



**PORT CHESTER BUILDING AND FIRE PREVENTION DEPARTMENT**

222 GRACE CHURCH STREET • PORT CHESTER, NEW YORK 10573

**939-5203**

**Dan Gray**  
Building Inspector

MEMO TO: Joan Mancuso, Village Clerk

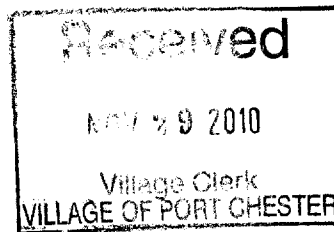
FROM: Cynthia Oliveros, Building Department

DATE: November 29, 2010

RE: **Zoning Board of Appeals Decisions**

Pursuant to Section 7-712-a of Village Law, attached are the decisions rendered by the Zoning Board of Appeals at their meeting held on Thursday, November 18, 2010.

Please respond with the proper filing date.



AB/  
Attachments



## Zoning Board of Appeals

222 GRACE CHURCH STREET  
PORT CHESTER, NEW YORK 10573

### Board Members

(914) 939-5203

William Villanova, Acting Chairman  
Evelyn Petrone, Secretary  
Ronald Luiso  
Art D'Estrada  
Frank Strauch  
Gerardo Espinoza, Alternate

November 19, 2010

Mr. Michiel Boender, AIA  
Edgewater Group  
163 North Main Street  
Port Chester, NY 10573

**RE: Case No. 1490 (F2182)**  
**175-179 North Main Street**  
**Variances to Install Additional Signage**



Dear Mr. Boender:

It was the decision of this Board at its hearing held on Thursday, November 18, 2010, to grant the variances as requested on your application regarding the above captioned matter.

Sincerely,

William Villanova  
Acting Chairman

WV: co

RESOLUTION ON APPEAL

Before the

Zoning Board of Appeals

OF THE VILLAGE OF PORT CHESTER, N.Y.

IN THE MATTER OF THE APPEAL

of

E J Port Realty, LLC

from the determination of the Building

Inspector denying application for permit to install two facade & two awning signs (one facade & one awning sign on the North Main Street side and one facade and one awning sign on the Mill Street side)

on premises No. 175-179 North Main Street

in the Village of Port Chester, New York, being Section

No. 142.23, Block No. 2, Lot No. 27, 28, on

the Assessment Map of the said Village

having heretofore appealed to this Board from a determination of the Building Inspector denying appellants application for permission to install two facade and two awning signs (one facade and oneawning sign on the North Main Street side and one facade and one awning sign on the Mill Street side)

on the premises No. 175-179 North Main Street in the Village of Port Chester, being Section No. 142.23

Block No. 2, Lot No. 27.28 on the Assessment Map of said Village on the ground that the same violates the

zoning ordinance of said Village in the following particulars, viz: Section 345-15, Sign Regulations, (E): One wall sign permitted on each public street, applicant proposes four signs on North Main Street and two signs on Mill Street, variance required.

Section 345-15, Sign Regulations, (E)(B): Sign shall not be located above the second story of the building wall, applicant proposes sign above the second story of the building wall on North Main Street, variance required.

and due public notice having been duly given of a hearing on said application to be held on the 8th

day of October 20 10, and the applicant having appeared by E J Port Realty, LLC

in support of said application and

appearing in opposition, and after due consideration it appearing to the satisfaction of this Board that said appeal can be granted without detriment to the health, safety, morals, comfort, convenience, or general welfare of the community, and that the use applied for is a reasonable one for the premises involved; that practical difficulties and unnecessary hardship would result in carrying out the strict letter of the ordinance, and that by granting said appeal the spirit of the ordinance will be observed, public safety secured and substantial justice done.

NOW THEREFORE, RESOLVED, that E J Realty, LLC

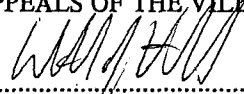
is hereby authorized to install two facade and two awning signs (one facade and one awning sign on the North Main Street side and one facade and one awning sign on the Mill St. side) on premises No. 175-179 North Main Street in the Village of Port Chester, New York being Section 142.23, Block 2, Lot 27, 28, on the Assessment Map of the Village of Port Chester.

in accordance with plans and specifications therefore to be submitted to and approved by the Building Inspector of the Village of Port Chester, New York, conditioned nevertheless.

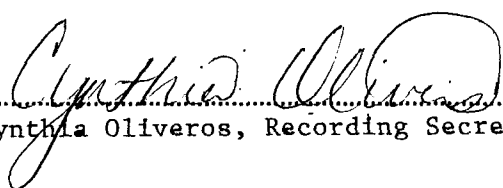
in accordance with plans and specifications dated September 30, 2010, approved by said Board on the 18th day of November, 2010, subject to being submitted to and approved by the Building Inspector of The Village of Port Chester, a building permit has been obtained within 90 days of this resolution and conditioned nevertheless that the variance shall expire by limitation unless such building or work so authorized shall have been commenced within six months and completed within one year from the date of the permit. Such limitation may, upon application to the board, without notice or hearing be extended if good cause is shown. ~~for only one period not to exceed six months~~ If the construction of the building or work so authorized by such variance is suspended or abandoned for a period of one year after the time of commencing, the variance so authorized shall expire, and it is further conditioned:

Dated November 18, 2010.

ZONING BOARD OF APPEALS OF THE VILLAGE OF PORT CHESTER

  
.....  
William Villanova, Acting Chairman

I HEREBY certify the above to be a full, true, and correct copy of a resolution duly adopted by the Zoning Board of Appeals of the Village of Port Chester on the date above mentioned, five members of the Board being present and concurring.

  
.....  
Cynthia Oliveros, Recording Secretary

ROLL CALL:

AYES: Petrone, Luiso, D; Estrada, Strauch, Villanova

NAYES: None

ABSENT: NONE

MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: November 18, 2010  
No. of Case: 1490, 175-179 North Main Street  
Applicant: E J Realty, LLC

Nature of Request: See publication notice annexed hereto. Variances to install two facade and two awning signs (one facade and one awning sign on the North Main Street side and one facade and one awning sign on the Mill Street side)

1. Names and addresses of those appearing in favor of the application.

- a. Michial Boender, AIA, Edgewater Group, 163 North Main Street, Port Chester, NY
- b.
- c.
- d.
- e.

2. Names and addresses of those appearing in opposition to application.

- a. NONE
- b.
- c.
- d.
- e.

Summary of statement or evidence presented: Findings of Fact as prepared by Anthony Cerreto, Village Attorney

Findings of Board: SEE ATTACHED

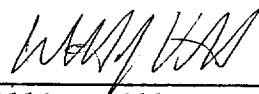
Action taken by Board: A motion was made by Ms. Petrone, seconded by Mr. Luiso, to approve the Findings of Fact as prepared by Anthony Cerreto, Village Attorney, and to grant the variances as requested on application. A vote was taken and the motion was unanimously carried.

Record of Vote: For Five Against -0- Absent -0-

List names of members and how voted - symbols as follows: F-for, A-against, Ab-absent

- F - Petrone
- F - Luiso
- F - D'Estrada
- F - Strauch
- F - Villanova

Attest: 11/29/10

Signed   
 William Villanova  
 Title Acting Chairman

ZONING BOARD OF APPEALS OF THE  
VILLAGE OF PORT CHESTER

-----X  
In the Matter of the Application of  
E.J. Port Realty

Case No. 1490

-----X  
FINDINGS OF FACT

1. The applicant is the owner of property located at 175-179 North Main Street, Port Chester, and designated as Section 142.23, Block 2, Lots 27 and 28 on the Tax Map of the Town of Rye, New York.

2. The subject premises are improved by a two-story commercial building fronting on North Main Street and Mill Street.

3. The subject premises are located in a C-2 Retail District.

4. The applicant proposes to install two façade and two awning signs.

5. The Building Department denied the application for a building permit by Notice of Disapproval dated August 31, 2010 which stated as follows:

Section 345-15, Sign Regulations, (E). One wall sign permitted on each public street, applicant proposes four signs on North Main Street and two signs on Mill Street, variance required.

Section 345-15, Sign Regulations, (E)(B): Sign shall not be located above the second story of the building wall, applicant proposes sign above the second story of the building wall on North Main Street.

6. A public hearing was held wherein the applicant and all interested parties were given a full and complete opportunity to be heard.

7. The applicants were represented by Michael Boender, AIA.

8. Mr. Boender presented the application. He stated that the signage is part of the improvements for the new food emporium, the "Tarry Market". He advised that the signage received the favorable recommendation of the Architectural Board of Review. He contended that the signage was not obtrusive, aesthetically pleasing and was in keeping

with the historical nature of the building. Specialty goose-neck lighting would illuminate the signs. He stated that the signage was the minimal necessary to promote and attract customers to the new store.

9. One neighbor appeared in favor and no one appeared against the application.

### CONCLUSIONS OF LAW

1. With regard to a request for an area variance, Village Law , Section 7-712-b(3)(b) requires the Zoning Board of Appeals to balance the benefit to the applicant if the variance is granted as against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall consider: (1) 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 area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse impact on the physical or environmental conditions in the neighborhood; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

2. The requested variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed signage will enhance the value of the property and the surrounding neighborhood.

3. The applicant cannot otherwise promote pedestrian and vehicular visibility to the subject property and the new store without the requested variances are not significant in nature.

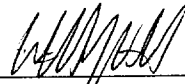
4. The requested variances will not have any adverse impact on the physical or environmental conditions in the neighborhood. The variances will not result in any decrease of light, air, privacy, security for fire and other dangers or overcrowding. Nor is there any evidence that the variances would negatively impact the natural environment and/or any ecological systems.

5. Since the applicants purchased the property with presumptive knowledge of the restrictions contained within the C-2 Zoning District, there is arguably the existence of self-created hardship. However, this is only one factor for the Board to consider and does not outweigh the other foregoing factors that otherwise tip in it favor.

7. This matter is classified as a Type II Action under the New York State Environmental Quality Review Act (SEQRA).

DETERMINATION

On motion of Ms. Petrone seconded by Mr. Luiso  
granted, the Zoning Board of Appeals of the Village of Port Chester, New York,  
the application of E.J. Port Realty, Case No. 1490, for area variances and  
authorizes the Chairman to sign these Findings on its behalf.



\_\_\_\_\_  
William Villanova, Chairman

November 18, 2010





## Zoning Board of Appeals

222 GRACE CHURCH STREET  
PORT CHESTER, NEW YORK 10573

### Board Members

William Villanova, Acting Chairman  
Evelyn Petrone, Secretary  
Ronald Luiso  
Art D'Estrada  
Frank Strauch  
Gerardo Espinoza, Alternate

(914) 939-5203

November 19, 2010

Mr. Michael Rozins  
350 South Broadway  
Tarrytown, NY 10591

**RE: Case No. 1489 (F3004)**  
**211 Irving Avenue**  
**Variances to Install Storage Silo**



Dear Mr. Rozins:

It was the decision of this Board at its hearing held on Thursday, November 18, 2010, to grant the variances as requested on your application regarding the above captioned matter.

Sincerely,

William Villanova  
Acting Chairman

WV: co

Cc: Anthony Carbone, Esq.  
Timothy Wetmore, AIA

RESOLUTION ON APPEAL

Before the

Zoning Board of Appeals

OF THE VILLAGE OF PORT CHESTER, N.Y.

IN THE MATTER OF THE APPEAL

of

Michael Rozins  
Anthony Carbone, Esq.

from the determination of the Building

Inspector denying application for permit to install 11'6" X 23'  
high storage silo for flour storage

on premises No. 211 Irving Avenue

in the Village of Port Chester, New York, being Section

No. 142.22, Block No. 1, Lot No. 37, on

the Assessment Map of the said Village

having heretofore appealed to this Board from a determination of the Building Inspector denying appellants application for permission to install 11'6" X 23' high storage silo for flour storage located in a C1 zoning district

on the premises No. 211 Irving Avenue

in the Village of Port Chester, being Section No. 142.22

Block No. 1, Lot No. 37 on the Assessment Map of said Village on the ground that the same violates the

zoning ordinance of said Village in the following particulars, viz: Section 345-6(F): Accessory Buildings, Structures and Users: Storage of dust-producing substances as an accessory use shall not be within 50'0" of any side or rear lot line or within 100'0" of any front line, variance required.

Section 345-47, Part II, Dimensional Regulations: Minimum side yard and rear yard setbacks require 12'0" (half the height of the structure), applicant proposes 2.33', variance required.

and due public notice having been duly given of a hearing on said application to be held on the 6th

day of August

20 10, and the applicant having appeared by Michael Rozins

in support of said application and

appearing in opposition, and after due consideration it appearing to the satisfaction of this Board that said appeal can be granted without detriment to the health, safety, morals, comfort, convenience, or general welfare of the community, and that the use applied for is a reasonable one for the premises involved; that practical difficulties and unnecessary hardship would result in carrying out the strict letter of the ordinance, and that by granting said appeal the spirit of the ordinance will be observed, public safety secured and substantial justice done.

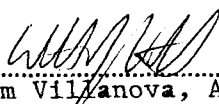
NOW THEREFORE, RESOLVED, that Michael Rozins is hereby authorized to install 11'6 X 23' high storage silo for flour storage, by the grant of the variances. on premises No. 211 Irving Avenue in the Village of Port Chester, New York being Section 142.22, Block 1, Lot 37, on the Assessment Map of the Village of Port Chester.

in accordance with plans and specifications therefore to be submitted to and approved by the Building Inspector of the Village of Port Chester, New York, conditioned nevertheless.

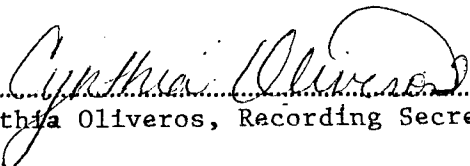
in accordance with plans and specifications dated February 5, 2010, approved by said Board on the 18th day of November, 2010, subject to being submitted to and approved by the Building Inspector of The Village of Port Chester, a building permit has been obtained within 90 days of this resolution and conditioned nevertheless that the variance shall expire by limitation unless such building or work so authorized shall have been commenced within one year from the date of the permit. Such limitation may, upon application to the board, without notice or hearing be extended ~~for only one period not to exceed six months~~ <sup>if good cause is shown.</sup> If the construction of the building or work so authorized by such variance is suspended or abandoned for a period of one year after the time of commencing, the variance so authorized shall expire, and it is further conditioned:

Dated November 18, 2010 20

ZONING BOARD OF APPEALS OF THE VILLAGE OF PORT CHESTER

  
.....  
William Villanova, Acting Chairman

I HEREBY certify the above to be a full, true, and correct copy of a resolution duly adopted by the Zoning Board of Appeals of the Village of Port Chester on the date above mentioned, five members of the Board being present and concurring.

  
.....  
Cynthia Oliveros, Recording Secretary

ROLL CALL:

AYES: Petrone, Luiso, D'Estrada. Strauch, Villanova  
NAYES: None  
ABSENT: None

MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: November 18, 2010  
No. of Case: 1489, 211 Irving Avenue  
Applicant: Michael Rozins

Nature of Request: See publication notice annexed hereto.  
Variances to install 11'6 X 23' high storage silo for flour storage

1. Names and addresses of those appearing in favor of the application.

- a. Michale Rozins, 365 South Broadway, Tarrytown, NY 10591
- b. Anthony Carbone, Esq., 320 Westchester Avenue, Port Chester, NY 10573
- c.
- d.
- e.

2. Names and addresses of those appearing in opposition to application.

- a. None
- b.
- c.
- d.
- e.

Summary of statement or evidence presented: Findings of Fact as prepared by Anthony Cerreto, Village Attorney

Findings of Board: SEE ATTACHED

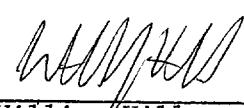
Action taken by Board: A motion was made by Ms. Petrone, seconded by Mr. Luiso, to approve the Findings of Fact as prepared by Anthony Cerreto, Village Attorney, and to grant the variances as requested on application. A vote was taken and the motion was unanimously carried.

Record of Vote: For Five Against -0- Absent -0-

List names of members and how voted - symbols as follows: F-for, A-against, Ab-absent

- F - Petrone
- F - Luiso
- F - D'Estrada
- F - Strauch
- F - Villanova

Attest: 11/29/10

Signed   
William Villanova  
Title Acting Chairman

ZONING BOARD OF APPEALS OF THE  
VILLAGE OF PORT CHESTER

-----X  
In the Matter of the Application of  
Michael Rozins

Case No. 1489

-----X  
FINDINGS OF FACT

1. The applicant is a lessee of property located at 211 Irving Avenue, Port Chester, and designated as Section 142.22, Block 1, Lot 37 on the Tax Map of the Town of Rye, New York.

2. The subject premises are improved by a one-story commercial building.

3. The subject premises are located in a C-1 Commercial District.

4. The applicant proposes to install a storage silo for flour.

5. The Building Department denied the application for a building permit by Notice of Disapproval dated June 23, 2010 which stated as follows:

Section 345-6(F): Accessory Buildings, Structures and Uses: Storage of dust-producing substance as an accessory use shall not be within 50'0" of any side or rear lot line or within 100'0" of any front line, variance required.

Section 345-47, Part II, Dimensional Regulations: Minimum side yard and rear yard setbacks require 12'0" (half the height of the structure), applicant proposes 2.33', variance required.

6. A public hearing was held on August 19, 2010, September 16, 2010, and October 21, 2010 wherein the applicant and all interested parties were given a full and complete opportunity to be heard.

7. The applicants were represented by Anthony Carbone, Esq.

8. Mr. Carbone presented the application with Timothy Wetmore, AIA. Mr. Carbone discussed the connection the applicant has to the Village. Mr. Rozins operated his business in the Kohl's Shopping Center and recently relocated to the subject property. He reviewed the current operations and means of delivering flour to the site. Currently,

flour is shipped to Neri Bakery and then three pallets of 100-pound bags of flour are delivered from there to the property every day. The proposal is to eliminate such frequent truck delivery by installing a storage silo (11'6" x 23') that will be filled by delivery truck from the street curb three to four times a month. The delivery operation takes between 30 to 60 minutes.

9. In response to questions posed by the Zoning Board, the applicant provided expert testimony from the out-of-state manufacturer/installer, KB Systems.

10. Dominick Neri, Neri Bakery, testified on behalf of the applicant. He discussed the proposed operation of the silo, the distinction between his bakery and the scale of the applicant's operations and invited Board members to a demonstration at his facility to confirm that the application presented no negative impacts.

11. The matter was referred to the Traffic Sergeant for his review of potential traffic and parking issues. A report was provided to the Zoning Board dated October 19, 2010. The report concluded that the proposed delivery process and the frequency of delivery seemed agreeable. Further, that the proposed use of meter bags appears to fit the use in the Village Code and the tanker trucks' use of metered spaces V59, V60 and V61 would appear to cause no significant traffic flow disruption on Irving Avenue.

12. There was one public comment in opposition to the application.

#### CONCLUSIONS OF LAW

1. With regard to a request for an area variance, Village Law, Section 7-712-b(3)(b) requires the Zoning Board of Appeals to balance the benefit to the applicant if the variance is granted as against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall consider: (1) 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 area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse impact on the physical or environmental conditions in the neighborhood; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

2. The requested variances will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties. The silo is in the rear of the property, is not visible from the street and adjacent to a commercial building that is on an adjoining property further minimizing any visual impact.

3. The applicant cannot otherwise efficiently operate his business without the requested variances.

4. The requested variances are significant, but they will not have any adverse impact on the physical or environmental conditions in the neighborhood. The variances will not result in any decrease of light, air, privacy, security for fire and other dangers or overcrowding. Nor is there any evidence that the variances would negatively impact the natural environment and/or any ecological systems.

5. Since the applicants purchased the property with presumptive knowledge of the restrictions contained within the C-1 Zoning District, there is arguably the existence of self-created hardship. However, this is only one factor for the Board to consider and does not outweigh the other foregoing factors that otherwise tip in his favor.

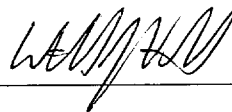
6. This matter is classified as a Type II Action under the New York State Environmental Quality Review Act (SEQRA).

#### DETERMINATION

On motion of Ms. Patrone seconded by Mr. Luiso  
, the Zoning Board of Appeals of the Village of Port Chester, New York,  
granted the application of Michael Rozins, Case No. 1489, for area variances, on  
the condition that:

1. Permits from the Village Clerk shall be obtained to use the identified parking meters abutting the subject property on Irving Avenue during delivery of flour pursuant to Village Code, Section 319-34 (B).
2. Loading from Irving Avenue for the delivery of flour shall only be from 2 to 4 p.m.
3. Sidewalk safety shall be monitored during delivery and appropriate signage will be displayed..
4. Delivery trucks shall have a double muffler system to minimize noise levels produced by the pumping of flour.
5. All applicable federal and state codes as it relates to the bulk storage of dust storage products shall be complied with.

And the Chairman is authorized to sign these Findings on its behalf.



William Villanova, Chairman

November 18, 2010



## Zoning Board of Appeals

222 GRACE CHURCH STREET  
PORT CHESTER, NEW YORK 10573

### Board Members

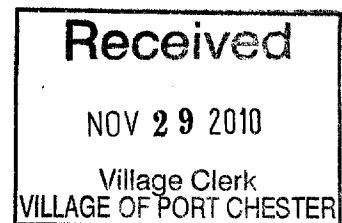
William Villanova, Acting Chairman  
Evelyn Petrone, Secretary  
Ronald Luiso  
Art D'Estrada  
Frank Strauch  
Gerardo Espinoza, Alternate

(914) 939-5203

November 19, 2010

Mr. Michiel Boender, AIA  
Edgewater Group  
163 North Main Street  
Port Chester, NY 10573

**RE: Case No. 1485 (F2175)**  
**277 Madison Avenue**  
**Variances to Construct Second Story Addition**



Dear Mr. Boender:

It was the decision of this Board at its hearing held on Thursday, November 18, 2010, to grant the variances as requested on your application regarding the above captioned matter.

Sincerely,

William Villanova  
Acting Chairman

WV: co



RESOLUTION ON APPEAL

Before the

Zoning Board of Appeals

OF THE VILLAGE OF PORT CHESTER, N.Y.

IN THE MATTER OF THE APPEAL

of

Marion and Cathleya Castillo

from the determination of the Building

Inspector denying application for permit to construct a  
second story addition

on premises No. 277 Madison Avenue

in the Village of Port Chester, New York, being Section

No. 136.47, Block No. 2, Lot No. 49, on

the Assessment Map of the said Village

having heretofore appealed to this Board from a determination of the Building Inspector denying appellants application for  
permission to construct a second story addition located in a R7 zoning district

on the premises No. 277 Madison Avenue in the Village of Port Chester, being Section No. 136.47

Block No. 2, Lot No. 49 on the Assessment Map of said Village on the ground that the same violates the

zoning ordinance of said Village in the following particulars, viz: Section 345-40, Part II, Dimensional  
Regulations: Side yard setback requires 10'0", applicant proposes 4'0", variance  
required. Total of two side yards setback requires 20'0", applicant proposes 15.5',  
variance required. Lot width requires 70'0", applicant proposes 52.0', variance required

and due public notice having been duly given of a hearing on said application to be held on the 4th

day of June, 20 10, and the applicant having appeared by Michiel Boender, AIA

in support of said application and

appearing in opposition, and after due consideration it appearing to the satisfaction of this Board that said appeal can be granted without detriment to the health, safety, morals, comfort, convenience, or general welfare of the community, and that the use applied for is a reasonable one for the premises involved; that practical difficulties and unnecessary hardship would result in carrying out the strict letter of the ordinance, and that by granting said appeal the spirit of the ordinance will be observed, public safety secured and substantial justice done.

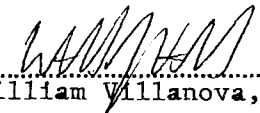
NOW THEREFORE, RESOLVED, that Marion and Cathleya Castillo is hereby authorized to construct a second story addition by the grant of variances on premises No. 277 Madison Avenue in the Village of Port Chester, New York being Section 136.47, Block 2, Lot 49, on the Assessment Map of the Village of Port Chester.

in accordance with plans and specifications therefore to be submitted to and approved by the Building Inspector of the Village of Port Chester, New York, conditioned nevertheless.

in accordance with plans and specifications dated March 30, 2010, approved by said Board on the 18th day of November, 2010, subject to being submitted to and approved by the Building Inspector of The Village of Port Chester, a building permit has been obtained within 90 days of this resolution and conditioned nevertheless that the variance shall expire by limitation unless such building or work so authorized shall have been commenced within/one year from the date of the permit. Such limitation may, upon application to the board, without notice or hearing be extended ~~for only one period not to exceed six months~~ <sup>if good cause is shown.</sup> If the construction of the building or work so authorized by such variance is suspended or abandoned for a period of one year after the time of commencing, the variance so authorized shall expire, and it is further conditioned:

Dated November 18, 2010.

ZONING BOARD OF APPEALS OF THE VILLAGE OF PORT CHESTER

  
.....  
William Villanova, Acting Chairman

I HEREBY certify the above to be a full, true, and correct copy of a resolution duly adopted by the Zoning Board of Appeals of the Village of Port Chester on the date above mentioned, five members of the Board being present and concurring.

  
.....  
Cynthia Oliveros, Recording Secretary

ROLL CALL:  
AYES: Petrone, Luiso, D'Estrada, Strauch, Villanova  
NAYES: None  
ABSENT: None

MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: November 18, 2010  
No. of Case: 1485, 277 Madison Avenue  
Applicant: Marion and Cathleya Castillo

Nature of Request: See publication notice annexed hereto.  
Variances to construct second story addition

1. Names and addresses of those appearing in favor of the application.

- a. Michiel Boender, AIA, 163 North Main Street, Port Chester, NY
- b.
- c.
- d.
- e.

2. Names and addresses of those appearing in opposition to application.

- a. None
- b.
- c.
- d.
- e.

Summary of statement or evidence presented: Findings of Fact as prepared by Anthony Cerreto, Village Attorney.

Findings of Board: SEE ATTACHED

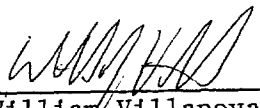
Action taken by Board: A motion was made by Ms. Petrone, seconded by Mr. Strauch, to approve the Findings of Fact as prepared by Anthony Cerreto, Village Attorney, and to grant the variances as requested on application. A vote was taken and the motion was unanimously carried.

Record of Vote: For Five Against -0- Absent -0-

List names of members and how voted - symbols as follows: F-for, A-against, Ab-absent

- F - Petrone
- F - Luiso
- F - D'Estrada
- F - Strauch
- F - Villanova

Attest: 11/29/10

Signed   
 Title William Villanova  
Acting Chairman

ZONING BOARD OF APPEALS OF THE  
VILLAGE OF PORT CHESTER

-----X  
In the Matter of the Application of  
Marion and Cathley Castillo

Case No. 1485

-----X  
FINDINGS OF FACT

1. The applicants are the owners of property located at 277 Madison Avenue, Port Chester, and designated as Section 136.47, Block 2, Lot 49 on the Tax Map of the Town of Rye, New York.

2. The subject premises are improved by a one-family dwelling.

3. The subject premises are located in an R-7 One-Family Residence District.

4. The applicant proposes a second-floor addition.

5. The Building Department denied the application for a building permit by Notice of Disapproval dated April 16, 2010 which stated as follows:

Section 345-40, Part II, Dimensional Regulations: side-yard setback requires 10'0", applicant proposes 4'0", variance required. Total of two yards setback requires 20'0", applicant proposes 15.5', variance required lot width requires 70'00", applicant proposes 52', variance required..

6. A public hearing was held wherein the applicant and all interested parties were given a full and complete opportunity to be heard.

7. The applicants were represented by Michael Boender, AIA.

8. Mr. Boender presented the application. He stated that the three-bedroom house was cramped with all living space confined on one floor. The proposed renovations would result in a first floor occupied by a kitchen, dining room, one-half bathroom and bedroom suite and a second floor occupied by three bedrooms.

The footprint of the house will not change and the front yard set-back will be respected. The property is an existing undersized lot, and most of the house on the same side of the street are also undersized.

9. Mr. Boender also stated that the renovations included a 12 foot by 20 foot deck at the rear of the house.

10. Three neighbors appeared in opposition and one neighbor appeared in favor of the application.

11. At the request of the Zoning Board, taking into account the neighbor's concerns, the applicants personally appeared and gave testimony. The applicants purchased the property in 1985. In 1991, Mr. Castillo's job required him and his wife to relocate to the Phillipines. They rented the property from 1991 to 2001. The last tenant was a problem and was evicted in 2005. They have not rented out since. The children use the house during college break. They stay at the house on their visits back home. When Mr. Castillo retires, him and his wife will return to the United States and live in the house. They retain a neighbor to maintain the property.

#### CONCLUSIONS OF LAW

1. With regard to a request for an area variance, Village Law , Section 7-712-b(3)(b) requires the Zoning Board of Appeals to balance the benefit to the applicant if the variance is granted as against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall consider: (1) 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 area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse impact on the physical or environmental conditions in the neighborhood; and (5) whether the alleges difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

2. The requested variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed addition will enhance the value of the property and the surrounding neighborhood.

3. The applicant cannot otherwise feasibly make the improvements necessary to the house.

4. The requested variances are not significant in nature.

5. The requested variances will not have any adverse impact on the physical or environmental conditions in the neighborhood. The variances will not result in any decrease of light, air, privacy, security for fire and other dangers or overcrowding. Nor is there any evidence that the variances would negatively impact the natural environment and/or any ecological systems.

6. Since the applicants purchased the property with presumptive knowledge of the restrictions contained within the R-7 Zoning District, there is arguably the existence of self-created hardship. However, this is only one factor for the Board to consider and does not outweigh the other foregoing factors that otherwise tip in their favor.

7. This matter is classified as a Type II Action under the New York State Environmental Quality Review Act (SEQRA).

DETERMINATION

On motion of Ms. Petrone, seconded by Mr. Strauch, the Zoning Board of Appeals of the Village of Port Chester, New York, granted the application of Marion and Cathley Castillo, Cal, No. 1485, for area variances and authorizes the Chairman to sign these Findings on its behalf.



\_\_\_\_\_  
William Villanova, Chairman

November 18, 2010



# Zoning Board of Appeals

222 GRACE CHURCH STREET  
PORT CHESTER, NEW YORK 10573

**Board Members**

**William Villanova, Acting Chairman**  
**Evelyn Petrone, Secretary**  
**Ronald Luiso**  
**Art D'Estrada**  
**Frank Strauch**  
**Gerardo Espinoza, Alternate**

(914) 939-5203

November 19, 2010



Mr. Oscar Ovalle  
Greenwich Design Architects  
309 Greenwich Avenue  
Suites 201-202-203  
Greenwich, CT 06830

**RE: Case No. 1487 (F874)**  
**21 Gilbert Place**  
**Variances to Convert a Two Family to a One Family and to**  
**Convert Garage Second Floor Space from Storage to One Family Unit**

Dear Mr. Ovalle:

Please be advised that at the Zoning Board of Appeals hearing held on Thursday, November 18, 2010, said Board reviewed your application for request of variances regarding the above captioned matter and a decision will be made at the next scheduled meeting for December 16, 2010.

Sincerely,

William Villanova  
Acting Chairman

WV: co

Cc: Gloria Gonzales

MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: November 18, 2010  
No. of Case: 1487, 21 Gilbert Place  
Applicant: Gloria Gonzalez

Nature of Request: See publication notice annexed hereto. convert two family into a one family (building #1) and convert detached garage second floor space from storage to a one family unit (building #2)

1. Names and addresses of those appearing in favor of the application.

- a. Oscar Ovalle, 309 Greenwich, CT
- b. Gloria Gonzalez, 21 Gilbert Place, Port Chester
- c.
- d.
- e.

2. Names and addresses of those appearing in opposition to application.

- a. NONE
- b.
- c.
- d.
- e.

Summary of statement or evidence presented: Public hearing was closed at the last hearing of October 21, 2010.

Findings of Board:

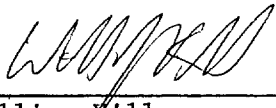
Action taken by Board: A motion was made by Mr. Luiso, seconded by Mr. Strauch, directing Anthony Cerreto, Village Attorney to prepare Findings of Fact for this application. A vote was taken and the motion was unanimously carried.

Record of Vote: For Five Against -0- Absent -0-

List names of members and how voted - symbols as follows: F-for, A-against, Ab-absent

- F- Petrone
- F- Luiso
- F- Strauch
- F- Espinoza
- F- Villanova

Attest: 11/29/10

Signed   
 \_\_\_\_\_  
 William Villanova  
 Title Acting Chairman  
 \_\_\_\_\_