

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, April 13, 2023 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
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>
Z23-004	Buckout Developers LLC	1001	58.2	Variance Granted
Z23-005	Marc Cottini	892	27	Variance Granted
Z23-006	104 Corporate Park Realty LLC	621	12	Heard – Closed – Extension granted
Z23-007	Michael Orilia	804	10	Heard – Closed – Findings being prepared
Z23-008	176 WMS Property LLC	376	6	Heard – Closed – Reopened – Withdrawn
Z23-009	Gail & Michael Goldey	201	5	Not Heard
Z23-010	Nicholas Pomponio	545	93	Heard – Closed – Findings being prepared

The next meeting was scheduled to May 11, 2023

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.

APPROVED
MAY 13 2023

2023 MAY 11 PM 0307

CLERK'S OFFICE

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

Calendar No. Z23-004

Date: April 13, 2023

Property Owner: Buckout Developers LLC

Property Address: 3 Hayden Lane

Block 1001 Lot 58.2

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, Brian Sinsabaugh, filed an application on January 27, 2023 on behalf of the property owner Buckout Developers LLC for a variance from the Zoning Ordinance to install a generator and air conditioner condenser at 3 Hayden Lane. This property is located in an R-1 Zoning District and pursuant to §235-9B Table of Dimensional Regulations of the Town/Village of Harrison the side yard setback is 20 feet. The generator installation reduces the side yard setback to 15 feet 7 inches; **thus, requiring a 4-foot 5-inch variance.** The existing air conditioner compressors reduce the side yare to 15 feet; **thus, requiring a 5-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 7:30 p.m., on March 9, 2023, after due notice and publication pursuant to Town Law 267-a (7) at which the following members were either present in person or indicated that they had listened to tapes of the Hearing: Paul Katz, Ernest Fiore, Steven Lowenthal, Tom Foristel, 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 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:

Z23-004

Buckout Developers LLC

4/13/2023

- (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 property is located at 3 Hayden Lane and is in an R-1 zoning district. Hayden Lane is a new 6 lot subdivision.
- B) The proposed generator and air conditioner condenser's locations were determined for the best possible location for the residence and outside of the fenced-in backyard outside of harm's way for the safety and use of the property.
- C) There would be no apparent detriment to the surrounding properties or to the neighborhood.
- D) There were no objections from any of the neighbors.

NOW THEREFORE BE IT RESOLVED, that the application for permission to install a generator and air conditioner condensers 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.

Z23-004
Buckout Developers LLC
4/13/2023

This variance shall lapse unless construction begins within two years from the date this variance is recorded in the Clerk's Office and is completed no more than four 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 Thomas Foristel at the April 14, 2023 meeting.

ADOPTED:

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

NAYS: None

ABSTAINED: None

ABSENT: Thomas Haynes

RECUSED: Steven Lowenthal

Rosemarie Cusemalo
Secretary, Board of Zoning Appeals

Paul Katz

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.

Z23-004
Buckout Developers LLC
4/13/2023

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

Calendar No. Z23-005

Date: April 13, 2023

Property Owner: Marc Cottini

Property Address: 132 Park Avenue

Block 892, Lot 27

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 Mustacato filed an application on behalf of Marc Cottini on February 7, 2023 for a variance from the Zoning Ordinance to change the driveway and off-street parking elevation. This property is located in a B Zoning District and pursuant to the Code of the Town/Village of Harrison §235-33.3.B-B(6)(b) To minimize impacts of substantially exposed foundations, in instances where the garage is proposed to be located withing the lowest level of the dwelling unit and proposed to be compliant with §235-33.3B A and §235-33.3B B, the following mitigation measures shall be required [1] Where the existing ground elevation at the rear property line is below, or less than seven vertical feet above the existing ground elevation at the front property line, the driveway and off-street parking area shall extend into the parcel at the negative gradient of 9%, thereby superseding §235-33.3B. The proposed driveway and off-street parking with a positive gradient of 2%; **thus, requiring a 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 7:30 p.m., on March 9, 2023, after due notice and publication pursuant to Town Law 267-a (7) at which the following members were either present in person or indicated that they had listened to tapes of the Hearing: Paul Katz, Ernest Fiore, Steven Lowenthal, Tom Foristel, 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 no one appeared in opposition. All those who desired to be heard were heard and the Board reviewed the documents submitted to it; and

Z23-005
Cottini
4/13/2023

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 property is located at 132 Park Avenue in a B Zoning District and is considered to have two front yards.
- B) The property owner is proposing to change the driveway and off-street parking elevation to a gradient of 2%.
- C) There were no objections from the neighbors.
- D) No undesirable change in the character of the neighborhood or detriment to nearly properties will be created by the granting of the variance

NOW THEREFORE BE IT RESOLVED, that the application for permission to change the driveway and off-street parking elevation 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 construction begins within two years from the date this variance is recorded in the Clerk's Office and is completed no more than four years from said date.

Z23-005
Cottini
4/13/2023

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 Michael Tiesi, seconded by Zoning Board Member Thomas Foristel at the April 13, 2023 meeting.

ADOPTED:

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

NAYS: None

ABSTAINED: None

ABSENT: Thomas Haynes

RECUSED: Steven Lowenthal

Rosemarie Cusumano
Secretary, Board of Zoning Appeals

Paul Katz

Acting Chairman, Board of Zoning Appeals

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Z23-005
Cottini
4/13/2023

APPROVED
APR 13 2023
10 2 11 AM '23
CLERK