB).

20. To avoid further ambiguity, it has been recommended by the Planning Consultant to the Town that your petitioner file this verified petition to amend the Harrison Zoning Code.

21. In that regard since the TOD zoning district, adopted in 2017, and further amended in 2018, has in effect dealt with the Town's Master Plan Policy for development of the MTA property, the special provisions which permit multi-residential dwellings at four (4) stories and 45 feet for properties within 1,500 linear feet of the train station are maintained. Therefore, it is proposed that §235-17(V) will be deleted in its entirety and replaced by a new §235-17(V) to read as follows:

“V. NB Multiple Dwellings.
[added ____ by LL No. ____-2022]

(1) NB multiple dwellings shall be located on lots within the NB District.

(2) The dimensional regulations set forth in §235 attachment 4 shall apply to all multiple-family dwelling units in an NB zone except as provided in §235-17(V)(3) AND §235-17(V)(4).

(3) Notwithstanding the Dimensional Regulations in §235, Attachment 4, where the proposed multiple residential dwelling in the NB zone is within 1,500 linear feet of the closet point of the Harrison Metro-North Train Station, the maximum height shall be 45 feet and 4 stories.

(4) Notwithstanding Article X of the Harrison Town Code regarding the Harrison Zoning Board of Appeals and the powers set forth therein, and further notwithstanding the dimensional regulations in §235, attachment 4 with regard to stories and height, where the proposed multiple-residential dwelling in an NB district is on Halstead Avenue, the maximum height shall be 40 feet and 3 stories.

(5) This authorization set forth in §§235-17(V)(3) and (V)(4) above shall in no way diminish power or authority of the Zoning Board of Appeals to issue a variance with regard to either height or stories in an appropriate matter upon satisfaction of the criteria set forth in Harrison Town Code §235-60 and New York Town Law §267-b.

(6) Notwithstanding the provisions of §235-25 of the Zoning Ordinance, usable open space shall be provided to NB Multiple

Dwellings as determined by the Planning Board as part of the site plan approval process.”

22. It is respectfully requested, in accord with Town Code §235-76, that this verified petition be forwarded to the Planning Board for its recommendation and upon receipt of such recommendation, or failure to receive the recommendation within the required sixty (60) day period, set the matter down for a public hearing.

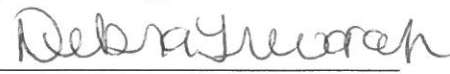
HALSTEAD GROUP INC.

By: 
Ronald Parlato, President

STATE OF NEW YORK)
) ss:
COUNTY OF WESTCHESTER)

On the 2nd day of February, in the year 2022, before me, the undersigned, personally appeared Ronald Parlato, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Sworn to before me this 2nd
day of February, 2022.



Notary Public

DEBRA TREVORAH
Notary Public, State of New York
No. 01TR6250488
Qualified in Westchester County
Commission Expires October 24, 2023

ORIGIN ID: NESA	(914) 287-6444	SHIP DATE: 04FEB22
ALBERT PIROO		ACTWGT: 0.30 LB
1 NORTH LEXINGTON AVENUE		CAD: 102487232/NET 4460
WHITE PLAINS, NY 10601		BILL SENDER
UNITED STATES US		
TO TOWN CLERK		
TOWN OF HARRISON		
1 HEINEMAN PLACE		
HARRISON NY 10528		
INV: (914) 670-3000	REF:	
PO:	DEPT:	




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PRIORITY OVERNIGHT

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ALBERT J. PIRRO, JR.
ATTORNEY AT LAW

ONE NORTH LEXINGTON AVENUE
WHITE PLAINS, NEW YORK 10601
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ajp@pirrogroup.com • www.pirrolaw.com

February 4, 2022

Honorable Jackie Greer, Town Clerk
Town/Village of Harrison
Town Hall
One Heineman Place
Harrison, New York 10528

Re: Petition of Halstead Group Inc. for a Zoning
Text Amendment relevant to the NB Zone

Dear Town Clerk Greer:

Attached please find two (2) duplicate originals of a Verified Petition in reference to the above-caption matter which is submitted for filing with the Town Board. Please stamp one copy and return to me in the enclosed self-addressed envelope.

Thank you for your attention to this matter.

Very truly yours,



Debra Trevorah
Executive Assistant to
Albert J. Pirro, Jr.

/dt
Enclosures

RECEIVED
2022 FEB -7 P 2:32

RECEIVED
LAW DEPARTMENT
TWN-VLG HARRISON, N.Y.
2022 FEB -7 P 2:50