



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

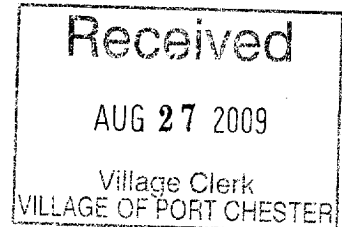
Code Enforcement Officer

Brian D. Acciavatti

Code Enforcement Officer

Lawrence A. Chiulli

Code Enforcement Officer



MEMO TO: Joan Mancuso, Village Clerk

FROM: Anne Belfatto, ZBA Secretary *AB*

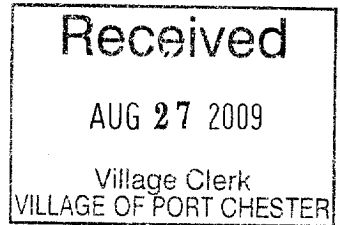
DATE: August 27, 2009

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, August 20, 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 Petrone
Ronald Luiso
Art D'Estrada

(914) 939-5203

August 24, 2009

Mr. Raul Bello, AIA
38 New Street
Rye, NY 10580

RE: Case No. 1469 (F4329)
46 Tower Hill Drive
Front Yard Variance to Construct Second Story Addition

Dear Mr. Bello:

It was the decision of this Board at its hearing held on Thursday, August 20, 2009, to grant the variance as requested on your application regarding the above captioned matter.

Sincerely,

Roberto Vilato
Chairman

RV:akb

cc: John Aguilar
Fred Geremia, 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

John Aguilar

from the determination of the Building

Inspector denying application for permit to construct a second story addition over existing structure

on premises No. 46 Tower Hill Drive

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

No. 136.38, Block No. 1, Lot No. 13, 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 over existing structure located in a R7 zoning district

on the premises No. 46 Tower Hill Drive in the Village of Port Chester, being Section No. 136.38

Block No. 1, Lot No. 13 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: Minimum 30'0" front yard setback required, 29'0" proposed, variance required

MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: August 20, 2009
No. of Case: 1469, 46 Tower Hill Drive
Applicant: John Aguilar

Nature of Request: See publication notice annexed hereto.

Front yard variance to construct second story addition

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

- a. Raul Bello, AIA, 38 New Street, Rye, 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, with an amendment to #8 to include "are too small".

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, with the amendment to #8, and to grant the variance as requested on application. A vote was taken and the motion carried.

ZONING BOARD OF APPEALS OF THE
VILLAGE OF PORT CHESTER

-----X
In the Matter of the Application of
John Aguilar

Case No. 1469

-----X
FINDINGS OF FACT

1. The applicant is the owner of property located at 46 Tower Hill Drive, Port Chester, New York, also designated as Section 136.38, Block 1, Lot 13 on the Tax Map of the Town of Rye.

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 is represented by his architect, Raul Bello, AIA.

5. The applicant proposes a second floor addition.

6. The Building Department denied the application for a building permit by Notice of Disapproval dated June 16, 2009, which stated as follows:

“Section 345-40, Part II, Dimensional Regulations: Minimum 30’0” proposed, variance required.

7. A public hearing was held on July 16, 2009 wherein the applicant and all interested parties were given a full and complete opportunity to be heard.

8. The applicant proposes a 517 square foot second floor addition to provide more living space since the existing bedrooms, are too small.

9. No one testified in favor or 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 variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. In fact, the addition will enhance the property values of the subject premises and the neighborhood.

3. The applicant could decrease the size of the addition.

4. However, the requested front yard set-back variance is de minimus.


5. The requested variance 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 applicant purchase 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 his 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 Aguilar, Calendar No. 1469, for an area variance
and authorizes the Chairman to sign these Findings on its behalf.

Dated: August 20, 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

(914) 939-5203

August 24, 2009

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

RE: Case No. 1470 (F2596)
15 North Main Street
Variances to Construct New Commercial Building

Dear Mr. Gioffre:

Please be advised that at the Zoning Board of Appeals hearing held on Thursday, August 20, 2009, said Board reviewed your application for request of variances regarding the above captioned matter and a decision will be made at the next meeting scheduled for September 17, 2009.

Sincerely,

Roberto Vilato
Chairman

RV:akb

MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: August 20, 2009

No. of Case: 1470, 15 North Main Street

Applicant: 15 North Main Street, LLC

Nature of Request: See publication notice annexed hereto.

Variations to construct new four story commercial building

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

- a. Bruno J. Gioofre, Esq., 2900 Westchester Avenue, Purchase, NY
- b. Christopher Colby, AIA, 6286 Franklin Avenue, Millbrook, NY
- c. Lou Larizza, 8 Hilltop Drive, Prot Chester, NY
- d.
- e.

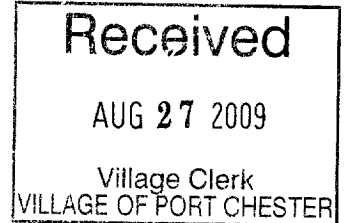
2. Names and addresses of those appearing in opposition to application.

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

Summary of statement or evidence presented: Proposed building to replace burnt out building in C2 zone which will be built on the same footprint of the original building and will be lower in height than code requires. Proposed commercial (retail) on first floor with three levels above for lofts, one use per floor. Front of building will be office with living space at the rear. Decks/balconies on common area of roof for tenants. If built to conform to setback requirements, building would not line up with rest of the buildings on Main Street. Building will enhance the neighborhood. Fits in with the master plan.

Findings of Board

Action taken by Board: A motion was made by Mr. Villanova, seconded by Ms. Petrone, to close the public hearing and to render a decision at the next scheduled hearing of September 17, 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

(914) 939-5203

August 24, 2009

Mr. David Wallance, AIA
325 West 38th Street
Room 912
New York, NY 10018

RE: Case No. 1467 (F4172)
3 Rye Road
Variances to Widen Driveway

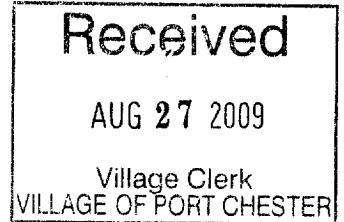
Dear Mr. Wallance:

Please be advised that at the Zoning Board of Appeals hearing held on Thursday, August 20, 2009, said Board reviewed your application for request of variances regarding the above captioned matter and a decision will be made at the next meeting scheduled for September 17, 2009.

Sincerely,

Roberto Vilato
Chairman

RV:akb



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

(914) 939-5203

August 24, 2009

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

RE: Case No. 1466 (F1902)
262 Columbus Avenue
Variances to Construct Rear Addition and Extend Front Porch

Dear Mr. Boender:

Please be advised that at the Zoning Board of Appeals hearing held on Thursday, August 20, 2009, said Board reviewed your application for request of variances regarding the above captioned matter and a decision will be made at the next meeting scheduled for September 17, 2009.

Sincerely,

Roberto Vilato
Chairman

RV:akb

cc: Anthony Carbone, Esq.
Luis Costa

MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: August 20, 2009
No. of Case: 1466, 262 Columbus Avenue
Applicant: Luis Costa

Nature of Request: See publication notice annexed hereto.

Variations to construct rear addition and extend front porch

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

- a. Anthony Carbone, Esq., 320 Westchester Avenue, Port Chester, NY
- b. Michile Boender, AIA, 163 North Main Street, Port Chester, NY
- c. Luis Costa, 262 Columbus Avenue, Port Chester, NY
- d. Prior certificates of occupancy submitted, Labeled Exhibit "F"
- e. Petition from neighbors in support submitted, Labeled Exhibit "G"

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

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

Summary of statement or evidence presented: Documents submitted indicate two family dwelling in a R2F zone (two family zone). Zoning map indicates R5 zone (one family zone). Owner bought house believing it was in a two family zone. There is a school, warehouse and apartment building complex in the neighborhood. Request for front yard variance no required due to alignment of buildings. When purchase, house was in terrible condition. Has spent substantial sums of money to upgrade this property. Mr. Costa and his family live there. Closet in livingroom will be removed.

~~Findings of Board~~

Action taken by Board: A motion was made by Mr. Villanova, seconded by Ms. Petrone, to close the public hearing and to render a decision at the next scheduled hearing of September, 17, 2009. A vote was taken and the motion was unanimously carried.



Received

AUG 27 2009

Village Clerk
VILLAGE OF PORT CHESTER

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

(914) 939-5203

August 24, 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, August 20, 2009, to adjourn the above captioned matter to the next scheduled meeting of September 17, 2009.

Sincerely,

Roberto Vilato
Chairman

RV:akb

cc: Jaime Montoya
Timothy Wetmore, AIA

MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: August 20, 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. David Gallo, Esq., 211 South Ridge Street, Rye Brook, NY
- b. Jaime Montoya, 13 Maple Place, Port Chester, NY
- c. Charles Montoya, 13 Maple Place, Port Chester, NY
- 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 with attachments dated 8/18/09 submitted that setforths history of matter. Purchased in 1978 and thought purchased legal two family. Received mortgage as a two family. Operated as a two family and assessed as a two family. Cannot run home as a one family. No equity in home. Without variance owner will be deprived reasonable return on investment. Unigue-property on boundry line of single/multi-family. Many neighboring properties multi-family. Past history multi-family use. No impact to character of neighborhood. Not self-created, pruchased as a two family, continued to use as a two family. Board requested at least two years prior of tax returns of owner to be submitted before the next meeting.

~~Findings of Board~~

Action taken by Board: A motion was made by Ms. Petrone, seconded by Mr. Luiso, to adjourn this application to the next scheduled hearing of September 17, 2009. A vote was taken and the motion was unanimously carried.