

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, February 8, 2018, 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.

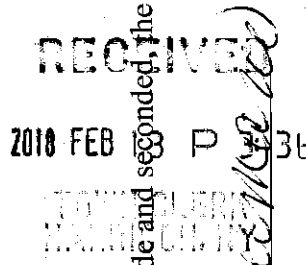
<u>Cal. #</u>	<u>Applicant</u>	<u>Block</u>	<u>Lot</u>	<u>Decision</u>
Z17-036	Bill Greenberg	642	3	Re-Opened – Adjourned to the March Meeting
Z17-038	Joshua & Nancy Blaine	671	16	Heard – Withdrawn without prejudice
Z17-039	Ronald Rocco	873	20	Heard – Closed – Findings being prepared
Z17-041	Arturo Rossi	761	9	Heard – Adjourned to the March Meeting
Z17-044	Harrison Playhouse Lofts	133	35 & 11	Variance Granted
Z17-045	Michael Gogliormella	1005	16	Variance Granted
Z18-001	Katsura Construction Group	961	27	Not Heard – Adjourned to the March Meeting
Z18-002	Harrison Real Estate Group, LLC	131	17	Heard – Extension Granted
Z18-003	Oliver & Sarah Smith	523	22	Heard – Adjourned to the March Meeting

The next meeting was scheduled to March 8, 2018.

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

Tilly Tilly, deputy
Town Clerk's Office

Rosemarie Cusumano
Rosemarie Cusumano, Secretary



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

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

Calendar No. Z17-044Date: February 8, 2018

Property Owner: Paul Properties

Property Address: 227-239 Harrison Avenue
and 6 Purdy Street
Block 133, Lots 35, 9 & 11

WHEREAS, the Applicant, Verco Properties LLC, filed a site plan for a proposed retail and residential building 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, Verco Properties LLC, on behalf of the property owner, filed an application on November 15, 2017 for the following variances from the Zoning Ordinance which the Building Inspector determined are required;

1. The proposed building height is indicated to be 54 feet, thus requiring a variance of 9 feet.
2. The proposed building indicates the number of stories to be 4.5, thus requiring a variance of .5 stories.
3. The proposed parking for the 36 dwelling units is calculated to be 45 with 41 being provided thus requiring a variance for 4 spaces. An additional 8 space variance is required for the commercial space. Accordingly, a variance is required for a total of 12 spaces.
4. The proposed building indicates one entrance for ingress and egress for the parking garage with a width of 22 feet where two separate entrances are required at 15 feet each, 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 January 11, 2018 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, Paul Katz, Ernest Fiore, Michael Strone, Steven Lowenthal, Paul Valentine and Thomas Foristel; and

WHEREAS, Board Members had inspected the site; and

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

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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 variances and that the variances sought were the minimum variances 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. In July 2015, following extensive hearings we granted 5 variances for the redevelopment of the property which is the subject of this application (Calendar No. Z15-003 (7/9/15)). Those variances included the following: (i) a 20 foot height variance; (ii) a 2 story variance, (iii) a 13 space parking variance, (iv) an open space variance, and (v) a variance with respect to ingress and egress for the parking garage.
2. Following the granting of the prior variance, Applicant encountered issues in attempting to develop the property under the prior plans. The prior plans provided for two floors of underground parking and, as a result of issues relating to subsoil conditions, Applicant was unable to develop the property under the prior plans.
3. Applicant subsequently acquired an additional parcel on Purdy Street and that parcel is part of the new plans that are the subject of this application.
4. The new plans for the project are a scaled down version of the old project. Applicant no longer requires a variance for open space; the height variance required has been reduced from 20 feet to 9 feet; the variance for the number of stories has been reduced from 2 stories to .5 stories; the parking variance has been reduced from 13 spaces to 12 spaces and the variance with respect to ingress and egress to and from the parking garage is identical.

5. As they had done in the prior application, Applicant presented to the Board a computer generated video presentation of the project that shows the project from

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a panorama of sight lines. Based on that video presentation, the scaled down height of the building, the reduction in the number of stories and the record and findings in connection with the prior variance application (which we are incorporating into the record for this application), we find that the granting of the 9 foot height variance and the .5 story variance, do not create a detriment to the health, safety and welfare of the neighborhood or the community, create an unfavorable change in the character of the neighborhood or create a detriment to nearby properties.

6. In our prior findings we found that the 8 spot variance for residential spaces was, under the circumstances, of a de minimis nature. The current application provides for a 4 spot variance for residential spaces, which for the same reasons indicated in our prior findings we continue to find to be of a de minimis nature. For the same reasons indicated in our prior findings, we also find that the granting of the 8 spot parking variance for commercial spaces is appropriate.

7. With respect to the provision of a single 22 foot driveway rather than two separate driveways of 15 feet, we believe that the granting of such a variance is appropriate for the reasons set forth in our prior findings, provided Applicant complies with the conditions contained in the prior variance. Applicant must install two wall mounted, convex safety mirrors on the garage walls to provide exiting drivers with a view north and south of the sidewalk as they approach Purdy Street. Additionally, two pedestrian detectible warning strips must be installed within the sidewalk to alert pedestrians that they are about to cross a traveled way. Finally, Applicant must increase the driveway at the curb cut to a 25 foot width which would gradually decrease to a 22 foot opening at the building line.

NOW THEREFORE BE IT RESOLVED, that the application for variances with respect to building height, number of stories, off-street parking and separate driveways, as indicated in the plans submitted with this application, be, and the same is hereby granted.

This variance is conditioned upon compliance with the conditions set forth in paragraph 7 above with respect to the installation of mirrors and warning strips and the width of the driveway.

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.

These variances shall lapse unless construction begins within one year from the date these variances are 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 Inspector has issued a Certificate of Occupancy.

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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.

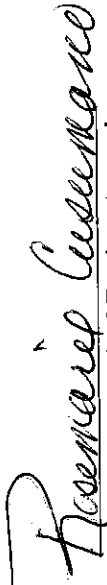
Foregoing Resolution submitted by Zoning Board Member Ernest Fiore, seconded by Zoning Board Member Steven Lowenthal at the February 8, 2018 meeting.

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.

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DEPARTMENT OF PUBLIC
WORKS & CONSTRUCTION

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

Calendar No:

Z17-045

Date: February 8, 2018

Property Owner:

Michael Gogliormella

Property Address:

30 Forest Lake Drive, West Harrison

Block 1005, Lot 16

WHEREAS, Michael Gogliormella (hereinafter, the "Applicant"), filed an application on November 15, 2017 appealing from a decision of the Architectural Review Board (hereinafter, the "ARB") directing Applicant to change an existing chimney surround from hardie board to cultured stone.

WHEREAS, Public Hearings on this application was duly scheduled and held by the Board of Zoning Appeals, at the Municipal Building, 1 Heinemann Place, Harrison, New York, at 8:00 p.m., on January 11, 2018 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.; 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 application 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

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 application.

The Board found:

1. The ARB did not make any specific written findings to substantiate its decision to require the substitution of cultured stone for hardie board. The ARB does not maintain written minutes nor does the ARB maintain audio or video recordings of its meetings. No one appeared on behalf of the ARB to support and/or explain their determination. As such, it is not possible for this Board to determine the

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ARB's rationale for its determination. It is the administrative equivalent of a default and the Applicant is entitled to relief.

2. Notwithstanding, even if this Board were to review the Application *de novo*, we find the ARB's decision to be substantively without merit.
 - a. Hardie board is a product made of cement and designed to look like wood planking. Although more durable, it is visually indistinguishable from wood siding and framing. It is in general use by contractors and approved for use by the Building Department of the Town/Village of Harrison and elsewhere across the United States.
 - b. The issue is purely aesthetic. Chimneys surrounds of other homes in the Park Lane Development (the immediate vicinity) are constructed of differing materials—some of hardie board, others with masonry materials and cultured stone. There is significant variation in the area such that the Applicant's choice of chimney material does not have a visual impact upon the neighborhood.
 - c. The choice of material appears to be consistent with other material choices Applicant has made for the residence. These do not appear to run afoul of the standards set forth in the Ordinance with respect to the standards to be applied by the ARB.
 - d. Adjacent and nearby property owners, having had notice of the hearing, were given the opportunity to object to the Application either in person or in writing and none did so.

NOW THEREFORE BE IT RESOLVED that the decision of the Architectural Review Board directing Applicant to replace the existing chimney surround is reversed and the Application to be permitted to maintain the existing hardie board chimney is 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.

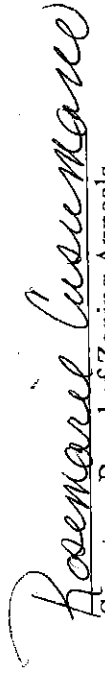
Foregoing Resolution submitted by Zoning Board Member Michael Strone, seconded by Zoning Board Member Paul Valentine, at the meeting on February 8, 2018.

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

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ABSTAINED: None

ABSENT: None


Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

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