

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, February 23, 2017, at 8:00 p.m., in the Court Room of the Municipal Building.

Members Present

Mark I. Fisher, Chairman
Ernest Fiore
Michael Strone
Paul Valentine
Tom Foristel

Members Absent

Paul Katz
Steven Lowenthal

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>
Z16-019	12 Nelson Avenue LLC	267	11	Heard – Adjourned to the March Meeting
Z16-022	Marie Marino	91	21	Variance Granted
Z16-031	Frank A. Acocella	131	26	Heard – Adjourned to the March Meeting
Z16-032	Anthony Marella	391	5	Variance Granted
Z16-033	Fran Grippo	386	35	Heard – Closed – Findings being prepared
Z17-001	Harrison Real Estate Group, LLC	131	17	Heard – Extension Granted
Z17-002	James & Carrie Heffernan	604	16	Heard – Closed – Findings being prepared
Z17-003	Michael Decea	374	40	Heard – Adjourned to the March Meeting

The next meeting was scheduled to March 9, 2017.

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

Jacqueline Greer

Town Clerk's Office

Rosemarie Cusumano
Rosemarie Cusumano, Secretary

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

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

Calendar No. Z16-022

Date: February 23, 2017

Property Owners: Marie Marino

Property Address: 47 Oak Street

Block 91, Lot 31

WHEREAS, the applicant, the property owner, filed an application to legalize an existing one bedroom apartment 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, the property owner filed an application on September 16, 2016 for an area variance from the Zoning Ordinance. The property is located in an MFR Zoning District and is existing nonconforming with regard to its lack of required parking. Pursuant to §235-12-B of the Table of Dimensional Regulations for Business Districts the minimum required habitable floor area for a dwelling unit is 600 square feet. Also as per §235-36 Schedule of Off-Street Parking Spaces Requirements for Residential Use is as follows. Number of spaces per dwelling unit for parcels located within the downtown revitalization target area is 1.25. This application requires **2 Variances**. **Variance 1:** There is only 1 parking space being provided and a variance for 3 parking spaces is required for the three dwelling units. **Variance 2:** One existing unit has a habitable square footage of 301 square feet thus requiring a variance of 299 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 November 10, 2016 and January 12, 2017 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, 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 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.

The Board found that:

1. The property that is the subject of this application is improved with a three story building which was originally constructed in 1926. Initially, the building consisted of two three-bedroom apartments over first floor commercial space. At some point after 1926, one of the bedrooms on the second floor was connected to a first floor kitchen area and turned into a separate, split-level unit containing 301 square feet. Applicant has submitted affidavits supporting the fact that the undersized unit has existed in its present configuration since at least 1947.
2. The property is existing non-conforming with regard to parking. The existing parking non-conformity was based on the assumption that there were two residential units which would have required 3 parking spaces. The existence of the undersized apartment unit increases the parking requirement to 4 parking spaces. No change in the parking provided has been made since the undersized unit was first constructed.

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3. In view of the fact that the undersigned unit and the parking provided have existed for approximately 70 years, granting of the variances will have no impact on the character of the neighborhood nor create a detriment to nearby properties.
4. The property is located in the Multifamily Limited Retail "MFR" District, the purpose of which is to, "Provide for a range of residential uses in conjunction with office and retail business and services." The property currently serves the purpose for which the MFR District was intended.
5. While we are cognizant of the fact of the need to eliminate illegal undersized dwelling units, we believe that the current application is unique as a result of the location of the property in the MFR District and the fact that the undersized unit and the parking provided have existed for approximately 70 years.

NOW THEREFORE BE IT RESOLVED, that the application for a variances for an undersized unit and three parking spaces be, and they hereby are granted.

Foregoing Resolution submitted by Ernest Fiore, seconded by Paul Valentine at the February 23, 2017 meeting.

ADOPTED: AYES: Mark Fisher, Ernest Fiore, Michael Strone, Paul Valentine and Tom Foristel

NAYS: None

ABSTAINED: None

ABSENT: Paul Katz and Steven Lowenthal


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. Z16-032

Date: Feb. 9, 2017

Property Owner: Anthony Marella

Property Address: 65 Nelson Ave

Block 391 Lot 5

WHEREAS, the applicant, the property owner, applied for a Building Permit 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 Marella filed an application on 12/12/16 for a variance to legalize a detached garage at the above referenced property that was constructed in 1959. The property is located in a B Zoning District and pursuant to the provisions of 235-9B of the Zoning Ordinance in effect at the time of construction, accessory structures required a 3 foot side yard and a 3 foot rear yard setback. The existing detached garage reduces the rear yard setback to 2'6" thus requiring a 6" 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 January 12, 2016 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were either present in person or indicated that they had listened to tapes of the meeting: Paul Katz, Thomas Foristel, Steven Lowenthal, Michael Strone, Ernest Fiore, Mark Fisher and Paul Valentine; 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:

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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:

1. The garage has been in its present location for more than 50 years and, accordingly, the granting of this variance would not result in a change in the character of the neighborhood.
2. The garage location does not pose a threat to fire equipment accessibility.
3. The variance is of a de minimus nature.
4. There were no objections from neighbors.

NOW THEREFORE BE IT RESOLVED, that the application for a rear yard setback variance to legalize a detached garage as indicated in the plans submitted with this application be, and the same is hereby granted;

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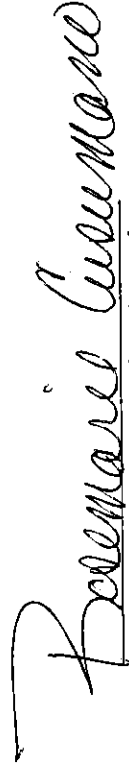
Foregoing Resolution submitted by Tom Foristel, seconded by Paul Valentine at the 2/9/2017 meeting.

ADOPTED: AYES: Mark Fisher, Ernest Fiore, Michael Strone, Paul Valentine and Tom Foristel

NAYS: None

ABSTAINED: None

ABSENT: Paul Katz and Steven Lowenthal


Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

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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