



**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: Anne Belfatto, ZBA Secretary *AB*

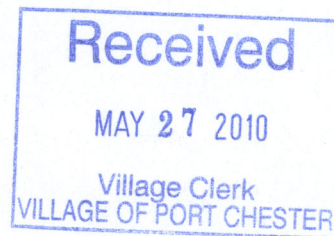
DATE: May 27, 2010

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, May 20, 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**  
**Gerardo Espinoza, Alternate**

(914) 939-5203

May 21, 2010

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

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

Dear Mr. Bennett:

It was the decision of this Board at its hearing held on Thursday, May 20, 2010 to deny the variations as requested on your application for the above captioned matter.

Sincerely,

William Villanova  
Acting Chairman

WV:akb

cc: Elio Guaman



MINUTES OF MEETING

**Application for Zoning Variance**

**Date of Hearing:** May 20, 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.
- 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 deny the variances as requested on application. A vote was taken and the motion was carried.

ZONING BOARD OF APPEALS OF THE  
VILLAGE OF PORT CHESTER

-----X  
In the Matter of the Application of  
Elia Guaman

Case No. 1476

-----X  
FINDINGS OF FACT

1. The applicant is the owner of property located at 435 Elm Street, Port Chester, also designated as Section 136.63, Block 2, and Lot 8 on the Tax Map of the Town of Rye, New York.

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

3. The subject premises are located in an R-2F Two Family Residence District.

4. The applicants were represented by Lawrence Bennett, Lawrence Alan House Design Studio, and New Rochelle, New York.

5. The applicant proposes to widen an existing driveway.

6. The Building Department denied the application for a permit by revised Notice of Disapproval, dated March 1, 2010, which stated as follows:

Section 345-6(I) (4), Access Driveways: Driveway through required front yard shall not exceed 10'0" in width, applicant proposes 28'0", variance required.

Section 345-6(I) (3), Accessory Off-Street Parking: Off-street parking spaces shall not be located within front yard, applicant proposes parking in front yard, variance required.

7. A public hearing was held on November 19, 2009, January 21, 2010, February 18, 2010, March 18, 2010 and April 15, 2010 wherein all interested parties were given a full and complete opportunity to be heard.

8. A public hearing that was adjourned to December 17, 2009 could not proceed because the applicant did not follow the notice requirements of the Village Code.

9. Mr. Bennett made the presentation on behalf of the applicant. The applicant lives on the first floor of the dwelling and rents out the second floor of the dwelling. He proposes a driveway that will create three additional parking spaces. The existing retaining wall will be demolished and a new one constructed. The applicant's representative noted that the existing driveway has no line of sight for vehicles that exit the driveway onto the street and that the proposal will improve this condition.

10. Neighboring property owners testified with concerns about the oversized curb cut that would result in less on-street parking, storm water drainage onto their properties and that the excavation for the driveway would expose a subsurface rock condition.

11. One neighbor testified throughout the course of the application about a persistent overcrowding condition in the dwelling.

12. The applicant represented that there was no overcrowding condition and that no one lived in the basement.

13. In an attempt to address the other concerns, the applicant later revised his plan to show a new driveway design and produced a report from an architect as to the drainage and rock issues.

14. One neighbor produced a report from a licensed professional engineer refuting the applicant's position.

15. The Village Department of Code Enforcement provided information that indicated that the applicant was being prosecuted for unlawful basement occupancy in violation of the Village Code and New York State Fire Prevention and Building Code.

#### CONCLUSIONS OF LAW

1. With regard to the 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. In not being bound by the strict rules of evidence, the Zoning Board is entitled to hear all testimony, determine issues of credulity of witnesses before it and accept evidence for whatever weight it is worth.

3. Granting the variances will facilitate increased density and produce an undesirable change in the character of the neighborhood and detriment to nearby properties.

3. The variances are significant in nature given the site topography.

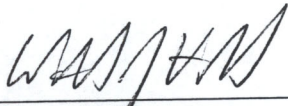
4. The requested variances may have an adverse impact on the physical or environmental conditions in the neighborhood. The variances will not result in any decrease of light, air, privacy, security for fire and other dangers. However, the variances to provide additional parking will promote overcrowding. There is evidence that the variances would negatively impact the natural environment and/or any ecological systems.

5. The applicant's hardship is self-created, as he purchased the subject premises with presumptive knowledge of the restrictions in the R2F District in which it is located. Even more compelling is the fact that the applicant is being prosecuted by the Village for an overcrowding condition that he himself had denied was the case.

#### DETERMINATION

On motion of Ms. Petrone, seconded by Mr. Luiso,  
, the Zoning Board of Appeals of the Village of Port Chester, New York,  
denies the application of Elia Guaman, Calendar No. 1476 and authorizes the Chairman  
to sign these Findings on its behalf.

Dated: May 20, 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**

**Gerardo Espinoza, Alternate**

(914) 939-5203

May 21, 2010

Mr. Vitorio Ciraco, Jr., AIA  
23 West Street  
Harrison, NY 10528

**RE: Case No. 1483 (F1515)**  
**470 West William Street**  
**Variances to Construct One Story Rear Addition**

Dear Mr. Ciraco:

It was the unanimous decision of this Board at its hearing held on Thursday, May 20, 2010, to adjourn the above captioned matter to the next scheduled meeting of June 17, 2010.

Sincerely,

William Villanova  
Acting Chairman

WV:akb

cc: William Lucerno



# MINUTES OF MEETING

## Application for Zoning Variance

**Date of Hearing:** May 20, 2010

**No. of Case:** 1483, 470 West William Street

**Applicant:** Vitorio Ciraco, Jr., AIA/William Luceno

**Nature of Request:** See publication notice annexed hereto.  
Variances to construct one story rear addition

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

- a. Vitorio Ciraco, Jr., AIA, 23 West Street, Harrison, NY
- b. William Luceno, 470 West William Street, Port Chester, NY
- c. Monthly House Expense Statement submitted, Labeled Exhibit "A"
- d. Letter from Realty Exchange, Inc. submitted, Labeled Exhibit "B"
- e.

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

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

**Summary of statement or evidence presented:** Monthly rental \$2,500.00 for two family house. Not owner/occupied. Difficult property to sell with two-1 bedroom apartments. Would like to make house more attractive. Board requested from the owner copies of leases and tax returns for the last three years and listing price from a realtor if he put it on the market today.

~~XXXXXXXXXXXXXXXXXXXX~~  
**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 meeting of June 17, 2010. A vote was taken and the motion was unanimously carried.