

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, May 24, 2018, at 8:00 p.m., in the Court Room of the Municipal Building.

Members Present

Mark I. Fisher, Chairman
Steven Lowenthal
Tom Foristel
Billy Harold
Michael Tiesi

Members Absent

Ernest Fiore
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>
Z17-036	Bill Greenberg	642	3	Not Heard – Adjourned to the June Meeting
Z17-041	Arturo Rossi	761	9	Heard – Adjourned to the June Meeting
Z18-001	Katsura Construction Group	961	27	Withdrawn without Prejudices
Z18-006	Andrew Kaskel	961	48	Variance Granted
Z18-008	Raffael & Jill Bonaiuto	712	26	Variance Granted
Z18-009	Domenic & Eileen Cipollone	951	69	Not Heard – Adjourned to the June Meeting
Z18-010	Joseph & Ivana Reneri	763	7	Heard – Closed – Findings being prepared
Z18-011	Fish Management, LLC	641	19	Not Heard – Adjourned to the June Meeting

The next meeting was scheduled to June 14, 2018.

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

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

Calendar No. Z18-006

Date: May 24, 2018

Property Owner: Andrew & Leslye Kaskel

Property Address: 5 Hickory Pine Court

Block 961, Lot 48

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, Richard Uva, on behalf of the property owner, Andrew and Leslye Kaskel, filed an application on February 14, 2018 for a variance for a new inground pool. This property is located in an R-2 Zoning District and is located in a cluster development that follows the R-1 Zoning. Pursuant to §235-28-A of the Zoning Ordinance of the Town/Village of Harrison: Swimming pools, pumps, filters, compressors or other pool-related equipment may be located within that portion of the lot in which accessory buildings are permitted under the Zoning Ordinance; provided, however, in the district in which the property is located, no swimming pools shall be located within 20 feet of side and rear property lines nor shall be set back less than 75 feet from any street. The proposed pool is indicated to have a setback of 57 feet from the property line along Hickory Pine Court, thus requiring a variance of 18 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 April 12, 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, Billy Harold 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

Z18-006
Kaskel
5/24/18

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 an in-ground pool. The property is located in a cluster development that follows R-1 Zoning.
2. Hickory Pine Court is located in the Purchase Estates and the Homeowners' Association has submitted a letter indicating that they have no objection to the construction of a pool in accordance with the plans submitted.
3. The proposed location of the pool has been selected since it is the only flat area on the property where a pool can be constructed. Construction of a pool in a conforming location would require significant excavation in order to level the site, construction of retaining walls on all sides of the pool area and the removal of trees.
4. Hickory Pine Court curves around applicant's property and, except for a small area at the curve in the road, the existing plantings would totally screen the pool from

view from Hickory Pine Court. Applicant has submitted a screening plan which provides for the planting of (3) 8 to 10 foot new spruce, (5) seven to eight foot arborvitae and (3) 8 to 10 foot Japanese dogwood trees. The new screening will cover the foregoing gap in screening, and will effectively screen the pool from view from Hickory Pine Court. Accordingly, the granting of the variance will not have any visual impact on the view from Hickory Pine court or create any undesirable change in the character of the neighborhood.

NOW THEREFORE BE IT RESOLVED that the application for permission to construct a pool within the required setback from Hickory Pine Court 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 specifically conditioned on the implementation and continued maintenance of the screening plan, dated 5/21/18, filed by applicant.

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 Tom Foristel, seconded by Zoning Board Member Billy Harold at the May 24, 2018 meeting.

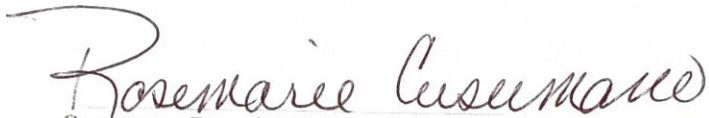
ADOPTED: AYES: Mark Fisher, Steven Lowenthal, Tom Foristel, Billy Harold and Michael Tiesi

NAYS: None

ABSTAINED: None

ABSENT: Ernest Fiore and Paul Katz

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

Calendar No.Z18-008

Date: May 24, 2018

Property Owner: Raffael and Jill Bonaiuto

Property Address: 178 Duxbury Road

Block 712 Lot 26

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, John Scarlato, on behalf of the property owner, filed an application on March 16, 2018 for a variance to construct a roof over an existing patio. The property is located in an R 1/3 Zoning District and pursuant to §235-9B 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 roof over the existing patio is shown to have a rear yard setback of 20 feet thus requiring a variance of 5 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 April 12, 2018 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present: Mark Fisher, Paul Katz, Thomas Foristel, Steven Lowenthal, Ernest Fiore, Billy Harold 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

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. The proposed roof is being constructed over an existing patio in the rear of the property in order to provide screening from the sun, protection from the rain and afford an element of privacy from the rear yard neighbor.
2. The property located to the rear is situated at a substantially higher elevation and the roof will be screened from view from the adjacent property by a row of existing trees. Accordingly, the granting of the variance will have little, if any, visual impact on the adjacent neighbor.
3. The proposed roof will not be enclosed and we are specifically conditioning the granting of the variance on the requirement that the patio is never enclosed.
4. As a result of the above findings as well as the location of the roof in the back yard, the granting of the variance will not create an undesirable change in the character of the neighborhood or create a detriment to any nearby properties.
5. There were no objections from neighbors.

NOW THEREFORE BE IT RESOLVED, that the application for a rear yard variance to allow construction in the required rear yard of a roof over an existing on grade patio in accordance with plans, dated 2/5/18, filed with this application be, and the same is hereby granted subject to the following;

This variance is specifically conditioned on the patio never being enclosed.

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.

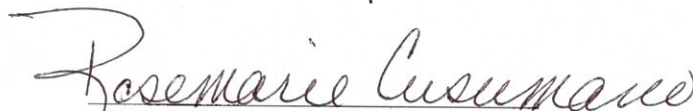
Foregoing Resolution submitted by Zoning Board Member Steven Lowenthal, seconded by Zoning Board Member Tom Foristel at the May 22, 2018 meeting.


ADOPTED: AYES: Mark Fisher, Steven Lowenthal, Tom Foristel,
Billy Harold and Michael Tiesi

NAYS: None

ABSTAINED: None

ABSENT: Ernest Fiore and Paul Katz


Secretary, Board of Zoning Appeals


Chairman, Board of Zoning Appeals

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