

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, March 12, 2020 at 8:00 p.m., in the Court Room of the Municipal Building.

Members Present

Paul Katz, Acting Chairman
Ernest Fiore
Thomas Foristel
William Harold
Michael Tiesi

Members Absent

Mark I. Fisher, Chairman
Steven Lowenthal

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 April
Z19-030	Marc El Khoury	721	28	Heard – Closed – Findings being prepared
Z19-037	Mie Wong	824	24	Re-Opened – Heard – Closed – Findings being Prepared
Z20-001	Mark Zettl	1004	18	Variance Granted
Z20-002	Mark Staggs	651	42	Variance Granted
Z20-004	John Trimble	546	12	Heard – Closed – Findings being prepared
Z20-005	Helen Karasoulas	61	13	Heard – Closed – Findings being prepared

The next meeting was scheduled to April 7, 2020.

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

Jacqueline Green
Town Clerk's Office

Rosemarie Cusumano
Rosemarie Cusumano, Secretary

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

TOWN CLERK

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

Calendar No. Z20-001

Date: March 12, 2020

Property Owner: Mark Zettl

Property Address: 85 Stonewall Cir.

Block 1004 Lot 18

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, Mark Zettl, filed an application on December 20, 2019 for a variance from the Zoning Ordinance to permit the construction of an unenclosed portico to the premises located in an R-1 Zoning District. The Code of the Town/Village of Harrison, Sec 235-19C Table of Dimensional Regulations for Residence Districts provides that an unenclosed portico is permitted to encroach on a required front yard for a depth not to exceed five feet and a width not to exceed nine feet. The proposed covered entry has a width of 14 feet thus exceeding the nine foot requirement and requiring a variance of five 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 13, 2020 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: Tom Foristal, Ernest Fiore, Mark Fisher, Michael Tiesi, Steve Lowenthal and Paul Katz

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:

Z20-001

Zettl

3/12/2020

- (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 replace an existing unenclosed portico at the front entrance to its house with a new unenclosed portico. The existing portico, which dates back to 1997 when the house was first built, has a width of 14 feet and a depth of 4 feet. The proposed portico will have a width of 14 feet and a depth of 6 feet.
2. The proposed portico is an aesthetic improvement over the existing portico and the additional depth is required as the current portico is too shallow in order to be of practical value.
3. The existing portico with its 14 foot width has existed for more than 22 years without any apparent detriment to the surrounding properties or the neighborhood.
4. The increase in the depth of the portico to 6 feet, which is 1 foot more than the incursion into the front yard permitted by the Ordinance, would similarly not appear to create any detriment to nearby properties or the neighborhood.
5. There were no objections from neighbors.

NOW THEREFORE BE IT RESOLVED, that the application for a variance to allow construction of a 14 foot wide portico within the required front yard setback 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.

This variance shall lapse unless construction begins within one year from the date this variance is recorded in the Clerk's Office and is completed no more than two years from said date.

Construction shall be deemed to have begun when all required footings and foundations have been completed, or when actual work of a substantial nature has begun on projects that do not require footings or foundations. Site preparation shall not satisfy the terms of this condition. Construction shall be deemed to have been completed when the Building Department has issued a Certificate of Occupancy.

An application for an extension of these periods may be granted by the Board of Zoning Appeals if good cause is shown by the applicant and, if in the Board's judgment, the facts and circumstances which existed at the time of the original application have not materially changed.

Foregoing Resolution submitted by Zoning Board Member Ernest Fiore, seconded by Zoning Board Member Michael Tiesi at the 3/12/2020 meeting.

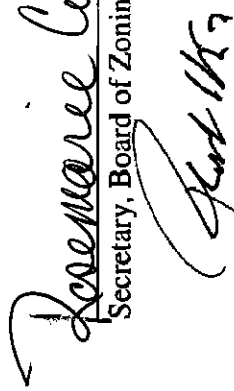
ADOPTED:

AYES: Paul Katz, Ernest Fiore, Thomas Foristel, William Harold
and Michael Tiesi

NAYS: None

ABSTAINED: None

ABSENT: Mark Fisher and Steven Lowenthal


Secretary, Board of Zoning Appeals


Acting 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. Z20-002

Date: March 12, 2020

Property Owner: Raymond P. Fernandez and Tanya Fernandez

Property Address: 2 Alyssa Lane

Block 651 Lot 42

WHEREAS, Mark Stagg, filed plans to legalize a sculptural waterfall wall 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, Mark Stagg, on behalf of the property owner, filed on January 3, 2020, an application for an area variance from the Zoning Ordinance to legalize an existing sculptural waterfall wall located at 2 Alyssa Lane. This property is located in an R-2 Zoning District and pursuant to §235-9B of the Table of Dimensional Regulation of the Town/Village of Harrison. Accessory structures require a 50 foot setback in the rear yard. The existing waterfall reduces the setback to 44 feet 8 inches; thus requiring a variance of 5 feet 4 inches; 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 13, 2020, after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present or indicated that they listened to tapes of the meeting: Mark Fisher, Paul Katz, Ernest Fiore, Steve Lowenthal, Tom Foristel, William Harrold 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 thereunder, 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

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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 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. Applicant is seeking to legalize a 54 foot long sculptural waterfall wall constructed in the rear yard 44'8" from the property line as compared to the 50' rear yard setback required by the Ordinance.
2. The existing wall is built into the concrete area that surrounds an in-ground swimming pool and an outdoor kitchen barbecue pavilion area. The other side of the wall is located a short distance away from the Hutchinson River Parkway.
3. There are no neighbors located on the side of the property that abuts the Hutchinson River Parkway. There are residential properties located on the north and east side of the properties, but those properties are located at least 500 feet away from the wall on the east side and at least 150 feet away on the north side. As a result the waterfall is not visible from any residential property.
4. The wall serves as a sound barrier to buffer the sound from the Hutchinson River Parkway and is not visible from Lincoln Avenue, which is adjacent to the property.
5. Taking those findings into consideration the 5'4" requested variance is not substantial.
6. There were no objections from neighbors.

7. In view of the foregoing findings, granting of a variance will not produce a 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 5'4" variance to legalize an existing sculptural waterfall wall located within the required rear yard 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.

Foregoing Resolution submitted by Zoning Board Member William Harold, seconded by Zoning Board Member Thomas Foristel at the March 12, 2020 meeting.

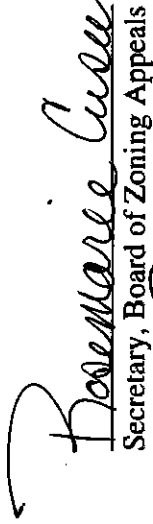
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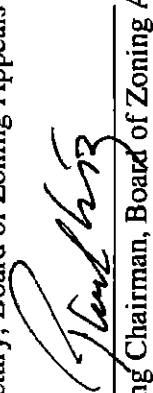
AYES: Paul Katz, Ernest Fiore, Thomas Foristel, William Harold
and Michael Tiesi

NAYS: None

ABSTAINED: None

ABSENT: Mark Fisher and Steven Lowenthal


Secretary, Board of Zoning Appeals


Acting Chairman, Board of Zoning Appeals

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