

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, April 12, 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
Billy Harold
Michael Tiesi

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	Not Heard – Adjourned to the May Meeting
Z17-041	Arturo Rossi	761	9	Not Heard – Adjourned to the May Meeting
Z18-001	Katsura Construction Group	961	27	Not Heard – Adjourned
Z18-003	Oliver & Sarah Smith	523	22	Variance Granted
Z18-004	Kevin Bannon	242	15	Variance Granted
Z18-006	Andrew Kaskel	961	48	Heard – Closed – Findings being prepared
Z18-007	Trinity Presbyterian Church	643	7	Heard – Extension Granted
Z18-008	Raffael & Jill Bonaiuto	712	26	Heard – Closed – Findings being prepared
Z18-009	Domenic & Eileen Cipollone	951	69	Heard – Adjourned to the May Meeting

The next meeting was scheduled to May 24, 2018.

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

Jacqueline Sheer

Town Clerk's Office

Rosemarie Cusumano
Rosemarie Cusumano, Secretary

2018 APR 19 6 15 PM

RECEIVED

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

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

Calendar No. Z18-003

Date: April 12, 2018

Property Owner: Oliver & Sarah Smith

Property Address: 2 Upper Dogwood Lane

Block 523, Lot 22

WHEREAS, an application was filed for a building permit with respect to a proposed pool and pool house to be constructed on the property 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 owners, Oliver and Sarah Smith filed an application on January 17, 2018 for a variance for a new pool and pool house. A small portion of the property is located in Harrison in an R-1 Zoning District and the remainder of the property is located in the City of Rye. §235-9-B of the Table of Dimensional Regulations of the Zoning Ordinance of the Town/Village of Harrison (the "Ordinance") provides that Accessory Structures located in the required rear yard shall have a minimum setback of 15 feet from the rear and side yard. §235-28-A of the Ordinance also provides that no swimming pool located in an R-1 Zone shall be located within 20 feet of the side and rear property lines. This application requires 3 variances: **1:** The proposed pool house is indicated to have a side yard setback of 6 feet thus requiring a variance of 9 feet. **2:** The proposed pool house is indicated to have a rear yard setback of 10 feet thus requiring a variance of 5 feet. **3:** The pool is indicated to have a side yard setback of 18 feet thus requiring a variance of 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 February 8, 2018 and March 8, 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, Steve Lowenthal, Tom Foristel and Michael Tiesi; 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

*Z18-003
Smith
4/12/18*

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. Applicant is proposing to construct a pool and a pool house on a 2.4 acre property. The property is located in both Harrison and the City of Rye with the majority of the property being located in Rye. Construction of the pool and pool house requires approvals/variances in both Harrison and Rye.
2. The majority of the property is located in the front yard (approximately 1.75 acres) which is steeply sloped. The proposed location for the improvements is behind the residence in the northwest corner of the property. This location contains the only level area on the property that is suitable for construction of a pool and pool house.
3. Only a small fraction of the improvements are located in Harrison and subject to the Ordinance. In the case of the pool, a small pie shaped corner of the pool is located in Harrison 18 feet from the side yard property line. In the case of the pool house, a small portion of the pool house is located six feet from the side yard property line and an even smaller portion of the pool house is located less than 15 feet from the rear yard property line. While the plans filed with respect to the rear yard variance indicate that a 5 foot variance is required, the drawings submitted indicate that a much smaller variance is

required. In either case, in view of the location of the improvements in the northwestern corner of the property, the size of the required variances and the screening referred to below, we find that the variances are not substantial.

4. Applicant has submitted a screening plan that provides for the planting of rows of trees ranging in height from 10 to 16 feet along the western side of the property and 10 to 12 feet along the northern side of the property. As a result of the location of the pool and pool house in the northwest corner of the property and the screening to be provided, the improvements will effectively be screened from view from adjacent properties and will not create a detriment to nearby properties. Granting of the variances is specifically conditioned on the completion and continued maintenance of the screening plan.

5. Many of the other properties in the neighborhood have pools and accessory structures. Accordingly, the addition of the pool and pool house will not change the character of the neighborhood.

6. The only adjacent neighbor whose house is located in Harrison has submitted a letter in support of the project.

NOW THEREFORE BE IT RESOLVED that the application for permission to construct a pool and pool house within the required side and rear yard setbacks as indicated in the plans submitted with this application be, and the same is hereby granted subject to the following.

Granting of the variance is subject to the completion, and continued maintenance, of a Planting Plan, dated 2/22/18 prepared by Benedek & Ticehurst.

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 by David Mooney, Architect, S-1.0 dated 1/8/18 and A-1.0 dated 1/8/18, last revised 1/16/18.

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.

Z18-003
Smith
4/12/18

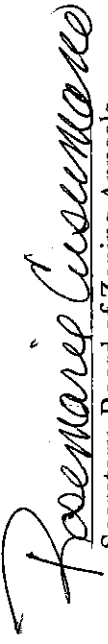
Foregoing Resolution submitted by Zoning Board Chairman Mark Fisher, seconded by Zoning Board Member Paul Katz at the April 12, 2018 meeting.

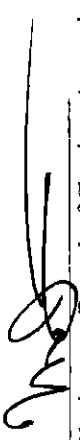
ADOPTED: AYES: Mark Fisher, Ernest Fiore, Paul Katz, Steven Lowenthal,
Tom Foristel and Michael Tiesi

NAYS: None

ABSTAINED: Billy Harold

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.

TOWN OF
HARTFORD
COMMUNITY

2018 APR 19 A 9 15

RECEIVED

Z18-003
Smith
4/12/18

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

Calendar No. Z18-004

Date: April 12, 2018

Property Owner: Kevin Bannon

Property Address: 35 Danner Ave.

Block 242 Lot 15

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, Kevin Bannon filed an application on 1/22/18 for a new detached one-car garage. The property is located in an R-75 Zoning District and in that district no accessory building or structure shall be located nearer to the street line than 60 ft. The proposed distance from Hess Ave. to the proposed one car garage is 10 ft. thus requiring a variance of 50 ft. pursuant to Section 235-18(2)(b).

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 March 8, 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: Paul Katz, Tom Foristel, Michael Tiesi, Steven Lowenthal, 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:

- (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;

*Z18-004
Bannon
4/12/18*

- (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's need for the variance relates to the fact that there is no existing garage on the property.
2. The proposed garage will be located adjacent to a section of Hess Ave. that is a dead end.
3. Hess Ave. is unique as it is categorized as a paper street and is accessed by only a few nearby properties.
4. The garage cannot be located in a conforming location as it would displace a major portion of the rear yard.
5. The garage will be screened from view from the adjacent property on Hess Avenue and the construction of the garage will not result in any adverse impact on any adjacent property.
6. The house itself complies with all setback requirements.
7. There would be little or no impact on the neighborhood.

NOW THEREFORE BE IT RESOLVED, that the application for a variance to allow construction of a new garage 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 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 Paul Katz at the April 12, 2018 meeting.

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

NAYS: None

ABSTAINED: Billy Harold

ABSENT: None

Paola Lusemar
Secretary, Board of Zoning Appeals

[Signature]
Chairman, Board of Zoning Appeals

RECEIVED

2018 APR 19 A 9:15

TOWN CLERK
HARRISON, NY

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.

Z18-004
Bannon
4/12/18
132732962v1