

ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, August 11, 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
Thomas Foristel
William Harold
Michael Tiesi*

Members Absent

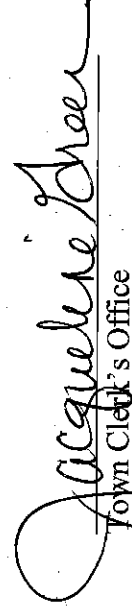
*Steven Lowenthal
Thomas Haynes*

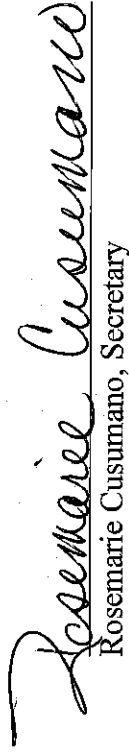
The Chairman called the meeting to order at 7:30 p.m.

<u>Cal. #</u>	<u>Applicant</u>	<u>Block</u>	<u>Lot</u>	<u>Decision</u>
Z22-025	Luciano Pieretti	292	23	Heard - Withdrawn
Z22-026	Frank Bardani	672	26	Heard - Closed - Findings being prepared
Z22-027	Nelson Gaertner, Jr.	961	12	Variance Granted
Z22-028	Ronald Bobman & Judie Lifton	601	46	Variance Granted

The next meeting was scheduled to September 8, 2022

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


Town Clerk's Office


Rosemarie Cusumano, Secretary

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

RECEIVED

2022 AUG 12 A 9:31

TOWN CLERK
HARRISON, NY

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

Calendar No. Z22-027

Date: August 11, 2022

Property Owner: Nelson Gaertner, Jr.

Property Address: 3999 Purchase Street Block 961 Lot 12

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, Nelson Gaertner, Jr., filed an application on June 17, 2022 for a variance from the Zoning Ordinance to construct a detached garage at the premises located at 3999 Purchase Street. This property is located in an R-2 Zoning District and pursuant to §235-18(4) of the Zoning Ordinance of the Town/Village of Harrison; The Exterior Wall of an Accessory Building in the required rear yard may not exceed 10 feet in height above the adjacent grade. Also as per §143-31-B Fire Sprinklers shall not be required to be installed in Residential Accessory Structures such as sheds, garages and seasonal buildings less than 800 square feet in area for those stories above grade. The proposed three car garage requires 2 variances: 1) A portion of the walls of the accessory structure are 11 feet; **thus requiring a variance of 1 foot. 2)** The structure is over 800 square feet in area; **thus requiring a fire sprinkler system, the owner does not want to install them requiring a variance;** and

WHEREAS, a Public Hearing on this application was duly scheduled and held by the Board of Zoning Appeals, via Zoom, at 7:30 p.m., on July 14, 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, 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

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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 majority of the property is maintained as a combination of open and planted green space.
- B) The detached three car garage will be built approximately in the same location as the original detached garage and at a significant distance from all boundaries of the property.
- C) There will be ample screening from the neighbor on the east side by trees along the property line.
- D) The building has been designed to evoke the style of the original detached garage, and will blend in with the existing character of the neighborhood.
- E) There were no objections from neighbors.
- F) The applicant is required to install two fire extinguishers on each floor including a special extinguisher for cars.
- G) The fact that sprinkles will not be installed in the detached garage will have no apparent detriment to the surrounding properties or the neighborhood.

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H) The construction of the detached garage does not have a negative impact on the neighborhood.

NOW THEREFORE BE IT RESOLVED, that the application for permission to construct a detached garage as indicated in the plans and the application for permission to appeal Section 143-28-B Sprinkler System Ordinance as indicated in 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.

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 August 11, 2022 meeting.

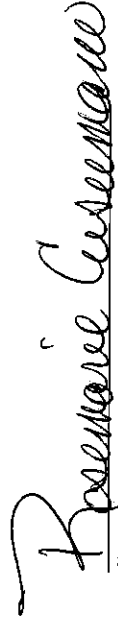
ADOPTED:

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

NAYS: None

ABSTAINED: Thomas Foristel

ABSENT: Steven Lowenthal and Thomas Haynes


Secretary, Board of Zoning Appeals

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Paul King

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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TOWN CLERK
HARRISON, NY

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

Calendar No. Z22-028

Date: August 11, 2022

Property Owner: Ronald Bobman and Judie Lifton

Property Address: 9 Timber Trail

Block 601 Lot 46

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, Ronald Bobman, filed an application on June 17, 2022 for a variance to construct a padel court enclosure at the above referenced property. This property is located in an R-1 Zoning District and pursuant to §235-26 C (9) of the Code of the Town/Village of Harrison: Outdoor tennis Courts, paddle courts, basketball courts, and other similar courts which are located in conformance with §235-18 B (2) may be fenced to a height not to exceed 10 feet above the average natural grade only if: (a) The fence is an open mesh type (chain link). (b) Screened from the view of the street and abutting residentially owner properties. Such screening shall be a landscape strip planted with evergreens, with an actual height of at least 6 feet above the natural grade when installed. (c) Fence enclosures may be equipped with the customary attached windbreaks. The proposed Paddle Court with an enclosure as shown to be constructed on the existing tennis court with 10 feet high tempered glass panels bolted to steel frames and a 3 foot high open wire mesh fence on top. The total height is 13 feet; ***thus requiring a height variance of 3 feet.*** Also §235-26 (9) (a) of the code is specific to an open mesh type (chain link) enclosure only; ***thus requiring a variance for the tempered glass enclosure being used;*** and

WHEREAS, a Public Hearing on this application was duly scheduled and held by the Board of Zoning Appeals, via Zoom and at the Municipal Building, 1 Heineman Place, Harrison, New York, at 7:30 p.m., on July 14, 2022 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: Paul Katz, Ernest Fiore, Steve Lowenthal, Thomas Foristel, William Harrold, 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

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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 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 in an R-1 Zoning District and is an oversized lot with 6.35 acres.
- B) The proposed location of the padel court is being proposed on an existing tennis court.
- C) The variance being sought by the applicant is for the plexiglass material being used.
- D) The court does meet all required setbacks and padel is a different net sport new to the United States, currently played only in Spain and Argentina. With possibility being the first court in the United States. Required is a presentation of a game in action including sound since the plans call for a solid plexiglass wall system against which a ball may be hit resulting in untenable sound. The town does have sound ordinances but not arising from this kind of sport.

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- E) The existing tennis court is located approximately 480 feet from the nearest home and the neighbor's property is heavily screened.
- F) The Board received several letters in favor of the application.

NOW THEREFORE BE IT RESOLVED, that the application for to construct a padel court enclosure 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.

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 William Harold, seconded by Zoning Board Member Michael Tiesi at the August 11, 2022 meeting.

ADOPTED:

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

NAYS: None

ABSTAINED: Thomas Foristel

ABSENT: Steven Lowenthal and Thomas Haynes


Secretary, Board of Zoning Appeals

Z22-028
Bobman
8/11/2022

Paul Krzy

Acting Chairman, Board of Zoning Appeals

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