

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, October 14, 2021 at 7:30 p.m., in the Court Room of the Municipal Building, 1 Heineman Place, 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 7:30 p.m.

<u>Cal. #</u>	<u>Applicant</u>	<u>Block</u>	<u>Lot</u>	<u>Decision</u>
Z21-018	Douglas Amann & Amanda Genovese	313	5	Accept Findings to Deny
Z21-029	5 Sarasca Holdings LLC	951	96	Heard – Closed – Findings being prepared
Z21-031	Sapna Arvind	201	30	Heard – Adjourned to the November Meeting
Z21-033	Gloria Fernau & Allison Ganassi	691	117	Heard – Closed – Findings being prepared
Z21-034	Leslie Simon	543	4	Heard – Closed – Findings being prepared
Z21-035	Paul O'Reilly	471	5	Heard – Closed – Findings being prepared
Z21-036	Frank & Angela Luongo	755	19	Heard – Closed – Findings being prepared

The next meeting was scheduled to November 11, 2021

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

Paul Katz, Deputy
Town Clerk's Office

Rosemarie Cusumano
Rosemarie Cusumano, Secretary

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

21 OCT 8 1 130 PM

CLERK'S OFFICE

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

Calendar No. Z21-018

Date: October 14, 2021

Applicant/Appellant: Douglas Amann and Amanda Genovese

Property Owner: Paul Gerardi and Angela Gerardi

Property Address: 62 Winfield Avenue

Block 313, Lot 5

WHEREAS, the property owner applied for a Building Permit for a single-family dwelling and that application was approved by a determination of Harrison's Building Inspector (the administrative official charged with the enforcement of Harrison's Town Code, Chapter 235, Zoning) finding the application complied with the Code's requirements. Building Permit No. 20-32289 was duly issued by the Building Inspector on or about May 4, 2021; and

WHEREAS, attorney Robert A. Spolzino, on behalf of the Applicants/Appellants Douglas Amann and Amanda Genovese, filed an appeal on May 17, 2021, appealing the Building Inspector's issuance of the building permit for a new single-family dwelling and requesting that the Board of Zoning Appeals nullify and revoke the building permit.

WHEREAS, this 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 minimum required lot size is one acre.

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 and via Video Conference using the Platform Zoom, Harrison, New York, at 7:30 p.m., on June 10, 2021 and July 8, 2021, August 4, 2021 and September 9, 2021 after due notice and publication pursuant to Town Law at which a quorum was present; and

WHEREAS, Board Members are each familiar with and/or have inspected the site; and

WHEREAS, at said initial Hearing date of July 8th, the Applicants/Appellants and counsel appeared in support of the appeal regarding the building permit and various neighbors and interested parties appeared in favor and in opposition of the appeal. All those who desired to be heard were heard and the Board reviewed the documents submitted to it. The Board closed the Hearing at this July 8th meeting. The audio/visual system used by the Board of Zoning Appeals to make the official record of proceedings malfunctioned on that date, July 8th, and no official record of oral commentary of any kind was made; and

WHEREAS, on August 4th, the Board unanimously voted to re-open the Hearing as a result of the malfunction of the audio/visual equipment at the prior meeting. The Board advised

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the Applicants/Appellants and all interested parties that they would take all comments/submissions and arguments on the Appeal via written submission only, as the Appeal involved strictly legal issues. The Board kept the record open for all interested parties to submit all arguments and points of law or commentary until the next meeting date of September 9th, directing that submissions be filed by then; and

WHEREAS, on September 9th, after receipt of voluminous written filings from the Applicants/Appellants, the owner, the builder and other interested parties, the Board made a last call for all submissions and thereafter closed the record; and

WHEREAS, the Board has carefully reviewed the record filed and the arguments contained therein, as well as caselaw cited in the record; and

NOW THEREFORE, The Board concludes that the determination of the Building Inspector to issue the building permit herein was proper and affirms that determination.

FURTHER, The Board finds that the lot in issue did not merge with the adjoining lot at 9 Winfield Avenue as a result of the Merger clause of the Zoning Code of Harrison found in § 235-5(D) that provides: "Adjoining lots which are now or which hereafter, under circumstances, come to be held in common ownership shall be deemed merged and treated for all purposes as a single lot, regardless of whether or not such merger is recorded upon any Tax Map or other official record, **where such merger is necessary for the lot to conform with the dimensional regulations of this chapter**" (all emphasis added); and

The Board finds that the lot at issue is a legal non-conforming substandard lot at .3 acres. The adjoining lot at 9 Braxmar Drive is also a substandard legal non-conforming lot of approximately .44 acres with a single-family dwelling built thereon. Together the 2 lots add up to .74 acres and would, even if combined, be well below the current zoning regulation requirement of 1 acre. Therefore obviously, the combined merger of the lots would not result in conformity to the dimensional regulations of Chapter 235 of the Zoning Code; and

The Applicant/Appellant is in reality asking that words be read into the Zoning Code that do not exist. Statutory interpretation dictates otherwise. Here the Building Inspector's interpretation was just, proper and correct.

NOW THEREFORE BE IT RESOLVED that the application to revoke the building permit for a new single-family dwelling be, and is hereby denied, and the issuance of the building permit upheld.

Foregoing Resolution submitted by Zoning Board Member Michael Tiesi, seconded by Zoning Board Member William Harold at the October 14, 2021 meeting.

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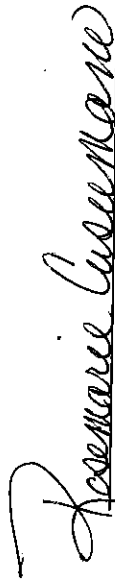
ADOPTED: AYES: Paul Katz, Ernest Fiore, Steven Lowenthal, Thomas Foristel,
William Harold and Michael Tiesi

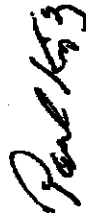
NAYS: None

ABSTAINED: None

ABSENT: None

RECUSED: Thomas Haynes


Secretary, Board of Zoning Appeals



Acting Chairman, Board of Zoning Appeals

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10:15 AM
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