

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, January 11, 2018, at 8:00 p.m., in the Court Room of the Municipal Building.

Members Present

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

Members Absent

Paul Katz

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

<u>Cal. #</u>	<u>Applicant</u>	<u>Block</u>	<u>Lot</u>	<u>Decision</u>
Z17-031	Ronald Denet	910	89	Heard – Adjourned
Z17-036	Bill Greenberg	642	3	Heard – Closed – Findings being prepared
Z17-037	Louis & Gina Ruisi	716	32	Withdrawn without prejudices
Z17-039	Ronald Rocco	873	20	Heard – Adjourned to the February Meeting
Z17-040	Richard DiBiccari	384	19	Variance Granted
Z17-041	Arturo Rossi	761	9	Not Heard – Adjourned to the February Meeting
Z17-042	David & Eileen Katz	283	24	Variance Granted
Z17-043	Montessori Children's Center	692	3	Variance Granted
Z17-044	Harrison Playhouse Lofts	133	35 & 11	Heard – Closed – Findings being prepared
Z17-045	Michael Gogliormella	1005	16	Heard – Closed – Findings being prepared
Z17-046	Seville Plaza	121	22-25, 29	Heard – Closed – Findings being prepared

The next meeting was scheduled to February 8, 2018.

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 Chen
Town Clerk's Office

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

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

Calendar No. Z17-040

Date: January 11, 2018

Property Owner: Richard DiBicari

Property Address: 104 Congress Street

Block 384 Lot 19

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, Richard DiBicari filed an application on 11/14/17 for a variance to construct a deck at the above referenced property. The property is located in a B Zoning District and pursuant to 235-9B of the Zoning Ordinance, a 25 foot rear yard setback is required. The wood deck is shown to have a rear yard setback of 16 feet, thus requiring a variance of 9 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 December 14, 2017 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present: Paul Valentine, Paul Katz, Thomas Foristel, Steven Lowenthal, Michael Strone, Ernest Fiore, and Mark Fisher; and

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

WHEREAS, Board Members had inspected the site; and

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

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

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

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

The Board found that:

1. The property is located on the corner of Congress Street and Crotona Avenue. The main entrance to the house is located on Congress Street. However, there is an additional entrance on Crotona Avenue and, for zoning purposes, the front of the house is considered to be Crotona Avenue and the area where the proposed deck is being constructed is the rear yard.
2. From a visual perspective, the area bordering the adjacent neighbor's property that requires a variance is more similar to a side yard than a rear yard and the side yard setback requirements would be satisfied if this was in fact a side yard. In addition, the area of the neighbor's property that is potentially affected is the neighbor's side yard and the neighbor has indicated that he has no objection to the granting of a variance.
3. The proposed deck will be shielded from view by the adjacent neighbor by a row of hedges as well as a solid fence. Accordingly, there will be no visual impact on the adjacent neighbor.
4. Based on the above facts, the granting of the variance will not create a detriment to any nearby properties or produce an undesirable change in the character of the neighborhood.

NOW THEREFORE BE IT RESOLVED, that the application for permission to construct a deck within the required rear yard, as indicated in the plans submitted with this application be, and the same is hereby granted;

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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 the applicant shows good cause and, if in the Board's judgment, the facts and circumstances, which existed at the time of the original application, have not materially changed.

Foregoing Resolution submitted by Ernest Fiore, seconded by Tom Foristel at the January 11, 2018 meeting.

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

NAYS: None

ABSTAINED: None

ABSENT: Paul Katz



Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

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

Calendar No. Z17-042

Date: January 11, 2018

Property Owners: David & Eileen Katz

Property Address: 1 Lorraine Place

Block 283 Lot 24

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 property owner, filed on November 17, 2017 an application for an area variance from the Zoning Ordinance with respect to a one-story addition. This property is located in an R-75 Zoning District and pursuant to §235-9-B of the Table of Dimensional Regulations of the Zoning Ordinance of the Town/Village of Harrison the minimum rear yard setback is 25 feet. The proposed addition reduces the rear yard setback to 20.5 feet thus requiring a variance for 4.5 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 December 14, 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. 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;

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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 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 one- story addition in the rear of the house. The existing dwelling is 1,628 square feet and the new addition will contain approximately 400 square feet. In connection with the addition, an existing brick patio and wall will be removed.
2. The property is existing non-conforming with regard to front yard setback (27.9 feet as compared to the 30 foot required by the Ordinance).
3. The addition is being constructed entirely in the rear of the house. There will be no visual impact to the affected neighbor in the rear as there is already a row of arborvitae trees that will effectively screen the new addition from view from the adjacent property. We are also conditioning the granting of the variance on the continued maintenance, and replacement, of the existing screening.
4. The rear yard neighbor has submitted a letter in favor of the project.
5. Based on the foregoing, the granting of the variance will not create an undesirable change in the character of the neighborhood or result in a detriment to the neighborhood.

NOW THEREFORE BE IT RESOLVED, that the application for a variance to allow the one-story rear addition in accordance with plans submitted by Frank Tancredi dated 11/13/17 A-1, A-2, A-3 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 is specifically conditioned on the continued maintenance, and replacement, if necessary, of the existing row of arborvitae trees in the rear yard.

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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 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.

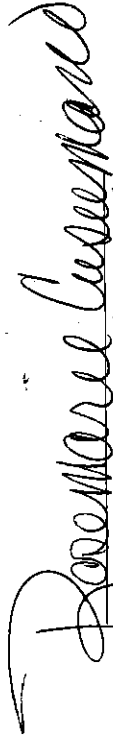
Foregoing Resolution submitted by Zoning Board Member Michael Strone, seconded by Zoning Board Member Paul Valentine at the January 11, 2018 meeting.

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

NAYS: None

ABSTAINED: None

ABSENT: Paul Katz


Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

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BOARD OF ZONING APPEALS

TOWN/VILLAGE OF HARRISON, NEW YORK

Calendar No. Z17-043

Date: January 11, 2018

Property Owners: HTA White Plains EAT LLC

Property Address: 220-230 Westchester Avenue Block 692 Lot 3

WHEREAS, the applicant, the property owner, filed a site plan for a proposed day care center 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 A. Ryan, on behalf of Montessori Children's Center, the proposed lessee, filed on November 15, 2017 an application for an area variance from the Zoning Ordinance with respect to a children's day care center. This property is located in an SB-0 Zoning District and pursuant to §235-17-R(8) of the Zoning Ordinance of the Town/Village of Harrison no SB-0 Day-Care Center may exceed two stories or 25 feet in height, nor shall its floor area exceed 12,000 square feet. In addition, if located in other than freestanding building, the area of the SB-0 Day-Care Center shall be limited to the first floor of such building and its floor area shall not exceed the lesser of 12,000 square feet, or 60% of the first floor of such building. Further, a minimum floor area of 35 square feet per child shall be required for each and every SB-0 Day-Care Center and, accordingly, the maximum number of children who may be enrolled therein shall be determined by the floor area of such facility. The minimum floor area shall not include hallways, kitchens, bathrooms and office space. Also as per §235-26 D(1) No fence or wall exceeding 4 feet in height within the required front yard or exceeding 8 feet in height within a required side or rear yard shall be constructed on any lot. The proposed Day-Care Center will occupy approximately 73 % of the first floor, thus requiring a variance. The proposed playground fence located in the required front yard will have a height of 5 feet for approximately 5 feet for a length of 30 feet and 6 feet for a length of 90 feet, thus requiring a variance of 1 foot and 2 feet for the varying heights; 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 December 14, 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

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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 operate a day care center on the first floor of an existing three story building. The space to be occupied is currently vacant.
2. The property is part of an existing corporate park located at 220-230 Westchester Avenue
3. The day care center will be located entirely on the first floor of the building. A variance is being sought from the requirement of the Ordinance that the space of the day care center be limited to the lesser of 12,000 square feet or 60% of the first floor. The center will occupy 4,000 square feet which equates to 73% of the total first floor area. The remainder of the area of the first floor consists of mechanical equipment and uninhabitable space. No change is being made to the footprint of the building. We have been unable to identify the rationale for the 60% requirement imposed by the Ordinance. The operation of the day care center needs to satisfy the requirements of the New York Division of Child Care Services of the State Office of Children and Family Services. Those requirements do not include the space limitation imposed by the Ordinance. In addition, the applicant has for the past 25 years operated a day care center at Burke Hospital and is moving that operation to the property.

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4. As a result of the above findings, we find the granting of the variance from the 60% space requirement will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

5. Applicant is also proposing to construct two types of fences within the property's front yard – a six foot vinyl privacy fence, 90 feet in length and a five foot chain link security fence, 30 feet in length. The property borders on Westchester Avenue and the Cross-Westchester Expressway both of which are heavily trafficked thoroughfares. The chain link fence borders a play area and is designed to address safety concerns. The vinyl fence, which also borders the play area, is intended to address both safety issues as well as to buffer the noise impact from the adjacent thoroughfares. A portion of the perimeter outside the vinyl fence is screened from view by a 12 to 14 foot Picea Abies. In view of the location of the playground, the attendant safety concerns, and the proximity of the location to heavily travelled thoroughfares, the benefits to the applicant of our granting the height variance outweigh any detriment to the health, safety and welfare of the neighborhood and the granting of the height variance will not produce a change in the character of the neighborhood or create a detriment to any nearby properties.

NOW THEREFORE BE IT RESOLVED, that the application for a variance to allow operation of a day care center, and erection of two fences, in accordance with plans submitted with this application by JMC, dated 11/15/17 V-1, V-2 and C-110 dated 11/7/17, 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 Michael Strone, seconded by Zoning Board Member Paul Valentine at the January 11, 2018 meeting.

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

NAYS: None

ABSTAINED: None

ABSENT: Paul Katz


Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

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