

MINUTES OF MEETING

**Proposed Local Law amending Chapter 345
with regard to Public Notice Requirements**

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, July 21, 2011, at 7:00 p.m. with Acting Chairman Villanova presiding.

Present in addition to Acting Chairman Villanova were Board Members Ms. Petrone, and Messrs. Luiso, Strauch and D'Estrada. Also present was Mr. Espinoza, Alternate Member, Anthony Cerreto, Village Attorney and Mr. Ameigh, a representative of the Building Department.

Chairman Villanova noted the Board of Trustees will hold a Public Hearing on this matter August 1, 2011; and, the members supported it at the last meeting.

Attest:

August 18, 2011

Signed



William Villanova

Title Acting Chairman

MINUTES OF MEETING

Application for an Interpretation

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, July 21, 2011, at 7:00 p.m. with Acting Chairman Villanova presiding.

Present in addition to Acting Chairman Villanova were Board Members Ms. Petrone, and Messrs. Luiso, Strauch and D'Estrada. Also present was Mr. Espinoza, Alternate Member, Anthony Cerreto, Village Attorney and Mr. Ameigh, a representative of the Building Department.

Date of Hearing: July 21, 2011
No. of Case: File #491 Interpretation
Applicant: Gary Gianfrancesco, AIA, AICP, LEED AP
Arconics Architecture, P. C.

Nature of Request: See publication notice annexed hereto.

If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use, which in the opinion of the Board of Appeals, is of the same or of a more restricted nature.

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

- a. Gary Gianfrancesco, AIA
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

Summary of statement or evidence presented:

Ms. Petrone read into the record the Findings of Fact and Conclusions of Law submitted by the Village Attorney, noting a Public Hearing was conducted June 16, 2011, and correcting the prior restaurant's hours of operation from 4:00 p.m. to 4:00 a.m.

Action taken by Board:

A motion was made by Ms. Petrone, seconded by Mr. Strauch, that the application be approved.

Record of Vote: For 5 Against 0 Absent

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

Findings Approved

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

Attest:

August 18, 2011

Signed *William Villanova*
William Villanova
Title Acting Chairman

MINUTES OF MEETING

Application for Zoning Variance

AUG 13 2011

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, July 21, 2011, at 7:00 p.m. with Acting Chairman Villanova presiding.

Present in addition to Acting Chairman Villanova were Board Members Ms. Petrone, and Messrs. Luiso, Strauch and D'Estrada. Also present was Mr. Espinoza, Alternate Member, Anthony Cerreto, Village Attorney and Mr. Ameigh, a representative of the Building Department.

Date of Hearing: July 21, 211
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 an additional 90 days on April 21, 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 July 1, 2011, requesting an extension of Zoning variances originally granted on March 18, 2010 and extended on April 21, 2011.

Findings of Board:

Action taken by Board:

After brief discussion, a motion was made by Mr. Luiso, seconded by Mr. D'Estrada 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

Extension

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

Attest: *August 18, 2011*

Signed *William Villanova*
William Villanova
Title Acting Chairman

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, July 21, 2011, at 7:00 p.m. with Acting Chairman Villanova presiding.

Present in addition to Acting Chairman Villanova were Board Members Ms. Petrone, and Messrs. Luiso, Strauch and D'Estrada. Also present was Mr. Espinoza, Alternate Member, Anthony Cerreto, Village Attorney and Mr. Ameigh, a representative of the Building Department.

Date of Hearing: July 21, 2011
No. of Case: 2011-0002
Applicant: Paola Corallo-Balentine

Nature of Request: See publication notice annexed hereto.

Construct a rear deck, front porch and Second floor addition.

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

a.	Paola Corallo-Balentine 39 Linden Street Port Chester, NY 10573	Frank Marsella Marsella + Knoetgen, Architects 154 East Poston Post Road Mamaroneck, NY 10543
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2. Names and addresses of those appearing in opposition to application.

a. None

Summary of statement or evidence presented:

It was confirmed by the Chairman that a mailing, Certified Mail/Return Receipt, noticing the Public Hearing, was received by the adjoining property owners, and proof of mailing, completed by the Village staff, contained in the case file.

Mr. Marsella displayed a plan for this corner property and explained the proposed project would be adding approximately 226 square feet. He noted there was a stairway off the deck, it was 12 1/2' off the house, 19' wide and confirmed the house is owner occupied.

Zoning Board of Appeals
39 Linden Street
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July 21, 2011

Mr. Strauch noted the changes were modest.

Action taken by Board:

A motion was made by Mr. D'Estrada seconded by Mr. Luiso, to instruct the Village Attorney to prepare Findings of Fact for a favorable resolution of the case.

Record of Vote: For 5 Against 0 Absent
List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent

Village Attorney
To Prepare Findings

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

A motion was made by Mr. Luiso seconded by Mr. D'Estrada, to close the Public Hearing.

Record of Vote: For 5 Against 0 Absent
List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent

Close the
Public Hearing

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

Attest:

August 18, 2011

Signed



William Villanova

Title Acting Chairman

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, July 21, 2011, at 7:00 p.m. with Acting Chairman Villanova presiding.

Present in addition to Acting Chairman Villanova were Board Members Ms. Petrone, and Messrs. Luiso, Strauch and D'Estrada. Also present was Mr. Espinoza, Alternate Member, Anthony Cerreto, Village Attorney and Mr. Ameigh, a representative of the Building Department.

Date of Hearing: July 21, 2011
No. of Case: 2011-0004
Applicant: Michiel A. Boender, AIA
Edgewater Group Architects

Nature of Request: See publication notice annexed hereto.

Variance from the requirement of Section 345-30, 345-10 and 345-51 Part 1 Article IX, permission to raise the roof, to a compliant height, on an existing building which currently does not comply with side yard and front yard setbacks (there will be no expansion of the existing footprint). The premise is in the CD Zone. The existing building has a side-yard setback of 7.96 feet, where 30 feet is required, and a front yard setback of 10.33 feet, where 30 feet is required.

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

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

- a. None

Summary of statement or evidence presented:

Ms. Petrone read into the record the Findings of Fact and Conclusions of Law submitted by the Village Attorney, noting a Public Hearing was conducted June 16, 2011.

Action taken by Board:

A motion was made by Ms. Petrone, seconded by Mr. Luiso, that the application be approved.

Record of Vote: For 5 Against 0 Absent _____

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

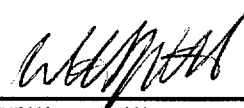
Findings Approved

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

Attest:

August 18, 2011

Signed


William Villanova

Title Acting Chairman

MINUTES OF MEETING

Application for an Interpretation/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, July 21, 2011, at 7:00 p.m. with Acting Chairman Villanova presiding.

Present in addition to Acting Chairman Villanova were Board Members Ms. Petrone, and Messrs. Luiso, Strauch and D'Estrada. Also present was Mr. Espinoza, Alternate Member, Anthony Cerreto, Village Attorney and Mr. Ameigh, a representative of the Building Department.

Date of Hearing: July 21, 2011
No. of Case: #2011-0005
Applicant: Aldo V. Vitagliano, P.C.

Nature of Request: See publication notice annexed hereto.

Operate an Auto Detailing business with indoor space for seven vehicles, and outdoor parking on site, within the C2 Zone, in a building where the prior use was non-conforming warehouse and bulk storage, variance from the requirement of Section 345-48 of the said Zoning Ordinance.

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

a.	Aldo V. Vitagliano, P.C. Attorney At Law 150 Purchase Street Rye, NY 10580-2136	Larry Dominguez Roosevelt Holding, LLC 114 Pearl Street Port Chester, NY 10573
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Edwin Montoya, the son of the proposed tenant, Tain Pineda,

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

a. None

Summary of statement or evidence presented:

Mr. Vitagliano displayed a plan and handed up an exterior photograph of the site for the proposed business in the C2 Zone. He noted the Planning Commission, at their meeting held June 27, 2011, referred the application to this Board with a positive recommendation.

Mr. Vitagliano gave a brief history of the application and the issue, if the use is permitted. He explained the ramps inside the building and stated one of the garage doors would be removed. Mr. Montoya also addressed the members about the proposed use and their current business at the Westchester Country Club washing an average of ten cars a day.

Mr. Vitagliano noted detail sheets on the chemicals used were provided to the Planning Commission, noted a decorative/aluminum fence will be provided at the site, and proceeded to explain the Code and the defined uses.

Mr. Dominguez gave a history of the building noting the storage of construction materials.

Discussion followed about a Certificate of Occupancy for this property and uses in the area of the train station.

Chairman Villanova asked for information on 120 North Pearl Street/detailing, what the Certificate of Occupancy is for, and if a business is operating there incorrectly. If used incorrectly, the Code Enforcement Department should be contacted. He stated the Zoning Board of Appeals needs the information brought back to them.

Zoning Board of Appeals
22 Broad Street
Page 2
July 21, 2011

Action taken by Board:

After brief discussion, on the motion of Mr. Luiso, seconded by Mr. D'Estrada, the matter was adjourned and the Public Hearing left opened.

Record of Vote: For 5 Against 0 Absent

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

Findings Approved

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

Attest:

August 11, 2011

Signed

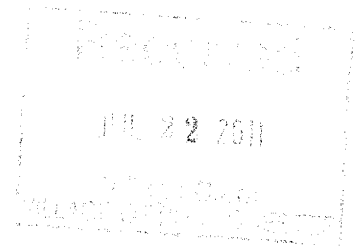


William Villanova

Title

Acting Chairman

ZONING BOARD OF APPEALS OF THE
VILLAGE OF PORT CHESTER



-----x
In the Matter of the Application of
Paul Tripodi

Case No.

-----x
FINDINGS OF FACT

1. The applicant is the owner of property located at 64 Merritt Street, Port Chester, also known and designated as Section 136.47, Block 1, Lot 34 on the Tax Map of the Town of Rye, New York.

2. The subject premises are improved by a two-story building and detached garage.

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

4. The applicant was represented by Anthony Carbone, Esq.

5. The applicant seeks an interpretation from the Zoning Board of Appeals pursuant to Section 345-13C(3) of the Village Code to allow the nonconforming use of the building for offices as a more restricted nonconforming use.

6. A public hearing was conducted on June 16, 2011 wherein the applicant and all interested parties were given a full and complete opportunity to be heard.

7. Mr. Carbone and Mr. Gianfrancesco made the presentation on behalf of the applicant. For many years, under many different names and owners, the premises have been used for a restaurant (Rich's Tavern, Papa Bears, etc.) and that such use constitutes a pre-existing nonconforming use which has not been abandoned.

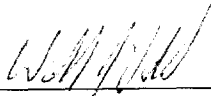
8. There will be no structural changes or changes to the building's footprint.

9. Mr. Carbone noted that the Merritt Street corridor is zoned "C4" Commercial where there is located an auto repair shop, factory and a restaurant. The surrounding neighborhood contains many nonconforming uses and structures.

10. It was contended that the proposed office use is more restrictive than the restaurant use on the following grounds:

the application of Paul Tripodi, for an interpretation pursuant to Section 345-13C (3) of the Village Code, which s a Type II action requiring no further environmental review and authorizes the Chairman to sign these Findings on its behalf, subject to the condition that there will be no parking or storage of commercial vehicles (as defined in the New York Vehicle and Traffic Law) in the parking lot on the premises between the hours of 6:00 p.m. and 6:00 a.m.

Dated: July 21, 2011
Port Chester, New York



William Villanova
Chairman

MINUTES OF MEETING

Application for Permit or 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, July 21, 2011, at 7:00 p.m. with Acting Chairman Villanova presiding.

Present in addition to Acting Chairman Villanova were Board Members Ms. Petrone, and Messrs. Luiso, Strauch and D'Estrada. Also present was Mr. Espinoza, Alternate Member, Anthony Cerreto, Village Attorney and Mr. Ameigh, a representative of the Building Department.

Date of Hearing: July 21, 2011
No. of Case: 2011-0006
Applicant: Phoenix Castle, LLC.

Nature of Request: See publication notice annexed hereto.

Construct a building that requires variances as follows:

Minimum area per dwelling unit required per Section 345-48.

Required: 750 Square Feet

Proposed: 531 Square Feet

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

- | | | | |
|-----------|--|-----------|---|
| a. | Anthony B. Gioffre, III
Cuddy & Feder, LLP
445 Hamilton Avenue, 14 th Floor
White Plains, NY 10601 | b. | Ray Sullivan
The Sullivan Architectural Group
1226 Post Road
Fairfield, CT 06824 |
| c. | Frank Boccanfuso
Phoenix Castle LLC | | |

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

- a.** None

Summary of statement or evidence presented:

Messrs. Gioffre and Sullivan displayed a plan and explained the proposed project. They explained there is no change to the footprint or height of the building but the number of dwelling units will be increased from 83 to 120. In addition the number of bedrooms will be reduced from 155 to 136. It was noted they were originally marketed as condominiums but, due to the market, could change from rental units back to condominiums. They mentioned the Sanitary Load Design will decrease by 2,000 gallons a day and preliminary traffic data indicated a good level of service. Mr. Gioffre stated a formal Traffic Study will be submitted shortly.

Discussion followed relative to traffic, parking, the proposed lift system for stacking cars with a 24 hour attendant, a possible variance for that type of system, and the ceiling height of the units being reduced by 4".

Chairman Villanova requested that the applicant provide information on how many of the proposed units will be below 750 square feet, information on fire safety and the proposed stacking system, any information from the Planning Consultant on his prior meeting with the applicant, and a Table/Chart indicating the sizes of the units. In addition, he noted the Building Inspector should review the application again relative to a possible variance for the proposed stacking system, and the SEQR issue be addressed with the Planning Consultant prior to the next meeting.

Action taken by Board:

After brief discussion, on the motion of Mr. Luiso, seconded by Mr. Strauch, the matter was adjourned and the Public Hearing left opened.

Record of Vote: For 5 Against 0 Absent

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

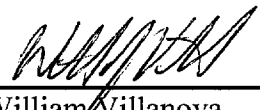
Findings Approved

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

Attest:

August 11, 2011

Signed

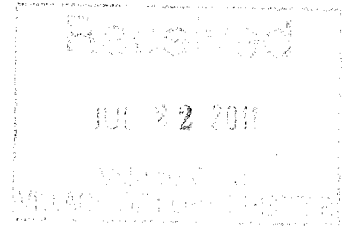


William Villanova

Title

Acting Chairman

ZONING BOARD OF APPEALS OF THE
VILLAGE OF PORT CHESTER



-----X
In the Matter of the Application of
Simone Development Company

Case No. 2011/0004

-----X
FINDINGS OF FACT

1. The applicant is the owner of property located at 260 Boston Post Road, Port Chester, also known and designated as Section 142.45, Block 1, and Lot 4 on the Tax Map of the Town of Rye, New York.
2. The subject premises are improved by a retail shopping center, with a building in the front that was formerly the location of a Bally Total Fitness facility and a building in the rear housing several retail stores. .
3. The subject premises are located in a Design Shopping Center ("CD") District.
4. The applicant was represented by Michael Boender, R.A.
5. The applicant proposes to raise the roof of the front building.
6. The Building Department denied the application for a building permit by Notice of Disapproval dated May 23, 2011 which stated as follows:

"Plans submitted to raise roof height on existing building which does not comply with front yard and side yard setbacks. Existing building has a side-yard setback of 7.96 feet where 30 feet is required and front-yard setback of 10.33 feet where 30 feet is required."
7. A public hearing was conducted on June 16, 2011 wherein the applicant and all interested parties were given a full and complete opportunity to be heard.
8. Mr. Boender made the presentation on behalf of the applicant at the hearing. He stated that Bally's Fitness had moved out and that the proposed new tenant is L.A. Fitness. As part of major renovations, the new tenant plans to put in a basketball court on the second floor. However, it was deemed to be more cost-effective to raise the roof over the entire interior area at the same time. The roof would be raised 13 feet and would not

exceed the height requirements in the Zoning Code. There would be no expansion of the building footprint.

9. Mr. Boender represented that there was more than sufficient parking in the shopping center parking lot and that there would be no adverse impacts from the proposed improvements.

10. No one appeared for 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 to facilitate the raised roof will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposal will allow the new health club to provide an additional amenity that has not been offered on the premises.

3. The applicant cannot otherwise provide a cost-effective means of improving the property.

4. The requested variances are not significant, with the building footprint remaining unchanged.

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 variance would negatively impact the natural environment and/or any ecological systems.

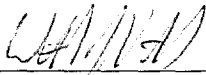
6. Since the applicant purchased the property with presumptive knowledge of the restrictions contained within the CD Zoning District, there is arguably the existence of self-created hardship. However, this is only one factor for the Board to consider and does not outweigh the other foregoing factors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

7. The applicant has stipulated to a condition that any relief that is granted not be understood as facilitating a third floor on the premises.

DETERMINATION

On motion of Evelyn Petrone seconded by Ronald Luiso
, the Zoning Board of Appeals of the Village of Port Chester, New York,
the application of Simone Development, Case No. 2011/0004, for
area variances which is a Type II action requiring no further environmental review and
authorizes the Chairman to sign these Findings on its behalf, on the condition that the
granting of such relief not be understood as facilitating a third floor on the subject
premises..

Dated: July 21, 2011
Port Chester, New York



William Villanova
Chairman