

TOWN OF HARRISON

ZONING BOARD OF ADJUSTMENT

318 HARRISON AVENUE

HARRISON, NEW JERSEY

(973) 268-2442

Eugene Gilmore – **Chairperson**
Grisel Maza – **Vice Chairperson**
Susan Karas – **Secretary**
Michael R. Pichowicz – **Attorney**
Isabel Simoes, **Recording Secretary**

Members
Jack Jian Chen
Alberto Garrido
Lawrence Kelly
Michael Gallagher

May 6, 2020

MEETING NOTICE

PLEASE TAKE NOTICE, a special meeting of the Town of Harrison Zoning Board of Adjustment Board (the “Board”) will be held on Wednesday, May 20, 2020, at 6:30 p.m. with a caucus held at 6:15 pm.

Due to the current state of emergency and current public health emergency caused by COVID-19 (coronavirus) and in accordance with Governor Murphy’s Executive Orders 103, 104 and subsequent Executive Orders, and in accordance with the Open Public Meetings Act, N.J.S.A. 10:4-6 *et seq.* (OPMA) as amended by Bill A3850/S2294, this special meeting will be conducted with participants at remote locations, connected by conferencing software provided by **zoom.us**. The Harrison Town Hall and the Council Chamber located at 318 Harrison Avenue, Harrison, New Jersey is closed to the public.

Members of the public are invited to view and participate in the meeting by following the instructions below.

Included in the Agenda will be:

- Approval of the February 19, 2020 Minutes.
- Memorialize the following Resolution of Approval:

Calendar #303 Application by Yew W. Lee to eliminate a pre-existing non-conforming tavern on 1st floor and replace with a two bedroom unit, on Block 9, Lot 27, 18 Grant Avenue, Harrison, NJ.

ADJOURNMENT – SUBJECT TO THE CALL OF THE CHAIR.

MEETING OF THE ZONING BOARD OF ADJUSTMENT
OF THE TOWN OF HARRISON, COUNTY OF HUDSON,
STATE OF NEW JERSEY HELD ON FEBRUARY 19, 2020

Eugene Gilmore, Chairman of the Zoning Board of Adjustment of the Town of Harrison called the meeting to order at 6:30 P.M. with the following statement:

This is a regular meeting and proper public notice, in compliance with the Sunshine Law, has been forwarded to two newspapers published in this area and a copy of the said notice has been filed with the Town Clerk.

SALUTE TO THE FLAG

ROLL CALL: Commissioners Jack Chen, Michael Gallagher, Susan Karas, Larry Kelly, Alberto Garrido, Grisel Maza and Eugene Gilmore --PRESENT

The following were also present:

Michael Pichowicz, Zoning Board Attorney
Stephen Woods, Zoning Officer
Isabel Simoes, Recording Secretary

There being no requests for corrections or amendments, on Motion by Commissioner Karas, seconded by Commissioner Kelly and on Roll Call, ALL Commissioners voting AYE except Commissioner Chen abstaining, the minutes of the meeting held on January 15, 2020 were approved.

OLD BUSINESS:

Calendar No. 302 – Memorialize Resolution of Approval by Grant Avenue Holdings, LLC, 6 Healey Terrace, Kearny, New Jersey 07032 (hereinafter referred to as the "Applicant") for premises located in the 2F-1 Residential Zone and being designated on the Town Tax Map as Block 6, Lot 13 and commonly known as 54 Searing Avenue, Harrison, New Jersey 07029

**RESOLUTION
TOWN OF HARRISON
HARRISON ZONING BOARD OF ADJUSTMENT**

Calendar No. 302
54 Searing Avenue, Harrison, New Jersey
Grant Avenue Holdings, LLC
Decided: January 15, 2020
Memorialized: February 19, 2020

Application No. 302 was filed by Grant Avenue Holdings, LLC, 6 Healey Terrace, Kearny, New Jersey 07032 (hereinafter referred to as the “Applicant”) for premises located in the 2F-1 Residential Zone and being designated on the Town Tax Map as Block 6, Lot 13 and commonly known as 54 Searing Avenue, Harrison, New Jersey 07029.

The purpose of this application was to demolish an existing non-conforming one-family structure on an undersized lot and construct a new conforming structure two-family on an undersized lot.

The Applicant sought relief from: (1) lot area of 2,365 sq. feet instead of 2,500 sq. feet; (2) lot depth of 94.62’ feet instead of 100’; (3) deficiencies for side yard, front yard, rear yard, and design waivers and de minimis exceptions from the RSIS parking requirements.

PROCEDURE

A public hearing was held on this matter on January 15, 2020 at which time the following Board members were present:

Commissioner Eugene Gilmore, Chairman
Commissioner Grisel Maza, Vice-Chairwoman
Commissioner Michael Gallagher
Commissioner Alberto Garrido
Commissioner Susan Karas
Commissioner Larry Kelly

Also present were:

Zoning Officer: Stephen Woods
Board Secretary: Isabel Simoes
Board Attorney: Michael R. Pichowicz, Esq.

Applicant has filed an affidavit showing compliance with all statutory and jurisdictional requirements.

EVIDENCE

The Zoning Board reviewed the variance application; and six (6) sheet set of architectural plans prepared by Christopher Juchnik, R.A., for Neves Architecture & Design, LLC dated 10/2/19.

HEARING

The Applicant was represented by Gary D. Bennett, Esq., for the firm Koch, Koch, Bennett & Buono, LLC. Mr. Bennett briefly described the Application. He stated the existing structure was to be demolished. He opined that a new building would be more aesthetically pleasing and would provide for off-street parking. He introduced into evidence Exhibit A-1, Tax Map; and Exhibit A-2, Current Survey prepared by prepared by Borrie, McDonald & Watson, Land Surveyors, Richard T. Watson, P.L.S., dated May 24, 2019.

Christopher Juchnik, for the firm Neves Architecture & Design, LLC, 405 Kearny Avenue, Kearny, New Jersey, was sworn-in and testified on behalf of the Applicant. After placing his credentials on the record, he was qualified as an expert in the field of architecture. Mr. Juchnik reviewed the plans he prepared with the Board. He set forth a rear yard variance of approximately six (6) feet was needed because the lot was deficient in depth. He stated there would be one (1) car parked inside the garage and two (2) cars outside the garage. He testified the rear air conditioning condensers would be concealed with appropriate plantings of sufficient height and a seepage pit would be added in the driveway so that all the leaders would connect to for storm water purposes. As per sheet PL-1.0, the ground floor and the second floor would be the owner's suite and would have direct connectivity between the floors with no doors or barriers separating them. The ground floor and second floor shall be one living unit. Each side yard would be 3.08' wide. The new dwelling would comply with the new building code requirements and have off-street parking. The board set forth a number of conditions that would be required and part of the resolution.

Manny Sousa, 150 Ivy Street, Kearny, New Jersey, a principal of the Applicant, was sworn-in. He stated the current house is against the side of the dwelling to the east.

PUBLIC

The meeting was opened to the public.

No one spoke either in favor or in opposition to the Application.

The Board closed the public portion of the meeting.

FINDINGS AND CONCLUSIONS

After hearing presentation of the Applicant's application and submissions and considering the testimony of the witnesses, the Board members found that the proposed improvements would be in compliance with the character of the neighborhood, would be

aesthetically pleasing and would have minimal impact on the surrounding properties and the neighborhood in general. With conditions, the Board found that the property and the neighborhood would become more aesthetically pleasing, off-street parking would be enhanced, the new dwelling would be safer as it will conform to the latest building and fire codes and overall the new dwelling would be more conforming to the existing zoning ordinances than the existing structure. In addition, the Board found that the variances sought, as set forth and described during the hearing, are of the type found in N.J.S.A. 40:50D-70c(2). The Board further found the variance was for a specific piece of property and that some of the purposes of the Municipal Land Use Act would be advanced by a deviation from the requirements of the Harrison Zoning Ordinance. It also established that subject to the conditions to be outlined below, the benefits of the deviation would substantially outweigh any detriment. The Board was further convinced that the Applicant has shown that the relief requested can be granted without substantial detriment to the public good and the relief will not substantially impair the intent and purpose of the Zoning Ordinance of Harrison.

RESOLUTION

Now Therefore Be It Resolved by the Zoning Board of Adjustment of the Town of Harrison on this 17th day February, 2020, that application number 302 is approved subject to the following conditions:

- 1) Applicant shall satisfy all requirements and shall obtain all necessary permits, zoning permits and Certificate of Occupancy from the Construction Code Enforcement Department;
- 2) Before commencing construction, Applicant shall submit revised plans to the satisfaction of the Construction Code Enforcement Department depicting:
 - a. The condensing units in the rear shall be buffered with plantings of appropriate size to eliminate condensing unit visibility and provide sound absorption for the neighbors;
 - b. The side entrance shall be eliminated on the ground floor;
 - c. The side entrance shall be closed off and enclosed appropriately;
 - d. Installation of a street tree near the easterly side of the property;
 - e. Dimensions and location for an appropriate sized drywell that will be installed in the driveway area for which all leaders will be connected to for storm water separation purposes.
- 3) There shall be direct connectivity between the ground floor and the second floor without any doors or barriers separating them. The ground floor and second floor shall be one living unit;

- 4) There shall be no cooking facilities, no kitchen, only one (1) bedroom as depicted and no other bedroom(s) or other living quarters in the ground floor area;
- 5) The curb cut shall be twelve (12) feet in width;
- 6) Variances for the lot area of 2,365 sq. feet instead of 2,500 sq. feet; lot depth of 94.62' feet instead of 25'; the front entry stairs, condensers in rear yard and parking pad width as set forth in the plans (as modified by this Resolution) are approved.
- 7) Design waivers and de minimis exceptions from the RSIS parking requirements as set forth in the plans (as modified by this Resolution) are approved.

The Board of Adjustment approval to erect or alter any structure and its approval to use the premises for any specific purpose shall expire unless the construction or alteration is commenced on each and every structure subject to the variance, and unless any specifically permitted use is started, within the allowable time period as applicable.

Votes Affirmative: (Gallagher, Garrido, Karas, Kelly, Maza, Gilmore)

Votes Negative: (None)

Susan Karas, Secretary

Eugene Gilmore, Chairman

NEW BUSINESS:

Calendar No. 303 – Application by Yew W. Lee, 360 Wyoming Avenue, Millburn, New Jersey 07041(hereinafter referred to as the “Applicant”) for premises located in the 2F-1 Residential Zone and being designated on the Town Tax Map as Block 9, Lot 27 and commonly known as 18 Grant Avenue, Harrison, New Jersey 07029 (“Property”).

Refer to computer transcription prepared by Susan McGuire, Certified Shorthand Reporter, of McGuire Reporting, 485 Edgewood Place, Rutherford, NJ 07070.

Motion by Commissioner Kelly, seconded by Commissioner Karas, and on Roll Call, the “D” variance of application by Yew W. Lee was approved on a vote of 7 affirmative votes. Also on Motion by Commissioner Kelly, seconded by Commissioner Karas the “C” Variance of Application by Exito Harrison, LLC was approved on 7 affirmative votes.

There being no further business,

ON MOTION by Commissioner Kelly seconded by Commissioner Karas, the meeting adjourned at 7:47 p.m.

Town of Harrison
ZONING BOARD OF ADJUSTMENT

Isabel Simoes, Recording Secretary

Dated: 02-19-2020

**Memorialized
RESOLUTION
Harrison Zoning Board of Adjustment
Application No. 303
Decided: February 19, 2020
Memorialized: March 18, 2020**

APPLICATION

Application No. 303 was filed by Yew W. Lee, 360 Wyoming Avenue, Millburn, New Jersey 07041 (hereinafter referred to as the “Applicant”) for premises located in the 2F-1 Residential Zone and being designated on the Town Tax Map as Block 9, Lot 27 and commonly known as 18 Grant Avenue, Harrison, New Jersey 07029 (“Property”).

The purpose of this Application was to eliminate a pre-existing non-conforming tavern on the first floor and replace it with a two bedroom apartment. The existing structure would contain three (3) residential units without parking.

The Applicant has applied to the Town of Harrison Zoning Board of Adjustment for “d” variance relief and “c” variance relief from side yard setback, accessory rear yard setback and parking requirements.

PROCEDURE

A public hearing was held on this matter on February 19, 2020 at which time the following Board members were present:

Commissioner Eugene Gilmore, Chairman
Commissioner Grisel Maza, Vice-Chairwoman
Commissioner Jack (Jian) Chen
Commissioner Michael Gallagher
Commissioner Alberto Garrido
Commissioner Susan Karas
Commissioner Larry Kelly

Also present were:

Zoning Officer: Stephen Woods
Board Secretary: Isabel Simoes
Board Attorney: Michael R. Pichowicz, Esq.

Applicant has filed an affidavit showing compliance with all statutory and jurisdictional requirements.

EVIDENCE

The Zoning Board reviewed the variance application and two (2) sheet set of architectural plans prepared by Christopher Juchnik, R.A., for Neves Architecture & Design, LLC dated 05/22/19.

HEARING

The Applicant was represented by Gary D. Bennett, Esq., for the firm Koch, Koch, Bennett & Buono, LLC. Mr. Bennett briefly described the Application and in general terms how replacing a tavern with a residential apartment would be an improvement to the neighborhood and a less intense use.

Christopher Juchnik, for the firm Neves Architecture & Design, LLC, 405 Kearny Avenue, Kearny, New Jersey, was sworn-in and testified on behalf of the Applicant. After placing his credentials on the record, he was qualified as an expert in the field of architecture. Mr. Juchnik reviewed the plans he prepared with the Board. He reviewed the layout of the new ground floor apartment. He stated there would be two (2) bedrooms. He described the side yard deficiencies and that the footprint of the building was not changing. He described the one step that would remain in the interior of the ground floor apartment. He stated that as part of the rehab, the ground floor unit only would require a fire sprinkler system. The second bathroom area would not have a tub or shower and would only have a toilet and sink. The basement was unfinished and is used for storage, a cooler, hot water heaters and the boiler. He briefly described the second and third floor units and backyard area. He set forth that the Applicant would install vinyl fencing around the backyard of the property. The outside façade was existing stucco.

Yew W. Lee, 360 Wyoming Avenue, Millburn, New Jersey, the Applicant, was sworn-in. He stated he recently purchased the property for \$425,000.00. He wanted to clean-up the property. The second floor and third floor apartments each has three bedrooms. He stated the basement was used for storage and was about eight feet high. He stated the basement contained three hot water heaters and one boiler. There are three gas meters, three electric meters and one water meter. There would be no office in the basement. He agreed to install a new six foot fence on the property line around the side yards and rear yard after the rear corners of the building. He would also install residential-type windows in the front. In addition, he will fire sprinkler the whole building, not just the ground floor, if required by code.

William Stimmel, P.O. Box 280, Rutherford, New Jersey, was sworn-in and testified on behalf of the Applicant. After placing his credentials on the record, Mr. Stimmel was accepted in the area of professional planning. He reviewed the benefits of eliminating a bar in a residential zone and replacing it with an apartment. He provided special reasons under the Municipal Land Use Law (MLUL) to support his position. He reviewed the positive and negative criteria. Mr. Stimmel found that the benefits substantially outweighed any detriment and did not impair the zoning code or plan.

PUBLIC

The meeting was opened to the public.

John Silva, 17 Grant Avenue, Harrison, New Jersey, was sworn-in. He is a property owner within two hundred feet. He stated he owned his property for over forty-five (45) years and was in favor of the application even though there is limited parking in the area. He did not want to see another bar use the space because cars would park in his driveway.

Edna M. Cosman, 44 Reynolds Avenue, Harrison, New Jersey, was sworn-in. She is eighty-one (81) years old and owned her property for over fifty-five (55) years. She was in favor of granting the relief because she did not want to see another bar at the property.

Elizabeth Silva, 17 Grant Avenue, Harrison, New Jersey, was sworn-in. She is a property owner within two hundred feet. She stated that she did not want another bar at the property and was in favor of converting the space into an apartment. She was tired of the noise, fights and trouble that the former bar used to bring.

Oscar Alban, 59 Sunset Avenue, Harrison, New Jersey, was sworn-in. He stated he is well familiar with the area and there is parking under Route 280. He was in favor of the application.

No one else spoke either in favor or in opposition to the Application.

The Board closed the public portion of the meeting.

FINDINGS AND CONCLUSIONS

The Board considered the “d” use variance first. The board members discussed that eliminating the tavern and adding an apartment that was up to code was a benefit to the neighborhood. Also, the new six-foot fence in the rear yard would improve privacy for all the surrounding neighbors.

After the discussion, and after hearing the presentation of the Applicant’s application and submissions and after considering the testimony of the witnesses, the board members found that the proposed improvements, with conditions, would be in compliance with the character of the neighborhood and would have minimal impact on the surrounding properties and the neighborhood in general. The Board found that there were special reasons to grant the use variance and the Applicant proved the negative criteria required by N.J.S.A. 40:55D-70(d)(1). The benefits of the deviation substantially outweighed any detriment and the requested relief could be granted without substantial detriment to the public good and the relief would not substantially impair the intent and purpose of the Zoning Ordinance of Harrison. The Board voted unanimously, 7-0, to grant the “d” use variance.

Subsequently, the Board considered the “c(2)” variances. The Board members found that the proposed improvements would be in compliance with the character of the neighborhood, would be aesthetically pleasing and would have minimal impact on the surrounding properties and the neighborhood in general. With conditions, the Board found that the property and the neighborhood would become more aesthetically pleasing and safer and the new apartment would conform to the latest building and fire codes. In addition, the Board found that the variances sought, as set forth and described during the hearing, are of the type found in N.J.S.A. 40:50D-70c(2). The Board further found the variance was for a specific piece of property and that some of the purposes of the Municipal Land Use Act would be advanced by a deviation from the requirements of the Harrison Zoning Ordinance. It also established that subject to the conditions to be outlined below, the benefits of the deviation would substantially outweigh any detriment. The Board was further convinced that the Applicant has shown that the relief requested can be granted without substantial detriment to the public good and the relief will not substantially impair the intent and purpose of the Zoning Ordinance of Harrison. The vote was unanimous with all seven (7) members voting in favor.

RESOLUTION

Now Therefore Be It Resolved by the Zoning Board of Adjustment of the Town of Harrison on this 18th day March, 2020, that application number 303 is approved subject to the following conditions:

- 1) Applicant shall satisfy all requirements and shall obtain all necessary permits, zoning permits and Certificate of Occupancy from the Construction Code Enforcement Department;
- 2) Applicant shall obtain all other agency approvals having jurisdiction as required, including, but not limited to Hudson County Planning Board, Hudson Essex Soil Conservation District, and Passaic Valley Sewerage Commission.
- 3) Applicant shall pay all fees, inspection fees, charges, escrows, liens, performance guarantees, etc. as required under statute and/or ordinance(s);
- 4) Applicant shall install a fire sprinkler system(s) to the ground floor unit and shall install fire sprinkler systems for the entire building if required by code;
- 5) Applicant shall install residential-type window to the front of the building on the ground floor;
- 6) Applicant shall install a new six-foot vinyl fencing around the rear side yards and rear yard of the property (after the rear corners of the building);

- 7) The new first floor apartment shall contain only two (2) bedrooms and the second bathroom shall be a “half-bathroom” and shall only contain a sink and a toilet and not contain a tub and/or shower;
- 8) The basement area shall not be used as an office or cooler; it shall be used for storage and utilities;
- 9) The front area of the first floor apartment shall be used as a combined dining area and living area; the apartment shall not be used as a rooming house or rentals for one room occupancy units, Air BnB or anything similar. The intent was for one family to live in the new first floor apartment;
- 10) The new first floor apartment shall not have any key locks or key lock type handles on any inside door (not leading to the outside of the building) in order to prevent separate living units within the apartment;
- 11) Applicant shall comply with and submit revised plans consistent with the testimony provided at the hearing, which shall be subject to the satisfaction of the Construction Official’s office;
- 12) Applicant shall forthwith register the building as a three-family dwelling with the State of New Jersey Department of Community Affairs (NJDCA) and comply with all laws for inspections, etc. Applicant shall provide a copy of the NJDCA certificate of registration and certificate of inspection to the Construction Official’s office;

The Board of Adjustment approval to erect or alter any structure and its approval to use the premises for any specific purpose shall expire unless the construction or alteration is commenced on each and every structure subject to the variance, and unless any specifically permitted use is started, within the allowable time period as applicable.

Votes To Approve Relief: (Gilmore, Maza, Chen, Gallagher, Garrido, Karas, Kelly)

Votes To Deny Relief: (NONE)

Susan Karas, Secretary

Eugene Gilmore, Chairperson

The undersigned secretary hereby certifies that the within Resolution was approved by this Board pursuant to N.J.S.A. 40:55D-10(g) on May 20, 2020.

Isabel Simoes
Secretary of Zoning Board of Adjustment

For:
Against:
Abstain:
Board Members Eligible to Vote:

Dated: May 20, 2020