

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, August 10, 2017, 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>
Z17-018	Michael & Suzanne Valentino	542	29	Heard – Closed – Variance Granted
Z17-019	Adam Murray	873	46	Variance Granted
Z17-021	Briggs & Jennifer Forelli	521	12	Variance Granted

The next meeting was scheduled to September 14, 2017.

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

Jacqueline Chen
Town Clerk's Office

Rosemarie Cusumano
Rosemarie Cusumano, Secretary

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

TOWN CLERK
HARRISON, NY

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

Calendar No. Z17-018

Date: August 10, 2017

Property Owner: Michael & Suzanne Valentino

Property Address: 33 Griswold Road
Rye, NY 10580

Block 543 Lot 29

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, Frank Marsella on behalf of the property owner, filed on May 16, 2017 an application for an area variance from the Zoning Ordinance to permit the construction of a two story addition and a new portico and to extend a rear patio. This property is located in an R-2 Zoning District and is existing and nonconforming with regards to the lot area, the front yard setback, the rear yard setback and the side yard setbacks. Pursuant to §235-9B of the Table of Dimensional Regulations of the Zoning Ordinance of the Town/Village of Harrison the following variances are required:

1. The maximum lot coverage is 15% as compared to the proposed lot coverage of 24.9%, thus requiring a variance of 9.9%.
2. The minimum front yard setback is 40 feet as compared to the proposed front yard setback of 30.75 feet, thus requiring a variance of 9.25 feet.
3. The minimum side yard setback is 20 feet as compared to the proposed side yard setbacks of 11 feet for the one story addition and 16 feet for the two story addition, thus requiring variances of 9 feet and 4 feet, respectively.
4. The minimum total of both side yard setbacks is 40 feet while the proposed total of both side yard setbacks is 27 feet, thus requiring a variance of 13 feet.
5. The minimum rear yard setback to the house is 50 feet as compared to the proposed rear yard setback of 29.5 feet, thus requiring a variance of 20.5 feet.
6. The minimum rear yard setback is 50 feet as compared to the proposed rear yard setback for the new patio wall of 21 feet, thus requiring a variance of 29 feet.

*Z17-018
Valentino
8/10/17*

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 June 8, 2017, July 13, 2017 and August 10, 2017 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present: Mark Fisher (did not attend 8/10/17 meeting), 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:

- (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.

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The Board found that:

1. Applicant is proposing to construct a series of new additions to the property. We had previously granted Applicant (Calendar Z13-002) side yard and lot coverage variances to allow construction of a garage addition. That addition was never constructed.
2. The new proposed additions provide for lot coverage of 24.9% as compared to the 15% requirement of the Ordinance. On its face this is clearly a substantial variance. However, there are a number of offsetting factors which we believe mitigate the substantiality of the lot coverage variance. The prior variance that we granted to applicant provided for lot coverage of 21.89%. In our prior findings we noted that the property to the right of applicant's property is not a buildable lot. That is still the case. Furthermore, the additions that are being proposed consist of additions to the front and rear of the property and will be no closer to either side yard than the existing building envelope. As a result, from a visual perspective it would not appear that an oversized house is being crammed into a small lot. Finally, we note that we have previously granted a variance to an adjacent neighbor which provided for lot coverage of 24.75%. As a result, we find that the granting of the lot coverage variance will not change the character of the neighborhood or create a detriment to nearby properties.
3. Applicant is proposing a front yard setback of 30.75 feet as compared to the 40 feet required by the Ordinance thus requiring a 9.25 foot variance. We had previously granted applicant a 15 foot front yard variance in connection with the 2013 variance. The front yard variance is required as a result of the construction of a new two car garage that will be facing Griswold Road. A number of neighbors have raised objections based on the fact that there are no other garages on Griswold Road with doors that face the street and this creates a safety issue caused by the need for cars to back out onto Griswold Road. As a result they have alleged that the new garage will be out of keeping with the character of the neighborhood. While it is true that there are no other garages on Griswold Road with garage doors facing the street, there are a significant number of houses on the Westchester Club grounds (the area where the property is located) that have garages that face the street. The proposed garage is also attached to the remainder of the house and, as set forth above, the front yard variance is less than the one that was previously granted to applicant. Finally, the driveway is sufficiently wide to allow cars to turn around so as to avoid backing out of the driveway. The design of the new additions are consistent in design to the remainder of the house and not out of keeping with the appearance of other houses in the area. Accordingly, we find that the granting of the front yard variance will not create an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

4. The new additions will not extend any closer into the respective side yards than the existing building envelope. In addition, the one-story addition proposed in the rear yard will be built in line with the existing back of the house. The only additional incursion into the rear yard setback relates to the construction of a new portico wall. This new wall is located further away from the rear property line than an existing stone wall. Accordingly, we find that the granting of side and rear yard 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 lot coverage and front, rear and side yard variances to permit construction of new additions and a patio extension in accordance with plans dated 7/17/17 prepared by Marsella & Knoetgen Architects PLLC be, and the same is hereby approved, subject to the following:

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 by Marsella & Knoetgen Architects A1.1 Addition/Renovation dated 6/21/17 last revised 7/17/17.

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.

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Valentino
8/10/17

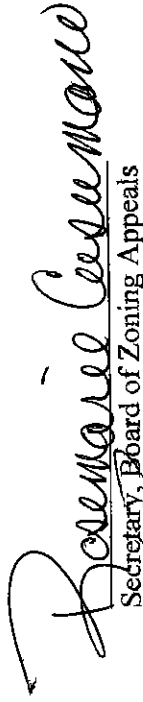
Foregoing Resolution submitted by Zoning Board Member Michael Strone, seconded by Zoning Board Member Ernie Fiore, at the meeting on August 10, 2017.

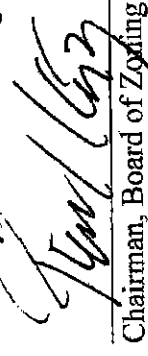
ADOPTED: AYES: Paul Katz, Acting Chairman, Ernest Fiore, Michael Strone,
Steven Lowenthal, Paul Valentine and Tom Foristel

NAYS: None

ABSTAINED: None

ABSENT: Mark Fisher


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

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HARRISON, NY

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Z17-018
Valentino
8/10/17

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

Calendar No. Z17-019

Date: August 10, 2017

Property Owner: Adam Murray

Property Address: 189 Gainsborg Ave.

Block 873 Lot 46

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, Ann Penachio on behalf of Adam Murray, filed an application on May 17, 2017 for a variance for a new two-family dwelling. The property is located in a B Zone. The Code of the Town/Village of Harrison, Sec 235-9 of dimensional regulations requires a side yard setback of 7 ft. with a total of both of 15 ft. The proposed dwelling provides for an elevated ramp which reduces the side yard setback to 3 ft. 9 in. thus requiring a variance of 3 ft. 3 in.;

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 June 8 and July 13, 2017 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present: Paul Katz, Ernest Fiore, Tom Foristal, Mark Fisher, Michael Strone, Steve Lowenthal and Paul Valentine

WHEREAS, the Board reviewed the Short Environmental Assessment Form submitted by the applicant, declared itself to be Lead Agency within the meaning of New York State Environmental Quality Review Act, Environmental Conservation Law, Article 8, §§8-0101 et seq., and the regulations there under, 6 N.Y.C.R.R. Part 617, and determined that the action was a Type II Action for which no Environmental Impact Statement was required; and

WHEREAS, Board Members had inspected the site; and

WHEREAS, at said Hearing, the applicant appeared in support of the variance and no one appeared in opposition. All those who desired to be heard were heard and the Board reviewed the documents submitted to it; and

WHEREAS, the Board reviewed all testimony and documents submitted and have carefully considered:

*Z17-019
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8/10-17*

- (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 original application provided for a significant number of variances. In response to concerns expressed by the Board a revised application was submitted eliminating the need for all but one variance.
2. The one remaining variance relates to the construction of a 3 foot wide handicap ramp which is required to address the needs of a disabled resident who is confined to a wheelchair.
3. The installation of the ramp cannot be achieved by any other method.
4. There would be no apparent detriment to any surrounding properties.

NOW THEREFORE BE IT RESOLVED, that the application for permission to install a ramp 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 Ernest Fiore, seconded by Steven Lowenthal at the 8/10/2017 meeting.

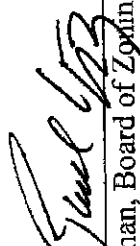
ADOPTED: AYES: Paul Katz, Acting Chairman, Ernest Fiore, Michael Strone,
Steven Lowenthal, Paul Valentine and Tom Foristel

NAYS: None

ABSTAINED: None

ABSENT: Mark Fisher


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. Z17-021

Date: August 10, 2017

Property Owner: Briggs & Jennifer Forelli

Property Address: 25 Park Drive South

Block 521 Lot 12

WHEREAS, the property owners applied for a Certificate of Compliance with respect to 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, Briggs & Jennifer Forelli filed an application on June 16, 2017 for an area variance from the Zoning Ordinance to legalize the installation of a generator. This property is located in an R-1 Zoning District and pursuant to §235-9B of the Table of Dimensional Regulations of the Town/Village of Harrison Zoning Ordinance the minimum required setback is 20 feet. On November 10, 2016 a variance was granted for a generator to encroach into the side yard setback by 12 feet 9 inches and 13 feet 3 inches thus requiring a 7 foot 3 inch and 6 foot 9 inch variance. The final survey shows the generator encroaching 10 feet into the side yard setback thus requiring a 10 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 July 13, 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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- (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. The applicant was originally granted a variance on November 10, 2016 for the installation of a generator. The original variance provided for side yard setbacks of 12'9" and 13'3" thereby requiring variances of 7'3" and 6'9". When the generator was installed the final survey showed that the generator was installed in a location 10' from the side yard property line thereby requiring a 10' variance.
2. Applicant testified that the generator was installed in its present location as a result of a miscommunication with the company that was installing the generator.
3. The present location of the generator is two feet away from the house while the original plans provided for installation at a location that was essentially right against the house. The two foot separation was required for safety concerns in order to comply with the recommendations of the manufacturer.
4. We granted the original variance based in part on our finding that the existence of a stone wall and plantings that effectively shielded the generator from view from the adjacent property. That is still the case.
5. Accordingly, the granting of the variance will not create an undesirable change in the character of the neighborhood or a detriment to nearby properties.

NOW THEREFORE BE IT RESOLVED that the application for a variance to permit a generator to be located 10 feet from the side yard property line as indicated in plan submitted with this application be, and the same is hereby granted subject to the following conditions:

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8/10/17

Granting of the variance is specifically conditioned upon installation and continued maintenance of a sound attenuating enclosure for the generator.

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.

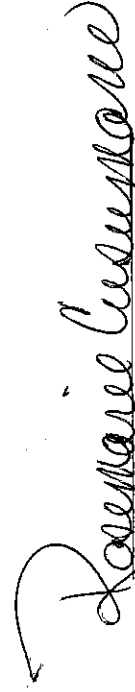
Foregoing Resolution submitted by Zoning Board Member Steven Lowenthal, seconded by Zoning Board Member Paul Valentine at the meeting on August 10, 2017.

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

NAYS: None

ABSTAINED: None

ABSENT: Mark Fisher


Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

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Forelli
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