

ZONING BOARD OF APPEALS

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

Members Present

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

Members Absent

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 – Closed – Findings being prepared
Z16-030	Ihab Mohamed	641	112	Variance Granted
Z17-006	John & Pamela King	912	43	Variance Granted
Z17-012	Stephen & Maryann Clow	441	104	Heard– Closed – Findings being prepared
Z17-013	Aurelio & Elisa Campanale	396	50	Variance Granted
Z17-014	Ersilia Laurino	92	21	Heard– Closed – Findings being prepared
Z17-015	Joseph & Alice Torre	508	55	Variance Granted
Z17-016	Francine Aber	641	92	Variance Granted
Z17-017	Richard Morgado	856	17	Heard – Adjourned to the July Meeting
Z17-018	Michael & Suzanne Valentino	542	29	Heard – Adjourned to the July Meeting
Z17-019	Adam Murray	873	46	Heard – Adjourned to the July Meeting
Z17-020	James & Catherine Moore	706	1	Heard– Closed – Findings being prepared

The next meeting was scheduled to July 13, 2017.

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

Rosemarie Cusumano
Rosemarie Cusumano, Secretary

Jacqueline Han
Town Clerk's Office

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

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HARRISON, NY

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

Calendar No. Z16-030

Date: June 8, 2017

Property Owner: Ihab Mohamed & Hong X. Bai

Property Address: 4 Coventry Court

Block 641 Lot(s) 112

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, on behalf of the property owner, filed an application on December 7, 2016 for an area variance from the Zoning Ordinance to legalize a tennis court. This property is located in an R-2 Zoning District and pursuant to §235-9B of the Table of Dimensional Regulations of the Town/Village of Harrison: Accessory structures require a 50 foot rear yard and side yard setback. The existing tennis court encroaches into both setbacks and requires two variances. **1:** The tennis court reduces the rear yard setback to 2 feet 9 inches thus requiring a 47 feet 3 inch variance. **2:** The tennis court reduces the side yard setback to 36 feet thus requiring a 14 foot variance; 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 March 9, 2017, April 13, 2017 and May 11, 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, Ernest Fiore, Paul Katz, Michael Strone, Steve Lowenthal, Paul Valentine and Thomas Foristel

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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Mohamed
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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. This application relates to a tennis court installed by the property owner approximately 4 years ago. The tennis court was installed in the back corner of the property approximately 2 feet, 9 inches from the rear property line as compared to the 50 feet required by the Ordinance and 36 feet from the side yard property line as compared to the 50 feet required by the Ordinance.
2. Based solely on a numerical calculation, the substantiality of the variance is evident as it represents 94.5% and 28% deviations from the requirements of the Ordinance. However, we are cognizant of the need to determine substantiality in the context of the relevant circumstances. In this case we believe that there are pertinent facts which must be taken account of in determining whether the variances are substantial.
3. The tennis court is located at a significantly lower elevation than the properties located to the rear and side of the property. There is also a large retaining wall located at the back corner of the court that screens the court from view. The rear of the property borders on a tennis court that is part of the Crossings at Blindbrook development. The Property Owners Association of that development has sent a letter in support of the variance in which it has indicated that the present location of the court does not have a negative effect on the neighborhood and is in keeping with the character of the neighborhood. The court is screened from view from the adjacent property (2 Coventry Court) by existing heavy screening. In addition, the court is located a substantial distance

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from the pool, pool house and main house located on the adjacent property. The property owner has also agreed to install additional screening consisting of seven 8 foot, 10 inch arborvitae adjacent to the court to address the concerns of the adjacent property owner. Taking all of these facts into consideration, we find that the numerical substantiality of the variance is in large part mitigated by the foregoing facts.

4. The difficulty to which the property owner is subject is undoubtedly self-created since the property owner installed the tennis court in clear violation of the requirements of the Ordinance. However, these facts must be taken in the context of our other findings.

5. The construction of a tennis court is consistent with the character of the neighborhood as evidenced by the significant number of courts located in the neighborhood, including the courts on the two adjacent properties.

6. Taking all of the foregoing into account, we find that the granting of the variance will not produce a change in the character of the neighborhood or be a detriment to nearby properties.

NOW THEREFORE BE IT RESOLVED, that the application for a rear yard and side yard variance to legalize a tennis court as indicated in the plans submitted (A0.0 Site Plan, prepared Marsella & Knoetgen Architects, dated 12/5/16) with this application be, and the same is hereby granted subject to the following condition.

This variance is conditioned on the installation and continued maintenance, of a row of 8'10" Thuja Green Giant Arborvitae as set forth in the Landscape Planting Plans prepared by Marone Landscape, dated 5/1/17.

Foregoing Resolution submitted by Zoning Board Chairman Mark Fisher, seconded by Zoning Board Member Steven Lowenthal at the June 8, 2017 meeting.

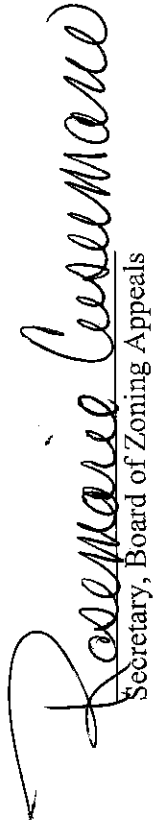
ADOPTED: AYES: Mark Fisher, Ernest Fiore, Michael Strone, Steven Lowenthal, Paul Valentine and Tom Foristel

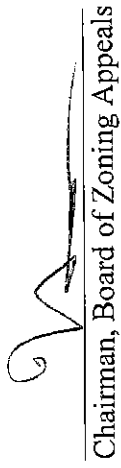
NAYS: Paul Katz

ABSTAINED: None

ABSENT: None

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Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

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Mohamed
6/8/17

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

Calendar No. Z17-006

Date: June 8, 2017

Property Owner: John & Pamela King

Property Address: 219 Lincoln Ave.

Block 0912 Lot 43

WHEREAS, the property owner submitted plans to legalize an existing sunroom 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, James Polera, on behalf of the property owner, filed an application on February 17, 2017 for a variance from the Zoning Ordinance to legalize a sunroom at the premises located in a B Zoning District. The Code of the Town/Village of Harrison, Sec 235-9B Table of Dimensional Regulations for Residence Districts requires a side yard setback of 7' in a B zone. The legalization of the sunroom would reduce the side yard setback to 3' requiring a variance of 4'; 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 March 9, 2017, April 13, 2017 and May 11, 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, Steve 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

WHEREAS, at said Hearing, the applicant appeared in support of the variance and a neighbor 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:

Z17-006
King
6/8/17

- (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 house was built in 1949 with a 2 car garage added in 1954.
2. In 1986 the garage was removed when the property was subdivided and the sunroom was added to the house shortly thereafter.
3. The sunroom has existed in its present configuration for more than 30 years and a similar sunroom also exists at a nearby property located at 215 Lincoln Avenue. As a result the granting of a variance will not produce a change in the character of the neighborhood.
4. From a strictly numerical standpoint, the granting of a four foot variance is substantial in that it represents a 57% deviation (4/7) from the requirements of the Ordinance.
5. The owner of the adjacent property located at 223 Lincoln Avenue appeared in opposition to the granting of the variance. We recognize that the existence of the sunroom does have a visual impact on the adjacent property. In order to address the potential visual impact on the neighbor, applicant has agreed to close off the opening on the side of the sunroom and we have conditioned the granting of this variance on such action being taken within the next 60 days.

Z17-006
King
6/8/17

NOW THEREFORE BE IT RESOLVED, that the application for a side yard variance in order to legalize a sunroom as indicated in the plans submitted with this application be, and the same is hereby granted subject to the following conditions.

The construction within the next sixty days by the property owner, or its successor in interest, of permanent extensions of the existing structure on the side of the sunroom facing the property located at 223 Lincoln Avenue which will permanently close off the existing openings. The structure to be constructed and painted should conform, as closely as possible, to the existing outward appearance of the siding on that side of applicant's premises.

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.

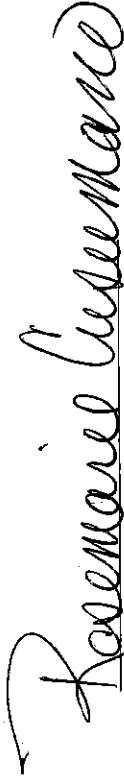
Foregoing Resolution submitted by Zoning Board Member Steven Lowenthal, seconded by Zoning Board Member Paul Valentine at the June 8, 2017 meeting.

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

NAYS: None

ABSTAINED: None

ABSENT: None


Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

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Z17-006
King
6/8/17

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

Calendar No. Z17-013

Date: June 8, 2017

Property Owner: Aurelio & Elisa Campanale

Property Address: 3 Bradford Place

Block 396 Lot 50

WHEREAS, the property owner applied for a Building Permit for the installation of a generator 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, Aurelio & Elisa Campanale filed an application on March 31, 2017 for an area variance from the Zoning Ordinance to permit the installation of an air conditioner condensers within the required side yard setback. This property is located in an R-75 Zoning District and legally existing non-conforming with regard to side yard setbacks. Pursuant to §235-9B Table of Dimensional regulations of the Town/Village of Harrison the side yard setback is 10 feet. The existing house is non-conforming with a side yard setback of 6'4". The site plan shows the proposed location of air conditioning condensers reduces the side yard setback to 1'7" and requires a 8'5" variance; 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 May 11, 2017, after due notice and publication pursuant to Town Law 267-a(7), at which the following members were present: 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 neighborhood or community by such grant;

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Campanale
6/8/17*

- (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. Applicant is seeking a variance in order to install air conditioner condensers in the side yard setback
2. The property is existing non-conforming with regard to the side yard setback where 10 feet is required and the existing house only has a 6 feet 4 inch setback
3. The proposed location is dictated in large part by the need to limit the length of refrigeration piping to less than 50 feet in order to comply with the manufacturer's specifications. Location of the condensers in the back yard would require too long of a refrigerator line. As a result, the only suitable location is the one for which a variance is being sought.

NOW THEREFORE BE IT RESOLVED that the application for a variance to permit the location of an air conditioner compressor 1 foot, 7 inches from the side yard property line as indicated in 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.

Z17-013
Campanale
6/8/17

Foregoing Resolution submitted by Zoning Board Member Michael Strone, seconded by Zoning Board Member Tom Foristel at the meeting on June 8, 2017.

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

NAYS: None

ABSTAINED: None

ABSENT: None


Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

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Z17-013
Campanale
6/8/17

BOARD OF ZONING APPEALS

TOWN/VILLAGE OF HARRISON, NEW YORK

Calendar No. Z17-015

Date: June 8, 2017

Property Owners: Joseph & Alice Torre

Property Address: 20 Lawrence Lane

Block 508 Lot 55

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, the applicant filed on April 13, 2017 an application for an area variance from the Zoning Ordinance with respect to a first and second floor addition, garage addition and balcony addition. This property is located in an R-1 Zoning District. The house is existing non-conforming with regard to the front yard setback. Pursuant to §235-9(B) of the Table of Dimensional Regulations of the Town/Village of Harrison Zoning Ordinance, the minimum front yard setback is 40 feet and the minimum side yard setback for one yard is 20 feet and the total for both yards is 40 feet. Also, as per §235-31 of the Ordinance, setbacks from streams and other bodies of water in the R-1 Zone are as follows: All buildings and structures shall be set back at least 50 feet from the seasonal high water level water's edge or established channel lines of streams and other water bodies. The proposed addition is shown to have a front yard setback of approximately 15 feet, thus requiring a variance of 25 feet. The proposed addition will reduce the side yard setback to approximately 10 feet, thus requiring a variance of 10 feet. The proposed addition will have a setback from the stream of approximately 21 feet and approximately 30 feet, thus requiring a variance of 29 feet and 20 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 May 11, 2017 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present: Mark Fisher, Paul Katz, Ernest Fiore, Michael Strone, Steve 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

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Torre
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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. Applicant is proposing to construct a first and second floor addition, garage addition and balcony addition in the rear and side of the house.
2. The property is located on Lawrence Lane and is existing non-conforming with regard to the front yard setback required by the Ordinance. The front of the house is located 13 feet, 8 inches from Lawrence Lane at its closest point and 20 feet, 7 inches at its farthest point. With the exception of a garage addition which will be located within the required front yard approximately 15 feet from Lawrence Lane and within the required side yard approximately 10 feet from the property line, the remainder of the proposed additions will be constructed in the rear of the property. The garage addition in the front yard will be approximately 2 ½ feet in width and is being constructed along the existing line of the house. Accordingly, no portion of the new additions will be located closer to Lawrence Lane than the existing house. As a result of the foregoing findings, the constructions of the addition will have little, if any, visual impact when viewed from Lawrence Lane.
3. The portion of the garage addition located within the side yard will be heavily screened from view from the adjacent property as a result of existing screening. In addition, the

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6/8/17

adjacent property is located at a substantially higher elevation than the property. Accordingly, the portion of the garage addition located within the side yard will have little, if any, visual impact on the adjacent property.

4. A portion of the addition will be located at its closest point approximately 21 feet from the stream that traverses the back of the property and which leads into a pond. However, portions of the existing house are located significantly closer to the stream than the new additions. Furthermore, applicant has been in the existing house for more than 20 years and indicated that there has never been any problem with an overflow from the stream or pond.

5. As a result of the above findings, the granting of the variances will not create an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

NOW THEREFORE BE IT RESOLVED, that the application for a variance to allow the construction of a first and second floor addition, garage addition and balcony addition in accordance with plans submitted by Contadino Architects dated April 13, 2017 (Cover Sheet, Existing Survey, SK-Site 2, A1.1, A1.2, A1.3, A1.4, A2.0 and A2.1) 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.

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 Zoning Board Member Ernest Fiore, seconded by Zoning Board Member Paul Katz at the June 8, 2017 meeting.

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

NAYS: None

ABSTAINED: None

Z17-015
Torre
6/8/17

ABSENT: None


Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

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HARRISON, NY

Z17-015
Torre
6/8/17

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

Calendar No. Z17-016

Date: June 8, 2017

Property Owner: Francine Aber

Property Address: 1 Stratton Road
Purchase, NY 10577

Block 641 Lot # 92

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 the Code's requirements; and

WHEREAS, Vincent Moscotello on behalf of the property owner, filed on April 18, 2017 an application for an area variance from the Zoning Ordinance to permit the construction of an in-ground swimming pool. This property is located in an R-2 Zoning District which is part of the Lincoln Rise cluster development that was approved by the Planning Board of the Town/Village of Harrison that requires a 100 foot perimeter buffer requirement at the rear yard. The proposed swimming pool is indicated to be 41 feet 9 inches from the rear property line along Stoneleigh Manor Lane encroaching into the required 100 foot buffer, thus requiring a variance of 58 feet 3 inches; 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 May 11, 2017 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present: Mark Fisher, Paul Katz, Ernest Fiore, Michael Strone, Steve 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. 888-0101 et seq., and the regulations thereunder, 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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Aber

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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 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 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. There was no opposition from the Lincoln Rise Homeowners Association (the house is located in Lincoln Rise).
2. There are numerous homes in the development with in-ground swimming pools similar to the proposed pool and we have previously granted a variance from the perimeter setback requirement in similar circumstances.
3. The approval is subject to the plans dated April 11, 2017 prepared by Dolson Surveying Services, Port Jervis, NY.
4. The portion of applicant's property bordering Stoneleigh Manor Lane is heavily screened. In addition, the other side of Stoneleigh Manor Lane is also heavily screened. Accordingly, the granting of the variance will have no visual impact on any properties located on the other side of Stoneleigh Manor Lane.

NOW THEREFORE BE IT RESOLVED that the application for a variance from the 100 foot buffer requirement to permit construction, in accordance with plans dated April 11, 2017 of Dolson Surveying Services, of an in-ground swimming pool and related masonry located 41 feet, 9 inches from the rear property line along Stoneleigh Manor Lane be, and the same is hereby approved, subject to the following:

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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 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 Zoning Board Member Michael Strone, seconded by Zoning Board Member Paul Katz, at the meeting on June 8, 2017.

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

NAYS: None

ABSTAINED: None

ABSENT: None


Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

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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) 670-670-3054, 670-3055 or 670-3056.

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