

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, September 10, 2020 at 7:00 p.m., Held via Video Conference using the Platform Zoom, Harrison, New York.

Members Present

Paul Katz, Acting Chairman

Ernest Fiore

Steven Lowenthal

Thomas Foristel

William Harold

Michael Tiesi

Thomas Haynes

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	Variance Granted
Z20-017	Michael Collin & Catherine Egan	1014	23	Variance Granted
Z20-018	Westchester Avenue Associates, LLC	602	2.03	Heard – Closed – Extension Granted
Z20-019	Eugene Smoyver	732	42	Heard – Closed – Findings being prepared

The next meeting was scheduled to October 8, 2020.

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


Rosemarie Cusumano, Secretary


Town Clerk's Office

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

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

Calendar No. Z19-018

Date: September 10, 2020

Property Owner: Wendy Barletta & Barletta Family Trust

Property Address: 15 Bates Road & 4 Garden Road

Block 215, Lots 114 & 115

WHEREAS, the property owner applied for a Building Permit for a one-family residence 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, Geraldine Tortorella, on behalf of the property owner, filed an application on July 3, 2019 for a variance for lot width in order to build a new single family home. This property is located in an R-1/3 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 minimum required lot size is 14,520 square feet. *The proposed subdivision will create two non-conforming lots. 15 Bates Road will have a lot size of 12,135 square feet and 4 Garden Road will have a lot size of 12,000 square feet; thus requiring a 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 September 12, 2019 and held by the Board of Zoning Appeals via Zoom meeting, Harrison, New York at 7:00 p.m. on June 11, 2020 and July 9, 2020 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: Paul Katz, Ernest Fiore, Steven Lowenthal, Thomas Foristel, William Harold, Michael Tiesi and Thomas Haynes (Thomas Haynes was only present at the June 11, 2020 and July 9, 2020 meetings); and

WHEREAS, Board Members had inspected the site; and

WHEREAS, at said Hearing, the applicant appeared in support of the variance and various neighbors appeared in opposition. All those who desired to be heard were heard and the Board reviewed the documents submitted to it.

WHEREAS, the Board reviewed all testimony and documents submitted.

WHEREUPON, the Board found, after due deliberation, based upon the testimony and documents submitted and its site visit, that it does have jurisdiction to consider the requested variance.

The Board found as follows:

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Barletta & Barletta Family Trust

8/13/2020

1. The Board found that, applying section 235-5D of the Harrison Town Code, the property in question, 4 Garden Rd., is merged as a matter of law with the property known as 15 Bates Rd. However, the applicant currently has a subdivision application pending before the Harrison Planning Board to subdivide the merged lots – 15 Bates Rd. and 4 Garden Rd. Should the subdivision application be approved by the Town of Harrison Planning Board, the “merger” issue will be null and void.

WHEREAS, the Board has 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 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

The Board found that:

The benefit to the applicant by granting this variance, as stated by the applicant, is that she will be able to sell the property known as 4 Garden Rd. while continuing to reside at 15 Bates Rd., the applicant's home since 1997. The applicant has stated that the financial proceeds from the sale of 4 Garden Rd. will allow the applicant and her family to continue to reside at their home, 15 Bates Rd., for the foreseeable future.

The Board found that the construction of a single-family home on the lot known as 4 Garden Road would not have a detrimental effect on the health, safety and welfare of the neighborhood or community. According to the statements of Charles Utschig, P.E., a single family dwelling can be constructed wholly within the buildable footprint of the property known as 4 Garden Rd. without the need for additional area variances. The construction of said dwelling would improve, and not cause, flooding conditions on Garden Rd. since the appropriate land-grading and drainage methods would be used to prevent water run-off.

An undesirable change would not be produced in the character of the neighborhood since when the lot known as 4 Garden Rd. was created in 1926 it was created with the intention of being a buildable lot. 4 Garden Rd. has a lot size of 12,000 square feet. Many of the lots immediately surrounding 4 Garden Rd. are existing non-conforming and approximately the same size (about a quarter acre) as 4 Garden Rd. A single-family home at 4 Garden Rd. would easily blend in with the adjacent homes immediately surrounding 4 Garden Rd.

The benefit sought by the applicant is to sell the vacant lot known as 4 Garden Rd. while continuing to own and reside at 15 Bates Rd. The applicant has appropriately submitted a subdivision application with the Harrison Town Planning Board and seeks an area variance for 4 Garden Rd., which became a substandard lot when the Town of Harrison Zoned the Sunny Ridge Section "1" area a one-third acre zone in 1928. The stated benefit sought by the applicant cannot be achieved in any other way other than requesting an area variance.

The Board has found that the requested variance is not substantial. The lot known as 4 Garden Rd. is comparable in size to many of the lots immediately adjacent to said property.

The proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood. Many of the homes in the area immediately surrounding 4 Garden Rd. are built on quarter-acre lots. A single family dwelling built on 4 Garden Rd. would blend into the surrounding neighborhood. According to the statements of engineer, Charles Utschig, the construction of a single-family dwelling at 4 Garden Rd. would not have a detrimental affect on water run-off conditions in the neighborhood.

The alleged difficulty was not self-created. When the lot known as 4 Garden Rd. was originally created as part of the Sunny Ridge section I subdivision map in 1926, it was intended that a single-family dwelling would be built on said lot. The lot in question became pre-existing non-conforming in 1928 when the Sunny Ridge neighborhood was zoned for one-third acre lots. The lots known as 15 Bates Rd. and 4 Garden Rd. later merged as a matter of law under subdivision 235-5D of the Harrison Town Code since the two non-conforming lots were jointly owned by the same owner. However, the applicant has taking the appropriate corrective measures by submitted a subdivision application to the Harrison Planning Board seeking to subdivide the two lots.

NOW THEREFORE BE IT RESOLVED that the application for a variance be, and it hereby is, approved subject to the Harrison Planning Board approving the applicant's pending subdivision application.

Foregoing Resolution submitted by Zoning Board Member Thomas Foristel, seconded by Zoning Board Member William Harold at the September 10, 2020 meeting.

ADOPTED: AYES: Ernest Fiore, Thomas Foristel, William Harold and Thomas Haynes

NAYS: Paul Katz, Steven Lowenthal and Michael Tiesi

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Barletta & Barletta Family Trust
8/13/ 2020

ABSTAINED:None

ABSENT: None

Rosemarie Cusumano
Secretary, Board of Zoning Appeals

Paul Wsz
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.

RECEIVED
2020 SEP 14 A 11:44
TOWN CLERK
HARRISON, NY

Z19-018
Barletta & Barletta Family Trust
8/13/2020

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

Calendar No. Z20-017

Date: September 10, 2020

Property Owner: Michael Collin & Catherine Egan

Property Address: 116 Park Lane

Block 1014, Lot 23

WHEREAS, Michael Collin and Catherine Egan filed an application for a variance on July 17, 2020 to legalize and existing wood deck at the above referenced property. The property is located in an R-1 Zoning District and Pursuant to §235-31A Setbacks from Streams and Other Bodies of Water: Except in the R-75, B and MF Residence Districts and in the PB, NB, CBD and MFR Business Districts, all buildings and structures shall be set back at least 50 feet from the seasonal high water level water's edge or established channel lines of streams and other water bodies, as established by the Town Board. Where such lines have not been established by the Town Board, reference shall be made to those established by other governmental bodies such as the state, the county, the Soil Conservation Service or the United States Department of Housing and Urban Development, Federal Insurance Administration. *The existing wood deck encroaches 18 feet 4-3/4 inch into the 50 foot buffer setback; thus requiring a 31 feet 7-1/4 inch variance.*

WHEREAS, a Public Hearing on this application was duly scheduled and held by the Board of Zoning Appeals, Harrison, New York, at 7:00 p.m., on August 13, 2020 via Zoom after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present: Paul Katz, Ernest Fiore, Thomas Foristel, Steven Lowenthal, William Harold, Michael Tiesi and Thomas Haynes; 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 the Board received two letters from neighbors in favor 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

Z20-017
Collin & Egan
9/10/2020

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:

- A) The existing wood deck has been there for more than sixteen years based on the two letters submitted by neighbors.
- B) Evans Associates the Town/Village Wetland Consultant has been out to the site and has no concerns with the proximity of the existing deck to the stream.
- C) The house backs up to vacant land owned by the City of New York and because the house is located much closer to the road that the neighbor at 114 Park Lane the visual impact is minimal.
- D) The addition would have no negative impact on the neighborhood.
- E) There were no objections from neighbors.

NOW THEREFORE BE IT RESOLVED, that the application for a variance for an existing wood deck addition 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 Michael Tiesi, seconded by Zoning Board Member William Harold at the September 10, 2020 meeting.

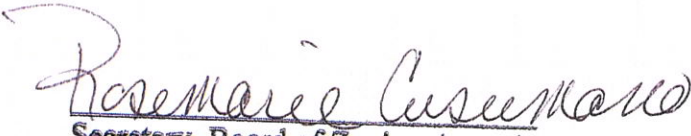
ADOPTED:

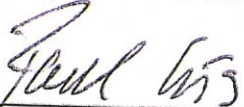
AYES: Paul Katz, Ernest Fiore, Steven Lowenthal, Thomas Foristel,
William Harold, Michael Tiesi and Thomas Haynes

NAYS: None

ABSTAINED: None

ABSENT: None


Secretary, Board of Zoning Appeals


Acting Chairman, Board of Zoning Appeals

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