

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, April 14, 2016, at 8:00 p.m., in the Court Room of the Municipal Building.

Members Present

Mark I. Fisher, Chairman
Paul Katz
Ernest Fiore
Michael Strone
Steven Lowenthal
Paul Valentine
Tom Foristel

Members Absent

The Chairman called the meeting to order at 8:00 p.m.

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<u>Cal. #</u>	<u>Applicant</u>	<u>Block</u>	<u>Lot</u>	<u>Decision</u>
Z15-020	Aron & Robin Ponticelli	651	22	Not Heard - Adjourned to the May Meeting
Z15-023A	Anthony Pastore	874	25	Variance Granted
Z15-024	233 Highland Road R.E. Corp.	523	38	Heard - Closed - Findings being prepared
Z15-031	Mark & Theresa Stagg	651	42	Not Heard - Withdrawn without prejudices
Z16-001	3040 Westchester Avenue	602	2.05	Heard - Adjourned to the May Meeting
Z16-002	Fisk Management, LLC	641	19	Heard - Extension Granted
Z16-003	Karlhiemz & Elisabeth Muhr	542	11	Variance Granted
Z16-004	Lisa Donohue	402	40	Heard - Closed - Findings being prepared
Z16-005	Vito Forgione	904	7	Heard - Adjourned to the May Meeting
Z16-006	Greg & Ashley Jakubowsky	543	7	Heard - Closed - Findings being prepared
Z16-007	Trinity Presbyterian Church	643	7	Heard - Closed - Findings being prepared

The next meeting was scheduled to May 12, 2016.

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

Jacqueline Sheer

Rosemarie Cusumano
 Rosemarie Cusumano, Secretary

Town Clerk's Office

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

Calendar No. Z15-023A

Date: April 14, 2016

Property Owner: Anthony Pastore

Property Address: 160 Gainsborg Avenue

Block 874, Lot 25

WHEREAS, the applicant filed an application to legalize an existing wood 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, Stephen Marchesani, on behalf of the property owners, filed an application on November 10, 2015 for a variance from the Zoning Ordinance for legalization of an existing deck. This property is located in a B Zoning District and pursuant to §235-9-B of the Zoning Ordinance of the Town/Village of Harrison, the minimum required rear yard setback is 25 feet. The existing wood patio is shown to have a rear yard of 10.3 feet thus requiring a variance of 14.7 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 8:00 p.m., on February 10, 2015 and March 10, 2015 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present or indicated that they had listened to tapes of the meeting: Mark Fisher, Paul Katz, Ernest Fiore, Michael Strone, Steve Lowenthal, Thomas Foristel and Paul Valentine

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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- (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:

1. The rear yard variance relates to an existing wood patio which has essentially been constructed at or close to ground level in that at its highest point the patio is no more than 6 inches above the ground. If the patio were constructed at ground level no variance would be required, and in this case there is no real difference between the patio that was constructed and a patio constructed at ground level.
2. The rear of the property borders on the back of a two-family residence which has a 3 foot retaining wall and 5 foot arborvitae. The property to the rear is also located at a substantially higher elevation and the granting of the variance will have minimal, if any, visual impact on the adjacent property.
3. The granting of the rear yard variance will not change the character of the neighborhood or create any adverse impact on any adjacent property.

NOW THEREFORE BE IT RESOLVED, that the application for a rear yard variance with respect to an existing wood deck be, and the same is hereby granted.

Foregoing Resolution submitted by Steven Lowenthal, seconded by Michael Strone at the April 14, 2016 meeting.

ADOPTED: AYES: Mark Fisher, Ernest Fiore, Paul Katz, Michael Strone, Steven Lowenthal, Paul Valentine and Tom Foristel

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NAYS: None

ABSTAINED: None

ABSENT: None

Rosemarie Cusumano
Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

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

Calendar No.Z16-003

Date: April 14, 2016

Property Owners: Karlhiemz & Elizabeth Muhr

Property Address: 70 Park Dr North

Block 542 Lot 11

WHEREAS, the applicant, the property owner, applied for a Building Permit 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, Karlhiemz & Elizabeth Muhr filed an application on February 16, 2016 with respect to a one story detached garage and greenhouse. The property is located in an R-1 Zoning District and is presently non-conforming with regard to lot size. Pursuant to § 235-9-B of the Zoning Ordinance, the allowable lot coverage is 15%. The proposed garage and greenhouse increases the lot coverage to 15.53%, thus requiring a variance. The proposed garage and greenhouse is indicated to have a setback from the main building of 4 feet thus requiring a variance of 6 feet.

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 8:00 p.m., on March 10, 2016 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present: Paul Katz, Steve Lowenthal, Ernest Fiore, Michael Strone, Paul Valentine, Thomas Foristal and Mark Fisher; 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:

- (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;

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- (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:

1. The proposed detached garage is similar to garages located in the area, including a slightly larger garage located on the adjacent property.
2. The addition will be substantially screened from view from adjacent properties.
3. The decrease in the setback from the main building would not appear to create a safety issue with respect to the ability of emergency vehicles to access the building.
4. The increase in lot coverage is a de minimis amount.
5. The granting of the variance will not create an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

NOW THEREFORE BE IT RESOLVED, that the application for variances to permit construction of a detached garage and greenhouse 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.

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

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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 Ernest Fiore, seconded by Paul Valentine at the 4/14/2016 meeting.

ADOPTED: AYES: Mark Fisher, Ernest Fiore, Paul Katz, Michael Strone, Steven Lowenthal, Paul Valentine and Tom Foristel

NAYS: None

ABSTAINED: None

ABSENT: None


Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

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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 at (914) 670-3054, 670-3055 or 670-3056.

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