

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, **August 18, 2011**, at 7:00 p.m. with Acting Chairman Villanova presiding.

Present in addition to Acting Chairman Villanova were Board Members Messrs. Luiso, Strauch and D'Estrada. Also present was Mr. Espinoza, Alternate Member, Anthony Cerreto, Village Attorney, arrived later on.

Date of Hearing: August 18, 2011
No. of Case: 2011-0002 **39 Linden Street**
Applicant: Paola Corallo-Balentine

Received
SEP 13 2011
Village Clerk
VILLAGE OF PORT CHESTER

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

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

- a. None

Summary of statement or evidence presented:

Findings of Fact, prepared by Anthony Cerreto, Village Attorney.

Action taken by Board:

Mr. Strauch read into the record the Findings of Fact and Conclusions of Law prepared by the Village Attorney.

A motion was made by Mr. D'Estrada and seconded by Mr. Strauch, to approve the Findings of Fact as prepared by Anthony Cerreto, Village Attorney, and to grant the variance as requested on the application. A vote was taken and the motion was unanimously carried.

Record of Vote: For 5 Against 0 Absent _____

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

Approve Findings

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

Attest:

September 15, 2011

Signed

William Villanova

William Villanova

Title Acting Chairman

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

Date of Hearing: August 18, 2011
No. of Case: 2011-0001 **57 Soundview Street**
Applicant: S. A. C. Developers LLC

Received
SEP 13 2011
Village Clerk
VILLAGE OF PORT CHESTER

Nature of Request:

A request for a six month extension of variances granted to construct an eight unit attached residential cluster development.

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

a. None

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

a. None

Summary of statement or evidence presented:

Letter from Gary Gianfrancesco, AIA, AICP, LEED AP, Arconics Architecture, P. C., dated July 28, 2011, requesting a six month extension of variances granted.

Action taken by Board:

A motion was made by Mr. Luiso seconded by Mr. Espinoza for a 90 day extension of approvals.

Record of Vote: For 5 Against _____ Absent _____ Abstain 1
List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent

90 day extension

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

Attest: *September 13, 2011*

Signed *[Signature]*
William Villanova
Title Acting 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, **August 18, 2011**, at 7:00 p.m. with Acting Chairman Villanova presiding.

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

Date of Hearing: August 18, 2011

No. of Case: 2011-0006 Willett Avenue and Abendroth Place, "*The Castle*"

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, 14th Floor
White Plains, NY 10601

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

- a. None

Summary of statement or evidence presented:

Mr. Gioffre submitted a Traffic Impact Study prepared by TRC Engineers, Inc., dated May 10, 2011, and stated they will be submitting a Full Environmental Assessment Form.

Mr. Gioffre mentioned the parking and the proposed lift system for stacking of cars with a 24 hour attendant. He requested the Building Department determine if a variance is required for that type of system stating a re-notice of the adjoining property owners may be required.

Mr. Gioffre mentioned his letter dated June 28, 2011 and requested an extension of the variances for an additional 90 days.

Action taken by Board:

After brief discussion, on the motion of Ms. Petrone, seconded by Mr. Luiso, the matter was adjourned until the meeting to be held September 15, 2011 and the Public Hearing left opened.

On the motion of Ms. Petrone, seconded by Mr. Luiso, the requested 90 day extension was granted.

Record of Vote: For 5 Against 0 Absent _____

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

Adjournment

- F – Petrone
- F – Luiso
- F – D'Estrada
- F – Strauch
- F – Espinoza (Alternate Member called not Acting Chairman Villanova)

Record of Vote: For 4 Against 0 Absent _____ Abstain 1

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

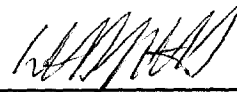
90 Day Extension Approved

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

Attest:

September 13, 2011

Signed



William Villanova

Title Acting Chairman

MINUTES OF MEETING

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

Date of Hearing: August 18, 2011
No. of Case: 2011-0008 18 West Glen Avenue
Applicant: Catherine Furano

Nature of Request: See publication notice annexed hereto.

Erect above ground pool

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

a.

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

a. None

Summary of statement or evidence presented:

Acting Chairman Villanova mentioned a letter received from Catherine Furano, dated August 18, 2011, requesting an adjournment.

Action taken by Board:

A motion was made by Mr. Luiso seconded by Mr. Strauch to have the matter adjourned until the meeting to be held September 15, 2011.

Record of Vote: For 5 Against 0 Absent _____

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

Adjourn

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

Attest: *September 15, 2011*

Signed *William Villanova*
Title Acting Chairman

MINUTES OF MEETING

Application for Zoning Variance

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VILLAGE OF PORT CHESTER

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

Date of Hearing: August 18, 2011
No. of Case: 2011-0009 **67 Purdy Avenue**
Applicant: 67 Purdy Avenue, LLC

Nature of Request: See publication notice annexed hereto.

Construct a one story warehouse.

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

a. None

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

a. None

Summary of statement or evidence presented:

Acting Chairman Villanova mentioned a letter received from Vincent Castellano, Esq., Veneruso Curto Schwartz & Curto, LLP, dated August 18, 2011, requesting an adjournment. In addition, he noted the appropriate signage was not on the property and the application has yet to be approved by the Waterfront Commission.

Action taken by Board:

A motion was made by Mr. D'Estrada seconded by Mr. Luiso to have the matter adjourned until the meeting to be held September 15, 2011.

Record of Vote: For 5 Against 0 Absent _____

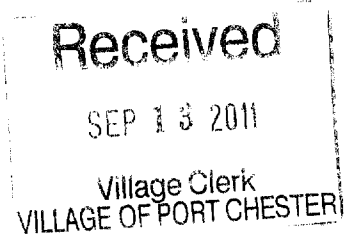
List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent, Abs-Abstain

Adjourn

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

Attest: *September 15, 2011*

Signed *William Villanova*
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, **August 18, 2011**, at 7:00 p.m. with Acting Chairman Villanova presiding.

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

Date of Hearing: August 18, 2011
No. of Case: #2011-0005 **22 Broad Street**
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. None

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

a. None

Summary of statement or evidence presented:

Mr. Cerreto mentioned the attorney, Aldo V. Vitagliano, requested the matter be adjourned until next month.

Action taken by Board:

A motion was made by Mr. D'Estrada seconded by Ms. Petrone to have the matter adjourned until the meeting to be held September 15, 2011.

Record of Vote: For 5 Against 0 Absent

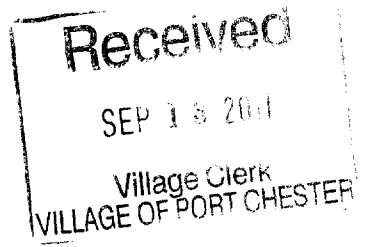
List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent, Abs-Abstain

Adjourn

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

Attest: *September 15, 2011*

Signed *William Villanova*
William Villanova
Title Acting 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, **August 18, 2011**, at 7:00 p.m. with Acting Chairman Villanova presiding.

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

Date of Hearing: August 18, 2011

No. of Case: 2011-0007 **440 North Main Street**

Applicant: John Cleary
Elite Training/Elite Kids, LLC

Nature of Request: See publication notice annexed hereto.

Install a private training facility in an existing building with nine parking spaces where 13 are required.

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

- | | |
|---|--|
| <p>a. John Cleary
Elite Training/Elite Kids, LLC
15 Windy Knolls
Greenwich, CT 06831</p> | <p>Michiel A. Boender, AIA,
Edgewater Group Architects
163 North Main Street
Port Chester, NY 10573</p> |
|---|--|

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

- | | |
|---|--|
| <p>a. Mark Kravitz
Valley Custom Auto Body & Repair
427 North Main Street
Port Chester, NY 10573</p> | <p>b. Kay Yee Lai
457 North Main Street
Port Chester, NY 10573</p> |
|---|--|

Summary of statement or evidence presented:

Mr. Cleary addressed the members and explained the nature of the business, the layout/floor plan and confirmed no Zumba classes will be held at the site. He stated he provides services, i.e., strength training, martial arts, for high-end clientele and children with the hours for the kids being from 3:00 p.m. to 5:00 p.m., 6:00 p.m. or 7:00 p.m. at the latest, six days a week, half a day on Saturday.

Discussion followed with Mr. Cerreto relative to the application, who stated the variance would be tied to the use. The members requested information on the history of the property, the original Building Permit plan, the previous use, prior parking requirements and requested the Building Inspector and building owner be present at the next meeting.

Relative to the number of employees, Mr. Cleary stated he had three trainers, plus himself, for a total of four, and discussion followed about the parking at the site.

At this point the Public Hearing was opened.

Mr. Kravitz addressed the members and noted his concerns about parking. He stated the previous tenants were operating there illegally and he was not in favor of the new business.

Mr. Lai also addressed the members and stated he was not in favor of the application. He noted there were two bars in the neighborhood and mentioned the vicinity has issues relative to noise, kids and trash in the immediate area.

At this point, Mr. Boender arrived and explained the history of the application in the C4 Zone and stated the Certificate of Occupancy was pending. Discussion followed relative to parking calculations, traffic circulation at the site, possible use of the garage for parking and the type of use/definition applied to this particular application.

Acting Chairman Villanova requested the building owner be at the next meeting, the applicant come back with a Certificate of Occupancy, produce full scale drawings for the members and suggested Mr. Cleary have a conversation with the neighbors relative to their concerns.

Action taken by Board:

After brief discussion, on the motion of Ms. Petrone, seconded by Mr. D'Estrada, the matter was adjourned until the meeting to be held September 15, 2011 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 Abs-abstain.

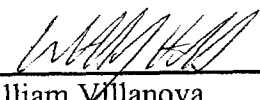
Adjournment

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

Attest:

September 15, 2011

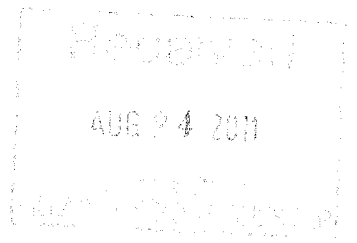
Signed



William Villanova

Title Acting Chairman

ZONING BOARD OF APPEALS OF THE
VILLAGE OF PORT CHESTER



-----x
In the Matter of the Application of
Paola Corallo Balentine

Case No. 2011-0002

-----x
FINDINGS OF FACT

1. The applicant is an owner of property located at 39 Linden Street, Port Chester, New York, also designated as Section 136.63, Block 1, and Lot 40 on the Tax Map of the Town of Rye, New York.

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

3. The subject premises are located in an R5 Zoning District.

4. The applicant proposes to construct a rear deck, front porch and second floor addition.

5. The Building Department denied the application for a building permit by Notice of Disapproval dated April 28, 2011 which stated as follows:

“Front yard setback requires 25 feet minimum. Proposed deck is not in compliance with setback on plans, dated March 3, 2011, Marsella & Knoetgan, LLC.”

6. A public hearing was conducted on June 16, 2011 and July 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 architect, Frank Marsella, AIA. The dwelling is owner-occupied. It is situated on a corner lot fronting on Linden Street and Brook Road, built before the zoning regulations required corner lots to satisfy two front-yard setbacks. The dwelling is a split level, with three bedrooms and one bathroom.

8. The applicant proposes to add a front porch which aligns with the Linden Street side of the dwelling, expand the second floor by lifting the roof to accommodate a new master bedroom, closets and bathroom which is over the existing building footprint, and to add a rear deck off the kitchen on the main level which aligns with the Brook Road side of the dwelling.

9. In response to questions from the Zoning Board, the architect explored relocating the deck from the location proposed over the driveway which serves as access to the basement level garage. The architect presented photographs in support of his testimony that such configuration was not feasible since the deck would then cross over the entry door and windows to the lower level.

9. The variances are necessary then to facilitate the proposed porch and deck.

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 will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed improvements would enhance the value of the dwelling and the neighborhood.

3. Based on the fact that the lot is on a corner and the dwelling is a split-level design, the applicant cannot otherwise make the proposed improvements without some relief from the Zoning Board.

4. The requested variances are not significant.

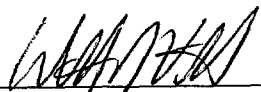
5. The requested variances will not have any adverse impact on the physical or environmental conditions in the neighborhood. The variances will not result in any decrease of light, air, privacy, security for fire and other dangers or overcrowding. Nor is there any evidence that the variance would negatively 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 R5 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 her favor.

DETERMINATION

On motion of Art D'Estrada seconded by Frank Strauch
, the Zoning Board of Appeals of the Village of Port Chester, New York,
approved the application of Paola Corallo Balentine, Case No.
2011-0002, 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.

Dated: August 24 , 2011
Port Chester, New York



William Villanova
Chairman