

## ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, February 12, 2015, at 8:00 p.m., in the Court Room of the Municipal Building.

Members Present

*Paul Katz, Acting Chairman*  
*Ernest Fiore*  
*Steven Lowenthal*  
*Paul Valentine*  
*Tom Foristel*

Members Absent

*Mark I. Fisher, Chairman*  
*Michael Strone*


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

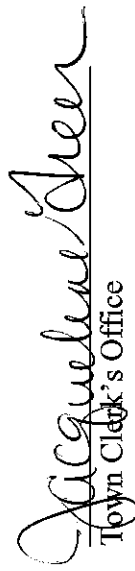
<u>Cal. #</u>	<u>Applicant</u>	<u>Block</u>	<u>Lot</u>	<u>Decision</u>
Z13-032	Robert Luiso	281	10	Re-Opened – Closed – Findings being prepared
Z14-026	Eileen & John Bosco	221	14	Variance Granted
Z14-031	Laura & David Hersh	441	97	Variance Granted
Z13-032	Joseph DeFonce	247	7	Heard – Closed – Findings being prepared
Z14-035	Mathew & Helen McConnell	542	7	Variance Granted
Z14-036	Fisk Management, LLC	641	19	Heard – Closed – Findings being prepared
Z14-037	Paul & Suzanne Ryan	564	3	Heard – Closed – Findings being prepared
Z15-001	William Colangelo	265	27	Heard – Adjourned to the March Meeting
Z15-002	Maria Mauro	268	11	Heard – Closed – Findings being prepared
Z15-003	Harrison Playhouse Lofts	133	35 & 11	Heard – Closed – Findings being prepared

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The next meeting was scheduled to March 12, 2015.

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

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

Calendar No. Z14-026

Date: February 12, 2015

Property Owner: Eileen & John Bosco

Property Address: 140 Sunnyridge Road

Block 221, Lot 14

WHEREAS, the applicant, the property owner, filed an application for construction of a deck and hot tub 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, Eileen & John Bosco filed an application on September 17, 2014 for a variance for permission to construct a hot tub at the above referenced property. The application was substantially amended in December 2014 to change the location of the hot tub and to add a deck. This property is located in an R-1/3 Zoning District and existing non-conforming with regard to its rear yard setback of 17.2 feet and pursuant to §235-9(B) Table of Dimensional Regulations of the Town/Village of Harrison Zoning Ordinance the minimum rear yard setback is 25 feet. Also as per §235-28 Titled Swimming Pools of the Town/Village of Harrison Zoning Ordinance. Swimming pools, pumps, filters, compressors or other pool related equipment may be located within that portion of the lot in which accessory buildings are permitted under the provisions of this chapter applicable to the district in which such lot is located; provided, however, that within the B Two-Family Residence District and the R-75 and R-50 One-Family Residence Districts, no swimming pools shall be located within 10 feet, or within any other Residence district, no swimming pool shall be located within 20 feet of side and rear property lines nor shall be set back 60 feet from any street in the B, R-75 and R-50 Districts, and 75 feet in all other Districts. The proposed deck indicates a rear yard setback of 18 feet 6 inches thus requiring a variance of 6 feet 6 inches. The proposed hot tub indicates the setback from the property line at the street frontage to be 39 feet, thus requiring a variance of 36 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 October 9, 2014 and January 15, 2015 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: Mark Fisher, Paul Katz, Ernest Fiore, Michael Strone, Steve Lowenthal, Paul Valentine and Tom Foristel; 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

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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:

- A) The deck and hot tub do not change the character of the neighborhood or create any detriment to nearby properties.
- B) In response to concerns expressed by an adjacent property owner, the applicant has moved the location of the hot tub to the other side of the property. The hot tub is now screened from view from the street as well as from the adjacent neighbor on the side on which it is located.
- C) Only a corner of the deck is located in the required rear yard and that corner is located further away from the rear neighbor than the rear of the house.
- D) There were no objections from any neighbors.

NOW THEREFORE BE IT RESOLVED, that the application for a rear yard variance and a variance for the setback from the front property line to allow construction of a deck and hot tub as indicated in the plans submitted with this application be, and the same construction of same is hereby granted;

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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.

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 the applicant shows good cause and, if in the Board's judgment, the facts and circumstances, which existed at the time of the original application, have not materially changed.

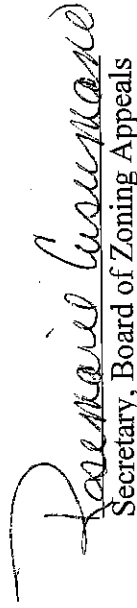
Foregoing Resolution submitted by Paul Valentine, seconded by Steve Lowenthal at the 2/12/2015 meeting.

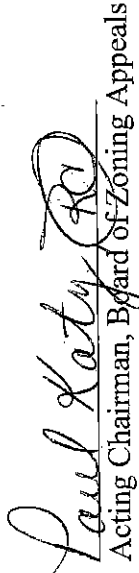
ADOPTED: AYES: Paul Katz, Acting Chairman, Ernest Fiore, Steven Lowenthal, Paul Valentine, and Tom Foriste

NAYS: None

ABSTAINED: None

ABSENT: Mark Fisher, Michael Strone

  
Secretary, Board of Zoning Appeals

  
Acting Chairman, Board of Zoning Appeals

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

Calendar No. Z14-031

Date: February 12, 2015

Property Owner: Laura and David Hirsch

Property Address: 5 Ramapo Trail

Block 441, Lot 97

WHEREAS, the applicant, the property owner, filed an application to legalize a deck expansion and finished basement 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, Laura and David Hirsch filed an application for variances from the provisions referred to below. This property is located in an R-1/3 Zoning District and is in an AE flood plain. In an AE flood plain, if case flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above 2 feet above the base floor level. As per § 146-6.1, the applicant is seeking a variance to legalize a finished basement. §146-6.2 indicates conditions for variances. Pursuant to §235-31(A) Setbacks from streams and other bodies of water, a portion of the deck expansion has a setback from the stream of 31.4 feet as compared to the 50 foot setback required thus requiring a 18.6 foot variance.

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 3, 2015 and January 15, 2015 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: Mark Fisher, Paul Katz, Ernest Fiore, Michael Strone, Steve Lowenthal, Paul Valentine and Tom Forstiel; 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

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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 expansion to the deck was constructed prior to Applicant's purchase of the property but subsequent to a 2007 change in the Ordinance which is the reason that a variance is being sought. The remainder of the deck, which is substantially larger than the small expansion, was constructed in 1993 and is located 20.6 feet from the stream at its closest point as compared to the deck expansion which is located 31.4 feet away from the stream at its closest point. The remainder of the deck is also compliant with all other zoning requirements and does not create any adverse impact on any adjacent property.
2. The finished basement is completely within the footprint and foundation wall enclosure of the house as originally constructed. There have been no changes to the footprint or to any openings within the existing foundation wall which encloses the basement area. Window and door openings that exist today are those that were created as part of original construction. As such there is no realistic way that materials might be swept away from inside of the basement now as opposed to when the basement area was originally completed. Since the finished basement has been constructed wholly internal to a pre-existing structure and the basement spaces were constructed as part of the original house, there is no danger to life and property caused solely by the additional construction work performed within the pre-existing area. As originally constructed, the basement area in question was finished space envisioned to be used as recreational space or storage space, or a combination of both. The "facility" in question, namely the

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basement area, has existed as part of the original construction of the house. Recent improvement work in the basement that is the subject of this application does not in any way create any increased susceptibility to flood damage over what has existed from the completion date of original construction of the house. Accordingly, we find that applicant has satisfied the requirement under §146-6 for the granting of a variance.

NOW THEREFORE BE IT RESOLVED, that the application for variances from the setback requirements of the Ordinance with respect to the deck expansion and the flood plain requirements with respect to the finished basement 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 Steve Lowenthal, seconded by Tom Foristel at the 2/12/2015 meeting.

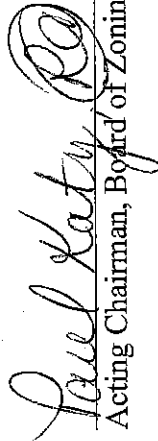
ADOPTED: AYES: Paul Katz, Acting Chairman, Ernest Fiore, Steven Lowenthal, Paul Valentine, and Tom Foristel

NAYS: None

ABSTAINED: None

ABSENT: Mark Fisher, Michael Strone

  
Secretary, Board of Zoning Appeals

  
Acting Chairman, Board of Zoning Appeals

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

Calendar No. Z14-035

Date: February 12, 2015

Property Owner: Mathew & Helen McConnell

Property Address: 40 Park Dr. N

Block 542 Lot 7

WHEREAS, the applicant, the property owner, applied for site plan approval 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, Mathew & Helen Mc Connell, filed an application on December 17, 2014 for an area variance from the Zoning Ordinance to permit the construction of a garage addition located in an R-1 Zoning District. The Code of the Town/Village of Harrison, Sec 235-9B Table of Dimensional Regulations for Residence Districts requires a side yard setback of 20' in an R-1 zone. The location of the proposed garage addition increases the existing non-conformity with a side yard setback of 11' requiring a variance of 9 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 January 15, 2015 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present: Paul Katz, Ernest Fiore, Mark Fisher, Michael Strone, Steve Lowenthal and Tom Foristel

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:

- A) The addition does not change the character of the neighborhood and is located further away from the adjacent neighbor than an existing addition.
- B) A next-door neighbor raised a concern about run-off water and drainage.
- C) There were no objections from any of the other neighbors.
- D) The applicant and the adjacent neighbor agreed to address the water issue with the assistance of the Engineering Dept. An analysis should be completed to identify any negative drainage condition that may ensue upon construction or that currently exists on the side of the property adjacent to the neighbor's property.

NOW THEREFORE BE IT RESOLVED, that the application for permission to construct an addition as indicated in the plans submitted with this application be, and the same is hereby granted with the following condition:

- Any potentially detrimental drainage conditions, including any existing conditions as well as conditions that may result from the construction of the addition, as determined by the Harrison Engineering Dept. must be alleviated prior to construction.
- The next door neighbor must be notified of any of the steps proposed to be taken to alleviate any drainage issues.

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.

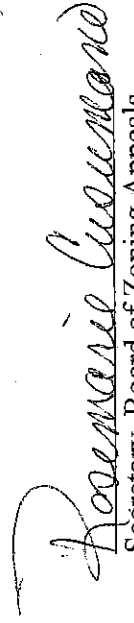
Foregoing Resolution submitted by Ernest Fiore, seconded by Tom Foristel at the 2/12/2015 meeting.

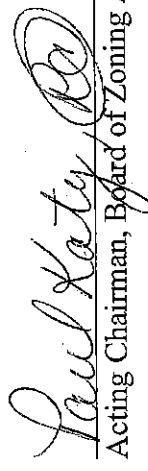
ADOPTED: AYES: Paul Katz, Acting Chairman, Ernest Fiore, Steven Lowenthal, Paul Valentine, and Tom Foristel

NAYS: None

ABSTAINED: None

ABSENT: Mark Fisher, Michael Strone

  
Secretary, Board of Zoning Appeals

  
Acting Chairman, Board of Zoning Appeals

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