ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, February 14, 2019 at 8:00 p.m., in the Court Room of the Municipal Building.

Members *Present*	*Members Absent*
Mark I. Fisher, Chairman	
Ernest Fiore	
Paul Katz	
Steven Lowenthal	
Thomas Foristel	
William Harold	
Michael Tiesi	

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

Cal. #	Applicant	Block	Lot	Decision
Z18-017	John & Rosanne Eklund	825	14	Variance Granted
Z18-024	Nicholas Ruggiero	754	1	Heard – Closed – Findings being prepared
Z18-028	Michael & Nicole Bolnik	81	6	Variance Granted
Z18-029	Rocco DiLuna	846	25	Heard – Adjourned to the March Meeting
Z18-030	Laura & Marc Etre	1014	18	Variance Granted
Z18-031	Trinity Presbyterian Church	643	7	Variance Granted
Z18-032	104 Corporate Park Drive	621	12	Heard – Adjourned to the March Meeting
Z18-033	Westchester Joint Water Works	625	6	Variance Granted
Z19-001	Harrison Real Estate Group, LLC	131	17	Extension Granted
Z19-002	Frank & Rosa DiCicco	853	23	Heard – Closed – Findings being prepared
Z19-003	Lelia Wood-Smith	601	57	Extension Granted

The next meeting was scheduled to March 14, 2019.

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

TOWN CLERK
HARRISON, N.Y.

2019 FEB 15 P 3:47

Jacqueline Green

Town Clerk's Office

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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. Z18-017 Date: February 14, 2019

Property Owner: John & Rosanne Eklund

Property Address: 39 Elmwood Avenue Block 825 Lot 14

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, James Polera, Architect, filed on behalf of the owners an application on July 25, 2018 for a variance from the Zoning Ordinance to permit the extension of an existing parking area on a property that is located in a B Zoning District. The application was subsequently amended. The Code of the Town/Village of Harrison, §235-18.B (3) 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 or within 10 feet from any property line in a required rear yard. The proposed parking area is located in the required front and side yard thus requiring a variance. It is a standard practice of the Building Department to require 20 foot space per card for a total of 40 feet in residential districts. The intention of which is to prevent a car from encroaching into to town right of way. The plan indicated this length of the driveway to be approximately 30 feet from the chimney to the front property line, thus requiring a variance of approximately 10 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 September 13, 2018, October 11, 2018, November 8, 2018 and January 10, 2019 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, 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

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 1956 and has never contained a full driveway just a small paved area for one car. That area measures 19 feet, 10 inches and has been in existence since 1956. In addition to parking in the paved area, Applicant had also previously parked in the driveway on the adjacent property which was owned by a family member. However, that property has now been sold and parking is no longer available to Applicant.

2. Applicant is proposing to extend the existing paved area for a distance of 9 feet, 10 inches, ending at the cut out for the chimney. As a result, the total driveway would measure 29 feet, 10 inches.

3. Applicant has submitted visual evidence indicating that the extended driveway is sufficient to accommodate two parked cars.

4. The property is located in West Harrison and we are cognizant of the significant parking problems in the area. While extending the existing parking area will create an additional off-street parking area, the curb-cut for the driveway already exists and will not decrease the number of on-street parking spaces.

5. The additional paved driveway and patio area at the end of the extended driveway are needed for access to the rear of the property.

6. 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.

7. Applicant's property is the only property without a full driveway in the immediate neighborhood and the current parking area has been in existence for more than 63 years. Accordingly, in view of the foregoing, 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 yards.

8. Since this property is the only property in the immediate area without a full driveway and the existing paved area has been in existence for more than 60 years, we find that the granting of the variance to permit construction of a small extension of 9 feet, 10 inches, will not change the character of the neighborhood.

NOW THEREFORE BE IT RESOLVED, that the application for variances to allow construction of an extended driveway 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.

Foregoing Resolution submitted by Zoning Board Member Paul Katz, seconded by Zoning Board Member Thomas Foristel at the February 14, 2019 meeting.

ADOPTED:

AYES: Mark Fisher, Ernest Fiore, Paul Katz, Steven Lowenthal, Thomas Foristel, William Harold and Michael Tiesi

NAYS: None

ABSTAINED: None

ABSENT: None

Rosemarie Cusumano
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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TOWN CLERK
HARRISON, NY

Z18-017
Eklund
2/14/19

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

Calendar No. Z18-028 Date: February 14, 2019

Property Owner: Michael & Nicole Bolnik

Property Address: 71 Park Ave. Block 81 Lot 6

WHEREAS, the applicant, the property owner, filed an application 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, Stephen Marchesani, on behalf of the property owner, filed an application on November 13, 2018 for a variance to legalize the existing house as a two family house. The property is located in a B Zone. The Code of the Town/Village of Harrison, Sec 235-9 of dimensional regulations requires a total of 2,400 square feet of habitable floor area for 2 dwelling units. One apartment is indicated to have a total habitable floor area of 831 sq. ft; the other apartment is indicated to have a total habitable floor area of 1,335 sq. ft for a total of 2,166 sq. ft. thus requiring a total variance of 234 sq. ft.;

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 10, 2019 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present: Paul Katz, Ernest Fiore, William Harold, Mark Fisher, Michael Tiesi, and Tom Foristal ,

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 house which is the subject of this application was originally constructed in 1905 and, dating back to 1930, has been listed on the Town's assessment records as a one family house.

2. Notwithstanding the foregoing, evidence has been introduced into the record indicating that the house has been a two family house in its present configuration for more than 60 years. The information includes letters from the prior owner and neighboring property owners, a 1963 property inspection and a subsequent appraisal report.

3. The house is located on a conforming lot and its physical appearance is consistent with, and not out of keeping with, the appearance of the other houses in the neighborhood.

4. In view of the foregoing findings, the granting of a variance will not produce an unforessable change in character of the neighborhood or create a detriment to any nearby property.

4. In view of the foregoing findings, the granting of a variance will not produce an unforessable change in character of the neighborhood or create a detriment to any nearby property.

NOW THEREFORE BE IT RESOLVED, that the application for a variance to legalize the current residence as a two family house with a total of 2,166 square feet of habitable floor area be, and the same is hereby granted.

Foregoing Resolution submitted by Ernest Fiore, seconded by Thomas Foristel at the 2/14/2019 meeting.

ADOPTED:

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

NAYS: William Harold

ABSTAINED: None

ABSENT: None

Rosemarie Cusumano
Secretary, Board of Zoning Appeals

Chairman, Board of Zoning Appeals

HARRISON, NY
TOWN CLERK

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

Calendar No: Z18-030 Date: February 14, 2019

Property Owner: Laura & Marc Etre

Property Address: 136 Park Lane, West Harrison Block 1014, Lot 18

WHEREAS, Laura Etre (hereinafter, the "Applicant"), filed an application on December 12, 2018 appealing from a decision of the Architectural Review Board (hereinafter, the "ARB") directing Applicant to change an existing chimney surround from cedar shakes 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 10, 2019 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, William 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 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 cedar shakes. 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

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. The issue is purely aesthetic. Chimney surrounds of other homes in the immediate vicinity of the property are constructed of differing materials, including cedar shakes, stone, brick, stucco and vinyl. 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.

   b. 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.

   c. 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 allow the property owner to maintain the existing cedar shakes chimney surround 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.

Foregoing Resolution submitted by Zoning Board Member Thomas Foristel, seconded by Zoning Board Member William Harold, at the meeting on February 14, 2019.

ADOPTED:

AYES: Mark Fisher, Ernest Fiore, Paul Katz, Steven Lowenthal, William Harold and Michael Tiesi

NAYS: None

ABSTAINED: None

ABSENT: None

Rosemarie Cusumano
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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ETNA, NEW YORK
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Z18-030
Etre
2/14/19

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

Calendar No. Z18-031 Date: February 14, 2019

Property Owner: Trinity Presbyterian Church

Property Address: 526-530 Anderson Hill Road Block 643 Lot 7

WHEREAS, the property owner, filed an application with respect to a proposed addition 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 an application for a variance on December 14, 2018. The property is located in an R-1 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 maximum allowable height is 30 feet. The proposed addition creates a height of 38 feet, thus requiring a variance of 8 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 January 10, 2019 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present: Mark Fisher, Paul Katz, Ernest Fiore, Steven Lowenthal, Thomas Foristel, William 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, 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 application is a scaled down version of a prior proposal for which we previously granted a height variance (Calendar Z16-007). The current proposal provides for the construction of an 11,290 square foot detached building to house applicant's sanctuary, religious instruction rooms and support facilities. The new building will be two stores tall with a maximum zoning height of approximately 38 feet to accommodate its sanctuary. Accordingly, a height variance of 8 feet is required as compared to the 9.78 foot height variance granted in the prior application.

2. The sanctuary addition will be located 280 feet from Anderson Hill Road, 220 feet from the nearest home (which is 25 feet further away then the prior proposal) and will be screened by existing and proposed vegetation on all sides. In view of the substantial distance from the neighboring property and the roadway as well as the foregoing screening, we find that no significant adverse visual impact will result from the proposed addition.

3. The height variance is required in order to provide the necessary interior volume for the proposed worship space. The intent of the pitched roof is to create an open, uplifting feeling for worship.

4. There were no objections from neighbors.

5. As with our prior variance, this variance is granted without the necessity of recourse to the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C. §§ 2000cc, et seq. However, as an application for the construction of a building, the primary purpose of which is for religious purposes, the standards of RLUIPA supersede the Zoning Code and could be relied upon by the applicant if the granting of this application were to be challenged subsequently.

6. In addition, under the provisions of well-established New York case law there is a presumption in favor of religious uses which may only be rebutted with evidence of a significant impact on the public, health safety and welfare. In the case of the current variance, we find no such significant impact has been established.

NOW THEREFORE BE IT FURTHER RESOLVED, that the application for a 8 foot height variance to permit construction of a new 11,290 square foot building 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 Paul Katz, seconded by Zoning Board Member Thomas Foristel at the February 14, 2019 meeting.

ADOPTED:

AYES: Mark Fisher, Ernest Fiore, Paul Katz, Steven Lowenthal, Thomas Foristel, William Harold and Michael Tiesi

NAYS: None

ABSTAINED: None

ABSENT: None

Rosemarie Cusumano
Secretary, Board of Zoning Appeals

Chairman, Board of Zoning Appeals

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TOWN OF ENFIELD
PLANNING DEPT.

Trinity Church
Z18-031
2/14/19

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

Calendar No.Z18-033 Date: February 14, 2019

Property Owner: Westchester Joint Water Works

Property Address: Kenilworth Road Block 625, Lot 6

WHEREAS, the applicant filed plans for a proposed water storage tank replacement 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, applicant filed an application on December 17, 2018 for a variance from the Zoning Ordinance for property located in a SB-100 Zoning District. The property is existing non-conforming with regard to its lot size of .42 acres and setbacks. Pursuant to §235-12B of the Zoning Ordinance of the Town/Village of Harrison, the minimum required setback from all property lines abutting this district is 200 feet and the allowable lot coverage is 10%.

This application requires 5 variances:

1) The proposed first side yard setback is indicated to be 3 feet, thus requiring a variance of 197 feet.
2) The proposed second side yard setback is indicated to be 30 feet, thus requiring a variance of 170 feet.
3) The proposed front yard setback is indicated to be 55 feet, thus requiring a variance of 145 feet.
4) The proposed rear yard setback is indicated to be 3 feet, thus requiring a variance of 197 feet.
5) The proposed lot coverage is indicated to be 39%, thus requiring a variance of 29% overage; 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., January 10, 2019 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present: Mark Fisher, Paul Katz, Ernest Fiore, Steve Lowenthal, Thomas Foristel, William Harold and Michael Tiesi

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 property in question is only .42 acres in size and is surrounded on all sides by the Morgan Stanley campus and a heavily wooded area. Morgan Stanley has also indicated that it has no objection to the granting of a variance.

2. Since 1938 applicant has maintained a water tank at the property. The current application relates to a proposal to upgrade the site by removing the old 400,000 gallon storage and installing a new 2,000,000 gallon storage tank.

3. The new storage tank will be constructed on site and will be substantially larger than the existing tank located on the property. The new storage will face an existing parking lot on one side, will be located a substantial distance away from the main campus and will be screened by remaining natural vegetation to the north and east.

Accordingly, the construction of the new tank will not result in any detriment or change in the character of the neighborhood.

4. The population of the area served by Applicant has increased over the years; the existing tank is very old and the larger tank is required to keep up with the area's increasing requirements.

5. The Planning Board has given site plan approval to the project and forwarded this matter to the Zoning Board with a positive recommendation.

NOW THEREFORE BE IT RESOLVED, that the application for set back and lot coverage variances to allow construction of a 2,000,000 gallon water storage tank in accordance with the plans submitted with this application be, and the same is hereby granted, subject to the following condition.

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 Paul Katz, seconded by Zoning Board Member Ernest Fiore at the February 14, 2019 meeting.

ADOPTED:

AYES: Mark Fisher, Ernest Fiore, Paul Katz, Steven Lowenthal, Thomas Foristel, William Harold and Michael Tiesi

NAYS: None

ABSTAINED: None

ABSENT: None

Rosemarie Cusenza
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 CLERK
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WJWW Kenilworth Water Tank
Z18-033
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