



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*

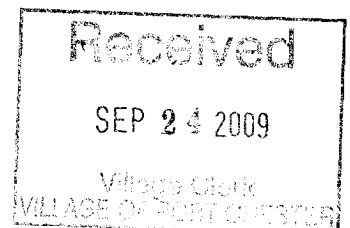
DATE: September 24, 2009

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, September 17, 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

William Villanova, Acting Chairman

Evelyn Petrone, Secretary

Ronald Luiso

Art D'Estrada

(914) 939-5203

September 21, 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
Variations to Construct New Commercial Building

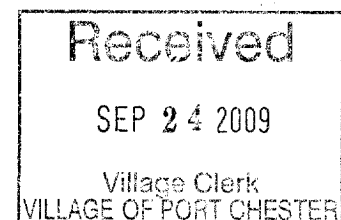
Dear Mr. Gioffre:

It was the unanimous decision of this Board at its hearing held on Thursday, September 17, 2009, to grant the variations 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

15 North Main Street, LLC

from the determination of the Building

Inspector denying application for permit to construct a new
four story commercial building

on premises No.

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

No. 142.31, Block No. 1, Lot No. 19, 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 new four story commercial building located in a C2 zoning district

on the premises No. 15 North Main Street in the Village of Port Chester, being Section No. 142.31

Block No. 1, Lot No. 19 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 345-48, Part II, Dimensional Regulations: Minimum 20'0" rear yard setback required, applicant proposes 0'0", variance required. Minimum 10'0" required on both side yards, applicant proposes 1'2" on one side and 1'7" on the other side, variance required

MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: September 17, 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. Lou Larizza, 8 Hilltop Drive, 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. Mr. D'Estrada stated that he had the opportunity to listen to the tape of the meeting on 8/20/09 regarding this application.

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.

ZONING BOARD OF APPEALS OF THE
VILLAGE OF PORT CHESTER

-----x
In the Matter of the Application of
15 North Main Street, LLC

Case No. 1470

-----x
FINDINGS OF FACT

1. The applicant is the owner of 15 North Main Street, Port Chester also designated as Section 142.31, Block 1, Lot 9 on the Tax Map of the Town of Rye, New York.

2. The subject premises were formerly improved by a four-story building that burned down and has since been demolished.

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

4. The applicant was represented by Bruno Gioffre, Esq.

5. The applicant proposes to build a new four-story building.

7. The Building Department denied the application for a building permit by Notice of Disapproval dated May 20, 2009 which stated as follows:

Section 345-48, Part II, Dimensional Regulations: Minimum 20'.0" rear yard setback required, applicant proposes 0'0", variance required. Minimum 10'0" required on both side yards, applicant proposes 1'2" on one side and 1'7" on the other side, variances required.

8. A public hearing was conducted on August 20, 2009 wherein the applicant and all interested parties were given a full and complete opportunity to be heard.

9. The applicant's attorney and architect, Chris Colby, R.I.A. made the presentation. Counsel stated that the proposed building would be lower in height than the current Village Code allows and would be consistent with the proposed Comprehensive Plan. The building would be commercial on the first floor and office/residential lofts on

the upper floors. He stated that the building would be a significant enhancement in the heart of the downtown.

10. 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 variances will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed building will replace the burned out building that once stood in the heart of the downtown.

3. The applicant cannot otherwise provide a means of improving its property without the variances.

4. The requested variances are significant, but since they conform to the footprint of the original building, they are technical in nature.

5. The 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.


7. Since the applicant 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 its favor.

DETERMINATION

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

approved the application of 15 North Main Street, LLC., Case No. 1470, for area variances which is a Type II action requiring no further environmental review and authorizes the Acting Chair to sign these Findings on its behalf.

Dated: September 17, 2009
Port Chester, New York



Acting Chairman
William Villanova



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

September 21, 2009

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

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

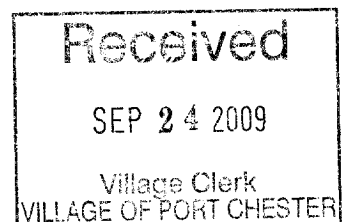
Dear Mr. Wallance:

It was the unanimous decision of this Board at its hearing held on Thursday, September 17, 2009, to grant the variations as requested on your application in accordance with revised plans dated August 18, 2009 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

Dr. Klaus Kleinfeld

from the determination of the Building

Inspector denying application for permit to amend Building Permit #G10841 to construct a new one-family dwelling

on premises No. 3 Rye Road

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

No. 142.46, Block No. 1, Lot No. 36, 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 amend Building Permit #G10841 to construct a new one-family dwelling located in an R7 zoning district

on the premises No. 3 Rye Road

in the Village of Port Chester, being Section No. 142.46

Block No. 1, Lot No. 36

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 yard and side yards shall not exceed 10'0" in width, applicant proposes 21'1" to 22'2", variance required. Section 345-6(I)(3), Accessory Off-Street Parking: Off-street parking spaces shall not be located within front and side yards, applicant proposes parking in front and side yards, variance required

MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: September 17, 2009

No. of Case: 1467, 3 Rye Road

Applicant: Dr. Klaus Kleinfeld

Nature of Request: See publication notice annexed hereto.

Variations to widen driveway

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

- a. David Wallance, AIA, 325 West 38th Street, New York, 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. Mr. D'Estrada stated tht he had the opportunity to listen to the tape of the meeting on 8/20/09 regarding this application.

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 variations as requested on application in accordance with revised plans dated August 18, 2009.

ZONING BOARD OF APPEALS OF THE
VILLAGE OF PORT CHESTER

-----X
In the Matter of the Application of
Klaus Kleinfeld

Case No. 1467

-----X
FINDINGS OF FACT

1. The applicant is the owner of 3 Rye Road, Port Chester, also designated as Section 142.46, Block 1, Lot 36 on the Tax Map of the Town of Rye, New York.
2. A portion of the subject premises are in the City of Rye.
3. The subject premises were formerly improved by a one-family dwelling since demolished.
4. The subject premises are located in an R-7 Single-Family Residence District.
5. The applicant was represented by David Wallance, R.A.
6. The applicant proposes to build a new one-family dwelling, some 5,290 square feet in area.
7. The Building Department denied the application for a building permit by Notice of Disapproval dated April 14, 2009 which stated as follows:

Section 345-6(I)(4), access driveways: Driveways through required front and side yards shall not exceed 10'0" in width, applicant proposes 21'1" to 22'2", variance required.
Section 345-6(I)(3) accessory off-street parking: off-street parking spaces shall not be located in front and side yards, applicant proposes parking in front and side yards, variance required.
8. A public hearing was conducted on June 18, 2009, July 16, 2009 and August 20, 2009 wherein the applicant and all interested parties were given a full and complete opportunity to be heard.

9. The applicant's architect made the presentation over the course of the hearings. He stated that the driveway and parking improvements are in keeping with the scale of the proposed new dwelling and will enhance the value of the subject premises and neighborhood. He noted that the Rye Road is very steep and narrow and precludes any on-street parking for visitors or service. He stated that the visual impact of the proposed improvements are minimal since the premises are at the end of the street on the cul-de-sac.

10. In response to concerns expressed by the Board, the applicant submitted an updated landscaping plan that significantly reduced the amount of impervious surface.

11. 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 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 driveway and parking area is part of an overall professional landscaping plan that will serve as an enhancement to the proposed new dwelling.

3. The applicant cannot otherwise provide a means of improving his property without providing for off-street parking since the street cannot safely accommodate parking.

4. The requested variances are not significant.


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 applicant 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 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,
approved the application of Klaus Kleinfeld, Case No. 1467, for area
variances which is a Type II action requiring no further environmental review and
authorizes the Acting Chair to sign these Findings on its behalf.

Dated: September 17, 2009
Port Chester, New York



Acting Chairman
William Villanova



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

September 21, 2009

Mr. Robert Sachs
74 Munson Street
Port Chester, NY 10573

RE: Case No. 1471 (F562)
74 Munson Street
Variance to Construct Second Story Addition

Dear Mr. Sachs:

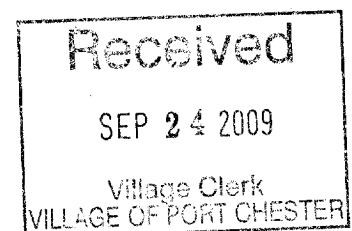
Please be advised that at the Zoning Board of Appeals hearing held on Thursday, September 17, 2009, said Board reviewed your application for request of a variance regarding the above captioned matter and a decision will be made at the next meeting scheduled for October 15, 2009.

Sincerely,

William Villanova
Acting Chairman

WV:akb

cc: Stephen Marchesani, AIA



MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: September 17, 2009

No. of Case: 1471, 74 Munson Street

Applicant: Robert Sachs

Nature of Request: See publication notice annexed hereto.

Variance to construct second story addition

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

- a. Stephen Marchesani, AIA, 5 Scott Circle, Purchase, NY
- b. Josephine Braccio, 78 Munson Street, Port Chester, NY
- c. Ernest Dubriski, 622 King Street, Port Chester, NY
- d.
- e.

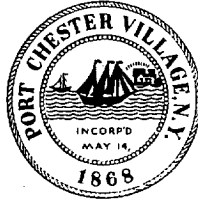
2. Names and addresses of those appearing in opposition to application.

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

Summary of statement or evidence presented: Proposed second story addition over existing first floor. Owners have three children. There are three bedrooms wants to expanded for a master bedroom and bathroom. Setback already is encroached upon. No change in character, no environmental impact. Not going deeper into back yard. Most houses in area the same.

~~Findings of Board~~

Action taken by Board: A motion was made by Ms. Petrone, seconded by Mr. Villanova, to close the public hearing and to render a decision at the next scheduled hearing of October 15, 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
William Villanova, Acting Chairman
Evelyn Petrone, Secretary
Ronald Luiso
Art D'Estrada

(914) 939-5203

September 21, 2009

Mr. Michiel 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:

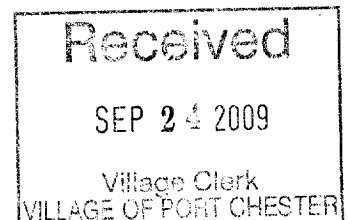
It was the unanimous decision of this Board at its hearing held on Thursday, September 17, 2009, to grant the variances as requested on your application regarding the above captioned matter.

Sincerely,

William Villanova
Acting Chairman

WV:akb

Cc: Luis Costa
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

Luis and Maria Costa

from the determination of the Building
Inspector denying application for permit to construct a one
story addition at rear and extend existing
front porch/vestibule
on premises No. 262 Columbus Avenue
in the Village of Port Chester, New York, being Section
No. 136.61, Block No. 1, Lot No. 20, 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 one story addition at rear and extend existing front porch/
vestibule expanding the nonconforming two family dwelling located in an R5 zoning
district

on the premises No. 262 Columbus Avenue in the Village of Port Chester, being Section No. 136.61

Block No. 1, Lot No. 20 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 Use of
Land: Enlargement of nonconforming building is not permitted, variance required.
Section 345-41, Part II, Dimensional Regulations: Minimum usable open space requires
2,000 square feet for each unit, 4,000 square feet required (two units), 1,850 square
feet existing and proposed, variance required

MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: September 17, 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. Michiel Boender, AIA, 163 North Main Street, Port Chester, NY
- c. Mr. and Mrs. Luis Costa, 262 Columbus Avenue, 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: Findings of Fact as prepared by Anthony Cerreto, Village Attorney. Mr. D'Estrada stated that he had the opportunity to listen to the tape of the meeting on 8/20/09 regarding this application.

Findings of Board: SEE ATTACHED

Action taken by Board: A motion was made by Ms. Petrone, seconded by Mr. Luiso, that there is a negative declaration with the Short Environmental Impact Statement as prepared by Pat Cleary, Planning Consultant. A vote was taken and the motion was unanimously carried. 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 variance requested by the applicant.

ZONING BOARD OF APPEALS OF THE
VILLAGE OF PORT CHESTER

-----X
In the Matter of the Application of
Luis Costa

Case No. 1466

-----X
FINDINGS OF FACT

1. The applicant, Luis Costa, is the owner of property located at 262 Columbus Avenue, Port Chester, also designated as Section 136.61, Block 1 Lot 20 on the Tax Map of the Town of Rye, New York.

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

4. The subject premises are located in an R5 One-Family Residence District.

5. The applicant was represented by his attorney, Anthony Carbone, Esq., Port Chester, New York.

5. The applicant proposes a rear addition and extend the front portico.

6. The Building Department denied the application for a building permit by Notice of Disapproval dated April 15, 2009 which stated as follows:

“Section 345-13(B), Nonconforming use of land: enlargement of nonconforming building is not permitted, variance required.

Section 345-41, Part II, Dimensional Regulations: minimum 25’0”, front yard setback required, 16.3’ existing and proposed, variance required. Minimum useable open space required, 2,000 square feet for each unit, 4,000 square feet required (two units), 1,850 square feet existing and proposed, variance required.”

7. A public hearing was held on May 21, 2009, June 18, 2009, July 16, 2009 and August 20, 2009 wherein the applicant and all interested parties were given a full and complete opportunity to be heard.

8. The applicant’s attorney made the presentation. He stated that the applicant purchased the premises in December, 2008 from a bank at a foreclosure sale. The dwelling was in complete disrepair and the applicant has spent some \$31,531.75 to make necessary renovations. He stated that prior to the applicant taking title, the Building

Department had certified that the use of the property was legal for a two-family dwelling in an R2F Zoning District. The applicant did not learn there was an issue as to use or applicable zoning district until he made an application to the Building Department for a permit to make the proposed improvements.

9. Counsel advised that the residence contains two separate dwelling units and that the Tax Assessor has assessed the premises as improved by a two-family dwelling. He said that the residence is owner-occupied.

10. He further stated that the proposed addition will provide an additional bedroom on the first floor and the enlarged vestibule will facilitate a new entry.

11. He represented that the purchase price was \$305,000. The applicant has a mortgage of \$228,000 and taxes of \$13,000 a year. The carrying charges of the mortgage and taxes alone are \$2,700 a month.

12. Counsel advised stated that the neighborhood is a mixed use area with a large apartment complex and warehouse.

13. A petition was provided by the applicant from seven neighbors who supported the application.

14. No one appeared against the application.

CONCLUSIONS OF LAW

1. There is no dispute that the applicant has a legal nonconforming use of the premises for a two-family dwelling.

2. The proposed addition requires relief in the form of a use variance since it would enlarge or expand a nonconforming use.

3. 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.

4. The applicant has made a showing establishing the purchase price, the significant expense incurred in making the necessary renovations and the substantial carrying costs of the premises. The applicant cannot feasibly use the premises without making these modest improvements.

5. The hardship relating to the property is unique and is not shared by other surrounding properties. The dwelling and the dwelling units are small.

6. The proposed improvements are minimal and will not alter the essential character of the neighborhood. The subject premises are in a mixed use neighborhood with an apartment building and warehouse and the dwelling will remain in keeping with the other dwellings.


7. The applicant's hardship is not self-created. He properly relied upon the representations as to legal occupancy and zoning district made by the Village before purchasing the subject premises.

8. Pursuant to Section 345-10I of the Village Code, the front yard set-back requirement does not apply based upon the average alignment of the dwelling and neighboring properties.

DETERMINATION

On motion of Ms. Petrone, seconded by Mr. Luiso, the Zoning Board of Appeals of the Village of Port Chester, New York, approved the application of Luis Costa, Calendar No. 1466, for a use variance to enlarge or expand a nonconforming use and authorizes the Acting Chair to sign these Findings on its behalf.

Dated: September 17, 2009
Port Chester, New York



William Villanova, Acting Chairman

**SEQR DETERMINATION OF SIGNIFICANCE
NEGATIVE DECLARATION
RESOLUTION OF THE VILLAGE OF PORT CHESTER
ZONING BOARD OF APPEALS**

September 17, 2009

262 COLUMBUS AVENUE
Section 136.61 Block 1 Lot 20

WHEREAS, the Village of Port Chester Zoning Board of Appeals is in receipt of a variance request submitted by Michael Boender, Architect, on behalf of Lusi & Marga Costa, Port Chester NY, for property located at 262 Columbus Avenue, more specifically known and designated as Section 136.61 Block 1 Lot 20; and

WHEREAS, the proposal involves the renovation of an existing two-story residence located in the R-5 – One Family Residence zoning district, to allow for a 1-story addition to the rear of the building, and to extend the front porch and entry vestibule; and

WHEREAS, the proposed enlargement of a non-conforming use is defined as an Unlisted Action; and

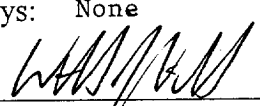
NOW THEREFORE BE IT RESOLVED, that pursuant to Part 617 of the SEQR Regulations, the Village of Port Chester Zoning Board of Appeals hereby designates itself as the Lead Agency for the SEQR Review of this Unlisted Action, and in this capacity will conduct an Uncoordinated Review.

BE IT FURTHER RESOLVED, that pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law, the Lead Agency has determined that the proposed Unlisted Action will not have a significant effect on the environment for the reasons enumerated in the attached Negative Declaration Form.

On the motion of Ms. Petrone, seconded by Mr. Luiso, it was adopted by the following vote:

Ayes: Petrone, Luiso, D'Estrada, Villanova

Nays: None



William Villanova, Acting Chairman

This resolution was thereupon duly adopted

617.21
Appendix F
State Environmental Quality Review
NEGATIVE DECLARATION
Notice of Determination of Non-Significance

Project Number 1466Date September 17, 2009

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Village of Port Chester Zoning Board of Appeals as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action:

262 Columbus Avenue – Use Variance

SEQR Status:Type I Unlisted **Conditioned Negative Declaration:**Yes No **Description of Action:**

The proposal involves the renovation of an existing two-story residence located in the R-5 – One Family Residence zoning district, to allow for a 1-story addition to the rear of the building, and to extend the front porch and entry vestibule.

Location: (Include street address and the name of the municipality/county. A location map of appropriate scale is also recommended.)

262 Columbus Avenue, Port Chester, Westchester County

REASONS SUPPORTING THIS DETERMINATION:

See attached.

If **Conditioned Negative Declaration**, provide on attachment the specific mitigation measures imposed.

For Further Information:

Contact Person: Chris Russo, Village Manager

Address: 222 Grace Church Street, Port Chester, NY 10573

Telephone Number: 914-939-2200

For Type I Actions and Conditioned Negative declarations, a Copy of the Notice sent to:

Commissioner, Dep't of Environmental Conservation, 50 Wolf Road, Albany, NY 12233-0001
NYSDEC Region 3, 21 South Putt Corners Road, New Paltz, NY 12561
Mayor, Village of Port Chester, 10 Pearl Street, Port Chester, NY 10573

REASONS SUPPORTING THIS DETERMINATION

The proposal involves the renovation of an existing two-story residence located in the R-5 – One Family Residence zoning district, to allow for a 1-story addition to the rear of the building, and to extend the front porch and entry vestibule. This action requires the issuance of a use variance.

Potential impacts relating to the ultimate development of the site include the following:

1. The proposed renovations to the existing non-conforming residence will result in temporary air quality impacts during construction. These temporary impacts to air quality will be carefully monitored by the Building Department and will be mitigated through the implementation of a construction management plan that will be submitted with the Building Permit, as well as through a continual reliance on construction Best Management Practices and equipment repair and maintenance. The site clearance protocol and construction management plan will emphasize minimizing fugitive dust.
2. No negative impacts to surface water features will result from the proposed action. No surface water features are located in the vicinity of the site. The project will increase the amount of impervious surfaces on the property slightly. Stormwater management measures, prepared in support of the application, have been designed to assure that the post development runoff rates will be equal to or less than the pre-development rates for the various storm events. These measures will assure that the proposed action will not result in any significant adverse environmental impacts to surface water features.
3. The development of the site may result in modest excavations of soil material. This activity has the potential to increase the potential for soil erosion and sedimentation. These potentially adverse impacts will be mitigated through the installation of soil erosion and sedimentation control devices. These devices will be designed and installed in accordance with New York Guidelines for Urban Erosion and Sediment Control, Fourth Printing, dated April 1997 and the New York Standards and Specifications for Urban Erosion and Sediment Control.

The soil erosion and sediment control plan will minimize the downstream erosion hazard by controlling runoff at its source, minimizing runoff from disturbed areas and de-concentrating stormwater runoff.

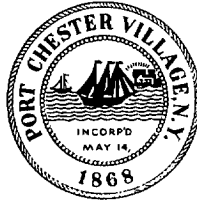
4. Long-term noise impacts are not anticipated as a result of the renovation of the non-conforming residence, as the use of the site will not change. Short term noise impacts associated with the construction of the project will occur. Construction activities are anticipated to generate noise levels of in the vicinity 85dBA measured at 50' from the noise source.

Short term noise impacts shall be mitigated by maintaining construction equipment in good working order and providing mufflers. In conformance with Village ordinances, construction activities shall be limited to the hours of 8:00 AM to 5:00 PM Monday through Friday and 10:00 AM to 5:00 PM on Saturdays. Interior construction activities may take place at other hours, in accordance with

the regulations set forth in Chapter 224 of the Village Code. The proposed action, when completed, will not produce noise in excess of the local ambient background noise levels. As a result, no permanent long term noise impacts are anticipated.

5. The action will not result in a change to the amount of solid waste generated by the site. Solid waste will continue to be collected on site, and shall be disposed of through arrangements with private carters or via Village collection. Similarly, all recyclables shall be similarly disposed of. No adverse impacts are anticipated.
6. The project can be accommodated by the Village's existing infrastructural network. The project is not anticipated to result in significant new daily water and sewage demand, as the use of the building will not change. No negative impacts are anticipated.
7. The project will not create any flooding impacts. No flood plains are located in the vicinity of the site.
8. The proposed action will not result in any negative impacts on wetland resources. No wetlands are located in the vicinity of the site.
9. The proposed action will not result in the removal of a significant number of existing trees of significant size. No adverse impacts are anticipated.
10. There will be no impact on a significant habitat area as a result of this project. No threatened or endangered species of animals or the habitat of such species have been identified on the site according to the NYS Natural Heritage Inventory.
11. The project will not change the amount of vehicle trips generated from the site. No change to the use of the site is proposed. No negative traffic impacts are anticipated.
12. The project will not have an adverse impact on the character of the neighborhood. The new building additions have been designed to be consistent with the surrounding neighborhood. The intensity of the existing non-conforming will not change as a result of this project. As a result, no significant adverse impacts are anticipated.
13. The proposed action will not impair the character or quality of important historical, archaeological, or architectural resources. No such resources are located on or in the vicinity of the site according to the State Historic Preservation Office and the Westchester County Department of Planning.
14. The proposed action will result in a change in the way energy is currently used on the site. The new building additions will require the consumption of additional energy for heating and cooling and electricity for lighting and appliance energy. The new additions will be designed in accordance with all New York State Building Code requirements including stringent energy compliance standards. It is not anticipated that the project will overburden existing utility resources, and no adverse impacts are anticipated.

15. The proposed project does not present any opportunity to adversely affect public safety nor would it create a hazard to human health.
16. The action will not result in changes in two or more elements of the environment, which alone would not have a significant effect on the environment, but when considered together, would result in a substantial adverse impact on the environment.
17. The proposed action is not related to another action which would be funded or approved by an agency which, when considered cumulatively, would meet one or any of the aforementioned criteria



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

September 21, 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:

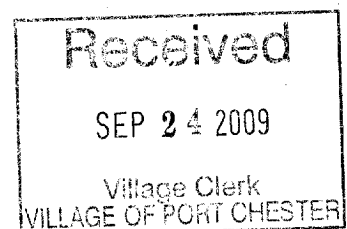
Please be advised that at the Zoning Board of Appeals hearing held on Thursday, September 17, 2009, said Board reviewed your application for request of variances regarding the above captioned matter and deliberations and a determination will be made at the next meeting scheduled for October 15, 2009.

Sincerely,

William Villanova
Acting Chairman

WV:akb

cc: Jaime Montoya
Timothy Wetmore, AIA



MINUTES OF MEETING

Application for Zoning Variance

Date of Hearing: September 17, 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. and Davide Gallo, Es., 211 South Ridge Street
Rye Brook, NY
- b. Timothy Wetmore, AIA, 14 Guyer Road, Westport, CT
- c. Jaime 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: Original purchase in 1978 for \$27,000.00. Refinanced in 2006, \$365,000.00 mortgage, \$100,000.00 allocated to improvements. Subsequent in 2007 to get a better rate. Latest estimate is \$80,000.00 for construction costs. Cannot pay mortgage back by not doing the work. Violation prosecuted after 2006 loan taken out. Architect retained after violations issued.

~~Findings of Board~~

Action taken by Board: A motion was made by Mr. Villanova, seconded by Mr. Luiso, to close the public hearing and to deliberate and make a determination at the next scheduled hearing of October 15, 2009. A vote was taken and the motion was unanimously carried.