

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 March 20, 2014 at 7:00 p.m. with Evelyn Petrone presiding

Present in addition to Commissioner Petrone were Messrs. D’Estrada, Strauch and Espinoza. Also in attendance was Peter Miley, Building Inspector.

Date of Hearing:	March 20, 2014	
No. of Case:	2013-0084	
Applicant:	Bart Didden	Muhammed Nouman
	117 North Main Street Corp	Papa Johns Restaurant
	117 North Main Street	117 North Main Street
	Port Chester, NY 10573	Port Chester, NY 10573

Nature of Request

on the premises No. **117 North Main Street** in the Village of Port Chester, New York, situated on the **East** side of **North Main Street** distant **125 feet** from the corner formed by the intersection of **North Main Street and Willett Avenue** being **Section 142.23, Block No 2, Lot No. 41** 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 an area variance for Off Street Loading

Property is located in the C2 Main Street Business District. Per Section 345-14D Schedule of off street truck loading requirements 1 off street loading space for restaurant use is required, applicant proposes 0 therefore a variance for 1 off street loading space is required

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

Bart Didden – Property owner

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

None

Summary of statement or evidence presented:

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

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

Record of Vote: For 4 Against _____ Absent _____

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

Approve Findings

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

Signed _____
 William Villanova
Title **Chairman** _____

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Present in addition to Commissioner Petrone were Messrs. D'Estrada, Strauch and Espinoza. Also in attendance was Peter Miley, Building Inspector.

Date of Hearing: March 20, 2014
No. of Case: 2014-0085
Applicant: Jose Duarte John B. Colangelo, Esq.
8 Oakridge Drive 211 S. Ridge Street
Port Chester, NY 10573 Rye Brook, NY 10573

Nature of Request:

on the premises No. **8 Oakridge Drive** in the Village of Port Chester, New York, situated on the **Easterly** side of **Oakridge Drive**, Distant **175 ft.** of the corner formed by the intersection of **Oakridge Drive and Greyrock Road** being **Section 142.60 Block No 2, Lot No. 17** 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 elevated patio constructed in the rear yard.

The property is located in the R7 One Family Residential District where the minimum rear yard setback is 30 ft., proposed is 3.2 ft.; therefore a variance of 26.8 ft. is required

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

John Colangelo, Esq. represented this application and the applicant was in the audience.

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

None

Summary of statement or evidence presented:

Mr. Colangelo stated that the house was built in 1962 and the applicant purchased the house in 2007. In April of last year the applicant applied for refinancing and a municipal search was performed. It was then revealed that there was no certificate of occupancy for the house. The applicant filed an amnesty application which was received in December 2013. Via the amnesty application another issue was revealed such as no certificate of occupancy for the house or the deck. The 2006 Survey shows a large retaining wall in the rear yard and a large slope in the land from west to east. The retaining wall was in a state of disrepair and there were two steps that were a part of the wall. The wall also encroached into the rear yard setback and into the neighbor's property. The applicant hired a professional contractor to remove the retaining wall and construct a deck/patio. Some of the stones from the retaining wall were actually used to build the deck/patio. The deck/patio starts out on grade in one section of the property but because of the downward topography of the land the east side of the deck had to be elevated. If the deck/patio could have been built on grade, it would not encroach on the rear yard setback, but due to the sloping of the land the need to keep the deck/patio raised, it was necessary to encroach on the rear yard setback. The house was also built on an angle it is off set. This condition has existed since the initial building of the house. It is unclear in 1962 what the zoning setback requirements were for that property however, based on today's survey and code the house is in the R7 Zone and requires a 30 foot setback. The front and two sides of the house are all in compliance. The physical location of the house and the topography of the land limit the applicant's ability to make any changes. Most of the houses in the area do have decks and or patios so this application is not out of character for the neighborhood. This is a single family residential neighborhood and the applicant does not propose any change of use. The applicant did take into consideration all of the factors in the NY Village Law 7-7-712-b which is considered a "balancing test" when considering a need for a variance.

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

Record of Vote: For 4 Against _____ Absent _____

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

Close Public Hearing

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

On the motion of Commissioner D’Estrada, seconded by Commissioner Espinoza, the Village Attorney was directed to prepare Favorable Findings of Fact for this application for the April 17, 2014 meeting.

Record of Vote: For 4 Against _____ Absent _____

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

Prepare Findings

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

Signed _____
 William Villanova
Title **Chairman** _____

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Present in addition to Commissioner Petrone were Messrs. D'Estrada, Strauch and Espinoza. Also in attendance was Peter Miley, Building Inspector.

Date of Hearing: March 20, 2014
No. of Case: 2014-0086
Applicant: James & Marjorie Linnin
35 Irenhyl Avenue
Port Chester, New York 10573

Nature of Request:

on the premises No. **35 Irenhyl Avenue** in the Village of Port Chester, New York, situated on the **North** side of **Irenhyl Avenue** distant **10 feet** from the corner formed by the intersection of **Irenhyl Avenue and Perry Avenue** being **Section 135.76, Block No 2, Lot No. 46** 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: construct a new deck.

Property is located in the R5 One Family Residential District where the rear yard setback is 30 ft. and the minimum (one) side yard setback is 8 ft. Proposed is a rear yard setback of 28 ft. 2 ½ in. and a minimum (one) side yard setback of 5 ft. 1 ½ in.; Therefore a rear yard variance of 1 ft. 9 ½ in. and a side yard setback variance of 2 ft. 10 ½ in. is required

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

Chris Colby, Architect represented this application and the applicant was in the audience.

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

None

Summary of statement or evidence presented:

Mr. Colby stated the deck was built in the rear of the property in 1998 with permission from the Building Inspector of record at that time, but no permit was ever issued. The deck does not meet the requirements of today's zoning code. The property is a corner lot and technically has two front yards. The applicant has applied under the Amnesty Program for construction "as is". The side yard of the deck is less encroaching into the side yard than the house which when built in 1928 is four feet of the side lot. The bulk of the deck for the rear yard setback basically is within the limits and the only portion not in compliance is the stairs that exit off the deck into the backyard. Overall the deck is compliant within the rear yard setback but not compliant within the side yard setback. It encroaches less than the existing house by one foot. The deck was inspected for structural requirements and a few minor items (adjustments to the railings) have to be fixed but overall the deck is compliant structurally. The side yard along Perry Avenue is fenced and the deck is not visible from the street. There is also a hedge row along the back of the property as screening. There are no adverse effects on the neighborhood the house and deck are in character with other existing houses in the neighborhood as well.

The applicant constructed the deck and has owned the house since 1976. The Building Inspector, Peter Miley indicated that at the time the deck was constructed the deck was not in violation of setback guidelines.

On the motion of Commissioner D'Estrada, seconded by Commissioner Strauch, the Public Hearing was closed.

Record of Vote: For 4 Against _____ Absent _____

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

Close Public Hearing

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

On the motion of Commissioner D'Estrada, seconded by Commissioner Espinoza, the Village Attorney was directed to prepare Favorable Findings of Fact for this application for the April 17, 2014 meeting.

Record of Vote: For 4 Against _____ Absent _____

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

Prepare Findings

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

Signed _____
 William Villanova
Title **Chairman** _____

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Present in addition to Commissioner Petrone were Messrs.D'Estrada, Strauch and Espinoza. Also in attendance was Peter Miley, Building Inspector.

Date of Hearing: March 20, 2014

No. of Case:

Applicant:

Nature of Request: ADJOURN MEETING TO April 17, 2014

On the motion of Commissioner Espinoza, seconded by Commissioner D'Estrada, the meeting was adjourned to April 17, 2014

Record of Vote: For 4 Against _____ Absent _____

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

Adjourn meeting to April 17, 2014

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

Signed _____
 William Villanova
Title **Chairman**