



PORT CHESTER BUILDING AND FIRE PREVENTION DEPARTMENT

222 GRACE CHURCH STREET • PORT CHESTER, NEW YORK 10573

939-5203

Frank Ruccolo

Assistant Building & Plumbing Inspector

MEMO TO: Joan Mancuso, Village Clerk

FROM: Anne Belfatto, ZBA Secretary *AB*

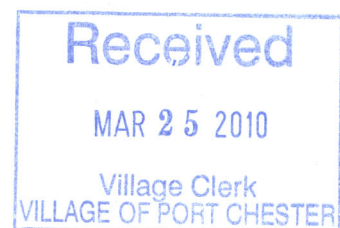
DATE: March 25, 2010

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, March 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

William Villanova, Acting Chairman
Evelyn Petrone, Secretary
Ronald Luiso
Art D'Estrada

(914) 939-5203

March 19, 2010

Mr. Bruno J. Gioffre, Esq.
Gioffre & Gioffre
2900 Westchester Avenue
Suite 206
Purchase, NY 10577

RE: Case No. 1482 (F3488)
225 William Street
Parking Variance to Create a Laundromat

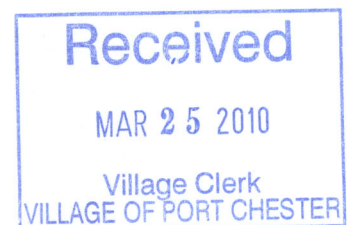
Dear Mr. Gioffre:

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

Sincerely,

William Villanova
Acting Chairman

WV:akb



MINUTES OF MEETING
Application for Zoning Variance

Date of Hearing: March 18, 2010
No. of Case: 1482, 225 William Street
Applicant: NDC Contracting Corporation

Nature of Request: See publication notice annexed hereto.
Parking variance to create laundromat business

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

- a. Bruno J. Gioffre, Esq., 2900 Westchester Avenue, Purchase, NY
- b. Marty and Robert Zamora, owners of 225 William Street
- c. Nick DiBiccarri, proposed operator of laundromat
- d. Martin Campo, 217 William Street, Port Chester, NY
- e. Sandra Randolph, tenant at 225 William Street, Port Chester, NY
- f. Luis Reyes, 133 Washington Street, Port Chester, NY
- g. Petition for laundromat submitted and Labeled Exhibit "A"
- h. Area map depicting other laundromat locations submitted and Labeled Exhibit "B"

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

- a. None

Summary of statement or evidence presented: Proposed laundromat supports community need. Petition submitted signed by 100 residents within the immediate area. Have owned the property for eight years and have made continued efforts to market this property. Owners have rejected a store front Church, a men's social club and a kosher bakery which did not work out for religious reasons. In 2001 ZBA decision allowed parking lot in rear with five spaces for the three stores. The proposed laundromat will take the space where the beauty salon exists as the owner of that business is about to retire and the empty retail space next door. The four tenants do not have cars. A true neighborhood use. Most users in the area will be walking to the laundromat. Security is controlled and monitored. The hours will be 6:00 a.m. to 9:00 or 10:00 p.m., seven days a week. Will provide a drop-off service machine for wash and fold. The existing grocery store hours are 8:00 a.m. to 9:30 p.m. This will be Mr. DiBiccari's first laundromat. He will be given a ten year lease with the option to buy.

Findings of Board:

Action taken by Board: A motion was made by Ms. Petrone, seconded by Mr. D'Estrada, to close the public hearing and to render a decision at the next scheduled hearing of April 15, 2010. A vote was taken and the motion was unanimously carried.

A motion was made by Ms. Petrone, seconded by Mr. D'Estrada, requesting the Village Attorney, Anthony Cerreto, to prepare the Findings of Fact. A vote was taken and the motion was unanimously carried.

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

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

Close Public Hearing

F - Petrone
F - Luiso
F - D'Estrada
F - Villenova

Findings of Fact

F - Petrone
F - Luiso
F - D'Estrada
F - Vill



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

(914) 939-5203

March 19, 2010

Mr. Lawrence Bennett
312 Ronbru Drive
New Rochelle, NY 10804

RE: Case No. 1476 (F4386)
435 Elm Street
Variances to Widen Existing Driveway

Dear Mr. Bennett:

It was the unanimous decision of this Board at its hearing held on Thursday, March 18, 2010, to adjourn the above captioned matter to the next scheduled meeting of April 15, 2010.

Sincerely,

William Villanova
Acting Chairman

WV:akb

cc: Elio Guaman



MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: March 18, 2010
No. of Case: 1476, 435 Elm Street
Applicant: Elio Guaman

Nature of Request: See publication notice annexed hereto.
Variances to widen driveway

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

- a. Lawrence Bennett, 312 Ronbru Drive, New Rochelle, NY
- b. Elio Guaman, 325 Elm Street, Port Chester, NY
- c.
- d.
- e.

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

- a. Robert Gerardi, 433 Elm Street, Port Chester, NY
- b.
- c.
- d.
- e.

Summary of statement or evidence presented: Revised plan submitted at last month's meeting. Existing curb cut will remain the same. Cutting back retaining wall from eleven feet to seven feet. Will conform to conditions of rock ledge. Will place car bumers to indicate parking spaces. Robert Gerardi submitted a copy of a police report dated February 27, 2010 regarding a possible rooming house in the second floor apartment. Board requested a report from Code Enforcement regarding the police referral.

Findings of Board

Action taken by Board: A motion was made by Mr. Luiso, seconded by Ms. Petrone, to adjourn this application to the next scheduled hearing of April 15, 2010. A vote was taken and the motion was unanimously carried.



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

(914) 939-5203

March 19, 2010

Mr. Bruno J. Gioffre, Esq.
Gioffre & Gioffre
2900 Westchester Avenue
Suite 206
Purchase, NY 10577

RE: Case No. 1479 (F1640)
2 Purdy Avenue
Variances to Install Bio-Fuel Storage Tank

Dear Mr. Gioffre:

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

Sincerely,

William Villanova
Acting Chairman

WV:akb



RESOLUTION ON APPEAL

Before the

Zoning Board of Appeals

OF THE VILLAGE OF PORT CHESTER, N.Y.

IN THE MATTER OF THE APPEAL

of

Westmore Fuel Co., Inc.

from the determination of the Building
Inspector denying application for permit to install a 20,000
gallon bio-fuel storage tank

on premises No. 2 Purdy Avenue
in the Village of Port Chester, New York, being Section
No. 142.47, Block No. 1, Lot No. 31, 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 a 20,000 gallon bio-fuel storage tank on premises located in a
DW zoning district

on the premises No. 2 Purdy Avenue in the Village of Port Chester, being Section No. 142.47

Block No. 1, Lot No. 31 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 345-13(B), Nonconforming Uses:
Applicant proposes to increase nonconforming use, variance required. Section 345-54,
Part II, Dimensional Regulations: Minimum front yard setback requires 20'0",
applicant proposes 17'0", variance required

MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: March 18, 2010
No. of Case: 1479, 2 Purdy Avenue
Applicant: Westmore Fuel Co., Inc.

Nature of Request: See publication notice annexed hereto.
Variances to install a bio-fuel storage tank

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

- a. Bruno J. Gioffre, Esq., 2900 Westchester Avenue, Purchase, 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.

A motion was made by Ms. Petrone, seconded by Mr. Luiso, that there is a negative declaration with the Short Environmental Impact Statement. A vote

ZONING BOARD OF APPEALS OF THE
VILLAGE OF PORT CHESTER

-----x
In the Matter of the Application of
Westmore Fuel Co. Inc.

Case No. 1479

-----x
FINDINGS OF FACT

1. The applicant is the owner of property located at 2 Purdy Avenue, Port Chester, New York, also designated as Section 142.47, Block 1, Lot 31, on the Tax Map of the Town of Rye, New York.
2. The subject premises are improved by a fuel storage and distribution facility.
3. The subject premises are located in a DW Design Waterfront District.
4. The applicant proposes to install a new 20,000 gallon biofuel storage tank.
5. The Building Department denied the application for a building permit by Notice of Disapproval dated December 15, 2009 which stated as follows:

“Section 345-13(B), Nonconforming Use: Applicant proposes to increase nonconforming use, variance required.
Section 345-54, Part II, and Dimensional Regulations: Minimum front yard setback requires 20’0”, applicant proposes 17’0”, variance required.”
6. A public hearing was held on February 18, 2010 wherein the applicant and all interested parties were given a full and complete opportunity to be heard.
7. Demetrious Adamis, Esq appeared with the principal of the applicant, Dominick Bologna. The existing facility is located on 1.08 acres, and has been operating in the Village for decades. Although the property may be located in a DW District, neighboring properties are likewise long-standing industrial users such as Peckham Asphalt, Interstate Lumber and Verizon.
8. The proposed fuel tank will be used for the storage of bio-fuel, consisting of a blend of refined animal fats and No. 2 fuel oil. The new tank will be the only bio-fuel operation between New York City and Connecticut. Representing the latest trend towards “green” technologies, the applicant has received a grant from New York State. There will be appropriate safeguards put in place, and the tank will be installed on a reinforced

concrete pad with curbing. The proposed tank will be serviced by trucks accessed on Purdy Avenue and not by water barge.

9. No one from the public testified in favor or against the application.

CONCLUSIONS OF LAW

1. With regard to the request for a use variance, Village Law, Section 7-712-b (2) (b) states that "no such use variance shall be granted without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located, (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique; (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.

2. The applicant will be unable to obtain a reasonable rate of return if not allowed to innovate and upgrade with the benefit of new technologies. It is a long-standing use and changing to a conforming use would be cost-prohibitive.

3. The hardship relating to the property is unique and is not shared by other surrounding properties. It is one of the few such facilities in the County and befitting such status can be considered a special use.

4. The proposed new tank will not alter the essential character of the neighborhood. The subject premises are adjacent to industrial users. No negative impacts have been identified. Indeed; the application presents the opportunity for a further transition away from potentially more hazardous traditional fossil fuels.

5. The applicant's hardship is not self-created.

6. With regard to the area variance requested, the Zoning Board is required to balance the benefit to the applicant against the impact on the municipality.

7. The front-yard setback is minor and will a waiver of the dimensional requirement present no issues.

DETERMINATION

On motion of Ms. Petrone, seconded by Mr. Luiso,
, the Zoning Board of Appeals of the Village of Port Chester, New York,
grants the application of Westmore Fuel Co Inc., Calendar No. 1479, for a use and area
variance and authorizes the Chairman to sign these Findings on its behalf.

Dated: March 18, 2010
Port Chester, New York



William Villanova
Acting Chairman



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

(914) 939-5203

March 19, 2010

Mr. Gary Gianfrancesco, AIA
Arconics Architecture
545 ½ Westchester Avenue
Rye Brook, NY 10573

RE: Case No. 1473 (F367)
54 Poningo Street
Variations to Convert Existing Building for Church Use

Dear Mr. Gianfrancesco:

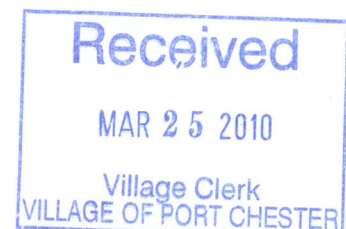
It was the unanimous decision of this Board at its hearing held on Thursday, March 18, 2010, to grant the variations as requested on your application regarding the above captioned matter.

Sincerely,

William Villanova
Acting Chairman

WV:akb

cc: Anthony Carbone, Esq.



RESOLUTION ON APPEAL

Before the

Zoning Board of Appeals

OF THE VILLAGE OF PORT CHESTER, N.Y.

IN THE MATTER OF THE APPEAL

of

Segunda Iglesia Pentecostal

from the determination of the Building
Inspector denying application for permit to convert existing
one story building for Church use

on premises No. 54 Poningo Street
in the Village of Port Chester, New York, being Section
No. 142.22, Block No. 1, Lot No. 54, 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 convert existing one sstory building for Church use on premises located in
a RA3 zoning district

on the premises No. 54 Poningo Street in the Village of Port Chester, being Section No. 142.22
Block No. 1, Lot No. 54 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 345-61, Special Exception Uses,
(C)(1): 21,780 square feet required, 11,770 square feet existing, variance required.
Sixty (60) foot right of way required, 50'0" existing, variance required. Forty (40)
foot paved roadway required, 30'0" existing, variance required.
Section 345-61, Special Exception Uses, (C)(2): Front yard setback from all property
lines requires 20'0", 0'0" for side, rear and side proposed, variance required.
Section 345-61, Special Exception Uses, (C)(3), Off-Street Parking: Thirty-six (36)
parking spaces required, 15 spaces proposed, variance required.
Section 345-10, Yards & Courts, (M): Transitional yards and screening required,
appolcant proposes parking, variance required

MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: March 18, 2010

No. of Case: 1473, 54 Poningo Street

Applicant: Segunda Iglesia Pentacostal

Nature of Request: See publication notice annexed hereto.

Variances to convert existing building into a Church

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

- a. Anthony Carbone, Esq. 320 Westchester Avenue, 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.

ZONING BOARD OF APPEALS OF THE
VILLAGE OF PORT CHESTER

-----X
In the Matter of the Application of
Segunda Inglesia Pentecostal Juan 3:16 Asambleas
De Dios, Inc.

Case No. 1473

-----X
FINDINGS OF FACT

1. The applicant is the owner of property located at 54 Poningo Street, Port Chester, also designated as Section 142.22, Block 1, Lot 54 on the Tax Map of the Town of Rye, New York.

2. The subject premises are located in an RA3 Residential Residence District.

3. The applicant proposes to convert an existing building to a church.

4. The Building Department denied the application for a building permit by revised Notice of Disapproval dated January 22, 2010, which stated as follows:

Section 345-61, Special Exception Uses, (C) (1): 21,780 square feet required 11,770 square feet existing, variance required. Sixty (60) foot right of way required, 50'0" existing, variance required. Forty (40) foot paved roadway required, 30'0" existing, variance required.

Section 345-61, Special Exception Uses, © (2), Front yard setback from all property lines requires 20'0", 0'" for side, rear and side proposed, variance required.

Section 345-61, Special Exception Uses, © (3), Off-Street Parking: Thirty-six (36) parking spaces required, 15 spaces proposed, variance required.

Section 345-10. Yards & Courts, (M): Transitional yards and screening required, applicant proposes parking, variance required.

5. A public hearing was conducted on January 21, 2010 and February 18, 2010 wherein the applicant and all interested parties were given a full and complete opportunity to be heard.

6. Anthony Carbone, Esq. and Gary Gianfrancesco, AIA, appeared on behalf of the applicant. The church has used the building for the past years without any issues. The church presents no traffic or parking impacts since most of the parishioners walk to services. The church has three vans to take the others. It is essentially a Sunday operation, but there are some programs for children during the week. The foot-print of the building will not change. The variances that are being requested are, for the most part, for pre-existing conditions.

7. In addition, counsel advised that parking is provided by a lot at No. 58 Poningo Street which contains twelve spaces. He has prepared a deed restriction to assure continued availability of this parking for the church and represented that the applicant will accept execution of such agreement as a condition of any Village approval required.

8. The applicant has obtained preliminary site plan approval and will require both final approval from the Planning Commission and a special exception use from the Board of Trustees.

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 church has existed at the location for the past years without any negative impacts. Indeed, its' presence has served to benefit the neighborhood and larger community.

3. The applicant cannot otherwise provide a means of improving the property for a church without the variances that are requested.

4. The requested variances are not significant and mostly involve pre-existing conditions. No change in the building foot-print is proposed.


5. The requested variances will not have any adverse impact on the physical or environmental conditions in the neighborhood. The variance 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 variance would negatively impact the natural environment and/or any ecological systems.

6. Since the applicant purchased the property with presumptive knowledge of the restrictions contained within the RA3 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 the applicant's favor.

DETERMINATION

On motion of Ms. Petorne, seconded by Mr. Luiso,
, the Zoning Board of Appeals of the Village of Port Chester, New York,
grants the application of Segunda Iglesia Pentecostal Juan 3:16 Asambleas De Dios, Inc.
Case No. 14673, for area variances which is a Type II action requiring no further
environmental review, on the condition that on final Village land use approval the
applicant execute a deed restriction with regard to ingress and egress and parking lot on
58 Poningo Street as approved by the Village Attorney, and authorizes the Chairman to
sign these Findings on its behalf.

Dated: March 18, 2010
Port Chester, New York



William Villanova
Acting Chairman



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

(914) 939-5203

March 19, 2010

Mr. Scott R. Lucas
295 Lake Drive
Rhinebeck, NY 12572

RE: Case No. 1481 (F2833)
406 King Street
Variances to Replace Existing Structure

Dear Mr. Lucas:

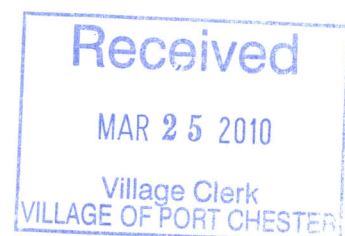
As per your request, it was the unanimous decision of this Board at its hearing held on Thursday, March 18, 2010, to adjourn the above captioned matter to the next scheduled meeting of April 15, 2010.

Sincerely,

William Villanova
Acting Chairman

WV:akb

cc: P.C. Congregation of Jehovah Witnesses



MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: march 18, 2010

No. of Case: 1481, 406 King Street

Applicant: Port Chester Congregation of Jehovah Witnesses

Nature of Request: See publication notice annexed hereto.

Variations to replace existing structure

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

- a. None
- 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: Letter from Scott Lucas requesting and adjournment to the April, 2010 hearing.

~~Findings of Board:~~xx

Action taken by Board: A motion was made by Mr. Luiso, seconded by Mr. D'Estrada, to adjourn this application to the April 15, 2010 hearing. A vote was taken and the motion was unanimously carried.



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

(914) 939-5203

March 19, 2010

Mr. Douglas Coccaro
Sign Design
501 Willett Avenue
Port Chester, NY 10573

RE: Case No. 1480 (F2923)
435 Boston Post Road
Variance to Install Second Wall Sign

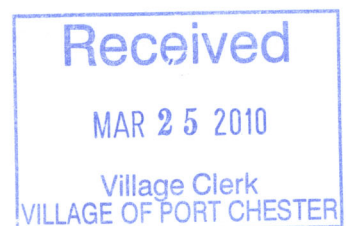
Dear Mr. Coccaro:

Please be advised that at the Zoning Board of Appeals hearing held on Thursday, March 18, 2010, said Board reviewed your application for request of a variance regarding the above captioned matter and a decision will be made at the next meeting scheduled for April 15, 2010.

Sincerely,

William Villanova
Acting Chairman

WV:akb



MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: March 18, 2010

No. of Case: 1480, 435 Boston Post Road

Applicant: Sign Design/AVR realty Company, LLC

Nature of Request: See publication notice annexed hereto.

Variance to install second wall sign for Party City

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

- a. Douglas Coccaro, 501 Willett Avenue, Port Chester, NY
- b. John Marcello, owner of Party City
- c. David Zimmerman, representative of AVR Realty owner of shopping center
- 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: Shopping in flux. No comprehensive plan. This summer/fall will be before the ZBA for signs and other improvements. Franchise taken back last year and have put over \$900,000.00 into the building. Waiting for sign approval to do exterior improvements. Variances granted in 2006 for two additional signs for Verizon and in 1993 for two additional signs for FYE Music that are close proximity to Party City.

~~Findings of Board~~

Action taken by Board: A motion was made by Mr. Luiso, seconded by Mr. D'Estrada, to close the public hearing and to render a decision at the next scheduled hearing of April 15, 2010. A vote was taken and the motion was unanimously carried.

A motion was made by Mr. Luiso, seconded by Mr. D'Estrada, requesting the Village Attorney, Anthony Cerreto, to prepare the Findings of Fact. A vote was taken and the motion was unanimously carried.