

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, on November 21, 2013 at 7:00 p.m. with Commissioner Villanova presiding

Present in addition to Commissioner Villanova were Messrs. Luiso, Petrone D'Estrada, and Strauch and Espinoza.

Also in attendance was Peter Miley, Building Inspector

Date of Hearing: November 21, 2013
No. of Case: 2013-0073
Applicant: James F. Lomiento John B. Colangelo
 111 Smith Street 211 South Ridge Street
 Port Chester, NY 10573 Rye Brook, NY 10573

Nature of Request:

on the premises No. **111 Smith Street** in the Village of Port Chester, New York, situated on the **Easterly** side of **Smith Street** distant **100 feet** from the corner formed by the intersection of **Smith Street and William Street** being **Section 142.38, Block No 1, Lot No. 11** on the Assessment Map of the said Village, being a variance from the applicable Zoning Ordinance or Ordinances in the following respects: Application is hereby made under the discretionary power vested in you by Section 345-29A, 345-13 or in the alternative 345.30 of the Zoning Ordinance of the Village of Port Chester for permission to: renew 5 open building permits, legalize a roof enclosure over an existing porch and convert a basement apartment with an existing non-conforming 3 family residence into a 4 family residence.

The structure is located in the R2F Two Family Residential District 345-42 where Multi Family Dwellings are not a permitted use in that district, therefore a use variance is required

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

John B. Colangelo, Esq.

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

None

Summary of statement or evidence presented:

A negative Declaration SEQRA Resolution as prepared by the Planning Director was summarized by Commissioner Petrone.

Action taken by Board:

On the motion of Commissioner Luiso, seconded by Commissioner D'Estrada, the Negative Declaration SEQRA Resolution as prepared by the Planning Director was approved.

Record of Vote: 5 Against _____ Absent _____

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

Approve Neg Dec Resolution

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

Signed _____
 William Villanova
Title **Chairman** _____

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Present in addition to Commissioner Villanova were Messrs. Luiso, Petrone D'Estrada, and Strauch and Espinoza.

Also in attendance was Peter Miley, Building Inspector

Date of Hearing: November 21, 2013
No. of Case: 2012-0052
Applicant: Milton Campoverde Gary Gianfrancesco, AIA
46 Leicester Street Arconics Architecture
Port Chester, New York 10573 Rye Brook, New York 10573

Nature of Request:

on the premises No. **46 Leicester Street** in the Village of Port Chester, New York, situated on the **West** side of **Leicester Street**, distant 100+/- feet from the corner formed by the intersection of **Leicester Street and Irving Avenue** being **Section 136.77, Block No. 1, Lot No. 36** on the Assessment Map of the said Village, being a variance from the applicable Zoning Ordinance or Ordinances in the following respects: Application is hereby made under the discretionary power vested in you by Section 345-29A, 345-13 or in the alternative 345.30 of the Zoning Ordinance of the Village of Port Chester Permission to interpret the intent of past Building Inspector's letters or grant variances as described: Property is currently located in an R5 1 Family residential zoning district (345-41) where 2 family & multiple family dwellings are not a permitted use. Property was rezoned to R2FA 2 family residence (10/17/60) & currently exists as a lawful, non-conforming 2 family dwelling. The expansion of use and increase in intensity of the property to a 3 family dwelling is prohibited in the R5 zone; therefore a variance is required. Additionally the maximum height of buildings in stories is 2 ½ stories and 35 ft. in height; proposed is 3 stories with overall existing height of 30 ft.; therefore a ½ story variance is required.

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

None

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

Summary of statement or evidence presented:

Correspondence was received from Gary Gianfrancesco AIA of Arconics Architecture requesting an adjournment of this matter without prejudice to the December 19, 2013 meeting.

Findings of Board:

Action taken by Board:

On the motion of Commissioner Petrone, seconded by Commissioner D'Estrada, the matter was adjourned to the December 19, 2013 meeting.

Record of Vote: For 5 Against _____ Absent _____

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

Adjourn to December 19, 2013

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

Signed _____
William Villanova
Title 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, on November 21, 2013 at 7:00 p.m. with Commissioner Villanova presiding

Present in addition to Commissioner Villanova were Messrs. Luiso, Petrone D’Estrada, and Strauch and Espinoza.

Also in attendance was Peter Miley, Building Inspector

Date of Hearing:	November 21, 2013	
No. of Case:	2013-0079	
Applicant:	Martha and Miguel Aceiunto 302 William Street Port Chester, NY 10573	Michiel Boender Edgewater Architects 163 North Main Street Port Chester, NY 10573

Nature of Request:

on the premises No. **302 William Street** in the Village of Port Chester, New York, situated on the **South** side of **William Street** distant **0 ft.** of the corner formed by the intersection of **William Street & Spring Street** being **Section 142.29, Block No 1, Lot No. 43** on the Assessment Map of the said Village, being a variance from the applicable Zoning Ordinance or Ordinances in the following respects: Application is hereby made under the discretionary power vested in you by Section 345-29A, 345-13 or in the alternative 345.30 of the Zoning Ordinance of the Village of Port Chester for permission to: legalize an existing 2 story addition to an existing single family home.

Property is located in the R2F Two Family District where the minimum front yard setback is 20 ft., proposed is 13.5 ft.; therefore a front yard setback variance of 6.5 ft.is required. The Property is located in the R2F Two Family District where the minimum (one) 1 side yard setback is 8 ft., proposed is 0 ft.; therefore a side yard setback variance of 8 ft. is required

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

No one was present during the reading of the findings, however the applicant was in attendance later in the evening.

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

None

Summary of statement or evidence presented:

The Findings of Fact as prepared by the Village Attorney were summarized by Commissioner Petrone

Findings of Board:

Action taken by Board:

On the motion of Commissioner Luiso, seconded by Commissioner D’Estrada, the Findings of Fact as prepared by the Village Attorney were approved.

Record of Vote: For 5 Against _____ Absent _____

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

Approve Findings

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

Signed	_____
	William Villanova
Title	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, on November 21, 2013 at 7:00 p.m. with Commissioner Villanova presiding

Present in addition to Commissioner Villanova were Messrs. Luiso, Petrone D'Estrada, and Strauch and Espinoza.

Also in attendance was Peter Miley, Building Inspector

Date of Hearing: November 21, 2013
No. of Case: 2013-0070
Applicant: Carlos Solano Raul Bello, Architect
25 Pumhouse Road 36 New Street
Brewster, NY 10509 Rye, NY 10509

Nature of Request:

on the premises No. **4 Clark Place** in the Village of Port Chester, New York, situated on the **Left** side of **Clark Place** distant **30 feet** from the corner formed by the intersection of **Clark Place and Irving Avenue** being **Section 136.77, Block No 2, Lot No. 10** on the Assessment Map of the said Village, being a variance from the applicable Zoning Ordinance or Ordinances in the following respects: Application is hereby made under the discretionary power vested in you by Section 345-29A, 345-13 or in the alternative 345.30 of the Zoning Ordinance of the Village of Port Chester for permission to: legalize existing wood deck at rear of building.

The structure is located in the R5 One-family Residential District where the minimum rear yard setback is 30 ft. and the minimum one) side-yard setback is 8ft.; proposed is a rear yard setback of 4.1 ft.; therefore a 2.7 ft. rear yard variance and a 3.9 ft. side yard setback variance is required

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

Raul Bello, Architect – Nancy Alvarado, wife of applicant

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

None

Summary of statement or evidence presented:

Mr. Miley, Building Inspector reminded the Board that at the last meeting they requested an analysis of the property with a more definitive measurement for the deck as compared to the as built survey today. Mr. Miley provided the Board with documents provided by the Town of Rye Assessors office which show an aerial view of the deck and property in 2009 with measurements. The second page of the document illustrates what the deck looks like today. The third page of the document is a picture taken by a code enforcement officer in 2012 which shows the extended deck as it exists today. Mr. Bello was given a copy of the document and stated that he did not have any questions. Chairman Villanova asked Mr. Miley if the position of the Village is that the deck was enlarged and Mr. Miley said yes and that the original size of the deck was very close to the 4.148 ft as shown on the assessor's records. Chairman Villanova also stated that the information provided by the Village and the testimony provided by the applicant regarding the enlargement of the deck were not in agreement. Mr. Bello said he could not dispute the Villages findings and could only say that there were some old structural joints incorporated in the structure of the deck and was not sure how those older beams were incorporated into the structure. Mr. Bello also stated that the owner is in the process of rectifying any cited issues with the house and is also trying to rectify the issues with the deck and the owner has gone above and beyond what they were asked to do. They have resided the entire house with cedar shingle, they have trimmed out all the doors, windows and corner boards, and installed all new copper gutters and leaders. Commissioner Petrone clarified that no matter what size the deck is or was, either way a variance is needed. Mr. Miley stated that the deck was enlarged without a work order/permit. Chairman Villanova stated that while he agrees that the deck is there, the issue lies with the integrity of the application. Testimony was given that the deck was this size when the owner of the house purchased the property and in fact

the testimony was wrong and misleading. At the time the testimony was given by the applicant, they were asked to raise their hand and be sworn in to tell the truth. The records and the Planner, using software programs proved that the deck has been enlarged after the applicant purchased the property.

The applicant stated that she never saw the deck “small” and the only thing she saw was her husband working on it. When she testified earlier that the deck was big, that was because when she saw it, it was “big”. She stated that she never tried to lie but only wants to fix it if something is wrong. The applicant also stated she would like to legalize the deck and will do what is needed for that to happen. The applicant stated that the house is her residence but she does not live there. Ms. Alvarado said she moved from that address approximately nine months ago. The house is currently rented to other family members. (2 families) The building inspector said there was a stop work order on the property in 2012 for other violations that have nothing to do with this application. There was a day care that was in violation of the code and the only violation with the deck was constructing it without a permit.

Ms. Alvarado said that the daycare was her idea. She needed the money and decided to open a daycare. She stated that she did get the necessary license to open the daycare. She said she did not know that she needed another license for Port Chester. She stated that she is no longer looking to operate a daycare center. In addition there were and made signs on the property advertising the daycare

Commissioner Strauch was also in agreement with the Village findings and looking at the property records from 1965 that indicate the deck was four by eight which corroborates the Villages findings that the deck was enlarged.

Commissioner Petrone stated while she is not a fan of the applicant coming before the board and not having all the accurate facts and not presenting things in the correct way, the variances requested are not substantial and the applicant has worked hard to make the property pretty and would not be in agreement to have the applicant take the deck down. The size of the deck today is more in line with the size of the house. Mr. Bello provided the Board with pictures of the work that has been done on the house as previously described.

The house is a two family house in a one family residential district and has the approvals to exist as such. This was verified by the Building Inspector. The Board was in agreement that this applicant has a history of doing work without the proper permits. The renovations and improvements to the house were done after receiving violations and stop work orders. The applicant explained why there was a daycare and explained that she was living in the house at the time. The rules that were violated were not deliberate because she thought she had all the necessary licenses to run her business.

Commissioner Espinoza also conveyed to the Cord that while the variances are not huge, Mr. Carlos Solano stated to this Board under oath that the deck had not been enlarged which was not true. (Carlos Solano is the husband of Nancy Avarado who has appeared before the Board on the last two consecutive meetings).

No one from the public spoke for or against this application

Findings of Board:

Action taken by Board:

On the motion of Commissioner Luiso, seconded by Commissioner Espinoza, the Public Hearing was closed

Record of Vote: For 5 Against _____ Absent _____

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

Close Public Hearing

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

Chairman Villanova asked the Board for a motion to direct the Village Attorney to prepare Favorable Findings of Fact for this application. Commissioner Petrone summarized that the discussions that took place on this application and offered a motion for the Village Attorney to prepare the Findings for the next meeting. No one seconded the motion.

Commissioner Strauch offered a motion to deny the application for the reasons previously discussed with regard to accurate and truthful testimony. No one seconded the motion.

Chairman Villanova suggested that the Board suggest that the Village Attorney grant the 3.9 ft. side yard variance and reject the 2.7 rear yard variance. Additional discussion was held and it was noted that the deck would need to have additional support beams and be re-inspected upon completion.

No action was taken on this application and the matter was adjourned and the applicant was told that a definite decision would be made at the December 19, 2013 meeting.

Signed

William Villanova

Title

Chairman

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Present in addition to Commissioner Villanova were Messrs. Luiso, Petrone D’Estrada, and Strauch and Espinoza.

Also in attendance was Peter Miley, Building Inspector

Date of Hearing: November 21, 2013
No. of Case: 2013-0081
Applicant: SR Holdings I, LLC John B. Colangelo
200 Railroad Avenue 211 S. Ridge Street
Greenwich, CT 06830 Rye Brook, NY 10573

Nature of Request:

on the premises No. **135 South Main Street/4 Willow Street** in the Village of Port Chester, New York, situated on the **Southerly** side of **South Main Street** at the corner formed by the intersection of **Willow Street and South Main Street** being **Section 142.38, Block No 2, Lot No. 54** on the Assessment Map of the said Village, being a variance from the applicable Zoning Ordinance or Ordinances in the following respects: Application is hereby made under the discretionary power vested in you by Section 345-29A, 345-13 or in the alternative 345.30 of the Zoning Ordinance of the Village of Port Chester for permission to: obtain a use variance for residential 2 family in the C4 General Commercial District and to create 2 residential units over 1st fl. commercial space with less than required parking for residential two family use (2 spaces per unit – 4 spaces required) and restaurant use (35 patron seat – 9 spaces required), without required off-street loading space for commercial use.

Property is located in the C4 General Commercial District where applicant must provide 13 off street parking spaces to accommodate residential 2 family use and restaurant use. Proposed is 3spaces, therefore a variance for 10 spaces is required. Applicant is also required to have 1 off street truck loading space, 0 spaces are proposed, therefore a variance of 1 off street truck loading space is required

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

John Colangelo Esq.

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

Summary of statement or evidence presented:

Mr. Colangelo requested an adjournment of this matter to the December 19, 2013 meeting. He stated that the Zoning Compliance is being re-evaluated by the Building Inspector and there is a strong possibility that the application may have to be amended.

Findings of Board:

Action taken by Board:

On the motion of Commissioner Petrone, seconded by Commissioner Luiso, the matter was adjourned to the December 19, 2013 meeting.

Record of Vote: For 5 Against _____ Absent _____

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

Adjourn to December 19, 2013

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

Signed _____
William Villanova
Title Chairman _____

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Present in addition to Commissioner Villanova were Messrs. Luiso, Petrone D'Estrada, and Strauch and Espinoza.

Also in attendance was Peter Miley, Building Inspector

Date of Hearing: **November 21, 2013**

No. of Case:

Applicant:

Nature of Request: **ADJOURN MEETING TO December 19, 2013**

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

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

Summary of statement or evidence presented:

Findings of Board:

Action taken by Board:

On the motion of Commissioner Petrone, seconded by all, the meeting was adjourned to December 19, 2013

Record of Vote: For 5 Against _____ Absent _____

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

Adjourn meeting to December 19, 2013

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

Signed _____
 William Villanova
Title **Chairman** _____