

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, July 11, 2019 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
Thomas Foristel
William 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>
Z19-010	Hugo Ruiz	519	4	Variance Granted
Z19-012	Anthony Fragoso & Rosann Leone	906	17	Variance Granted
Z19-014	Louis Camardella	375	6	Not Heard – Adjourned to the June Meeting
Z19-015	Brain & Spine Surgeons of New York, P.C.	631	19	Variance Granted
Z19-016	Trifone Demarinis	762	8	Heard – Closed – Findings being prepared

The next meeting was scheduled to August 8, 2019.

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

Jacqueline Greer

Town Clerk's Office

Rosemarie Cusumano
Rosemarie Cusumano, Secretary

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

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

Calendar No. Z19-010

Date: July 11, 2019

Property Owner: Hugo Ruiz

Property Address: 510 North Street

Block 519 Lot 4

WHEREAS, the applicant, the property owner, filed plans to legalize an existing fence 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 the Code's requirements; and

WHEREAS, Hugo Ruiz, filed an application on April 4, 2019 for an area variance from the Zoning Ordinance to legalize an existing fence installed on an existing stone wall on a corner lot. The property is located in an R-1 Zoning District and, pursuant to §235-26(C) of the Zoning Ordinance of the Town/Village of Harrison, no fence or wall in a required front yard shall have a height greater than four feet and in no case shall any fence have a height of greater than six feet, six inches. The fence installed on top of a wall on the property line along North Street varies in total height with the lowest being 4 feet 10 inches and the highest being 7 feet thus requiring a variance ranging fro 10 inches and 3 feet. The 7 foot portion of the fence will require a variance of .5 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 May 9, 2019 and June 13, 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, 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. 888-0101 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, as well as the new owner of the property, appeared in support of the variance and no one appeared in opposition. All

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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 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 an area 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, Section 267-a and 267-b and Harrison Town Code Section 235-56, et seq., it has jurisdiction to consider the requested variances.

The Board found that:

1. The subject property is located on a corner lot. The wood fence that is the subject of this application is embedded in an existing stone wall. The stone wall varies in height from 4 feet 10 inches to 7 feet due to the existence of the undulation of the ground on the Town right-of-way which is grassed and maintained by the applicant. There are no sidewalks in the Town right-of way.
2. The proposed fence is set far enough back from the corner/intersection so that there is no visual interference with traffic despite the increase in its height.
3. The subject property is situated at the intersection of North Street and Stratford Road. There is a bus stop on North Street directly in front of applicant's property as well as a bench where passengers can sit while waiting for the bus. The bus has 15 scheduled stops on Monday through Friday beginning at 6:50 a.m. and ending at 8:01 p.m. On Saturdays the bus has 11 scheduled stops beginning at 8:11 a.m. and ending at 6:13 p.m.
4. North Street has a very high volume of traffic with 1,500 cars per hour during peak hours, which both from a visual and noise perspective has an adverse impact on the occupants of the property.

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5. The benefit to the applicant—privacy—is not achieved by the 4 foot fence permitted by the Code and a fence of 4 foot 10 inch to 7 foot in height would fulfill the benefit sought.

6. From a purely numerical standpoint the height variances being sought is substantial and the difficulty is self-created in that applicant arranged for construction of the fence.

7. We have in the past denied height variances for fences on North Street and we are cognizant of the fact that there are a number of non-conforming fences on North Street. It is not our intent by the granting of a variance in this case to set a precedent for the granting of other variances. While we believe that the reasons for the granting of a variance in this case are not compelling, we believe that the factors set forth above in finding 3 with respect to the bus stop present a unique situation which mitigates in favor of the granting of a variance.

NOW THEREFORE BE IT RESOLVED, that the application for a height variance with respect to an existing fence ranging in height from 4 feet, 10 inches to 7 feet at 510 North Street be, and hereby is granted, subject to the following conditions:

The granting of the foregoing variance is contingent upon the continued maintenance by the applicant, and its successors as owners of the property, of the Town right of way as though a contiguous part of the subject property and in substantially the same manner under which the subject property is currently maintained.

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 Steven Lowenthal, at the meeting on July 11, 2019.

ADOPTED:

AYES: Ernest Fiore, Steven Lowenthal, Thomas Foristel and Michael Tiesi

NAYS: Mark Fisher, Paul Katz and William Harold

ABSTAINED:None

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ABSENT: None

Rosemarie Cusumano
Secretary, Board of Zoning Appeals

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Chairman, Board of Zoning Appeals

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TOWN CLERK
HARRISBURG, PA

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

Calendar No. Z19-012

Date: July 11, 2019

Property Owner: Anthony Frago and Roseann Leone

Property Address: 200 Woodside Avenue

Block 906 Lot 17

WHEREAS, the applicant, the property owner, filed plans for a wood deck 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 of 200 Woodside Avenue, Anthony Frago and Roseann Leone, filed an application on April 25, 2019 for a variance to construct a rear deck. This property is located in a B Zoning District and pursuant to §235-9B Table of Dimensional Regulations of the Town/Village of Harrison the required rear yard setback is 25 feet. The proposed wood deck reduces the rear yard setback to 10 feet, thus requiring a 15 foot 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 June 13, 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, 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 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:

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- (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 relates to the construction of a deck that will be located 10 feet from the rear yard property line thereby requiring a 15 foot rear yard variance.
2. The property is located at the end of Woodside Avenue and the rear of the property backs up on heavily wooded vacant land that is located on a steep slope.
3. As a result of the nature of the property located to the rear, the granting of the variance will not create an undesirable change in the character of the neighborhood or create a detriment to any nearby property.
4. No neighbors appeared in opposition to the application.

NOW THEREFORE BE IT RESOLVED, that the application for a rear yard variance for a wood deck as indicated on drawings submitted by SI Design Architects, A-101.00, A-201.00, A-301.00, A-401.00 and A-501.00 dated February 1, 2019 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.

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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.

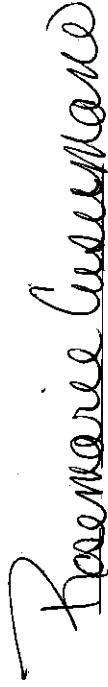
Foregoing Resolution submitted by Zoning Board Member William Harold, seconded by Zoning Board Member Thomas Foristel at the July 11, 2019 meeting.

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

NAYS: None

ABSTAINED: None

ABSENT: None


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.Z19-015

Date: July 11, 2019

Property Owner: Dryland Gannett LLC

Property Address: 4 Westchester Park Dr. Block 631 Lot 19

WHEREAS, the property owner filed plans for a proposed sign 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, Brain & Spine Surgeons of New York, P.C., a tenant at the property, on behalf of the owner, filed an application on May 17, 2019 for a variance from the Zoning Ordinance to permit signage at the premises located in an SB-O Zoning District. Sec 235-47B-1 of the Code provides as follows with respect to Business Identification Signs in an SB-0 District: Each building shall be permitted to have one wall sign attached to or incorporated in the building wall or related structural feature at the principle building entrances, provided such signs shall not be visible from off the premises except from the front lot line. Such signs shall have an area not exceeding 20 square feet. The proposed sign is 40 square feet and will require a 20 square foot variance.

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 June 13, 2019 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present: Paul Katz, Ernest Fiore, Mark Fisher, Michael Tiesi, Steve Lowenthal, Thomas Foristel and William Harrold

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

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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 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 a major tenant of the building located at 4 Westchester Park Drive and leases space for medical offices on the entire 4th floor as well as half of the 2nd floor. The building is set back approximately 100 yards from the entrance to the property from Westchester Park Drive. In addition, visibility of the building is partially screened by a number of trees and the building itself is visually identical to the adjacent building located at 2 Westchester Park Drive. The two buildings also share the same driveway and parking area. The similarity in building appearance, together with a lack of any business identification sign on the façade of 4 Westchester Park Drive, has created confusion for visiting patients.
2. Applicant is proposing to erect a 40 square foot sign on the front of the building in order to alleviate confusion for visitors and enable them to more easily identify the location of applicant's business. The larger sign is also required in order for it to be visible from the entrance to the property off of Westchester Park Drive.
3. Westchester Park Drive is not a through street and is improved with only 4 buildings, all of which are used for office and/or commercial purposes.
4. Based on the above findings, we find that (i) the benefits to the applicant if the variance is granted outweigh any detriment to the health, safety and welfare of the community, and an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby property created by the granting of the variance.

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Dryland Gannett LLC
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NOW THEREFORE BE IT RESOLVED, that the application for permission for increased signage size 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 erection of the signage 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.

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.

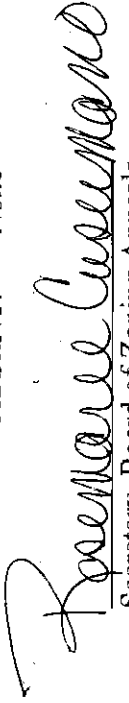
Foregoing Resolution submitted by Ernest Fiore, seconded by Steven Lowenthal at the 7/11/2019 meeting.

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

NAYS: None

ABSTAINED: None

ABSENT: None


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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Dryland Gannett LLC
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