

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, August 13, 2015, 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
Tom Foristel

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>
Z15-006	David & Carmela Fuca	833	11	Variance Granted
Z15-013	Deborah DiFiore	32	61	Variance Granted
Z15-014	William & Katherine Stempel	546	23	Variance Granted

The next meeting was scheduled to September 10, 2015.

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

Jacqueline Shear

Town Clerk's Office

Rosemarie Cusumano

Rosemarie Cusumano, Secretary

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THE FORMAL RECORD OF THE ABOVE PROCEEDINGS ARE THE TAPES

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

Calendar No. Z15-006

Date: August 13, 2015

Property Owner: David & Carmela Fuca

Property Address: 18 Edward Street

Block 833, Lot 1

WHEREAS, the applicant filed an application to legalize a rear addition and enclosed front porch 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, Ronald Bianchi, on behalf of the property owners, David and Carmela Fuca, filed an application on March 13, 2015 for a variance from the Zoning Ordinance to legalize an addition in the rear and an enclosed front porch located in an B Zoning District. Pursuant to §235-9(B) of the Table of Dimensional Regulations of the Town/Village of Harrison Zoning Ordinance the maximum percentage of lot coverage occupied by main building and accessory buildings in a B zone is 35%. The enclosed front porch and read addition cause the existing lot coverage to be approximately 40% therefore a variance is required; 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 April 9, May 11, June 11 and July 9, 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

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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 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 rear addition and enclosed front porch were constructed more than 40 years ago and have had no adverse impact on any adjacent properties.
- B) The variance causes no detriment to the neighbors.
- C) The rear addition and enclosed front porch do not change the character of the neighborhood.
- D) There were no objections from neighbors.

NOW THEREFORE BE IT RESOLVED, that the application for a variance to legalize a rear addition and the enclosed front porch as indicated in the plans submitted with this application be, and the same is hereby granted.

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Foregoing Resolution submitted by Paul Katz, seconded by Steven Lowenthal at the August 13, 2015 meeting.

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

NAYS: None

ABSTAINED: None

ABSENT: Michael Strone


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. Z15-013

Date: August 13, 2015

Property Owner: Deborah Di Fiore

Property Address: 14 Rose Avenue

Block 32 Lot 61 (60-61)

WHEREAS, Deborah DiFiore filed an application for a variance on June 15, 2015 for a proposed addition to an existing detached garage at the above referenced property. The property is located in a B Zoning District and pursuant to 235-9B of the Zoning Ordinance, the required rear and side yard setback is 5 feet. Also, as per 235-18-B, no accessory building or structure shall be located nearer to the street line than (60) feet. The proposed garage addition indicates a setback from the street frontage along West End Pl of 22.5 ft, thus requiring a variance of 37.5 ft. The portion of the existing garage has a side yard setback of 4.3 ft, thus requiring a variance of .7 ft.

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 July 9, 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: Thomas Foristel, Paul Katz, Paul Valentine, Steven Lowenthal, Michael Strone, Ernest Fiore, 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:

- A) In 1982, a variance was granted for a 35 foot variance from the street line. The proposed garage addition is being built along the existing line of the garage, but requires a 37.5 foot variance as a result of the slope of the street. However, the impact of this additional 2.5 foot variance over and above the prior 35 foot variance is not significant.
- B) The .7 foot side yard variance is of a de minimis nature. Additionally, the current garage has been in its existing location, with a 4.3 foot side yard setback, for more than 20 years without causing any apparent detriment to any adjacent properties.
- C) The addition would have no negative impact on the neighborhood.
- D) There were no objections from neighbors.

NOW THEREFORE BE IT RESOLVED, that the application for a variance for a garage addition 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 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.

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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.

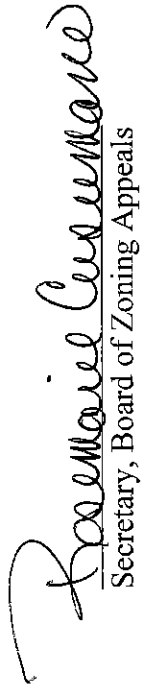
Foregoing Resolution submitted by Paul Katz, seconded by Paul Valentine at the August 13, 2015 meeting.


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

NAYS: None

ABSTAINED: None

ABSENT: Michael Strone


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.Z15-014

Date: August 13, 2015

Property Owner: William & Katherine Stempel

Property Address: 1 Highland Park Place

Block 546, Lot 23

WHEREAS, the applicant filed an application to install a 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, Elite Landscaping Inc., on behalf of the property owners, William & Katherine Stempel, filed an application on June 15, 2015 for a variance from the Zoning Ordinance to install a hot tub in a property located in an R-1/3 Zoning District. Pursuant to §235-28A of the Table of Dimensional Regulations of the Town/Village of Harrison Zoning Ordinance the hot tub may not be located within 20 feet of side and rear property lines. The proposed hot tub indicates a side yard setback of 12 feet - 2 5/8 inches thus requiring a variance of 7 feet 9 - 3/8 inches. The proposed hot tub indicates a rear yard setback of 17 feet - 1 5/8 inches thus requiring a variance of 2 feet - 10 3/8; 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 July 9 and August 13, 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:

- A) The hot tub will be located in the rear corner of the property adjacent to an existing stone patio.
- B) The rear yard setback is not significant in that the hot tub is heavily screened from the adjacent neighbor to the rear.
- C) The location of the hot tub raises a potential issue with respect to the property located adjacent to the side yard in that the hot tub will be visible from the master bedroom located on the second floor of the house on the adjacent property. In order to address this issue, applicant has provided a screening plan which includes the planting of a row of 7' to 8' Leyland Cypress trees designed to screen the neighbor's view of the hot tub. There is also an existing fence that serves to screen the visual impact of the hot tub.

NOW THEREFORE BE IT RESOLVED, that the application for a side and rear variance to allow construction of a hot tub in accordance with the plans submitted with this application be, and the same is hereby granted, subject to the following condition.

Granting of this variance is specifically conditioned on the continued maintenance of the trees and fence provided by the screening plan referred to above.

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.

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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.

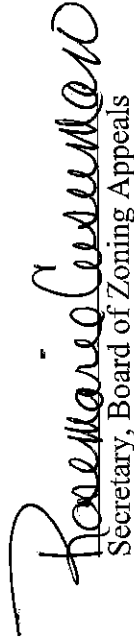
Foregoing Resolution submitted by Paul Katz, seconded by Paul Valentine at the August 13, 2015 meeting.

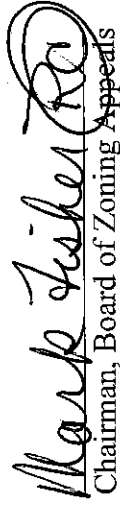
ADOPTED: AYES: Mark Fisher, Ernest Fiore, Paul Katz, Steven Lowenthal,
Paul Valentine and Tom Foristel

NAYS: None

ABSTAINED: None

ABSENT: Michael Strone


Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

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