

ZONING BOARD OF APPEALS

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

Members Present

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

Members Absent

Mark I. Fisher, Chairman

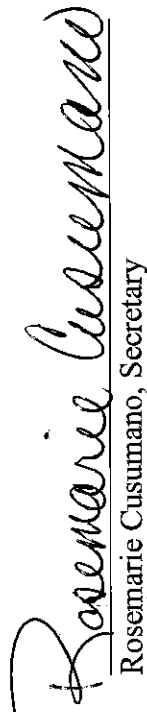
The Chairman called the meeting to order at 8:00 p.m.

| <u>Cal. #</u> | <u>Applicant</u> | <u>Block</u> | <u>Lot</u> | <u>Decision</u> |
|---------------|----------------------------------|--------------|------------|--|
| Z16-001 | 3040 Westchester Avenue | 602 | 2.05 | Variance Granted |
| Z16-005 | Vito Forgione | 904 | 7 | Heard – Adjourned to the October Meeting |
| Z16-010 | Soverato LLC/Marcella Realty LLC | 251 | 37 | Not Heard – Adjourned to the October Meeting |
| Z16-015 | Ehud & Jennifer Livne | 601 | 25 | Heard – Adjourned to the October Meeting |
| Z16-016 | Briggs & Jennifer Forelli | 521 | 12 | Heard – Adjourned to the October Meeting |
| Z16-017 | Nick & Ana Read | 951 | 22 | Heard – Adjourned to the October Meeting |
| Z16-018 | Michele Marciano | 849 | 5 | Heard – Adjourned to the October Meeting |
| Z16-019 | 12 Nelson Avenue LLC | 267 | 11 | Heard – Adjourned to the October Meeting |

The next meeting was scheduled to October 13, 2016.

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


Town Clerk's Office


Rosemarie Cusumano, Secretary

TOWN CLERK
JACQUELINE CHEN
TOWN CLERK'S OFFICE

THE FORMAL RECORD OF THE ABOVE PROCEEDINGS ARE THE TAPES THEREOF.

2016 SEP -9 AM 11:18

RECEIVED

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

Calendar No. Z16-001

Date: September 8, 2016

Property Owners: Westchester Avenue Associates, LLC

Property Address: 3000-3040 Westchester Avenue Block 602 Lot 2

WHEREAS, the property owner, filed an application with respect to a proposed new building and parking garage 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, Seth Mandelbaum, on behalf of the property owner, filed an application for a variance on January 14, 2016. The property is located in an SB-0 Zoning District and, pursuant to the Zoning Ordinance of the Town/Village of Harrison, the following requirements are applicable to the proposed plans:

- Pursuant to §235-38, buildings with a floor area (square footage) between 30,000 and 60,000 require 2 loading spaces.
- Pursuant to §235-12(B), the minimum required side yard setback adjoining a business district is 75 feet and the required side and rear yard buffer strips are 50 feet.
- Pursuant to §235-31(A), all buildings and structures shall be setback at least 50 feet from the seasonal high water's edge or established channel lines or streams and other water bodies

This application requires **5 Variances**.

Variance 1: The new 44,000 square foot building is proposed to have one loading space, thus requiring a variance for the one additional loading space required.

Variance 2: The parking garage is indicated to have a 16 foot setback, thus requiring a variance of 59 feet.

Variance 3: The parking garage is indicated to have a 16 foot buffer strip, thus requiring a variance of 34 feet.

Variance 4: The new parking spaces to be created at the Northern portion of the property are indicated to have a buffer strip of 10 feet, thus requiring a variance of 40 feet.

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Variance 5: The proposed fence is indicated to have a setback from the water's edge of the Blind Brook of 9 feet, thus requiring a variance of 41 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, April 14, 2016 and August 11, 2016 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, Steven Lowenthal, Paul Valentine and Tom Foristel; 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

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 Applicant is proposing to further improve the 13.361 acre property by constructing an additional office building to be known as 3040 Westchester Avenue in the southeastern portion of the property, and a two level parking garage on the western side of the property to accommodate the additional parking required. The proposal also involves the demolition of existing one story building and reconfiguration and improvement to the roadway

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and parking lot circulation throughout the site. Both the new building and the parking garage will be similar and complementary to the existing office park.

2. The Planning Board acted as Lead Agency in connection with the SEQR determination of significance for site plan, special exception use and slope permit applications. As Lead Agency the Planning Board determined that the proposed project would not have a significant effect on the environment. The Planning Board's determination was based on the specific reasons enumerated in the Negative Declaration attached to the Planning Board's Resolutions of June 28, 2016 and we afford significant weight to this determination of the Planning Board. The Planning Board also made a positive recommendation with respect to the application.
3. The new building is proposed to be used primarily for medical space which does not require a large volume of deliveries thereby mitigating the need for a second loading space.
4. The parking garage was originally proposed to be located directly on the western property line. In response to concerns expressed by the Board, applicant has relocated the garage sixteen feet to the east which minimizes the extent of the setback and buffer zone variances. The commercial property located to the west that borders on the proposed parking garage is located at a considerably higher elevation and the garage is effectively screened from view from the adjacent property. The owner of the adjacent property also confirmed that they had reviewed and approved of the additional parking structure and medical building. Accordingly, we find that the granting of the setback and buffer variances for the parking garage will not have an adverse impact on any adjacent properties.
5. The parking spaces to be created on the northern portion of the property border on residential properties located in Rye Brook. Applicant has provided a screening plan, which includes staggered six foot tall vinyl fencing together with evergreen plantings, that effectively screens the new building and parking spaces from view from the residential properties. This finding is consistent with the determination of the Planning Board. In addition, the Village of Rye Brook confirmed that, aside from one traffic mitigation issue, which was not raised by the Town of Harrison's traffic consultant, the Village had no comments or concerns that had not been addressed. Accordingly, we find that the granting of a variance with respect to a buffer strip on the northern portion of the property will not have an adverse impact on adjacent properties.
6. The location of a proposed fence 9 feet from the water's edge of the Blind Brook will not create an adverse environmental impact. This is consistent with the Planning Board's determination that the project will not create any flooding impacts.

NOW THEREFORE BE IT FURTHER RESOLVED, that the application for multiple variances to permit construction of a new two level parking garage and a new office building 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.

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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.

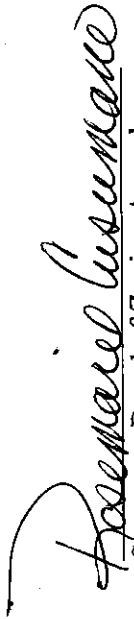
Foregoing Resolution submitted by Michael Strone, seconded by Ernest Fiore at the September 8, 2016 meeting.

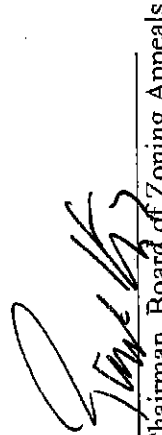
ADOPTED: AYES: Paul Katz, Ernest Fiore, Michael Strone, Steven Lowenthal,
Paul Valentine and Tom Foristel

NAYS: None

ABSTAINED: None

ABSENT: Mark Fisher


Secretary, Board of Zoning Appeals


Acting Chairman, Board of Zoning Appeals

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TOWN CLERK
HARRISON, N. Y.

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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