

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
Steven Lowenthal
Tom Foristel
Michael Tiesi

Members Absent

Billy Harold

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	Not Heard – Adjourned to the April Meeting
Z17-039	Ronald Rocco	873	20	Variance Granted
Z17-041	Arturo Rossi	761	9	Not Heard – Adjourned to the April Meeting
Z18-001	Katsura Construction Group	961	27	Not Heard – Adjourned to the April Meeting
Z18-003	Oliver & Sarah Smith	523	22	Heard – Closed – Findings being prepared
Z18-004	Kevin Bannon	242	15	Heard – Closed – Findings being prepared
Z18-005	Lelia Wood-Smith	601	14	Heard – Extension Granted
Z18-006	Andrew Kaskel	961	48	Not Heard – Adjourned to the April Meeting

The next meeting was scheduled to April 12, 2018.

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

T. Oliver
Town Clerk's Office

Rosemarie Cusumano
Rosemarie Cusumano, Secretary

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

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

Calendar No. Z17-039

Date: March 8, 2018

Property Owner: Ronald Rocco

Property Address: 98 Lincoln Ave.

Block 873 Lot 20

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, Ronald Rocco filed an application on November 14, 2017 for a variance from the Zoning Ordinance to permit the construction of steps and a parking area on a property that is located in a B Zoning District. The Code of the Town/Village of Harrison, Sec 235-18B for Residence Districts requires that accessory off-street parking spaces, other than those which might be incidentally available within the actual driveway area, shall not be located within any front yard or required side yard of within 10 feet from any property line in a required rear yard. The house is existing non-conforming with regards to its side yard setback of 4.9 feet. The proposed steps and driveway will reduce the side yard setback to 5 feet with a total of both to be 9.9 feet; therefore a variance of 5.1 feet is required. The driveway does not lead to a permitted parking space thus requiring a variance for parking in the required front and side yard 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, January 11, 2018 and February 8, 2018 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present: Paul Katz, Ernest Fiore, Thomas Foristel, Mark Fisher and Steve Lowenthal.

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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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 involves a request to create a parking area within the required front and side yards. The house located on the property was constructed in 1952 and has never contained a driveway. Applicant had previously parked in the driveway on the adjacent property which was owned by a family member. However, that property has been sold and parking is no longer available to applicant.
2. The property is located in West Harrison and we are cognizant of the significant parking problems in the area. While construction of a driveway will create an additional off-street parking area, the creation of a curb-cut for the driveway will decrease the number of on-street parking spaces.
3. The driveway and the steps are needed for handicap access.
4. We have in the past in unique circumstances granted variances for driveways located in a required front yard in West Harrison. As set forth below, we find that the current variance provides such a unique circumstance.

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5. The driveway, as well as the stairs leading from the driveway, will be screened from view from the adjacent property by a row of hedges and, accordingly, will not create a detriment to the adjacent property.

6. Applicant has submitted information indicating that the property is the only property without a driveway in the 5 square block area running on one side from Columbus Avenue to Woodside Avenue and on the other side from Washington Street to Harrison Street. Accordingly, in view of the foregoing as well as the fact that this house was built more than 65 years ago, we view this application as unique and do not in any event view this as creating a precedent for the granting of variances for driveways in required front yards.

7. Since this property is the only property in the immediate area without a driveway, we find that the granting of the variance to permit construction of a driveway within the required side yard will not change the character of the neighborhood.

NOW THEREFORE BE IT RESOLVED, that the application for variances to allow construction of a driveway and steps as indicated in the plans submitted with this application be, and the same are 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 good cause is shown by the applicant and, if in the Board's judgment, the facts and circumstances which existed at the time of the original application have not materially changed.

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Foregoing Resolution submitted by Zoning Board Member Ernest Fiore, seconded by Zoning Board Member Steven Lowenthal at the 3/8/2018 meeting.

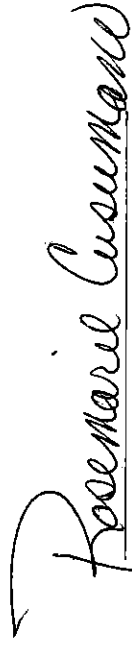
ADOPTED:

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

NAYS: None

ABSTAINED: Michael Tiesi

ABSENT: Billy Harold



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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