



PORT CHESTER BUILDING AND FIRE PREVENTION DEPARTMENT

222 GRACE CHURCH STREET • PORT CHESTER, NEW YORK 10573

939-5203

Frank Ruccolo

Assistant Building & Plumbing Inspector

Rafael A. Luyando

Code Enforcement Officer

Brian D. Acciavatti

Code Enforcement Officer

Lawrence A. Chiulli

Code Enforcement Officer

MEMO TO: Joan Mancuso, Village Clerk

FROM: Anne Belfatto, ZBA Secretary 

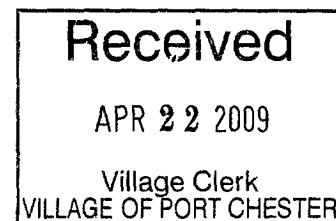
DATE: April 22, 2009

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, April 16, 2009.

Please respond with the proper filing date.

AB/
Attachments





Zoning Board of Appeals

222 GRACE CHURCH STREET
PORT CHESTER, NEW YORK 10573

Board Members
Roberto Vilato, Chairman
William Villanova, Secretary
Evelyn Patrone
Ronald Luiso
Art D'Estrada
Meredith Black, Alternate

(914) 939-5203

April 17, 2009

Mr. Steven Feinstein, Esq.
Gallo, Feinstein & Naishtut, LLP
211 South Ridge Street
Rye Brook, NY 10573

RE: Case No. 1441 (F1394)
13 Maple Place
Use Variance to Convert One Family into a Two Family Dwelling

Dear Mr. Feinstein:

It was the unanimous decision of this Board at its hearing held on Thursday, April 16, 2009, to adjourn the above captioned matter to the next scheduled meeting of May 21, 2009.

Sincerely,

Roberto Vilato
Chairman

RV:akb

cc: Jaime Montoya
Timothy Wetmore, AIA

MINUTES OF MEETING
Application for Zoning Variance

Date of Hearing: April 16, 2009
No. of Case: 1441, 13 Maple Place
Applicant: Jaime Montoya

Nature of Request: See publication notice annexed hereto.
Use variance to convert one family into a two family dwelling

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

- a. Steven Feinstein, Esq., 211 South Ridge Street, Rye Brook, NY
- b. Timothy Wetmore, AIA, 14 Guyer Road, Westport, CT
- c. Mr. and Mrs. Jaime Montoya, 13 Maple Place, Port Chester, NY
- d. Charles Montoya, 13 Maple Place, Port Chester, NY

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

- a. None

Summary of statement or evidence presented: Anthony Cerreto, Village Attorney, stated in his opinion to the Board that Section 345-4(F) is not available as a matter of law to serve as the basis to grant the requested interpretation. The zoning map adopted in 1975 showed the premises within the boundary of an R5 zone. When the map was revised in July, 1990, it appears the boundary line of an R5 and RA3 zones was erroneously drawn to show the boundary line through the middle of the premises. Such error cannot serve as a substitute for action of the Board of Trustees and does not make the boundary line uncertain within the meaning of Section 345-4(F). Mr. Feinstein, attorney for the owners, stated that he was not asking to change the line just that there is uncertainty and when there is uncertainty/doubt this Board is empowered to interpret the code. The owner bought the house in 1978 believing it was a two family dwelling. He never got the pre-date letter from the Building Department. Owner was violated for overcrowding and was told to remove the kitchen and then come to the Board. There was a Court proceeding and owner plea bargained, was fined \$500.00 and was told to take the kitchen out. Concept of line from Len Cusumano, Building Inspector, in 2005, now being told that is wrong. Property surrounded by a majority of legal, multi-family dwellings. Character of neighborhood would not change and there would be no adverse impact. Financial hardship to owner if he cannot have a two family, needs rent from second apartment to pay mortgage. Proposes a minor addition on front to square off building within existing setback requires and parking in the side yard. Renovations will create two entrances and allow for two bedrooms and extra bath on first floor and two bedrooms, bath and open up the space for a living room on the second floor. Mr. Montoya committed not to have overcrowding. Board requested written financial data, copies of prior zoning maps and revision in plan for parking.

Findings of Board:

Action taken by Board: A motion was made by Ms. Petrone, seconded by Chairman Vilato, to waive the confidentiality of the opinion by Anthony Cerreto, Village Attorney, regarding Section 345-4(F) of the Village zoning code. A vote was taken and the motion was unanimously carried.

A motion was made by Ms. Petrone, seconded by Mr. Luiso, to adjourn this application to the next scheduled meeting of May 21, 2009. 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

Roberto Vilato, Chairman
William Villanova, Secretary
Evelyn Petrone
Ronald Luiso
Art D'Estrada
Meredith Black, Alternate

(914) 939-5203

April 17, 2009

Mr. Chris Colby
Spire Architecture, PLLC
6030 Route 82 Village Centre
Stanfordville, NY 12581

RE: Case No. 1465 (F1353)
1 Horton Avenue
Variance to Legalize Existing Wall Sign

Dear Mr. Colby:

It was the decision of this Board at its hearing held on Thursday, April 16, 2009, to grant the variance as requested on your application regarding the above captioned matter.

Sincerely,

Roberto Vilato
Chairman

RV:akb

cc: Summer Rain Sprinkler Systems

RESOLUTION ON APPEAL

Before the

Zoning Board of Appeals

OF THE VILLAGE OF PORT CHESTER, N.Y.

IN THE MATTER OF THE APPEAL

of
Spire Architecture for
Summer Rain Sprinkler Systems

from the determination of the Building
Inspector denying application for permit to legalize existing
wall sign

on premises No. 1 Horton Avenue
in the Village of Port Chester, New York, being Section
No. 136.79, Block No. 2, Lot No. 3, 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 legalize existing wall sign at premises located in a ROO zoning district

on the premises No. 1 Horton Avenue in the Village of Port Chester, being Section No. 136.79

Block No. 2, Lot No. 3 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, (B),
Schedule of Permitted Signs: Sign permitted on public street or municipal off-
street parking lot; applicant proposes sign at required non-municipal lot, variance
required

MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: April 16, 2009
No. of Case: 1465, 1 Horton Avenue
Applicant: Spire Architecture

Nature of Request: See publication notice annexed hereto.
Variance to legalize existing sign

1. Names and addresses of those appearing in favor of the application.
 - a.
 - b.
 - c.
 - d.
 - e.

See sheet attached for additional

2. Names and addresses of those appearing in opposition to application.
 - a.
 - b.
 - c.
 - d.
 - e.

See sheet attached for additional

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

Findings of Board:
See sheet attached

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

Record of Vote: For Three Against Two

ZONING BOARD OF APPEALS OF THE
VILLAGE OF PORT CHESTER

-----x
In the Matter of the Application of
Sire Architecture

Case No. 1465

-----x
FINDINGS OF FACT

1. The applicant is the owner of property located at 1 Horton Avenue, Port Chester, also designated as Section 136.79, Block 2, Lot 3 on the Tax Map of the Town of Rye, New York.

2. The subject premises are improved by a commercial building.

3. The subject premises are located in a Residential Office Overlay District (ROO District)

4. The applicant proposes to legalize a 10 x 13 wall identification sign displaying a lawn sprinkler business.

5. The Building Department denied the application for a building permit by Notice of Disapproval dated January 26, 2009 which stated as follows:

Section 345-15, Sign Regulation, (B), Schedule of permitted signs: Sign permitted on public street on municipal off-street street parking lot; applicant proposed sign at required non-municipal lot, variance requested.

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

7. The applicant conceded that the sign was installed without a permit, but the sign is attractive and is on the parking lot side of the building to cover unsightly louvers that are inactive.

8. Two neighbors from the Landmark Condominiums testified against the application raising issues of visual impact and that the sign should instead be located on the Horton Avenue elevation.

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 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The sign is large, but attractive. It faces the applicant's large, fenced-in parking lot which is itself adjacent to a multi-level parking garage for the Landmark condominiums. Any visual impact is mitigated by the distance of the sign from this residential property.

3. The applicant cannot otherwise provide an effective means of identifying its property short of removal of the sign.

4. The requested variance is not substantial.

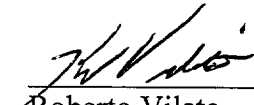
5. The requested variance will not have any adverse impact on the physical or environmental conditions in the neighborhood. The variance will not result in any decrease of light, air, privacy, security for fire and other dangers or overcrowding. Nor is there any evidence that the variance would negatively 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 ROO Zoning District, there is arguably the existence of self-created hardship and its failure to obtain a permit is not an excuse. However, self-created hardship is only one factor for the Board to consider with regard to an area variance and does not outweigh the other foregoing factors that otherwise tip in its favor.

DETERMINATION

On motion of Mr. Villanova, seconded by Mr. Luiso,
, the Zoning Board of Appeals of the Village of Port Chester, New York,
granted the application of Sire Architecture, Case No. 1465, for an
area variance which is a Type II action requiring no further environmental review and
authorizes the Chairman to sign these Findings on its behalf.

Dated: April 16 , 2009
Port Chester, New York



Roberto Vilato
Chairman



Zoning Board of Appeals

222 GRACE CHURCH STREET
PORT CHESTER, NEW YORK 10573

Board Members

Roberto Vilato, Chairman
William Villanova, Secretary
Evelyn Petrone
Ronald Luiso
Art D'Estrada
Meredith Black, Alternate

(914) 939-5203

April 17, 2009

Mr. and Mrs. John Doyle
One Club Road
Rye, NY 10580

RE: Case No. 1432A (F817)
23 Shore Drive
Variance to Widen Driveway

Dear Mr. and Mrs. Doyle:

It was the unanimous decision of this Board at its hearing held on Thursday, April 16, 2009, to grant the variance as requested on your application regarding the above captioned matter.

Sincerely,

Roberto Vilato
Chairman

RV:akb

cc: Ralph Mastromonaco, P. E.

RESOLUTION ON APPEAL

Before the

Zoning Board of Appeals

OF THE VILLAGE OF PORT CHESTER, N.Y.

IN THE MATTER OF THE APPEAL

of

Mr. and Mrs. John Doyle

from the determination of the Building

Inspector denying application for permit to widen driveway

on premises No. 23 Shore Drive

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

No. 142.63, Block No. 1, Lot No. 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 widen driveway on premises located in a R7 zoning district

on the premises No. 23 Shore Drive

in the Village of Port Chester, being Section No. 142.63

Block No. 1, Lot No. 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 345-6(I)(4), Access Driveways:

Driveways through required front/side yards shall not exceed 10'0" in width,

applicants propose 14'0", variance required

MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: April 16, 2009
No. of Case: 1432A, 23 Shore Drive
Applicant: Mr. and Mrs. John Doyle

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

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

- a. Mrs. Shelia Doyle, 1 Club Road, Rye, NY
- b.
- c.
- d.
- e.

See sheet attached for additional

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

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

See sheet attached for additional

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

Findings of Board:

See sheet 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 Carreto, Village Attorney, and to grant the variance as requested on application. A vote was taken and the motion was unanimously carried.

Record of Vote: For Five Against -0-

List names of members and how voted. minutes follows. For Five Against 0

ZONING BOARD OF APPEALS OF THE
VILLAGE OF PORT CHESTER

-----X
In the Matter of the Application of
John and Sheila Doyle

Case No. 1432A

-----X
FINDINGS OF FACT

1. The applicant is the owner of property located at 23 Shore Drive, Port Chester, also designated as Section 142.63, Block 1, Lot 28 on the Tax Map of the Town of Rye, New York.
2. A one family house is currently under construction on the subject premises.
3. The subject premises are located in an R-7 Single-Family Residence District.
4. The applicant was represented by Michael Dobler, Mastromonaco Consulting Engineers, Croton-on-Hudson, New York.
5. The applicant proposes to widen the driveway.
6. The Building Department denied the application for a building permit by Notice of Disapproval dated February 23, 2009 which stated as follows:

Section 345-6(I)(4), Access Driveways: Driveways through requested front/side yards shall not exceed 10'0" in width, applicants propose 14'0", variance required.
7. A public hearing was conducted wherein the applicant and all interested parties were given a full and complete opportunity to be heard.
8. The applicant's representative stated that the subject property is large, 1.125 acres or 48,895 square feet. The house is substantial. A conforming driveway width would be very restrictive for access to the three-bay garage and would not provide clear sight distance in both directions.

9. No one testified in the neighborhood for against of 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 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 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed driveway will not have adverse impact on the subject property and the neighborhood.

3. The applicant cannot otherwise provide a feasible means of improving his property.

4. The requested variance is not significant and technical in nature.

5. The requested variance 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.

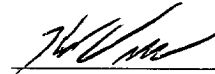
6. Since the applicants purchased the property with presumptive knowledge of the restrictions contained within the R-7 Zoning District, there is arguably the existence of self-created hardship. However, this is only one factor for the Board to consider and does not outweigh the other foregoing factors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

DETERMINATION

On motion of Ms. Petrone, seconded by Mr. Luiso,
, the Zoning Board of Appeals of the Village of Port Chester, New York,

granted the application of John and Sheila Doyle, Case No. 1432A,
for an area variance which is a Type II action requiring no further environmental review
and authorizes the Chairman to sign these Findings on its behalf.

Dated: April 16, 2009
Port Chester, New York



Roberto Vilato
Chairman



Zoning Board of Appeals

222 GRACE CHURCH STREET
PORT CHESTER, NEW YORK 10573

Board Members

Roberto Vilato, Chairman
William Villanova, Secretary
Evelyn Patrone
Ronald Luiso
Art D'Estrada
Meredith Black, Alternate

(914) 939-5203

April 17, 2009

Mr. Anthony Carbone, Esq.
Berlingo & Carbone
320 Westchester Avenue
Port Chester, NY 10573

RE: Case No. 1463 (F1817)
99 Hobart Avenue
Variances to Subdivide Parcel into Two Lots

Dear Mr. Carbone:

As per your request, it was the unanimous decision of this Board at its hearing held on Thursday, April 16, 2009, to adjourn the above captioned matter to the next scheduled meeting of May 21, 2009.

Sincerely,

Roberto Vilato
Chairman

RV:akb

cc: Leon Sculti

MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: April 16, 2009
No. of Case: 1463, 99 Hobart Avenue
Applicant: Leon Sculti

Nature of Request: See publication notice annexed hereto.

Variances to subdivide parcel into two lots

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

a. None

b.

c.

d.

e.

See sheet attached for additional

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

a. None

b.

c.

d.

e.

See sheet attached for additional

3. Summary of statement or evidence presented: Letter dated April 7, 2009 from Anthony Carbone, Esq., requesting an adjournment to the May, 2009 meeting as the moratorium remains in effect.

~~XXXXXXXXXXXXXXXXXXXX~~
~~XXXXXXXXXXXXXXXXXXXX~~

Action taken by Board A motion was made by Mr. Villanova, seconded by Mr. Luiso, to adjourn this application to the next scheduled hearing of May 21, 2009. A vote was taken and the motion was unanimously carried.

Record of Vote: For Five Against -0-
List names of members and how voted, symbols as follows: F for A against



Zoning Board of Appeals

222 GRACE CHURCH STREET
PORT CHESTER, NEW YORK 10573

Board Members

Roberto Vilato, Chairman
William Villanova, Secretary
Evelyn Petrone
Ronald Luiso
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Meredith Black, Alternate

(914) 939-5203

April 17, 2009

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

RE: Extension
Case No. 1394 (F1869)
Willett Avenue/Abendroth Place

Dear Mr. Gioffre:

It was the decision of this Board at its hearing held on Thursday, April 16, 2009, to grant a ninety day extension on variances that were granted June 15, 2006 for an application to construct a multi-family residential structure with a commercial component on the first floor at the above noted location.

Sincerely,

Roberto Vilato
Chairman

RV:akb

cc: Frank Boccanfuso

MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: April 16, 2009
No. of Case: 1394, Willett Avenue, Abendroth Place
Applicant: Demetrios Adamis, Esq.

Nature of Request: ~~See publication on file annexed hereto~~
Extension on variances granted June 15, 2006

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.

See sheet attached for additional

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

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

See sheet attached for additional

3. Summary of statement or evidence presented: Change in circumstances. Application pending at Planning Commission for size of units to meet market conditons. Owner has every intention to stay with project. Requesting a 90 day extension.

~~Findings of Board~~
~~See sheet attached~~

Action taken by Board A motion was made by Mr. Villanova, seconded by Mr. Luiso, to grant an additional ninety day extension on variances that were granted June 15, 2006. A vote was taken and the motion was carried.

Record of Vote: For Four Against -0- Abstained One
List names of members and how voted - symbols as follows: F For A against



Zoning Board of Appeals

222 GRACE CHURCH STREET
PORT CHESTER, NEW YORK 10573

Board Members

Roberto Vilato, Chairman
William Villanova, Secretary
Evelyn Petrone
Ronald Luiso
Art D'Estrada
Meredith Black, Alternate

(914) 939-5203

April 17, 2009

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

RE: Extension
Case No. 1415 (F113)
Willett Avenue and Abendroth Avenue

Dear Mr. Gioffre:

It was the decision of this Board at its hearing held on Thursday, April 16, 2009, to grant a ninety day extension on variances that were granted February 15, 2007 for an application to construct a multi-family residential structure at the above noted location.

Sincerely,

Roberto Vilato
Chairman

RV:akb

cc: Frank Boccanfuso

MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: April 16, 2009

No. of Case: 1415, Willett Avenue and Abendroth Avenue

Applicant: Demetrios Adamis, Esq.

Nature of Request: See publication notice annexed hereto.

Extension on variances granted February 15, 2007

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.

See sheet attached for additional

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

a. None

b.

c.

d.

e.

See sheet attached for additional

3. Summary of statement or evidence presented: Requested 90 day extension for the Mariner, residential use. Applicant committed. Reevaluating site, market conditions. Reconsidering size of units.

~~Findings of Board~~

~~See sheet attached~~

Action taken by Board A motion was made by Mr. Villanova, seconded by Mr. Luiso, to grant a ninety day extension on variances that were granted February 15, 2007. A vote was taken and the motion was carried.

Record of Vote: For Four Against -0- Abstained One
List names of members and how voted - symbols as follows: F for A against