

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, October 12, 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
Tom Foristel

Members Absent

Paul Katz
Paul Valentine

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>
Z17-012	Maryann Clow	441	104	Variance Granted
Z17-017	Richard Morgado	856	17	Heard – Closed – Findings being prepared
Z17-023	Bates Road Development, LLC	222	55	Variance Granted
Z17-024	SMG Realty Associates	224	56	Variance Granted
Z17-025	Brandon & Bridget Lower	523	8	Not Heard – Adjourned to the November Meeting
Z17-026	Robert A. Porto	442	2	Not Heard – Adjourned to the November Meeting
Z17-027	JNC Inc.	441	50.3	Heard – Adjourned to the November Meeting
Z17-028	JNC Inc.	811	28	Heard – Closed – Findings being prepared
Z17-029	21 Bellevue Avenue LLC	563	9	Variance Granted
Z17-030	Bernard & Cynthia Curry	543	1	Heard – Closed – Findings being prepared
Z17-031	Ronald Denet	910	89	Heard – Adjourned to the November Meeting

The next meeting was scheduled to November 9, 2017.

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

Talley Tully, deputy
 Town Clerk's Office

Rosemarie Cusumano
 Rosemarie Cusumano, Secretary

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

Calendar No. Z17-012

Date: July 13, 2017, amended
October 12, 2017

Property Owner: Maryann and Steven Clow

Property Address: 1 Genesee Trail

Block 441 Lot 104

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, Maryann Clow filed an application on March 8, 2017 for a variance from the Zoning Ordinance for a new driveway. The property is located in an R 1/3 Zoning District. Accessory off-street parking spaces, other than those which might be incidentally available within the actual driveway area, may not be located within the front yard or required side yard or within 10 feet from any property line in a required rear yard. The proposed driveway/parking area is located within the required front and side yard thus requiring a 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, June 8, 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: Ernest Fiore, Mark Fisher, Michael Strone, Steve Lowenthal, Thomas Foristel, Paul Valentine and Paul Katz.

WHEREAS, on July 13, 2017, the Board approved the application for a variance to permit construction of a new circular driveway;

WHEREAS, on September 14, 2017, the Board, at a meeting in which all of the members of the Board were present voted unanimously, with one refusal to reopen Calendar Z17-012 for the purpose of receiving information from the Town Engineer which was previously unknown to the Board; 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

*Z17-012
Clow – Straight Driveway
7/13/17*

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. All those who desired to be heard were heard and the Board reviewed the documents submitted to it; and

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

- (A) The benefits to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant;
- (B) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;
- (C) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than a variance;
- (D) Whether the requested variance is substantial;
- (E) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- (F) Whether the alleged difficulty was self-created.

WHEREUPON, the Board found, after due deliberation, based upon the testimony and documents submitted and its site visit, pursuant to Town Law §§267-a and 267-b and Harrison Town Code §§235-56 et seq., it has jurisdiction to grant the requested variance and that the variance sought was the minimum variance necessary and adequate and at the same time preserved and protected the character of the neighborhood and the health, safety and welfare of the community.

The Board found that:

1. The front of the property is located on Genesee Trail and the side of the property is located on Union Avenue. This application relates to the construction of a driveway on Genesee Trail within the required front yard of the property.
2. The existing attached two car garage is located on Union Avenue which is a major thoroughfare. The garage is located directly across the street from a duck pond and diagonally across the street from the Harrison Avenue School. In addition, the Louis M. Klein Middle School is located a short distance away from the property.
3. As a result of the narrowness of the existing driveway, there is insufficient room to allow cars to turn around in the width of the driveway. Accordingly, it is necessary for cars to exit the driveway by backing up onto Union Avenue. Union Avenue

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is a very busy thoroughfare, particularly during the morning and evening rush hours and at the beginning and end of the school day.

4. The location and configuration of the driveway has over the years led to a significant number of accidents involving cars exiting from the driveway.

5. As set forth above, the garage is located directly across the street from a duck pond. As a result of insufficient drainage, the duck pond has overflowed on a significant number of occasions and flooded the driveway as well as the garage.

6. Applicant's ability to park on Genesee Trail in front of the house is also constrained since parking is not permitted on Genesee Trail within 30 feet of Union Avenue. This restriction was imposed as a result of the existence of two pillars and attached walls located on either side of Genesee Trail at the intersection with Union Avenue. These pillars obstruct the view of vehicles seeking to turn onto Genesee Trail from Union Avenue. As a result of this restriction, parking is not permitted in front of applicant's property.

7. The proposed straight driveway is designed to address the issues associated with the existing garage. In addition, the Town Engineer has indicated that the curb cut of the proposed straight driveway conforms with the Town's sight distance regulations and requirements for setbacks from intersections to driveways. The plans for the circular driveway did not satisfy those requirements.

8. Applicant has also been parking cars on the side of the lawn on Genesee Trail in order to avoid parking in the driveway, the garage or in front of the adjacent neighbor's house. Construction of the new driveway would eliminate the necessity to park on the lawn and also reduce the need to park on Genesee Trail.

9. A neighbor on Genesee Trail who lives across the street from the property expressed opposition to the granting of the variance based, in part, on the negative impact that a new driveway would have on the character of the neighborhood. On the other hand, the neighbor immediately adjacent to the property on Genesee Trail supported the granting of the variance and expressed the view that a new driveway would be beneficial to the neighborhood in that it would reduce the number of cars parked on Genesee Trail. In addition, there are a number of both straight and circular driveways on Genesee Trail.

10. The requested variance is clearly substantial.

11. The applicant's difficulty is in part self-created in that the driveway was in existence at the time applicant purchased the property. However, applicant may not at that time have been fully aware of the difficulties associated with the location of the driveway.

12. We believe that this application is unique in many respects as a result of the location of the existing garage adjacent to Union Avenue, the configuration of the driveway, the proximity and frequent overflowing of the duck pond, the restrictions on parking on Genesee Trail and the safety factors associated with the current driveway.

13. Based on the above factors, we find that the benefit to the applicant from the granting of the variance outweighs any potential detriment to the health, safety and welfare of the neighborhood; there will be no undesirable change produced to the character of the neighborhood or a substantial detriment to nearby properties created by the granting of the variance, the benefit sought by the applicant cannot be achieved by any other feasible method, the granting of the variance will not have an adverse effect or impact on the neighborhood and the granting of the variance will not have any adverse effect or impact on the physical or environmental conditions of the neighborhood. The foregoing factors outweigh the substantiality of the requested variance and the fact that applicant's difficult is, in part, self-created.

NOW THEREFORE BE IT RESOLVED, that our prior granting on July 13, 2017 of a variance for a circular driveway is hereby rescinded and the application for a variance to permit construction of a new straight driveway, as indicated in the plans filed with this application reflected in an annotated survey, originally dated April 3, 2000, prepared by The Munson Company, 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.

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Foregoing Resolution submitted by Zoning Board Chairman Mark Fisher, seconded by Zoning Board Member Steven Lowenthal at the October 12, 2017 meeting.

ADOPTED: AYES: Mark Fisher, Ernest Fiore, Steven Lowenthal and Tom Foristel

NAYS: None

ABSTAINED: None

ABSENT: Paul Katz and Paul Valentine

RECUSED: Michael Strone


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 and 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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BOARD OF ZONING APPEALS

TOWN/VILLAGE OF HARRISON, NEW YORK

Calendar No. Z17-023

Date: October 12, 2017

Property Owner: Amy and Brett Harsch (formerly Bates Road Development LLC)

Property Address: 26 Bates Road

Block 224, Lot 55

WHEREAS, Bates Road Development LLC applied for a Certificate of Occupancy 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, Robert Georgio, on behalf of the owner, filed on June 19, 2017 an application for an area variance from the Zoning Ordinance to allow a Certificate of Occupancy to be issued with respect to a newly constructed single family residence. This property is located in an R 1/3 Zoning District and pursuant to §235-9(B) of the Table of Dimensional Regulations of the Town/Village of Harrison the maximum allowable height is 26 feet. Based on the final as built survey and the grade plane calculations submitted, the building height is 28.4 feet, thus requiring a variance of 2.4 feet;

WHEREAS, a Public Hearing on this application was duly scheduled and held by the Board of Zoning Appeals, at the Municipal Building, 1 Heineman Place, Harrison, New York, at 8:00 p.m., on July 13, 2017 and September 14, 2017, after due notice and publication pursuant to Town Law 267-a (7) at which the following members were either present in person or indicated that they had listened to tapes of the Hearing: Mark Fisher, Ernest Fiore, Paul Katz, Michael Strone, Steven Lowenthal Paul Valentine and Tom Foristel; and

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

WHEREAS, Board Members had inspected the site; and

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

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

- (A) The benefits to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant;
- (B) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;
- (C) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than a variance;
- (D) Whether the requested variance is substantial;
- (E) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- (F) Whether the alleged difficulty was self-created.

WHEREUPON, the Board found, after due deliberation, based upon the testimony and documents submitted and its site visit, pursuant to Town Law §§267-a and 267-b and Harrison Town Code §§235-56 et seq., it has jurisdiction to grant the requested variance and that the 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 recently constructed two-family house that exceeds the maximum height limitation of the Zoning Ordinance for houses in a R-1/3rd Zone. A similar variance is being sought with respect to the house located on the adjacent property located at 30 Bates Road.
2. Under the Zoning Ordinance, the height is determined based on the average grade measured along a line offset 10 feet from the periphery of the house to the midpoint of the pitched roof.
3. The original building permit was issued based on a set of plans based on drawings prepared by an engineer while the house was constructed based on plans that were filed but which were prepared by an architect. A grade plan analysis to determine the actual height of the finished residence was not done until after the house was completed. No explanation was provided for this discrepancy. Accordingly, the excess height and the need for a variance are attributable to an error by the builder.
4. The height measurement is impacted by the topography of the property as there is a significant grade change in the front yard as the property slips downward away

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Bates Road development LLC

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from the house. This obviously has an impact on the height calculation which is determined based on the average grade measured along a line offset 10 feet from the house.

5. The property is located on the west side of Bates Road in close proximity to the intersection of Bates Road and Highfield Road. Bates Road begins at the intersection with Willets Road and extends northward ending at Sunny Ridge Road. There is a significant increase in the elevation of Bates Road as it extends north towards Sunny Ridge Road. For example, the elevation of the property (as measured from the center line of Bates Road in front of the property) is 110.48 feet as compared to the 121.14 feet elevation of 37 Bates Road, which is located a short distance away from the property.

6. Applicant has submitted an elevation analysis which measures the change in elevation from the center line of Bates Road in front of various houses to the peak of the roof. In the case of 26 Bates Road, that change in elevation is 41.19 feet (151.67 feet less 110.48 feet) which is in line with the change in elevation of other houses on the same side of Bates Road. For example, the change in elevation for 22 Bates Road, which is the immediately adjacent property, is 40.55 feet (151.20 feet less 110.65 feet). The change in elevation for 30 Bates Road, for which a height variance is also being sought, is 41.63 feet (154.16 feet less 112.53 feet).

7. From a visual standpoint, the height of the house does not appear to be out of keeping with other houses in close proximity to the property. For example, the immediately adjacent property located at 22 Bates Road appears from a visual standpoint to be at least as tall, if not taller, than the house located on the property.

8. The height of the house, as measured from the base of the house to the midpoint of the roof, is in fact 26 feet.

9. Based on the findings cited above, we find that the height of the house is not out of keeping with the character of the neighborhood and will not create a detriment to nearby properties.

10. The granting of the variance has obvious benefits to the applicant since this avoids the necessity of cutting down the height of the roof or making other changes such as raising the grade located at the 10 foot perimeter from the house. There is an additional benefit to the current owners of the property who would avoid a disruption caused by any new construction and a change in the configuration of a house which they have just purchased. As compared to these benefits, the granting of the variance does not appear to create any detriment to nearby properties. In that connection, the granting of the variance was supported by a number of adjacent property owners.

11. On a numerical scale, the variance represents almost a 9.2% deviation from the required height. However, when viewed in the context of the other factors cited above, we hold that the granting of the variance is not substantial.

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12. While the alleged difficulty is in fact self-created since it is the result of an error by the builder, we find that this factor is outweighed by the other factors cited above.

NOW THEREFORE BE IT RESOLVED, that a 2.4 foot height variance with respect to a one-family dwelling constructed in accordance with the 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 plans.

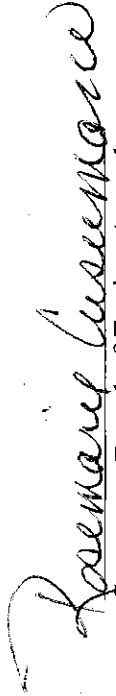
Foregoing Resolution submitted by Zoning Board Chairman Mark Fisher, seconded by Zoning Board Member Thomas Heaslip at the October 12, 2017 meeting.

ADOPTED: AYES: Mark Fisher, Ernest Fiore, Steven Lowenthal and Tom Foristel

NAYS: Michael Strone

ABSTAINED: None

ABSENT: Paul Katz and Paul Valentine


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

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Bates Road development LLC
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BOARD OF ZONING APPEALS
TOWN/VILLAGE OF HARRISON, NEW YORK

Calendar No. Z17-024

Date: October 12, 2017

Property Owner: Seth and Christina Bernstein (formerly SMG Realty Associates LLC)

Property Address: 30 Bates Road

Block 224, Lot 56

WHEREAS, SMG Realty Associates LLC applied for a Certificate of Occupancy 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, Robert Georgio, on behalf of the property owner, filed on June 19, 2017 an application for an area variance from the Zoning Ordinance to allow a Certificate of Occupancy to be issued with respect to a newly constructed single family residence. This property is located in an R 1/3 Zoning District and pursuant to §235-9(B) of the Table of Dimensional Regulations of the Town/Village of Harrison the maximum allowable height is 26 feet. Based on the final as built survey and the grade plane calculations submitted, the building height is 28.02 feet, thus requiring a variance of 2.02 feet;

WHEREAS, a Public Hearing on this application was duly scheduled and held by the Board of Zoning Appeals, at the Municipal Building, 1 Heineman Place, Harrison, New York, at 8:00 p.m., on July 13, 2017 and September 14, 2017, after due notice and publication pursuant to Town Law 267-a (7) at which the following members were either present in person or indicated that they had listened to tapes of the Hearing: Mark Fisher, Ernest Fiore, Paul Katz, Michael Strone, Steven Lowenthal Paul Valentine and Tom Foristel; and

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

WHEREAS, Board Members had inspected the site; and

*Z17-024
SMG Realty Associates LLC
10/12/17*

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

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

- (A) The benefits to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant;
- (B) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;
- (C) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than a variance;
- (D) Whether the requested variance is substantial;
- (E) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- (F) Whether the alleged difficulty was self-created.

WHEREUPON, the Board found, after due deliberation, based upon the testimony and documents submitted and its site visit, pursuant to Town Law §§267-a and 267-b and Harrison Town Code §§235-56 et seq., it has jurisdiction to grant the requested variance and that the 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 recently constructed two-family house that exceeds the maximum height limitation of the Zoning Ordinance for houses in a R-1/3rd Zone. A similar variance is being sought with respect to the house located on the adjacent property located at 26 Bates Road.
2. Under the Zoning Ordinance, the height is determined based on the average grade measured along a line offset 10 feet from the periphery of the house to the midpoint of the pitched roof.
3. The original building permit was issued based on a set of plans based on drawings prepared by an engineer while the house was constructed based on plans that were filed but which were prepared by an architect. A grade plan analysis to determine the actual height of the finished residence was not done until after the house was completed. No explanation was provided for this discrepancy. Accordingly, the excess height and the need for a variance are attributable to an error by the builder.

Z17-024
Seth and Christina Bernstein
10/12/17

4. The height measurement is impacted by the topography of the property as there is a significant grade change in the front yard as the property slips downward away from the house. This obviously has an impact on the height calculation which is determined based on the average grade measured along a line offset 10 feet from the house.
5. The property is located on the west side of Bates Road in close proximity to the intersection of Bates Road and Highfield Road. Bates Road begins at the intersection with Willets Road and extends northward ending at Sunny Ridge Road. There is a significant increase in the elevation of Bates Road as it extends north towards Sunny Ridge Road. For example, the elevation of Bates Road (as measured from the center line of Bates Road in front of the property) is 112.53 feet as compared to the 121.14 feet elevation in front of 37 Bates Road, which is located a short distance away from the property.
6. Applicant has submitted an elevation analysis which measures the change in elevation from the center line of Bates Road in front of various houses to the peak of the roof. In the case of 30 Bates Road, that change in elevation is 41.63 feet (154.16 feet less 112.53 feet) which is in line with the change in elevation of other houses on the same side of Bates Road. For example, the change in elevation for 22 Bates Road is 40.55 feet (151.20 feet less 110.65 feet). The change in elevation for 26 Bates Road, for which a height variance is also being sought, is 41.19 feet (151.67 feet less 110.48 feet).
7. From a visual standpoint, the height of the house does not appear to be out of keeping with other houses in close proximity to the property. For example, the house located on the immediately adjacent property located at 34 Bates Road appears from a visual standpoint to be approximately the same height as the house located on the property. This may in part be attributable to the fact that the property at 34 Bates Road is located at an elevation that is 3.66 feet higher than 30 Bates Road when measured from the respective center lines of Bates Road.
8. The height of the house, as measured from the base of the house to the midpoint of the roof, is in fact 26 feet.
9. Based on the findings cited above, we find that the height of the house is not out of keeping with the character of the neighborhood and will not create a detriment to nearby properties.
10. The granting of the variance has obvious benefits to the applicant since this avoids the necessity of cutting down the height of the roof or making other changes such as raising the grade located at the 10 foot perimeter from the house. There is an additional benefit to the current owners of the property who would avoid a disruption caused by any new construction and a change in the configuration of a house which they have just purchased. As compared to these benefits, the granting of the variance does not appear to create any detriment to nearby properties. In that connection, the granting of the variance was supported by a number of adjacent property owners.

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Seth and Christina Bernstein

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11. On a numerical scale, the variance represents almost a 7.7% deviation from the required height. However, when viewed in the context of the other factors cited above, we hold that the granting of the variance is not substantial.

12. While the alleged difficulty is in fact self-created since it is the result of an error by the builder, we find that this factor is outweighed by the other factors cited above.

NOW THEREFORE BE IT RESOLVED, that a 2.02 foot height variance with respect to a one-family dwelling constructed in accordance with the plans submitted with this application be, and the same is hereby granted subject to the following conditions;

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 Chairman Mark Fisher, seconded by Zoning Board Member Tom Foristel at the October 12, 2017 meeting.

ADOPTED: AYES:

Mark Fisher, Ernest Fiore, Steven Lowenthal and
Tom Foristel

NAYS:

Michael Strone

ABSTAINED:

None

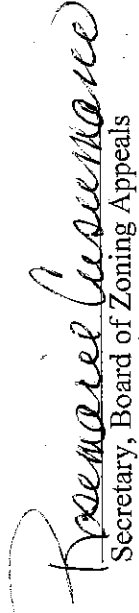
ABSENT:

Paul Katz and Paul Valentine

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HARRISON, NY


Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

Z17-024
Seth and Christina Bernstein
10/12/17

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

Calendar No.Z17-029

Date: October 12, 2017

Property Owner: 21 Bellevue Ave. LLC

Property Address: 21 Bellevue Ave. Block 563 Lot 9

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 owner of 21 Bellevue LLC, filed an application on July 25, 2017 for a variance from the Zoning Ordinance to install a generator and an ac condensing unit at the premises located in an R-1 Zoning District. The Code of the Town/Village of Harrison, Sec 235-9B Table of Dimensional Regulations for Residence Districts requires a minimum side yard setback of 20' in an R-1 zone. The location of the proposed units will reduce the side yard setback to 16.8' requiring a variance of 3.2 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 September 14, 2017 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present: Paul Katz, Ernest Fiore, Mark Fisher, Michael Strone, Steve Lowenthal, Thomas Foristel 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:

*Z17-029
21 Bellevue Ave LLC
10/12/17*

- (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:

- A) The addition of the units do not substantially encroach upon the setback located at the side of the premises.
- B) The addition of the units cannot be installed in an alternate location on the property.
- C) The installations do not change the character of the neighborhood.
- D) There will be ample side yard screening near the adjacent property.
- E) There was an objection from the next door neighbor who was concerned about noise levels from the units. In response to this concern, the applicant indicated that the plans provide for the installation of a generic generator with a sound attenuating enclosure.
- F) Subsequent to the objection, the neighbor issued a letter rescinding the objection based on the owner's assurance that the units are of a low noise level type and would minimize any noise disturbance.

NOW THEREFORE BE IT RESOLVED, that the application for a variance to allow installation of a generator and ac condensing unit within the required side yard as indicated in the plans submitted with this application be, and the same is hereby granted.

Z17-029
21 Bellevue Ave LLC
10/12/17

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 Ernest Fiore, seconded by Zoning Board Member Michael Strone at the 10/12/2017 meeting.

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

NAYS: None

ABSTAINED: None

ABSENT: Paul Katz and Paul Valentine

RECEIVED

2017 OCT 13 P 2:26

TOWN CLERK
HARRISON, NY


Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

THIS IS NOT A BUILDING PERMIT. A Building Permit must be obtained from the Building Inspector before any work is started. Other permits or approvals may also be required before work starts. If you have any questions, please call the Building Department at (914) 670-3054, 670-3055 or 670-3056.

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21 Bellevue Ave LLC
10/12/17