

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Wednesday Evening, April 13, 2022 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

Members Absent

Thomas Haynes

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>
Z21-044	Taryn Mackinnon	545	91	Heard – Closed Adjourned to May
Z22-002	Kasia Stevens	247	21	Variance Granted
Z22-003	Lara Pulka	491	15	Heard – Closed – Findings being prepared
Z22-004	Vincent Giordano	92	31	Variance Granted
Z22-005	Vincent Giordano	92	31	Variance Granted
Z22-006	Cosmo Micalone	375	6	Variance Granted
Z22-007	Harrison Real Estate Group, LLC	131	17	Extension Granted
Z22-008	Patrice & Michael Meagher	604	7	Heard – Closed – Findings being prepared
Z22-009	Nelson Gaertner Jr.	961	12	Heard – Closed – Findings being prepared
Z22-010	104 Corporate Park Realty LLC	621	12	Extension Granted
Z22-011	Justin & Kerri Hamill	681	71	Heard – Closed – Findings being prepared
Z22-012	Nicolai Lund	981	64	Not Heard – Adjourned to May

The next meeting was scheduled to May 12, 2022

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

LO 5 d h 4
Rosemarie Cusumano

Rosemarie Cusumano, Secretary

RECEIVED

Yudyna / Deputy
 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. Z22-002

Date: April 13, 2022

Property Owner: Peter and Kasia Stevens

Property Address: 16 Emerson Avenue

Block 247, Lot 21

WHEREAS, an application was filed for a building permit with respect to a proposed addition to be constructed on the property 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, on behalf of the property owner, Peter and Kasia Stevens filed an application on February 4, 2022 for an area variance for a proposed addition and alteration. This property is located in an R-75 Zoning District and is legally existing non-conforming with regards to the lot area (5000sf), lot width (50 feet) and the side yard setbacks (9.4 feet and 8.3 feet). Pursuant to §235-9B of the Table of Dimensional Regulations of the Code of the Town/Village of Harrison: The application will require 3 variances: 1) The maximum lot coverage is 20%, the proposed lot coverage of 22.3%; *thus requiring a variance of 2.3%. 2) The side yard setback abutting a side street on a corner lot is 15 feet, the proposed setback is 9.4 feet; thus requiring a variance of 5.6 feet. 3) The minimum side yard setback is 10 feet, the proposed setback is 8.3 feet; thus requiring a variance of 1.7 feet; and*

WHEREAS, a Public Hearing on this application was duly scheduled and held by the Board of Zoning Appeals, held at the Municipal Building, 1 Heineman Place, Harrison, New York, at 7:30 p.m., on March 10, 2022 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present at the meeting: Paul Katz, Ernest Fiore, Steven Lowenthal, Thomas 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, 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:

Z22-002
Stevens
4/13/2022

- (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's property is located in the R-75 Zoning District where 7,500 square feet is required and is existing non-conforming at 5,000 square feet. The property also fronts on two streets, Emerson Avenue and Danner Avenue.
2. The proposed seconded story addition on Danner Avenue is to be constructed over an existing addition and the addition to the existing first floor will follow the existing addition and not further encroach into the side yard.
3. The proposed rear second story addition is to be construction over an existing one story and the proposed two story addition will not further encroach into the side yard any further than the existing home.
4. There were no objections from neighbors.
5. The appearance has to be in keeping with the character of the neighborhood and must be reviewed by the Architectural Review Board prior to a building permit.

Based on the foregoing and a balancing of the factors we are required to consider, we believe that it is appropriate to grant the requested variances.

NOW THEREFORE BE IT RESOLVED that the application for an addition, as indicated in the revised plans submitted with this application be, and the same is hereby granted subject to the following.

Z22-002

Stevens

4/13/2022

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 by RMG Associates, A-1, A-2, A-3 dated February 21, 2020.

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 Michael Tiesi, seconded by Zoning Board Member Steven Lowenthal at the April 13, 2022 meeting.

ADOPTED:

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

NAYS: None

ABSTAINED: None

ABSENT: Thomas Haynes

Rosemarie Casanova
Secretary, Board of Zoning Appeals

Paul Katz

Acting Chairman, Board of Zoning Appeals

THIS IS NOT A BUILDING PERMIT ANY 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

Z22-002
Stevens
4/13/2022

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

Calendar No. Z22-004

Date: April 13, 2022

Property Owner: Vincent Giordano

Property Address: 128 Park Avenue

Block 92 Lot 31

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, Rocco DiLeo filed an application on February 16, 2022 on behalf of the owner Vincent Giordano for an area variance to legalize an existing detached two car garage. This property is located on a B Zoning District and is legally existing non-conforming with regards to the front yard setback of 9.5 feet, the rear yard setback of 5.9 feet and the habitable floor area for a two-dwelling unit 2,249 sq. ft. Pursuant to the Code of the Town/Village of Harrison §235-9B the Table of Dimensional Regulation and §235-18B (2)(b) Placement of Accessory Buildings the application requires 3 variances: 1) Pursuant to §235-18B (2)(b) the minimum front yard setback for an accessory structure is 60 feet. The Existing Garage has a front yard setback of 28 feet 5 inches; ***thus requiring a variance of 31 feet 7 inches.*** 2) Pursuant to §235-9B the minimum required side yard setback for an accessory structure is 5 feet. The Existing Garage has a side yard setback of 2 feet 6 inches; ***thus requiring a variance of 2 feet 6 inches.*** 3) Pursuant to §235-9B the minimum required rear yard setback for an accessory structure is 5 feet. The Existing Garage has a rear yard setback of 2 feet 6 inches; ***thus requiring a variance of 2 feet 6 inches;*** and

WHEREAS, a Public Hearing on this application was duly scheduled and held by the Board of Zoning Appeals, held at the Municipal Building, 1 Heineman Place, Harrison, New York, at 7:30 p.m., on March 10, 2022 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present at the meeting 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; 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, all those who desired to be heard were heard and the Board reviewed the documents submitted to it; and

Z22-004
Giordano
4/13/2022

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:

1. Applicant's property is located in the B Zoning District. The property is located on a corner lot with 2 front yards, Park Avenue and Oak Street.
2. The two car garage has existed since 1928.
3. There were no objections from neighbors.
4. No undesirable change in the character of the neighborhood or detriment to nearly properties will be created by the granting of the variances.

Based on the foregoing and a balancing of the factors we are required to consider, we believe that it is appropriate to grant the requested variances.

NOW THEREFORE BE IT RESOLVED that the application to construct a detach two car garage, as indicated in the revised plans submitted with this application be, and the same is hereby granted subject to the following.

Z22-004
Giordano
4/13/2022

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 by RD Studio, A.101, A.101 dated February 3, 2022.

Foregoing Resolution submitted by Zoning Board Member Ernest Fiore, seconded by Zoning Board Member Michael Tiesi at the April 13, 2022 meeting.

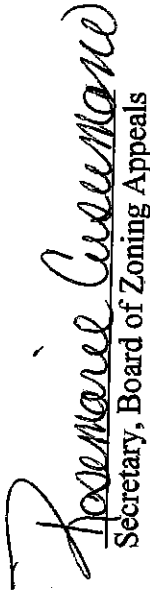
ADOPTED:

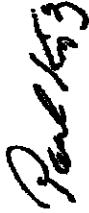
AYES: Paul Katz, Ernest Fiore, Steven Lowenthal, Thomas Foristel,
William Harold and Michael Tiesi

NAYS: None

ABSTAINED: None

ABSENT: Thomas Haynes


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.

Z22-004
Giordano
4/13/2022

2022 APR 14 P 5:07
TOWN CLERK
HARRISON, NY

RECEIVED

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

Calendar No. Z22-005

Date: April 13, 2022

Property Owner: Vincent Giordano

Property Address: 128 Park Avenue

Block 92 Lot 31

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, Rocco DiLeo filed an application on February 16, 2022 on behalf of Vincent Giordano for area variances from the Zoning Ordinance. This property is located on a B Zoning District and is legally existing non-conforming with regards to the front yard setback of 9.5 feet, the rear yard setback of 5.9 feet and the habitable floor area for a two-dwelling unit 2,249 sq. ft. Pursuant to the Code of the Town/Village of Harrison §235-9B the Table of Dimensional Regulation. The minimum habitable floor area for a dwelling unit is 800 square feet. The existing seconded dwelling unit with a habitable floor area of 632 square feet; *thus requiring a variance of 158 square feet*; and

WHEREAS, a Public Hearing on this application was duly scheduled and held by the Board of Zoning Appeals, held at the Municipal Building, 1 Heineman Place, Harrison, New York, at 7:30 p.m., on March 10, 2022 after due notice and publication pursuant to Town Law 267-a (7) at which the following members were present at the meeting 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; 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:

- (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;

*Z22-005
Giordano
4/13/2022*

- (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, Section 267-a and 267-b and Harrison Town Code Section 235-56, et seq., it has jurisdiction to consider the requested variances.

The Board found that:

1. The existing seconded dwelling unit with a habitable floor area of 632 square feet where 800 square feet is required and will have no detrimental effect on neighboring properties.
2. The house was built in 1928. The conversion to a Two-Family house appears on the 1970 assessment roll and has existed for 50 years.
3. There were no objections from neighbors.
4. No undesirable change in the character of the neighborhood or detriment to nearly properties will be created by the granting of the variances.

NOW THEREFORE BE IT RESOLVED that the application for legalization of an existing second dwelling unit with a habitable floor area of 632 square feet; thus requiring a variance of 158 square feet; be and the same is hereby 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 by RD Studio, A.001, A.101 dated February 4, 2022.

Foregoing Resolution submitted by Zoning Board Member Thomas Foristel, seconded by Zoning Board Member Ernest Fiore at the meeting on April 13, 2022.

ADOPTED:

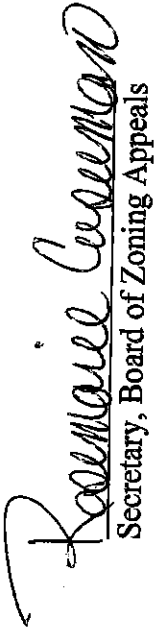
AYES: Paul Katz, Ernest Fiore, Steven Lowenthal, Thomas Foristel and Michael Tiesi

Z22-005
Giordano
4/13/2022

NAYS: William Harold

ABSTAINED: None

ABSENT: Thomas Haynes


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.

Z22-005
Giordano
4/13/2022

RECEIVED

2022 APR 14 P 5:07

TOWN CLERK
HARRISON, NY

BOARD OF ZONING APPEALS

TOWN/VILLAGE OF HARRISON, NEW YORK

Calendar No. Z22-006

Date: April 13, 2022

Property Owner: Cosmo Micalone

Property Address: 179-181 Adelphi Avenue

Block 375, Lot 6

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, Max DiFabio, filed an application on August 16, 2021 on behalf of the property owner Cosmo Micalone for an area variance from the Zoning Ordinance to allow a Certificate of Occupancy to be issued with respect to a newly constructed two-family residence. This property is located in a B Zoning District and Pursuant to the Code of the Town/Village of Harrison §235-9 B the Maximum Height is 2 ½ stories and 30 feet. The new house has been constructed to a height of 34 feet; *thus requiring a variance of 4 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 7:30 p.m., on March 10, 2022, 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 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:

*Z22-006
Cosmo Micalone
4/13/2022*

- (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. This application relates to a recently constructed two-family house that exceeds the maximum height limitation of the Zoning Ordinance for houses in a B Zone.
2. The property is located on a corner lot fronting on Adelphi Avenue and Temple Street.
3. Under the Zoning Ordinance, the height of a residence in the B district shall be measured from two feet above the lowest floor to the mid-point of the roof. A flat roof on a residential structure in the B district shall not be permitted. In an instance where the lowest level of a dwelling is more than half-buried by the pre-existing ground level, the building height shall be measured from the midpoint of the clear height of the lower level to the mid-point of the roof.
4. The original building permit was issued based on a set of plans prepared by an architect dated 5/1/2020 revised 11/10/20 while the house was constructed based on plans that were filed but which were prepared by Signature Building Systems dated 5/22/20 revised 7/20. A grade plan analysis to determine the actual height of the finished residence was not done until after the house was completed. The explanation provided for this discrepancy was give because the house was originally going to be stick built and because of cost it was prefabricated. Accordingly, the excess height and the need for a variance are attributable to an error by the builder.

Z22-006
Cosmo Micalone
4/13/2022

5. From a visual standpoint, the house is located almost at the end of Adelphi Avenue which is at higher elevation than the adjacent neighbor at 175 Adelphi Avenue. The property is separated by a paper street to the neighbor at 187 Adelphi Avenue.
6. The granting of the variance has obvious benefits to the applicant since this avoids the necessity of cutting down the height of the roof.
7. While the alleged difficulty is in fact self-created since it is the result of an error by the builder, we find that this factor is outweighed by the other factors cited above.

An application for an extension of these periods may be granted by the Board of Zoning Appeals if the applicant shows good cause 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 Steven Lowenthal at the April 13, 2022 meeting.

ADOPTED:

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

NAYS: William Harold

ABSTAINED: None

ABSENT: Thomas Haynes

Rosemarie Cusumano
Secretary, Board of Zoning Appeals

Paul Katz

Acting Chairman, Board of Zoning Appeals

AMERICAN
HARRISON, NY
JAN 13 2022
CLERK

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.

Z22-006
Cosmo Micalone
4/13/2022

RECEIVED