

## ZONING BOARD OF APPEALS

There was a regular meeting of the Zoning Board of Appeals on Thursday Evening, December 8, 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*  
*Michael Tiesi*

### Members Absent

*William Harold*  
*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>                          |
|---------------|------------------------|--------------|------------|------------------------------------------|
| Z22-041       | Javier Diaz            | 517          | 3          | Variance Granted                         |
| Z22-044       | Clark Pager            | 951          | 22         | Variance Granted                         |
| Z22-046       | Russell Marra          | 854          | 33         | Variance Granted                         |
| Z22-048       | John Martorano         | 262          | 7          | Variance Granted                         |
| Z22-049       | Richard Banach         | 701          | 7          | Heard – Closed – Findings being prepared |
| Z22-050       | Buckout Developers LLC | 1001         | 58.5       | Heard – Adjourned to February            |
| Z22-051       | Maynooth Holdings, LLC | 103          | 16         | Heard – Adjourned to February            |
| Z22-052       | Rosemarie Cusumano     | 84           | 82         | Heard – 5 Year Extension Granted         |
| Z22-053       | Antonio Spagnoli       | 715          | 27         | Heard – Closed – Findings being prepared |

The next meeting was scheduled to February 9, 2022

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

*Rosemarie Cusumano*  
Rosemarie Cusumano, Secretary

*Jacqueline Shen*  
Town Clerk's Office

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HARRISON, N.Y.

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

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

Calendar No. Z22-041

Date: January 12, 2023

Property Owner: Javier Diaz

Property Address: 30 Haviland Road

Block 517 Lot 3

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, Gregory Mercurio, Landscape Architect on behalf of the property owner, Javier Diaz filed an application on September 16, 2022 for a variance from the Zoning Ordinance to legalize an existing sports court at 30 Haviland Road. This property is located in an R-1 Zoning District and pursuant to §235-31 of the Town/Village of Harrison; Setbacks from streams and other bodies of water a 50-foot separation is required between the water's edge and the sport court. The existing sports court reduces the setback to 21 feet 5 ½ inches; **thus, requiring a 28-foot 6 ½ inch variance.** The second variance is for the encroachment of the sports court into the rear and side yard setbacks of 15 feet reducing the setback to 8 feet 6 inches and 9 feet, **thus, requiring a 6-foot 6 inch and 6-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 December 8, 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 one neighbor appeared in opposition. All those who desired to be heard were heard and the Board reviewed the documents submitted to it; and

Z22-041

Diaz

1/12/2023

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 a 1.34-acre parcel located at 30 Haviland Road in an R-1 zoning district.
- B) The existing sports court encroaches into the 50-foot separation between the water's edge. It was determined that the water course issue is manmade and the sports court meets all required water retention.
- C) The existing sports court will have no apparent detriment to the surrounding properties or the neighborhood since there is an existing tennis court located on the neighbor's property to the rear.
- D) The existing sports court hoop light shall be removed and no lighting shall be permitted.
- E) An aerial dated December 7, 2022 and December 8, 2022 showing the existing screening and distance between 45 Osborn Road and 55 Stratford Road was submitted.
- F) There were objections from neighbors at 55 Stratford Road, 45 Osborn Road and 30 Haviland Road and the Board also received twelve letters of support for the project from other neighbors.

NOW THEREFORE BE IT RESOLVED, that the application for legalization of an existing a sports court as indicated in the plans submitted with this application be, and the same is hereby granted.

Z22-041

Diaz

1/12/2023

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.

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 January 12, 2023 meeting.

**ADOPTED:**

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

**NAYS:** Ernest Fiore

**ABSTAINED:** None

**ABSENT:** William Harold and Thomas Haynes

*Rosemarie Cusumano*  
Secretary, Board of Zoning Appeals

*Paul Katz*  
Acting Chairman, Board of Zoning Appeals

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HARRISON, KY

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Z22-041  
Diaz  
1/12/2023

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

Calendar No. Z22-044

Date: January 12, 2023

Property Owner: Clark Pager

Property Address: 3700 Purchase Street

Block 951 Lot 22

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, James Haralampoudis, Architect on behalf of the property owner, Clark Pager filed an application on October 13, 2022 for a variance from the Zoning Ordinance to legalize a four-foot slat style wood fence in the 100-foot buffer along Purchase Street at 3700 Purchase Street. This property is located in an R-1 Zoning District and pursuant to the Code of the Town/Village of Harrison §235-24.1 B: A minimum buffer setback of 100 feet shall be established along each of the following roadways: Purchase St, Barns Ln, Lincoln Ave, Cottage Ave and Anderson Hill Rd. This setback shall be maintained in its natural state or landscaped, in accordance with the determination of the Planning Board, and shall be maintained by the property owner. Except where approved street or streets cross such buffer setback areas, a permanent open space preservation easement may be required by the Planning Board prior to the granting of any building permits for any development abutting any of Purchase St, Barns Ln, Lincoln Ave, Cottage Ave and Anderson Hill Rd. The existing fence has been replaced with a new 4-foot-high fence in the 100-foot buffer as described above; *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 December 8, 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

Z22-044

Pager

1/12/2022

WHEREAS, at said Hearing, the Architect 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 located at 3700 Purchase Street and is in an R-1 zoning district. The property also fronts on two streets, Purchase Street and Stone Bridge Road.
- B) The applicant appeared before the Planning Board and received site plan approval on June 28, 2022 for the special Purchase Street buffer.
- C) The four-foot slat style wood fence which replaced an existing chain link fence will have no apparent detriment to the surrounding properties or the neighborhood.
- D) The character of the neighborhood would not change.
- E) There were no objections from any of the neighbors.

F) The proposed fence has been referred to this Board with a positive recommendation from the Planning Board.

NOW THEREFORE BE IT RESOLVED, that the application to legalize a four-foot slat style wood fence in the 100-foot buffer along Purchase Street 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.

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 Steven Lowenthal at the January 12, 2023 meeting.

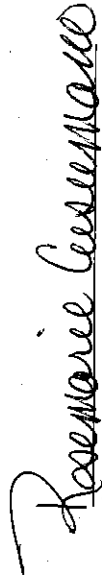
ADOPTED:

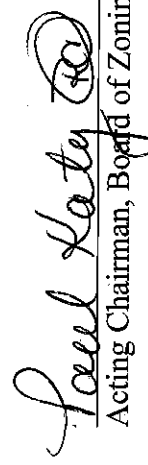
AYES: Paul Katz, Ernest Fiore, Steven Lowenthal, Thomas Foristel and Michael Tiesi

NAYS: None

ABSTAINED: None

ABSENT: William Harold and Thomas Haynes

  
Secretary, Board of Zoning Appeals

  
Acting Chairman, Board of Zoning Appeals

Z22-044  
Pager  
1/12/2022

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Z22-044  
Pager  
1/12/2022

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

Calendar No. Z22-046

Date: January 12, 2023

Property Owner: Russell Marra

Property Address: 46 Madison Street

Block 854, Lot 33

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, Architect, filed an application on behalf of property owner Russell Marra on November 3, 2022 for a variance from the Zoning Ordinance to construct a one-story vestibule and roofed entrance. This property is located in a B Zoning District and pursuant to the Code of the Town/Village of Harrison §235-18 A (2) Accessory Buildings, including garages, if detached from a main building or if connected only by an open breezeway-type structure, shall be not less than 10 feet from the main building. The proposed addition to the main build (one-story vestibule) will reduce the distance to the accessory building to 4 feet; *thus, requiring a variance of 6 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 December 8, 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

WHEREAS, the Board reviewed all testimony and documents submitted and have carefully considered:

Z22-046  
Marra  
1/12/2023

- (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 46 Madison Street in a B Zoning District and is considered to have two front yards.
- B) The property owner is proposing a one-story vestibule and roofed entrance on the left side of the house.
- 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 construct a one-story vestibule and roofed entrance 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

Z22-046  
Marra  
1/12/2023

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.

Forgoing Resolution submitted by Zoning Board Member Steven Lowenthal, seconded by Zoning Board Member Ernest Fiore at the January 12, 2023 meeting.

ADOPTED:

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

NAYS: None

ABSTAINED: None

ABSENT: William Harold and Thomas Haynes

*Rosemarie Cesenmane*  
Secretary, Board of Zoning Appeals

*Paul Katz*  
Acting Chairman, Board of Zoning Appeals

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Z22-046  
Marra  
1/12/2023

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

Calendar No. Z22-048

Date: January 12, 2023

Property Owner: John Martorano

Property Address: 67-69 Holland Street

Block 262, Lot 7

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, John Martorano, filed an application on November 22, 2022 for a variance from the Zoning Ordinance to change the garage floor 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) Attached Garage (a) In instances where a conforming driveway or parking area cannot connect to a garage within the lowest level of a conforming dwelling due to an excessive grade differential between the two, the garage may be placed on an upper level of the dwelling unit. (b) To minimize impacts of substantially exposed foundations, in instances where the garage is proposed to be located within the lowest level of the dwelling unit and proposed to be compliant with §235-33-3A and 235-33.3E, the following mitigation measure 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 a negative gradient of 9%, thereby superseding §235-33-3E. The garage floor elevation was established and approved at an elevation of 73.36' and a negative gradient of 9%. The Garage floor elevation was installed at an elevation of 81.7' and a gradient of 3%; *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 December 8, 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

Z22-048  
Martorano  
1/12/2023

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 located at 67-69 Holland Street in a B Zoning District and is considered to have two front yards.
- B) The property owner is proposing to change the garage floor elevation to 81.7' and a gradient of 3%.
- 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 garage floor 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.

Z22-048  
Martorano  
1/12/2023

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 January 12, 2023 meeting.

ADOPTED:

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

NAYS: None

ABSTAINED: None

ABSENT: William Harold and Thomas Haynes

*Rosemarie Cesenmano*  
Secretary, Board of Zoning Appeals

*Paula Katy*  
Acting Chairman, Board of Zoning Appeals

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Z22-048  
Martorano  
1/12/2023