

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, May 22, 2014, at 8:00 p.m., in the Court Room of the Municipal Building.

Members Present

Mark I. Fisher, Chairman
Paul Katz
Ernest Fiore
Steven Lowenthal
Paul Valentine

Members Absent

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>
Z13-006	Vasilios Skamangas	223	39	Variance Denied
Z13-026	Michaelangelo Iannacchino	1031	1	Variance Granted
Z14-001	Sally & Steve Paridis	951	11	Heard – Closed - Findings being prepared
Z14-004	249 Halstead Avenue Properties	131	20, 21-23, 53, 54	Heard – Closed – Findings being prepared
Z14-005	550 Halstead Ave Multi-Family	92	15	Heard – Adjourned to the June Meeting
Z14-008	Charles Oestreicher	565	16	Heard – Closed – Findings being prepared
Z14-010	Jerehian & Noreen Harrington	214	117	Heard – Closed - Findings being prepared
Z14-011	Alfred & Margaret Kelly	563	13	Heard – Closed - Findings being prepared
Z14-012	John & Susan McDonnell	472	23	Heard – Closed – Findings being prepared
Z14-013	Belinda Defonce	286	5 & 6	Heard – Adjourned to the June Meeting
Z14-014	Michael & Suzanne Valentino	542	29	Heard – Extension Granted

The next meeting was scheduled to June 12, 2014.

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

2014 JUN 23 PM 4:00
 TOWN CLERK'S OFFICE

Rosemarie Cusumano
 Rosemarie Cusumano, Secretary

Jacqueline Shen
 Town Clerk's Office

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

Calendar No. Z13-006

Date: May 22, 2014

Property Owner: Vasilios Skamangas

Property Address: 54 Crawford Road
Harrison, New York 10528

Block 223 Lot 39

WHEREAS, the applicant, the property owner, filed an application to legalize an existing shed 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, on February 17, 2013 the applicant, Vasilios Skamangas filed an application for a variance to legalize an existing shed. The shed is located on the side yard property line whereas the Ordinance in an R-1/3rd Zone requires a 15 foot side yard setback for accessory structures such as the shed. In addition, the shed is located 50 feet from the front yard property line whereas the Ordinance requires a 75 foot setback for accessory structures such as the shed.

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 on various date and, after due notice and publication pursuant to Town Law 267-a(7) at which the following members were present in person or indicated that they had listened to tapes of the hearing: Paul Katz, Ernest Fiore, Mark Fisher, Steven Lowenthal, Michael Strone 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. 888-0101 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. 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 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 an area 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, Section 267-a and 267-b and Harrison Town Code Section 235-56, et seq., it has jurisdiction to consider the requested variances.

The Board found that:

1. This application relates to the legalization of a 9 ½' x 6 ½' shed (approximately 62 square feet) that sits on a foundation located directly on the side yard property line. Applicant had originally filed an application for the installation of a generator that was to be located approximately 13 feet from the same side yard property line on which the shed is located. During the course of on-site visits in connection with the other application, the Board became aware of the location of the shed. Applicant subsequently filed a separate application on February 17, 2013 to legalize the shed which was heard on March 13, 2013 in conjunction with the variance application for the generator. On April 13, 2013 the variance application for the generator was granted (Z12-028) and a hearing was held on the current application. The current application was also heard and adjourned at the April 11, 2013 meeting. The application was scheduled to be heard at subsequent meetings during 2013. When applicant did not appear at those meetings, the application was removed from the agenda on October 17, 2013. Applicant subsequently retained counsel and the application was restored to the agenda and heard at meetings held on January 9, March 13th and April 10, 2014.
2. We are cognizant of the requirement for us to follow the balancing test in determining whether to grant this variance and the remainder of these findings are addressed to those considerations.

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The benefit to the applicant vs. the detriment to the health, safety and welfare of the neighborhood or the community

3. The benefit to the applicant in obtaining the variance is to have the benefit of the storage provided by the shed in its current location without incurring the cost associated with relocating the shed to other sites on the property.
4. There is nothing unique about the configuration of the property and the granting of this variance would create a precedent which would have implications in the event that similar variances were sought by other property owners. The granting of this variance would be tantamount to a de facto amendment of the Ordinance since no side yard setback is provided.
5. Applicant submitted evidence to the effect that the shed was located in its present location at the time applicant acquired the property in 1989. The granting of a variance premised largely on the fact that the shed has been there for many years is detrimental to the community. It creates an incentive for property owners to avoid seeking variances and instead rely on the fact that variances may well be granted if a substantial period of time elapses until a violation is discovered.

Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties

6. The shed has been located in its present location for a substantial period of time with no apparent detriment to the character of the neighborhood. The shed is also screened from view by the adjacent property owner.
7. The property is rectangular in shape and its dimensions from the front yard lot line to the rear lot line are 121.37 feet on one side and 130.7 feet on the other side. The width of the property is approximately 100 feet at both the front and rear lot lines. Based on the dimensions of the property and the size and location of the existing house, there are other locations on the property where the shed could be moved that would not require the granting of a variance.
8. The side yard variance being sought is substantial in that the shed is located directly on the property line. Accordingly, this represents a 100% deviation from the requirements of the Ordinance as no side yard setback has been provided.

Is the variance substantial

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Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood

9. See item 6 above.

Is the difficulty self-created

10. As set forth above, applicant acquired the property in 1989 and testified that the shed was located in its present location at the time the property was acquired. It appears that the shed was constructed some time subsequent to 1976 since a survey, dated September 4, 1976, does not indicate that there was a shed on the property at that time. At the time of applicant's acquisition of the property, the side yard requirements of the Ordinance were in effect and applicant is charged with full knowledge of the provisions of the Ordinance. Accordingly, applicant's difficulty is self created.

WHEREUPON, the Board found, after due deliberation, based upon the testimony and documents submitted, its site visit, and a balancing of the findings set forth above, that it has jurisdiction to deny the requested variance.

NOW THEREFORE BE IT RESOLVED, that the application for a variance from the side and front yard setback requirements of the Zoning Ordinance be, and the same is hereby denied.

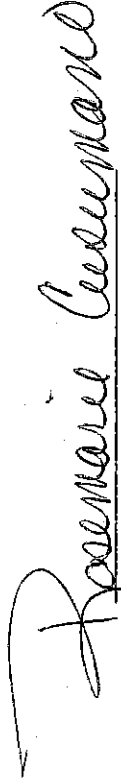
Foregoing Resolution submitted by Paul Katz, seconded by Paul Valentine at the May 22, 2014 meeting.

ADOPTED: AYES: Mark Fisher, Ernest Fiore, Paul Katz, Steven Lowenthal and Paul Valentine

NAYS: None

ABSTAINED: None

ABSENT: Michael Strone


Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

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RECEIVED
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TOWN CLERK
HARRISON, N.J.

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

Calendar No.: Z13-026

Date: May 22, 2014

Property Owner: Michaelangelo Iannacchino

Property Address: 3 Rockland Road

Harrison, New York 10528
Block #1031 Lot # 1

WHEREAS, the applicant, the property owner, filed an application to legalize a family room addition and enclosed breezeway 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 owner, filed an application on September 17, 2013 for an area variance from the Zoning Ordinance. This property is located in an R-75 Zoning District and pursuant to §235-9(B) of the Table of Dimensional Regulations of the Zoning Ordinance of the Town/Village of Harrison the minimum required rear yard setback is 25 feet. This application requires 2 variances:

- 1) The proposed legalization of the one story addition reduces the rear yard setback to 12.8 feet thus requiring a variance of 12.2 feet.
- 2) The garage is no longer considered an accessory structure due to the enclosing of a breezeway and, accordingly, is required to comply with the 25 foot rear yard setback. The garage currently provides for a 16.21 foot setback thus requiring a variance of 8.79 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 17, 2013 and April 10, 2014 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 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 regulation thereunder, 6N.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

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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 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 an area 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.

The Board found that:

- 1) The garage requires an 8.79 foot rear yard variance as a result of the enclosure of a breezeway. As a result the enclosed breezeway is no longer considered an accessory structure and must comply with the 25 foot rear yard setback requirement as compared to the 10 foot requirement applicable to accessory structures. No changes were made to the configuration of the garage in connection with the enclosing of the breezeway and the garage remains in the same location as it was prior to the enclosure of the breezeway.
- 2) The addition was constructed in the 1970's prior to the acquisition of the property by the property owner.
- 3) The rear of the property borders upon a large rear yard of the adjacent property. The house on the adjacent property is diagonally opposite applicant's house and the granting of the variances would not appear to create an adverse visual impact on the adjacent property.
- 4) Both the garage and the addition have been located in their present locations for a substantial period of time with no apparent detriment to the neighborhood or to adjacent properties.
- 5) The variances represent a 35.1% and 48.8% deviation from the requirements of the Ordinance and, in and of themselves, are not insubstantial.

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WHEREUPON, the Board found after due deliberation based upon the testimony and documents submitted its site visit and a balancing of the findings set forth above. 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.

NOW THEREFORE BE IT RESOLVED that the application for a 12.2 foot variance to legalize an existing one story addition in the rear yard and a 8.79 foot variance to legalize an existing one story garage as indicated in the plans submitted with this application be, and the same is hereby granted subject to the following conditions:

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 plan.

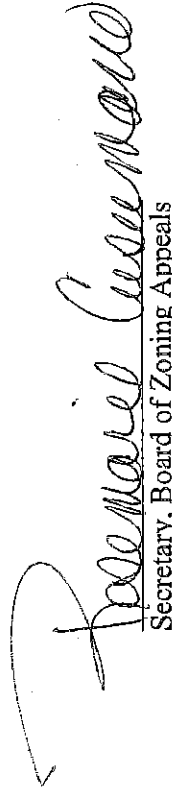
Foregoing Resolution submitted by Ernest Fiore, seconded by Paul Katz at the meeting on May 22, 2014.

ADOPTED: AYES: Mark Fisher, Ernest Fiore, Paul Katz, Steven Lowenthal and Paul Valentine

NAYS: None

ABSTAINED: None

ABSENT: Michael Strone


Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

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