

MINUTES OF MEETING

APR 20 2011

Application for Zoning Variance

Village Clerk
VILLAGE OF FORT CHESTER

A meeting of the Zoning Board of Appeals was held at the Courtroom of the Police Headquarters Building, 350 North Main Street, Port Chester, NY at 7:00 p.m. with Chairman Villanova presiding.

Present in addition to Chairman Villanova were Board Members Ms. Petrone and Messrs. Luiso, D'Estrada and Strauch. Also present was Mr. Espinoza, Alternate Member.

Date of Hearing: April 21, 2011
No. of Case: 1394(F1869) Willett Avenue and Abendroth Place
Applicant: Gioffre & Gioffre, P.C.
"The Castle"

Nature of Request: Extension of time of variances granted.

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

- a. Demetrios Adamis, Esq.
Gioffre & Gioffre Professional Corporation
2900 Westchester Avenue
Suite 206
Purchase, NY 10577

b.

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

- a. None

b.

Summary of statement or evidence presented:

Letter from Demetrios Adamis, Esq., Gioffre & Gioffre P.C., dated April 13th requesting an extension of 90 days to expire July 20, 2011.

Findings of Board:

Action taken by Board:


On the motion of Ronald Luiso, seconded by Evelyn Petrone, a 90 day extension was granted.

Record of Vote: For 3 Against _____ Absent _____ Abstain 2

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

F	Petrone	Abstain	D'Estrada
F	Luiso	Abstain	Strauch
F	Villanova		

Attest: May 19, 2011

Signed 

William Villanova
Title Acting Chairman

Acting Chairman

MINUTES OF MEETING

Received
MAY 20 2011
Village Clerk
VILLAGE OF PORT CHESTER

Application for Zoning Variance

A meeting of the Zoning Board of Appeals was held at the Courtroom of the Police Headquarters Building, 350 North Main Street, Port Chester, NY at 7:00 p.m. with Chairman Villanova presiding.

Present in addition to Chairman Villanova were Board Members Ms. Petrone and Messrs. Luiso, D'Estrada and Strauch. Also present was Mr. Espinoza, Alternate Member.

Date of Hearing: April 21, 2011
No. of Case: 1485(F2175) 277 Madison Avenue
Applicant: Michiel A. Boender, AIA

Nature of Request: Withdrawal of application for variances for second floor addition.

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

- a. Michiel A. Boender, AIA
Edgewater Group Architects
163 North Main Street
Port Chester, NY 10573
- b.

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

- a. None
- b.

Summary of statement or evidence presented:

Letter from Michiel A. Boender, AIA, Edgewater Group Architects, dated April 21, 2011, requesting the matter be withdrawn.

Findings of Board:

Action taken by Board:

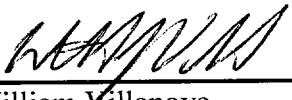
On the motion of, seconded by Art D'Estrada, seconded by Ronald Luiso, the matter was withdrawn.

Record of Vote: For 5 Against 0 Absent _____

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

- F Petrone
- F Luiso
- F D'Estrada
- F Strauch
- F Villanova

Attest: May 19, 2011

Signed 

William Villanova
Title Acting Chairman

MINUTES OF MEETING

Application for Zoning Variance

Received
MAY 20 2011
Village Clerk
VILLAGE OF PORT CHESTER

A meeting of the Zoning Board of Appeals was held at the Courtroom of the Police Headquarters Building, 350 North Main Street, Port Chester, NY at 7:00 p.m. with Chairman Villanova presiding.

Present in addition to Chairman Villanova were Board Members Ms. Petrone and Messrs. Luiso, D'Estrada and Strauch. Also present was Mr. Espinoza, Alternate Member.

Date of Hearing: April 21, 2011
No. of Case: 1491(F2427) **141-143 Oak Street**
Applicant: Dante Alvarez

Nature of Request: See publication notice annexed hereto.

Withdraw application to build two car-parking spaces in front yard.

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

a. No one appeared on behalf of application

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

a. None

b.

Summary of statement or evidence presented:

Letter from Bryan M. Smith, Project Engineer, Ahneman Kirby, dated April 21, 2011, requesting the application be withdrawn

Findings of Board:

Action taken by Board:


A motion was made by Mr. Luiso, seconded by Mr. D'Estrada to withdraw the application.

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

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

F Petrone
F Luiso
F D'Estrada
F Strauch
F Villanova

Attest: May 19, 2011

Signed 
William Villanova
Title Acting Chairman

MINUTES OF MEETING

Application for Zoning Variance

Received
MAY 20 2011
VILLANOVA

A meeting of the Zoning Board of Appeals was held at the Courtroom of the Police Headquarters Building, 350 North Main Street, Port Chester, NY at 7:00 p.m. with Chairman Villanova presiding.

Present in addition to Chairman Villanova were Board Members Ms. Petrone, and Messrs. Luiso, D'Estrada and Strauch. Also present was Mr. Espinoza, Alternate Member.

Date of Hearing: April 21, 2011
No. of Case: 1473(F367) **54 Poningo Street**
Applicant: Segunda Iglesia Pentecostal

Nature of Request: See publication notice annexed hereto.

Extension of variances granted March 18, 2010 and extended on January 20, 2011.

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

- a. Gary Gianfrancesco, AIA, AICP, LEED AP
Arconics Architecture, P. C.
545 1/2 Westchester Avenue
Rye Brook, NY 10573

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

- a. None
- b.

Summary of statement or evidence presented:

Letter from Arconics Architecture, P. C., dated April 18, 2011, requesting an extension of the Zoning variances.

Findings of Board:

Action taken by Board:

A motion was made by Ms. Petrone, seconded by Mr. Luiso, to add the matter to the agenda. A vote was taken and the motion unanimously carried.

A motion was made by Mr. D'Estrada, seconded by Mr. Luiso, to grant a 90 day extension. A vote was taken and the motion carried.

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


Add on

- F – Petrone
- F – Luiso
- F – Strauch
- F – D'Estrada
- F – Villanova

Extension

- F – Petrone
- F – Luiso
- Ab - Strauch
- F – D'Estrada
- F - Villanova

Attest: May 19, 2011

Signed 

William Villanova
Title Acting Chairman



Received

JUN 17 2011

Village Clerk
VILLAGE OF PORT CHESTER

Zoning Board of Appeals
222 Grace Church Street
Port Chester, New York 10573

(914) 939-5203

Board Members

William Villanova, Acting Chairman
Evelyn Petrone, Secretary
Ronald Luiso
Art D'Estrada
Frank Strauch
Gerardo Espinoza, Alternate

June 13, 2011

S. A. C. Developers LLC
98 Rose Avenue
Eastchester, NY 10709

Re: ZBA Case #2011-0001 57 Soundview Street
Variiances to construct an eight unit attached residential cluster development

Gentlemen:

It was the decision of this Board at the meeting held Thursday, April 21, 2011, to direct the Village Attorney to prepare Findings of Fact for the above case.

The next scheduled meeting will be held May 19, 2011.

Sincerely,

William Villanova
Acting Chairman

WV:kmi

cc: G. Gianfrancesco, RA

MINUTES OF MEETING

Application for Zoning Variance



A meeting of the Zoning Board of Appeals was held at the Courtroom of the Police Headquarters Building, 350 North Main Street, Port Chester, NY at 6:30 p.m. with Acting Chairman Villanova presiding.

Present in addition to Acting Chairman Villanova were Board Members Ms. Petrone, and Messrs. Luiso, D'Estrada and Strauch. Also present was Mr. Espinoza, Alternate Member.

Date of Hearing: April 21, 2011
No. of Case: 2011-0001
Applicant: S. A. C. Developers LLC

Nature of Request: See publication notice annexed hereto.

To construct an eight unit attached residential cluster development.

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

- a. Gary Gianfrancesco, AIA, AICP, LEED AP
Arconics Architecture, P. C.
545 ½ Westchester Avenue
Rye Brook, NY 10573

Martin O'Connell
63 Spring Street
Port Chester, NY 10573

Exhibit A, Planning Commission Minutes of meeting held February 28, 2011.

Exhibit B, photographs of the rear of 55 Soundview Street handed up by Mr. Gianfrancesco.

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

- a. None

Summary of statement or evidence presented:

The Public Hearing was re-opened. Chairman Villanova noted copies of the Planning Commission minutes for the meeting held February 28, 2011 were received by the members along with a letter from Arconics Architecture, P. C., dated April 11, 2011, attaching 13 photographs.

Mr. Gianfrancesco displayed a plan, elevations and photographs and gave a brief history of the proposed project. He noted the property could be developed with four-two family houses, for which variances had been granted in 2001 for two separate driveways at the proposed houses on Spring Street.

Discussion followed relative to elevations, landscaping, stormwater, maintenance of rear property, access, open space, slopes and the technical request, difference between 7.1 and 8 units. Mr. Gianfrancesco read into record information on the traffic, safer traffic conditions at the site, better visibility of pedestrians and vehicles and elaborated on the benefits of developing the site in this manner. Mr. Gianfrancesco gave a brief summary and further discussion followed relative to calculations, number of stories and the traffic on Spring Street.

Findings of Board:

Action taken by Board:

A motion was made by Mr. Luiso, seconded by Ms. Petrone, to close the Public Hearing. A vote was taken and the motion unanimously carried.

A motion was made by Ms. Petrone, seconded by Mr. Luiso, giving direction to Mr. Cerreto to prepare Findings of Fact geared towards favorable acceptance of the application.

Record of Vote: For _____ Against _____ Absent _____
List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent

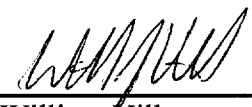
Close Public Hearing

F – Petrone
F – Luiso
F – D’Estrada
F – Strauch
F – Villanova

Prepare Favorable Findings

F – Petrone
F – Luiso
A – D’Estrada
A - Strauch
F - Villanova

Attest: 

Signed 

William Villanova
Title Acting Chairman

ZONING BOARD OF APPEALS OF THE
VILLAGE OF PORT CHESTER

-----x
In the Matter of the Application of
SAC Developers, LLC.

Case No. 2011/0001

-----x
FINDINGS OF FACT

1. The applicant is the owner of property located at 57 Soundview Street, Port Chester, also designated as Section 142.29, Block 2, Lot 30.1, 30.2, 30.3 and 30.4 on the Tax Map of the Town of Rye, New York.

2. The subject premises are unimproved, situated on the north side of Soundview Street between William Street and Westchester Avenue and running continuously between Soundview and Spring Streets.

3. The subject premises are located in an R2F Zoning District.

4. The applicant proposes to construct an eight-unit, attached residential cluster development.

5. The former Acting Building Inspector issued a Notice of Disapproval dated February 22, 2011 which stated as follows:

“Section 345-16(D)(1)(c) Computation of unit density.

- (1) For purposes of computing net parcel acreage, the following are to be excluded from the gross area of the development.
(c) areas with a slope of more than 25%
- (2) For purposes of computing parcel density the net parcel square footage shall be divided by 2,500 square feet.

Total lost[sic] area = 21,531 square feet
Minus steep slope area = 3,650 square feet
Net parcel square footage = 17,881 square feet
17,881 divided by 2500 = 7.1524 allowable units.

Variances required”.

6. A public hearing was conducted on April 7 and 21, 2011 wherein the applicant and all interested parties were given a full and complete opportunity to be heard.

7. The applicant was represented by its architect, Gary Gianfrancesco, AIA, Arconics Architecture, who made an extensive presentation.

8. He summarized the history of the subject premises since purchase in 2001. Lot #1 fronted on Soundview Street and was subdivided into two conforming lots in November 2001. Lots 3 and 4 are the lots fronting on Spring Street. The Zoning Board of Appeals granted the variances necessary.

9. Although the applicant can develop the subject premises in a conventional manner with four two-family dwellings, it has proposed to take advantage of the Village's cluster development law.

10. Mr. Gianfrancesco also reviewed the history of the cluster development law that was adopted in 1987. He was serving as a Trustee on the Board of Trustees at the time and worked closely with the Office of Planning Development on development issues facing the Village. The law was enacted in response to a proposed and specific project, and was not intended to address the case, like here, of a relatively small parcel and where the developer had assembled individual deeded lots. Notwithstanding the apparent intent of the law, the literal application of the law in computing net parcel density has the effect of penalizing a developer seeking to propose a cluster development that would preserve steep slopes and significant open space.

11. Mr. Gianfrancesco further reviewed the "balancing test" that must be undertaken by the Zoning Board in evaluating the requested area variance consisting of a fraction of a dwelling unit. He contended that if the variances are granted, the overall lot density of 8 units under conventional zoning (four two-family dwellings) would be maintained. In return, the Village would receive the most environmentally beneficial plan for development available under current zoning without any undesirable impacts.

12. He cited the many development costs associated with a cluster development, sprinkler systems, addressable fire alarm, stormwater management plan and enclosed parking, all of which would not need to be undertaken with a conventional site development. He added that the applicant is assuming additional risk in developing the project as a single building as opposed to building two-family dwellings one or two at a time and selling them off. He argued that the character of the neighborhood and environmental impacts of seven vs. eight units were negligible. The cluster development orients traffic in a much safer fashion and preserves the natural slopes and greater open space on the premises. A traffic report was provided which confirms the minimal impacts on traffic and parking.

13. One person testified in favor of the application. No one appeared against the application.

14. The Planning Commission had made a positive referral to the Zoning Board.

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. There will be no undesirable change as the granting of the variance for the additional unit would not be discernible.

3. The benefit sought by the applicant cannot be achieved by some method other than a variance. The cluster development law did not contemplate that a property owner would assemble deeded individual lots for a cluster development and then be penalized for doing so by a mathematical calculation of net parcel density.

4. The requested variance is not substantial. The relief sought is .85 units or less than one residential unit.

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. Indeed, the proposed variance will permit the sound and orderly development of a difficult parcel.

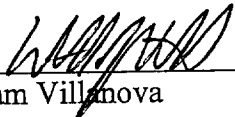
6. Since the applicant purchased the property with presumptive knowledge of the restrictions contained within the R2F Zoning District, there is arguably the existence of self-created hardship. However, this is only one factor for the Board to consider and does not outweigh the other foregoing factors 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,
accepted the Findings and voted in favor of

the application of SAC Developers, LLC, Case 2011-0001 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: May 19, 2011
Port Chester, New York



William Villanova
Chairman