

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, January 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
Tom Foristel

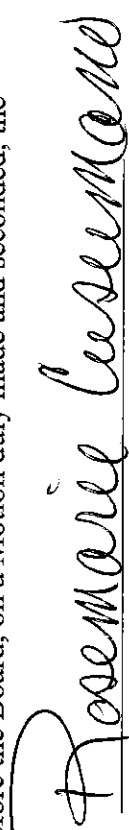
Members Absent
Paul Valentine

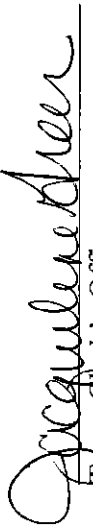
The Chairman called the meeting to order at 8:00 p.m.

<u>Cal. #</u>	<u>Applicant</u>	<u>Block</u>	<u>Lot</u>	<u>Decision</u>
Z15-020	Aron & Robin Ponticelli	651	22	Heard – Adjourned to the February Meeting
Z15-022	Harrison Real Estate Group, LLC	131	17	Heard – Closed – Findings being prepared
Z15-023	Westchester Joint Water Works	625	6	Variance Granted
Z15-023A	Anthony Pastore	874	25	Heard – Adjourned to the February Meeting
Z15-024	233 Highland Road R.E. Corp.	523	38	Heard – Adjourned to the February Meeting
Z15-025	Ronen Israel & Mindy Nagorsky	981	60	Heard – Closed – Findings being prepared
Z15-026	Michael DiMartino	861	24	Variance Granted
Z15-027	Memorial Hospital For Cancer	631	7	Variance Granted
Z15-028	Houlan-Parnes	621	10.01	Heard – Closed – Findings being prepared
Z15-029	Michael & Courtney Monahan	541	7	Heard – Closed – Findings being prepared
Z15-030	Seville Plaza	121	22-25, 29	Heard – Extension Granted
Z15-031	Mark & Theresa Stagg	651	42	Heard – Adjourned to the February Meeting

The next meeting was scheduled to February 11, 2016.

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


 Rosemarie Cusumano, Secretary


Town Clerk's Office

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.Z15-023

Date: January 14, 2016

Property Owner: Westchester Joint Water Works

Property Address: Kenilworth Road Block 625, Lot 6

WHEREAS, the applicant filed an application to install a prefabricated booster pumping station 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, Anthony Conetta, on behalf of the applicant, filed an application on October 16, 2015 for a variance from the Zoning Ordinance for property located in a SB-100 Zoning District. The property is existing non-conforming with regard to its lot size of .42 acres and setbacks. Pursuant to §235-12B of the Zoning Ordinance of the Town/Village of Harrison, the minimum required setback from all property lines abutting this district is 200 feet and the allowable lot coverage is 10%.

This application requires 5 variances:

- 1) the setback at the Northern property line is 5 feet, thus requiring a variance of 195 feet.
- 2) the setback at the Western property line is 17 feet, thus requiring a variance of 183 feet.
- 3) the setback at the Southern property line is 74 feet, thus requiring a variance of 126 feet.
- 4) the setback at the Eastern property line is 113 feet, thus requiring a variance of 87 feet.
- 5) the lot coverage is indicated to be 17 percent thus requiring a variance for the 7 percent overage; 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., November 11, 2015 and December 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

WJWW Kenilworth Booster Station
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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;
- (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 property in question is only .42 acres in size and is surrounded on all sides by the Morgan Stanley campus.
2. Since 1938 applicant has maintained a pump station at the property. The current application relates to a proposal to upgrade the site by installing a pre-fabricated booster pump station. The new pump station is being constructed in order to maximize

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the supply of UV-treated water during periods of lower demand (November through April) and will also serve as the backup to the Rye Lake Pump Station.

3. The new building will be pre-fabricated rather than constructed on site, will be substantially lower than the existing tank located on the property and will be constructed to aesthetically blend in with the existing building on the site. The new pump station will face an existing parking lot on one side, will be located a substantial distance away from the main campus and will be screened by remaining natural vegetation to the north and east. Accordingly, the construction of the new station will not result in any detriment or change in the character of the neighborhood.

NOW THEREFORE BE IT RESOLVED, that the application for set back and lot coverage variances to allow construction of a prefabricated booster station in accordance with the plans submitted with this application be, and the same is hereby granted, subject to the following condition.

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. 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.

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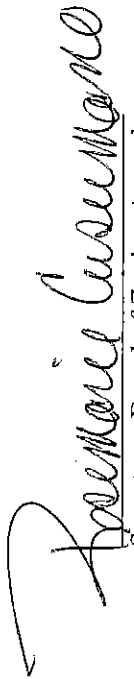
Foregoing Resolution submitted by Steven Lowenthal, seconded by Michael Strone at the January 14, 2016 meeting.

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

NAYS: None

ABSTAINED: None

ABSENT: Paul Valentine



Secretary, Board of Zoning Appeals



Chairman, Board of Zoning Appeals

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WJWW Kentworth Booster Station
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**BOARD OF ZONING APPEALS
TOWN/VILLAGE OF HARRISON, NEW YORK**

Calendar No. Z15-026

Date: January 14, 2016

Property Owner: Michael DiMarino

Property Address: 80-82 Lakeview Avenue

Block 861, Lot 24

WHEREAS, the applicant filed an application to construct a new two family home higher than the required height in the B Zone 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, Steven Basini of Petruccelli Engineering, on behalf of the property owner, filed an application on November 17, 2015 for a variance from the Zoning Ordinance (1) to raise the first floor elevation measured from the center line of the road to 11 feet as compared to the 7 feet allowed by the Ordinance, and (2) to increase the number of stories to 3 stories as compared to the 2 ½ stories allowed by the Ordinance; 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 December 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

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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:

1. The variance relates to the construction of two-family home in an area with a high water table. In order to be able to construct a residence with a usable basement, the entire structure must be elevated such that the foundation sits above the water table. This concern necessitates applicant's need to increase the first floor elevation. The applicant has submitted a memo, dated December 17, 2015, from the Town Engineer stating that the Engineering Department takes no exception to the proposed stormwater management provisions shown on the site plan.
2. Although there is a technical violation of the Code, the requested 4 ft. height variance will not raise the two-family home any higher than homes already existing on the street. The roof line will be consistent with the homes in the neighborhood
3. The variance for a third story is a function of raising the basement above the water table. The applicant has averred that the basement will be used for storage purposes and will not have a separate entrance for ingress and egress.
4. Accordingly, we find that the granting of these variances is necessitated by the topography of the property. The structure, for all intent and purpose, would comply with the Code were it not for the water table. It will appear from the street to be the same as the other structures in the neighborhood and will be used as a two-family residential

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structure and a two-family structure only. Thus, it will not change the character of the neighborhood nor create any adverse impact on any adjacent properties.

NOW THEREFORE BE IT RESOLVED, that the application for a variance with respect to the first floor elevation and number of stories to allow construction of a two-family house in accordance with 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. 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 Michael Strone, seconded by Steven Lowenthal at the January 14, 2016 meeting.

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

NAYS: None

ABSTAINED:None

ABSENT: Paul Valentine

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Rose Marie Cesumando
Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

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1/14/16

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

Calendar No. Z15-027

Date: January 14, 2016

Property Owner: Memorial Hospital for Cancer and Allied Diseases

Property Address: 500 Westchester Avenue Block 631, Lot 7

WHEREAS, the applicant filed an application to install two new building signs 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, Peter Scherer, on behalf of the property owner, filed an application on November 17, 2015 with respect to the erection of two signs at the property, which is located in an SBO Zoning District. Pursuant to §235-47(B) Business Identification Signs, each building shall be permitted to have one wall sign attached to or incorporated in the building wall or related structural feature at the principal building entrance, provided that such sign shall not be visible from off the premises except from the front lot line. Such signs shall have (1) an area not exceeding 20 square feet. (2) a maximum projection of 10 inches from the face of the wall or structure to which the sign is attached and (3) contain no more than the name and business of the establishment located on the premises and directional information.

This application requires 3 variances:

- 1) The proposed second sign facing Westchester Avenue requires a variance.
- 2) The proposed second sign is visible from off premises thus requiring a variance.
- 3) The two proposed signs are proposed to be 63 square feet each for a total of 126 square feet thus requiring a total variance for both signs of 86 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 8:00 p.m., on December 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

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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;
- (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. This application relates to the erection of two signs on the Memorial Sloan Kettering facility located at 500 Westchester Avenue. The facility, which was originally opened in October 2014, is located on a hill above Westchester Avenue and can only be reached through the westbound lane of Westchester Avenue or northbound by way of the Butcher Bridge, which extends over I-287.
2. Since the facility was opened, applicant has received a significant number of complaints relating to the inability of patients and visitors to locate the facility. Due to the poor visibility of the current signage, many patients have been getting lost or have been missing the entryway off of Westchester Avenue, with no easy way to turn around

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off of Westchester Avenue. This has resulted in patients arriving late for scheduled appointments and has caused a disruption in appointment schedules.

3. In order to address these concerns applicant is proposing to erect two signs that would be visible from the primary vehicular approaches to the facility (1) one of the signs would be visible from Southbound I-684 (I-684 leads into Westbound Westchester Avenue) and (2) the other sign would be visible from Westchester Avenue and the Butcher Bridge Northbound over I-287.

4. The proposed size of both signs substantially exceeds the size allowed by the Ordinance. However, we find that the larger signs are needed in order to facility their visibility by approaching vehicles.

5. In view of the location of the facility, the granting of these variances will not change the character of the neighborhood or create a detriment to nearby properties.

NOW THEREFORE BE IT RESOLVED, that the application to allow the erection of two building signs in accordance with 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.

Foregoing Resolution submitted by Ernest Fiore, seconded by Steven Lowenthal at the January 14, 2016 meeting.

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

NAYS: None
ABSTAINED: None
ABSENT: Paul Valentine

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Rosemarie Casemano

Secretary, Board of Zoning Appeals

MSK

Chairman, Board of Zoning Appeals

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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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