

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, April 13, 2017, at 8:00 p.m., in the Court Room of the Municipal Building.

Members Present

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

Members Absent

Paul Katz

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

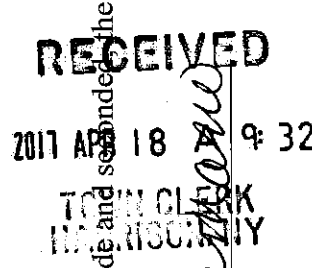
<u>Cal. #</u>	<u>Applicant</u>	<u>Block</u>	<u>Lot</u>	<u>Decision</u>
Z16-019	12 Nelson Avenue LLC	267	11	Not Heard – Adjourned to the May Meeting
Z16-030	Ihab Mohamed	641	112	Heard – Adjourned to the May Meeting
Z16-031	Frank A. Acocella	131	26	Variance Denied
Z17-003	Michael Decea	374	40	Withdrawn without prejudice
Z17-004	Michael & Leigh Foristel	241	15	Heard – Closed – Findings being prepared
Z17-005	Agusto & Jo Anne Corvino	424	9	Variance Granted
Z17-006	John & Pamela King	912	43	Heard – Adjourned to the May Meeting
Z17-007	Fisk Management, LLC	641	19	Extension Granted
Z17-008	Rosemary Anderson	821	22	Heard – Closed – Findings being prepared
Z17-009	Domenick Schettino	672	2	Not Heard – Adjourned to the May Meeting
Z17-010	Jason Schechter	518	3	Heard – Closed – Findings being prepared

The next meeting was scheduled to May 11, 2017.

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

Jacqueline Fisher
 Town Clerk's Office

Rosemarie Cusumano
 Rosemarie Cusumano, Secretary



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

Calendar No. Z16-031

Date: April 13, 2017

Applicant: Frank A. Acocella

Property Address: 261 Halstead Avenue

WHEREAS, Clifford L. Davis filed an application on December 8, 2016 on behalf of Frank A. Acocella to annul a Certificate of Occupancy and Permit issued by the Building Inspector on October 11, 2016 with respect to premises located at 261 Halstead Avenue. More specifically, appellant objects to the interpretation and application by the Building Inspector of the provisions of §235-71 ("Site Plan and Permit") of the Zoning Ordinance of the Town of Harrison (the "Ordinance") in issuing the Certificate of Occupancy and Permit with respect to a change of use of the premises from Retail Service to Retail.

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, 2017, February 23, 2017, March 9, 2017 [and April 13, 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, at said Hearing, the applicant appeared in support of the application; representatives of the tenant and the property owner appeared in opposition to the application; all those who desired to be heard were heard and the Board reviewed the documents submitted to it.

This matter involves an appeal from the issuance on October 11, 2016 by Robert W. Fitzsimmons ("Fitzsimmons"), the then Building Inspector/Acting Fire Marshall of the Town/Village of Harrison, of a Permit and Certificate of Occupancy with respect to a change of use from Retail Service to Retail for premises located at 261 Halstead Avenue. The appeal was filed on December 8, 2016 by Frank A. Acocella, whose address on the application filed with the appeal is listed as 208 Fremont Street. We recognize that our responsibility in connection with this appeal is to perform a de novo review, as required by Town Law §267-b and §235-60(A) of the Ordinance, to determine whether we would have reached the same decision as Fitzsimmons did in issuing the Permit and the Certificate of Occupancy.

Our factual findings relating to the issuance of the Permit and the Certificate of Occupancy are set forth below. In setting forth these findings we have drawn upon material included in the record of this appeal, including filings made with the Town, a

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sworn Affidavit of Fitzsimmons, dated February 7, 2017, other written submissions and oral presentations made at the Hearing.

Our factual findings are as follows:

1. In or about September 2016, Mr. Louis Zacchio ("Zacchio") approached Fitzsimmons, in his capacity as Building Inspector, to determine if Zacchio could open a retail store which sold guns. Fitzsimmons advised Zacchio that Zacchio would have to find a retail store location and, once that was accomplished, Zacchio could return to fill out the appropriate application and paperwork.
2. Sometime thereafter, Zacchio returned and advised Fitzsimmons that he had found a commercial space whose last use was a "retail service use" located at 261 Halstead Avenue. The store had previously been occupied by a Japanese enterprise doing business as Kumon School.
3. On September 12, 2016 Zacchio filed with the Building Department an application for a building permit with respect to a change of use from retail service to retail for premises located at 261 Halstead Avenue. The application indicated that no new construction was to be undertaken. We also note that the application indicated that Zacchio had signed the application on August 31, 2016 and his signature was notarized on September 9, 2016.
4. Zacchio advised Fitzsimmons that he would not be modifying the footprint for the site and would not be renovating or altering the internal space of the store.
5. The store is part of a lot that contains a mini-mall that includes three restaurants, a bagel store, a spa and the gun store. All of the sites are located within the Commercial Business District ("CBD"). The three restaurants as well as the bagel store have entrances on Halstead Avenue while the gun store is located at the rear of the lot at the end of a walkway that begins at the Halstead Avenue entrance to the mini-mall and extends to the rear. No additional parking is required under the Ordinance as a result of the change of use of the premises.
6. Fitzsimmons, in his capacity as Building Inspector, made a preliminary determination to waive the requirement for Planning Board approval of a site plan pursuant to the provisions of §235-71-B of the Ordinance. This determination was not made in writing.
7. Fitzsimmons advised Zacchio to obtain from the Assessor's Office the names and addresses of adjacent property owners to whom he had to provide notice with regard to the change in use.
8. Fitzsimmons also advised Zacchio of the requirements of §235-71-B(1)(a) of the Ordinance with respect to signage. Thereafter, Fitzsimmons assigned an Assistant Building Inspector to perform a "drive by" of the intended location at 261 Halstead Avenue. The Assistant Building Inspector reported back that the sign as required by

§235-71B(a) of the Ordinance was attached to the premises located at the appropriate height and easily visible. The sign that was posted was 22" by 28" and read as follows:

"On this site a change of use from retail service to retail sales is proposed. This matter has been Preliminarily determined by the Harrison Building Inspector to be exempt from the requirement to obtain planning board approval and this site plan will be finally approved by the Building Inspector on or after October 3rd, 2016. Interested parties can obtain additional information from the Harrison building inspector."

9. Notices were sent by Certified Mail, Return Receipt Requested to 90 property owners whose names were obtained from the Town Assessor and return receipts were received from 65 of those names. A notice was sent to Frank A. Acocella at 203 Fremont Street. However, a return receipt was not received and the notice was returned by the U.S. Postal Service with the notation "NSN".

10. The notices sent out were postmarked September 16, 2016 and read as follows:

L&L Sports
P.O. Box 166
Harrison, NY

To Whom It May Concern:

I am Louis J. Zacchio and I am seeking a change of use certificate for the storefront located at: 261 Halstead Avenue, store #5.

The current use for the above is for retail service. I am seeking a change to retail. There is a sign at the premises should you wish to go by and verify the storefront.

The site plan will be finally approved by the building inspector on or after October 3, 2015.

Thank you.

LOUIS ZACCHIO

11. On October 11, 2016, Fitzsimmons issued the Certificate of Occupancy and Permit.

In waiving the requirement for Planning Board approval of a site plan and issuing the Permit and Certificate of Occupancy, Fitzsimmons acted pursuant to the provisions of §235-71B(1) of the Ordinance. Those provisions read as follows:

“(1) Exceptions: The Building Inspector may waive the requirement for Planning Board approval of a site plan with the regard to the following: a Change of Use in the CBD, MFR, NB or PB zoning district when the proposed new use is a permitted use not requiring Special Exception approval, and does not require the provision of additional required parking or modify the structure or site plan in any substantive way nor does the use cause any anticipated increase in demand for any municipal service.

(a) In the event that the Building Inspector preliminarily determines to waive the requirement for Planning Board approval of a site plan, the applicant shall post a sign on the property referenced in such application on or before the fifth calendar day following the Building Inspector's preliminary determination. Such sign shall be at least 30 x 20 inches in size, consist of sturdy and serviceable material containing a white background with black letters and be placed in a location plainly visible from the most commonly traveled street or highway upon which the property fronts, but in no case more than 20 feet back from the front lot line. Such sign shall be at least six feet above the ground and shall read as follows, in legible lettering at least two inches high:

"ON THE SITE (DESCRIBE ACTION SET FORTH IN APPLICATION) IS PROPOSED. THIS MATTER HAS BEEN PRELIMINARILY DETERMINED BY THE HARRISON BUILDING INSPECTOR TO BE EXEMPT FROM THE REQUIREMENT TO OBTAIN PLANNING BOARD APPROVAL AND THIS SITE PLAN WILL BE FINALLY APPROVED BY THE BUILDING INSPECTOR ON OR AFTER (GIVE TIME; 1ST BUSINESS DAY THAT IS TWO CALENDAR WEEKS AFTER THE DATE THAT THE SIGN IS FIRST POSTED). INTERESTED PARTIES CAN OBTAIN ADDITIONAL INFORMATION FROM THE HARRISON BUILDING INSPECTOR."

(b) Any applicant which has submitted an application for site plan approval for which the Building Inspector has preliminarily determined meets the criteria set forth in this § 235-71B(1) shall give adequate prior written notice to property owners within 500 feet of any point of the subject property by certified mail, return receipt requested, mailed not more than five days after the Building Inspector makes his preliminary determination. The notice shall generally describe the application and state the earliest date upon which the Building Inspector's determination will be final.”

As a threshold matter, we must determine whether the procedural requirements of §235-71B(1)(a) and (b) of the Ordinance have been satisfied. That section was enacted in 2011 for the purpose of giving the Building Inspector the authority to waive the requirement for Planning Board approval of a site plan in certain zoning districts when a

proposed new use is a permitted use, subject to the satisfaction of certain conditions and procedural requirements.

The procedural requirements of §235-71B(1)(a) and (b) involve (i) a preliminary determination by the Building Inspector to waive the requirements for site plan review by the Planning Board, (ii) the posting of a sign and (iii) the furnishing of written notice to property owners within 500 feet of the property by certified mail, return receipt requested, not more than five days after the Building Inspector makes his preliminary determination, that generally describes the application and states the earliest date on which the Building Inspector's determination will be final.

Applicant has asserted that the preliminary determination must be in writing in order to be effective. We disagree as there is no provision in the Ordinance requiring a written determination. Furthermore, the fact that the preliminary determination was in fact made is confirmed by a number of written documents, including the affidavit of Fitzsimons confirming that he made a preliminary determination and the posted sign which specifically referred to the fact that the Building Inspector had made a preliminary determination.

Applicant has asserted that the notice provided was improper in that applicant did not receive it. As set forth in our factual findings above, a notice was sent by certified mail, return receipt requested, to Frank A. Acocella at 203 Fremont Street, which was the address supplied by the Town Assessor. We also note that the present application lists applicant's address as 203 Fremont Street. As set forth in our factual findings, the notice sent to applicant was returned. However, we find that the notice requirement insofar as it related to applicant, was satisfied by the mailing of the notice. The fact that the applicant does not either reside at that address or have a mailbox there is of no moment to our determination. We also find that the notice requirement of the Ordinance was satisfied by the mailing of the 90 notices referred to in the our factual findings.

Applicant has also asserted that the notice that was sent out was deficient in that it failed to adequately describe either the prior or the proposed use. While we are sympathetic to the concern expressed by the applicant, the specific language of the Ordinance only requires that the notice generally describe the application. As such, the application involved a change of use from one permitted use to a new permitted use. The Table of Use Regulations in the Ordinance specifically provides that both Retail Service Establishments (the prior use) and Retail Stores (the proposed use) are permitted uses in the CBD Zone and does not differentiate between various types of retail stores. The notice clearly indicated that the prior use was retail service and the proposed use was retail. The failure of the notice to use the precise terms used in the Ordinance to describe the change in use (i.e. the omission of the word "Establishment", in the case of the prior use, and the word "Store", in the case of the proposed use) does not in our judgment detract from the validity of the notice. Accordingly, we find that the notice sent out satisfied the requirements of the Ordinance.

Applicant has also asserted that the sign was not property posted in that it was placed in the window of the store (and not on Halstead Avenue) and was not of a proper

size. The sign placed in the window was 20" x 28" or 616 square inches as compared to the 30" x 20" or 600 square inches provided by the Ordinance. We find that the size of the sign substantially complies with the size requirement of the Ordinance. We recognize that, from a technical standpoint, the placement of the sign in the window of the premises did not strictly comply with the requirements of the Ordinance. As set forth in our factual findings, the gun store is located at the rear of the lot and at the end of a walkway that begins at the Halstead Avenue entrance to the mini-mall and no portion of the store is located on Halstead Avenue. As a tenant of the store, Zacchio would not have the ability to place a sign in one of the stores that has frontage on Halstead Avenue. However, placement of the sign in the window of the store did, from a practical standpoint, identify the actual location of the proposed store. Furthermore, as set forth in our factual findings, an Assistant Building Inspector performed a "drive by" and reported that the sign was at the appropriate height and easily visible. Accordingly, we find that the posting of the sign substantially satisfied the provisions of the Ordinance.

Contrary to applicant's assertion, there is no requirement in the Ordinance for either an affidavit of mailing or an affidavit of posting of a sign.

Aside from the procedural requirements, in order for the Building Inspector to waive the requirement for Planning Board approval of a site plan, the new use must satisfy the following requirements:

- (i) It must relate to a Change of Use in a CBD, MR, NB or PB Zone – this requirement is satisfied as the store is located in the CBD Zone.
- (ii) It must not require Special Exception approval – this requirement is satisfied as the Table of Use Regulations does not require Special Exception approval for a retail store in the CBD Zone.
- (iii) It must not require the provision of additional parking – as set forth in the factual findings, no additional parking is required.
- (iv) It must not modify the structure or site plan in any substantive way – as set forth below, we find that this requirement is satisfied, and
- (v) It must not cause any anticipated increase in demand for any municipal services – as set forth below, we find that this requirement is satisfied.

As set forth in our factual findings, the store is part of a mini-mall that includes five other sites. No modifications were proposed for the footprint of either the store or the mini-mall and, as indicated in our findings, Zacchio advised Fitzsimmons that he would not be renovating or altering the internal space of the store. We do not view the installation of safety features at the store as constituting a substantive modification. Accordingly, we find that the new use did not involve a modification of the structure or site plan in any substantive way.

The last substantive requirement relates to whether the new use causes “any anticipated increase in demand for any municipal service”.

Applicant has asserted that this requirement has not been satisfied since the new use will cause an increase in demand for police services. In support of this position, applicant has set forth statements made by Harrison Police Chief Michael Olsey (“Chief Olsey”) at an Informational Meeting held on November 2, 2016. At the meeting, Chief Olsey responded as follows to a question as to whether the store puts an additional enforcement burden on the police force:

“It does. It does. We can also make random checks of the store inside/outside during normal business hours and after hours so on and so forth. We make checks in local establishments that serve alcohol as well. So it’s definitely going to be an additional burden on resources but it’s not something we can’t handle.”

Applicant also indicated that on one occasion in January 2017 Chief Olsey himself visited the store as a result of a complaint that the door to the store had been propped open.

In considering this issue we note that both the statement of Chief Olsey, as well as the incident described above, occurred subsequent to the Fitzsimmons decision to issue the Certificate of Occupancy and Permit. Accordingly, we recognize that there is an issue as to whether it is appropriate for us to take these matters into account in making our determination. However, in any event, even taking them into account, we believe that the matters referred to by Chief Olsey do not constitute an increase in demand for municipal services of the type referred to in the Ordinance.

In arriving at our determination, we believe that it is appropriate to take into account the type of review, and the conditions that the Planning Board may require, in connection with considering and approving a site plan.

All of the provisions relating to Site Plan approval are set forth in §235-71 of the Ordinance and the intent and purpose of a site plan review is contained in §235-71A which reads as follows:

“A. The following site plan provisions are intended to implement the development characteristics projected in the Master Plan and to secure compliance with the requirements and standards set forth in this chapter and with accepted professional design practice for such site improvements as grading, drainage, sidewalks, curbs, parking, landscaping, fences and driveways.”

It seems clear to us that the general concerns referred to above – grading, drainage, sidewalks, curbs, parking, landscaping, fences and driveways – have no applicability to a site plan for this store. In addition, the need for additional police services does not fall within the ambit of the areas addressed in §235-71A.

The nature of the conditions that many be imposed by the Planning Board are set forth in §235-71G of the Ordinance which reads as follows:

“G. General conditions. In considering and approving a site plan, the Planning Board shall take into consideration the public health, safety and general welfare and the comfort and convenience of the public in general and the residents of the immediate neighborhood in particular and shall establish any appropriate conditions and safeguards in harmony with the general purpose and intent of this chapter, particularly with regard to achieving:

- (1) Maximum safety of pedestrians and of vehicular ingress and egress.
- (2) A site layout, including the location, orientation, power and use schedule of any outdoor lighting of the site, which would not have an adverse effect upon any properties in adjoining residence districts by impairing their established character or the potential use of the properties in such districts.
- (3) The reasonable screening, at all seasons of the year, of all playgrounds, parking and service areas from the view of adjacent residential properties and streets.
- (4) In the case of any building located farther than 10 feet from any street line and where the average natural grade within 10 feet of such building is more than 20 feet above the established grade along the street in front of the lot, the Planning Board shall make every reasonable effort to locate said building in such a way that its visual impact on surrounding properties will be minimized. In exercising the powers conferred on it under this subsection, the Planning Board shall give due consideration to any mitigating effect of the distance between such building and its surroundings, as well as to any neutralizing effect of planting, screening or other similar devices proposed on the site plan submitted for its approval.
- (5) Design and construction standards for improvements shown on the site plan shall be those set forth in this chapter and in other ordinances, rules and regulations or in construction specifications of the Town.”

The purpose of §235-71G is to delineate specific concerns which the Planning Board should address in imposing conditions in connection with a site plan review. It is clear to us that the imposition of conditions relating to additional police services are not encompassed within the provisions of that section. Furthermore, we do not believe that the Planning Board has the power to require the Police Department to take action in connection with a site plan review. Nor would it be appropriate for the Planning Board to direct the Police Department to provide police officer foot patrols for this or any other site plan.

The phrase "increase in demand for any municipal services" - must be read in the context of the specific purpose of a site plan review set forth in §235 71A as well as the conditions that the Planning Board may impose. In that context and in view of the above discussion, we find that the new use of the store does not cause any anticipated increase in demand for municipal services referred to in §235-71A.

Accordingly, based on our de novo review, we have determined that we would have reached the same decision as Fitzsimmons did in issuing the Permit and Certificate of Occupancy.

Applicant has also asserted that the services provided at the store go beyond those permitted by the Ordinance as a result of the provision of gunsmithing and repair activities . However, in connection with obtaining a license from the Bureau of Alcohol, Tobacco and Firearms, as well as in representations made to the Town Board, Zacchio indicated that such activities were not going to be conducted at the site. Finally, applicant has asserted that Zacchio is selling used firearms at the store and that he cannot do so without obtaining a Secondhand Dealers' License from the Town. Zacchio has submitted an Affidavit, dated February 3, 2017, in which he has sworn that he has not sold any used or previously owned firearms at the site and acknowledges that he may not sell such items until a license is obtained. In any event, those issues raised on appeal are not germane to our determination made herein.

NOW THEREFORE BE IT RESOLVED that the application to annul a certificate of occupancy and permit of the Building Inspector dated October 11, 2016 is hereby denied.

Foregoing Resolution submitted by Michael Strone, seconded by Paul Valentine at the meeting on April 13, 2017

ADOPTED: AYES:

Mark Fisher, Ernest Fiore, Michael Strone, Steven Lowenthal, Paul Valentine and Tom Foristel

NAYS:

None

ABSTAINED:None

ABSENT:

Paul Katz



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. Z17-005

Date: April 13, 2017

Property Owner: Augusto & JoAnne Corvino

Property Address: 59 White St.

Block 424 Lot 9

WHEREAS, 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, Frank Marsella, AIA, on behalf of Augusto & JoAnne Corvino, filed an application on 2/15/17 for a variance for permission to construct an elevated deck at the property. The property is located in a B Zoning District and pursuant to 235-9B of the Zoning Ordinance, the minimum required rear yard setback is 25 ft. At the time the house was constructed, it conformed to the required setbacks and has become existing non-conforming because of the zoning change to the minimum required side yard setbacks. Therefore, the house has become existing non-conforming with regard to its side yard setbacks. The proposed deck reduces the rear yard setback to 12 ft. thus requiring a 13 ft. 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 March 9, 2017 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present: Paul Valentine, Paul Katz, Thomas Foristel, 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

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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 property owner is proposing to construct an elevated deck that will be located 12 feet from the rear yard property line as compared to the 25 feet required by the Ordinance.
2. An existing deck, which is larger in size than the proposed deck and which is located in approximately the same location as the proposed deck, is being removed.
3. The property is located on a dead end street that has houses on only one side of the street. The other side of the street borders on the New England Thruway. In addition, there is a small marsh located to the right of the property.
4. The rear of the property is heavily screened and there is an existing stockade fence in the rear. As a result, the construction of the deck will have minimal visual impact on the property that borders on the rear of the property.
5. The existing house is located 25 feet from the rear yard property line. Accordingly, there is no conforming location for a deck to be constructed in the rear of the property.
6. In view of the location of the property and the fact that a larger deck is being replaced, the granting of a variance will not produce an unfavorable change in the character of the neighborhood or create a detriment to nearby properties.

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Corvino

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7. There were no objections from neighbors.

NOW THEREFORE BE IT RESOLVED, that the application for a rear yard variance to allow construction of a deck 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.

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 Ernest Fiore, seconded by Michael Strone at the April 13, 2017 meeting.

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

NAYS: None

ABSTAINED: None

ABSENT: Paul Katz


Secretary, Board of Zoning Appeals

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TOWN CLERK
HARRISON, NY

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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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