

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, December 14, 2017, at 8:00 p.m., in the Court Room of the Municipal Building.

Members Present

Mark I. Fisher, Chairman
Ernest Fiore
Paul Katz
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>
Z17-027	JNC Inc.	441	50.3	Variance Granted
Z17-031	Ronald Denet	910	89	Not Heard – Adjourned to the January Meeting
Z17-034	Joseph DeFonce	247	7	Variance Granted
Z17-035	Domenick Farago	762	13	Variance Granted
Z17-036	Bill Greenberg	642	3	Re-opened – Heard – Adjourned to the January Meeting
Z17-037	Louis & Gina Ruisi	716	32	Not Heard – Adjourned to the January Meeting
Z17-038	Joshua & Nancy Blaine	671	14	Heard – Adjourned to the January Meeting
Z17-039	Ronald Rocco	873	20	Heard – Adjourned to the January Meeting
Z17-040	Richard DiBiccari	384	19	Heard – Closed – Findings being prepared
Z17-041	Arturo Rossi	761	9	Heard – Adjourned to the January Meeting
Z17-042	David & Eileen Katz	283	24	Heard – Closed – Findings being prepared
Z17-043	Montessori Children's Center	692	3	Heard – Closed – Findings being prepared

The next meeting was scheduled to January 11, 2018.

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

Jill L. King
Town Clerk's Office

Rosemarie Cusumano
Rosemarie Cusumano, Secretary

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

RECEIVED

2017 DEC 19 PM 4 24

TOWN CLERK
HARRISON, NY

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

Calendar No. Z17-035

Date: December 14, 2017

Property Owner: Dominick Farago

Property Address: 24 Kingston Avenue Block 762 Lot 13

WHEREAS, Dominick Farago filed an application for a variance on September 12, 2017 to add a front yard portico at the above referenced property. The property is located in an R-75 Zoning District and pursuant to 235-9B of the Zoning Ordinance, the minimum front yard setback is 30 feet. The proposed front entrance portico addition shows a front yard setback of 19.46 ft, thus requiring a variance of 10.54 ft.

WHEREAS, a Public Hearing on this application was duly scheduled and held by the Board of Zoning Appeals, at the Municipal Building, 1 Heineman Place, Harrison, New York, at 8:00 p.m., on November 9, 2017 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present: Thomas Foristel, Paul Valentine, Steven Lowenthal, Michael Strone, Ernest Fiore, and Paul Katz; and

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

WHEREAS, Board Members had inspected the site; and

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

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

- (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;

*Z17-035
Farago
12/14/17*

- (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 portico would not substantially extend into the front yard setback as several other homes on the street have similar setbacks for porticos.
- B) The addition would have no negative impact on the neighborhood.
- C) There were no objections from neighbors.

NOW THEREFORE BE IT RESOLVED, that the application for a front yard variance to allow construction of a portico addition as indicated in the plans submitted with this application be, and the same is hereby granted;

Except as specifically set forth above, nothing herein shall be construed to indicate this Board's approval of any architectural, design, or structural elements of the submitted plans.

This variance shall lapse unless construction begins within one year from the date this variance is recorded in the Clerk's Office and is completed no more than two years from this 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 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.

Z17-035
Farago
12/14/17

Foregoing Resolution submitted by Zoning Board Member Ernest Fiore, seconded by Zoning Board Member Tom Foristel at the December 14, 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

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.

Z17-035
Farago
12/14/17

TOWN CLERK
HARRISON, NY

2017 DEC 19 P 9:22

RECEIVED

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

Calendar No. Z17-034

Date: December 14, 2017

Property Owner: Joseph DeFonce

Property Address: 47 Coakley Avenue Block 247 Lot 7

WHEREAS, the Applicant, the property owner, filed an application for a certificate of occupancy for an in-ground pool 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, on September 11, 2017, Joseph DeFonce filed an application for a number of variances in connection with an existing in-ground pool and pool equipment. This property is located in an R-75 Zoning District and pursuant to §235-28 of the Zoning Ordinance of the Town/Village of Harrison swimming pools and related equipment shall not be located within 10 feet of any side and rear yard. Also per §235-((0)(B) of the Residential Table of Dimensional Regulations the minimum required side yard setback for an accessory structure is 10 feet and the minimum required rear yard setback for an accessory structure is 10 feet. This application requires 4 variances: **1:** The final survey submitted shows the pool to have a side yard setback of 6.4 feet thus requiring a variance of 3.6 feet. **2:** The final survey shows the pool to have a rear yard setback of 9.6 feet at the South East corner thus requiring a variance of 0.4 feet. **3:** The final survey shows the pool equipment to have a side yard setback of 1.1 feet thus requiring a variance of 8.9 feet. **4:** The final survey shows the pool equipment to have a rear yard setback of 1.2 feet thus requiring a variance of 8.8 feet; and

WHEREAS, a Public Hearing on this application was duly scheduled and held by the Board of Zoning Appeals, at the Municipal Building, 1 Heineman Place, Harrison, New York, at 8:00 p.m., on November 9, 2017 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were either 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 Tom Foristel.

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:

*Z17-034
DeFonce
12/14/17*

- (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:

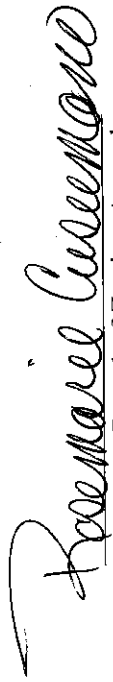
1. This application relates to an existing pool that was constructed in 2012. In 2015 we denied a variance application by applicant with respect to the pool (Calendar No. Z14-032). Our denial was, in large part, based on the substantial non-conformity of the deck surrounding the pool. Applicant has now substantially reconstructed the deck and as reconstructed the deck no longer requires a variance.
2. The variances being sought include rear and side yard variances for the pool. Consistent with our prior findings, we believe that the .4 foot rear yard variance for the pool is not substantial. The pool was prefabricated and the 3.6 side yard variance is necessitated by a small rectangular area of the pool required for steps into the pool. As a result, we continue to believe that the side yard variance is not significant.
3. The last requested variance relates to the location of the pool equipment within the required side and rear yards. We had previously determined that these variances were substantial, and, from a purely numerical standpoint, the variances are in fact substantial. However, we find that the numerical substantiality of the variances is counterbalanced by the fact that the pool equipment is tucked into the corner of the rear yard, and, based on the testimony of the immediately adjacent neighbor, the equipment is not visible, and cannot be heard, from the adjacent property.
4. With the exception of the reconstruction of the deck, the pool and pool equipment have been in their present location and configuration for more than 5 years without causing any apparent detriment to any nearby property.

Z17-034
DeFonce
12/14/17

NOW THEREFORE BE IT RESOLVED, that the application for variances from the rear and side yard setback requirements of the Zoning Ordinance with respect to the pool and pool equipment located on the property be, and the same is hereby granted.

Foregoing Resolution submitted by Zoning Board Member Steven Lowenthal, seconded by Zoning Board Member Tom Foristel at the December 14, 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

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.

Z17-034
DeFonce
12/14/17

TOWN CLERK
HARRISON, NY

2017 DEC 19 P 9:22

RECEIVED

BOARD OF ZONING APPEALS

TOWN/VILLAGE OF HARRISON, NEW YORK

Calendar No. Z17-027

Date: December 14, 2017

Property Owner: JNC Inc.

Property Address: 5 Patricia Court

Block 441, Lot 50.3

WHEREAS, JNC Inc. applied for a height variance to construct a new single-family home 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, Joseph Nannarello, on behalf of the Applicant, filed on July 28, 2017 an application for an area variance from the Zoning Ordinance to allow construction of a new single-family home higher than the allowable maximum height in the R 1/3 Zoning District. 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 Zoning Ordinance the maximum required height is 26 feet. The proposed new home is shown to have a height of approximately 28 feet 4 inches, thus requiring a variance of 2 feet 4 inches;

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, October 12, 2017 and November 9, 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

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

Z17-027
JNC Inc.
12/14/17

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 the proposed construction of a new single-family house that exceeds the maximum height limitation of the Zoning Ordinance for houses in an R-1/3 Zone. The house is part of a 5 lot subdivision. Construction of the other 4 houses has been started and is in various stages of completion. Construction of the house which is the subject of this application has not been started.
2. The property, as well as the other 4 houses in the subdivision, are located around a newly constructed cul-de-sac located adjacent to Harrison Avenue, which is a major thoroughfare in Harrison.
3. Under the Zoning Ordinance, the height of a house 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.
4. The 28 foot, 4 inch height measurement in this case is impacted by the topography of the property as there is a significant grade change between the front and rear yard as the property slopes downward away from the front to the back of the property. 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. Applicant has indicated that in order to build a height-conforming house similar to the other houses in the subdivision, they would have to install a significant amount of fill to elevate the rear yard.

Z17-027
JNC Inc.
12/14/17

6. We have been advised by Michael Amodeo, the Town Engineer, that the proposed house backs up directly to a regulated wetland buffer area and a storm water runoff management area which treats the runoff from the road, and which was required in connection with Planning Board approval of the subdivision. In addition, there is a proposed 5 foot high retaining wall along these regulated boundaries to handle the elevation differential between the rear yard area and the existing grade of the regulated area. The Town Engineer confirmed Applicant's belief that in order for the proposed house to comply with the height requirement, the Applicant would need to import additional fill and also install another tier of retaining wall. The Town Engineer indicated that the additional wall and fill may impact the proposed stormwater treatment area for the house runoff and will increase the elevation differential between the regulated areas that it will be up against. As a result, the Town Engineer has indicated that he is in favor of eliminating any additional grade differential and the need for additional retaining walls.

7. Applicant has submitted an elevation analysis which measures the change in elevation measured from the mid-point of Patricia Court in front of each house on the cul-de-sac to the mid-point of the roof of each house. Assuming a height variance is granted, in the case of 5 Patricia Court the change in elevation would be 118.5 feet, which is the lowest change in elevation for the five houses on Patricia Court. For example, the change in elevation for the two adjacent houses are 124.5 feet for 7 Patricia Court and 122.8 feet for 3 Patricia Court. The change in elevation for the other two houses on Patricia Court are 128 feet and 132 feet. In addition, the mid-point of Patricia Court in front of 5 Patricia Court is the lowest elevation of the 5 houses on the cul-de-sac. Accordingly, we find that if a height variance is granted, the house at 5 Patricia Court would from a visual standpoint appear to be shorter than the other four houses in the subdivision, would be in keeping with the appearance of the other houses and would not create a detriment to nearby properties.

8. The facts cited above serve to counter-balance the numerical substantially (almost 10%) of the height variance.

9. The granting of the variance has obvious benefits to the Applicant since it avoids the necessity of importing additional fill to further elevate the rear yard and installing another tier of retaining walls, a course of action which, as set forth above, is opposed by the Town Engineer.

NOW THEREFORE BE IT RESOLVED, that a 2.4 foot height variance with respect to the construction of a new single-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.

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 this date.

Z17-027
JNC Inc.
12/14/17

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 this 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 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.

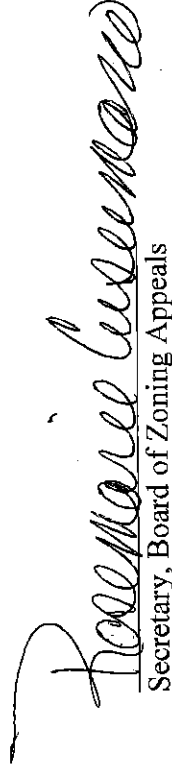
Foregoing Resolution submitted by Zoning Board Chairman Mark Fisher, seconded by Zoning Board Member Steven Lowenthal at the December 14, 2017 meeting.

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

AM HOSIUVH
VVERC MAOI
TOWN CLERK

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**.

Z17-027
JNC Inc.
12/14/17

RECEIVED