

## ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, November 14, 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>                          |
|---------------|----------------------------------|--------------|------------|------------------------------------------|
| Z19-018       | Barletta & Barletta Family Trust | 215          | 114&115    | Not Heard – Adjourned to December        |
| Z19-019       | Harold Eylward                   | 581          | 6          | Heard – Closed – Re-Opened - Withdrawn   |
| Z19-020       | Michael Barton                   | 312          | 20         | Heard – Closed – Findings being prepared |
| Z19-021       | Greg Jakubowsky                  | 543          | 7          | Variance Granted                         |
| Z19-023       | Mark Tamucci                     | 172          | 29         | Heard – Closed – Findings being prepared |
| Z19-024       | Alison Mollicone                 | 281          | 51         | Variance Granted                         |
| Z19-025       | Alfred & Margaret Kelly          | 563          | 14         | Variance Granted                         |
| Z19-026       | Daniel Amicucci                  | 611          | 70         | Heard – Closed – Findings being prepared |
| Z19-027       | Andrew Pelletier                 | 441          | 50.2       | Heard – Closed – Findings being prepared |
| Z19-028       | Eleanor Utter                    | 112          | 3          | Heard – Closed – Findings being prepared |
| Z19-029       | Westchester Joint Water Works    | 625          | 6          | Heard – Closed – Findings being prepared |

The next meeting was scheduled to December 12, 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.

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

Calendar No: Z19-021

Date: November 14, 2019

Property Owner: Greg Jakubowsky

Property Address: 101 Park Dr. N

Block 543 Lot 7

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, Greg Jakubowsky, filed an application on August 14, 2019 for a variance from the Zoning Ordinance to legalize an existing nonconforming swimming pool located on 101 Park Dr. N The Code of the Town/Village of Harrison, Sec 235-28A titled Swimming Pools provides that in an R-1 district, no swimming pools shall be located less than 75 feet from any street. The pool is indicted to have a setback at the eastern portion of the lot of 26.8 ft, thus requiring a variance 48.2 ft.; 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 October 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, Mark Fisher, Steve Lowenthal, Michael Tiesi, Tom Foristel and William Harold

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:

*Z19-021  
Jakubowsky  
11/14/19*

- (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 is unique in that it is a triangular lot that has three front yards.
2. The variance being requested relates to the required setback from the portion of the property that borders the intersection of Polly Park Road and Purchase Street. We have previously granted a 36 foot variance (the "Prior Variance") for the portion of the pool within the required setback from Polly Park Road (Calendar Z13-007).
3. The portion of the pool which requires the variance is tucked into the corner of the property, and existing evergreens and a fence fully screen the pool from view from all of the streets that border the eastern portion of the property as well as from any adjacent property.
4. Accordingly, in view of the foregoing findings as well as those contained in the Prior Variance, the granting of a variance will not produce an undesirable change in the 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 an existing swimming pool as indicated in the plans submitted with this application be, and the same is hereby granted.

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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 Ernest Fiore, seconded by Zoning Board Member William Harold at the 11/14/2019 meeting.

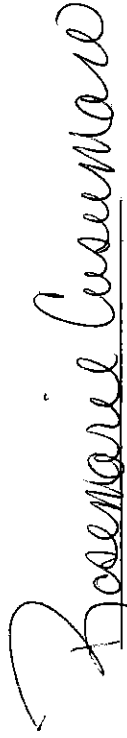
**ADOPTED:**

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

**NAYS:** None

**ABSTAINED:** None

**ABSENT:** None

  
Secretary, Board of Zoning Appeals



Chairman, Board of Zoning Appeals

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

Calendar No. Z19-024

Date: November 14, 2019

Property Owner: Alison Mollicone

Property Address: 5 Sunny Hill Drive

Block 281

Lot 51

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

WHEREAS, Alison Mollicone, filed an application on September 10, 2019 for an area variance from the Zoning Ordinance for the legalization of an existing rear deck. This property is located in an R-75 Zoning District. Pursuant to §235-9B of the Table of Dimensional Regulations of the Town/Village of Harrison the minimum rear yard setback is 25 feet. The rear yard setback is pre-existing legally non-conforming at 20 feet. The existing wood deck is shown to have a rear yard setback of 7 feet thus requiring a variance of 13 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 October 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, 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, owner of the property, 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:

*Z19-024  
Mollicone  
11/14/19*

- (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 §§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 relates to an existing deck that was constructed more than 20 years ago and is located 7 feet from the rear yard property line.
2. The adjacent property located to the rear of the deck is situated at a significantly higher elevation.
3. The deck is totally screened from view from the adjacent property on Bliss Farm Drive by a densely treed area. Accordingly, the granting of a variance will have no visual impact on any adjacent property.
4. The granting of a variance will not produce an undesirable change in the character of the neighborhood as the deck has been in its present location for more than 20 years.

NOW THEREFORE BE IT RESOLVED, that the application for a 13 foot rear yard variance with respect to an existing deck be and it hereby is granted, subject to the following conditions:

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 Steven Lowenthal, seconded by Zoning Board Member Ernest Fiore, at the meeting on November 14, 2019.

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ADOPTED:

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

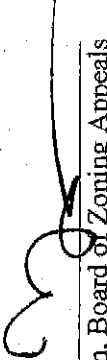
NAYS: None

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. Z19-025

Date: November 14, 2019

Property Owner: Alfred & Margaret Kelly

Property Address: 28 Park Drive South

Block 563      Lot 14

WHEREAS, the applicant, the property owner, filed plans for a one story rear 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 the Code's requirements; and

WHEREAS, James Margeotes, filed an application on behalf of Alfred & Margaret Kelly on September 17, 2019 for an area variance from the Zoning Ordinance for a one story rear yard addition. This property is located in an R-1 Zoning District. The property is legally existing and non-conforming with regards to the rear yard setback and pursuant to §235-9B of the Table of Dimensional Regulations of the Town/Village of Harrison the minimum rear yard setback is 50 feet. In the Plan Amendment submitted on September 10, 2019 to permit #19-29469 the proposed One Story Addition is shown to have a rear yard setback of 22.8 feet; thus requiring a variance of 27.2 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 October 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, 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 those who desired to be heard were heard and the Board reviewed the documents submitted to it; and

*Z19-025*

*Kelly*

*11/14/19*

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 §§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 subject property is located in an R-1 Zoning District and is legally existing non-conforming with regards to rear yard setback.
2. The proposed one story addition is 343 square feet, squares off the existing rear of the house and is no closer to the rear yard property line than the existing legal non-conforming rear wall of the house.
3. The subject property backs up to a golf course of the Westchester Country Club whose representative has indicated that they have no objection to the proposed addition.
4. We find that a balancing of the various factors weigh in favor of the granting of the variance.
5. As a result of the above findings, the granting of a variance will not create any adverse impact on any adjacent property or result in a change in the character of the neighborhood.
6. No neighbors appeared in opposition to the application.

NOW, THEREFORE, BE IT RESOLVED, that the application for a rear yard variance to allow construction of a one-story addition in accordance with plans of James Margeotes

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Kelly

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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.

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 Steven Lowenthal, seconded by Zoning Board Member Ernest Fiore, at the meeting on November 14, 2019.

**ADOPTED:**

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

NAYS: None

ABSTAINED: None

ABSENT: None

  
Rose Marie Cusumano  
Secretary, Board of Zoning Appeals

  
Chairman, Board of Zoning Appeals

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