

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 July 17, 2014 at 7:00 p.m. with Chairman William Villanova presiding

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

Also in attendance were Peter Miley, Building Inspector and Anthony Cerreto, Village Attorney.

Date of Hearing: July 17, 2014

Case No. 2014-0093

Applicant: Capitol Theatre LLC
Capitol Enterprises, Inc.
Peter Shapiro, Owner
145/149-151 Westchester Avenue
Port Chester, NY 10573

Anthony Tirone, Esq.
202 Mamaroneck Avenue
White Plains, NY 10601

Nature of Request:

on the premises No. **149-151 Westchester Avenue** in the Village of Port Chester, New York, situated on the **North** side of **Westchester Avenue** distant approximately 100 feet from the corner formed by the intersection of **Westchester Avenue and Broad Street** being **Section 142.30 Block No. 2, Lot No. 19** 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 Off-Street Parking Space Variance

Property is located in the C5 Train Station Mixed Use Zoning District 345-14 Off Street parking, Truck Loading and Vehicular Access C. (2) For Non-Residential Non Uses, combined uses of a Cabaret, Catering Events, and Bar require a minimum of 412 Off-Street Parking Spaces. Proposed is 0, therefore a 412 Off-Street Parking Space variance is required

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

Anthony Tirone, Esq. represented this application

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

None

Summary of statement or evidence presented:

Mr. Tirone stated that he along with Village Staff are working on a plan to address some of the pending issues and is requesting an adjournment of this matter to the August 21, 2014 meeting. He is hopeful that they will present a plan that is acceptable to the Zoning Board and the Village.

Findings of Board:

Action taken by Board:

On the motion of Commissioner Luiso, seconded by Commissioner Espinoza, the matter was adjourned to the August 21, 2014 meeting.

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

Adjourn to August 21, 2014

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

Signed _____
William Villanova
Title Chairman _____

Application for Permit or Variance

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

Also in attendance were Peter Miley, Building Inspector and Anthony Cerreto, Village Attorney.

Date of Hearing: July 17, 2014

Case No: 2014-0094

Applicant: Dan Krizan, Applicant
26 Perry Avenue
Port Chester, New York 10573

Michiel Boender, Architect
The Edgewater Group
163 North Main Street
Port Chester, NY 10573

Nature of Request:

on the premises No. **26 Perry Avenue** in the Village of Port Chester, New York, situated on the **West** side of **Perry Avenue** distant **100 feet** from the corner formed by the intersection of **Perry Avenue and Irving Avenue** being **Section 135.64, Block No 2, Lot No. 55** 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 side yard variance for a new deck

Property is located in the R5 One Family Residential where the minimum (one) side yard setback is 8 feet. Proposed is a side yard setback of 1 ft. 7 in; therefore a 6ft. 5 in. side yard setback variance is required

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

Michiel Boender, AIA

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, Anthony Cerreto.

Action taken by Board:

On the motion of Commissioner Petrone, seconded by Commissioner Luiso, the Favorable Findings of Fact as prepared by the Village Attorney were approved

Record of Vote: For 5 Against _____ Absent 1

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
F Espinoza
Strauch
F Villanova

Signed

William Villanova

Title 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 on July 17, 2014 at 7:00 p.m. with Chairman William Villanova presiding

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

Also in attendance were Peter Miley, Building Inspector and Anthony Cerreto, Village Attorney.

Date of Hearing: July 17, 2014

No. of Case: 2014-0091

Applicant: AGD North Pearl Street LLC
5 Waller Avenue
White Plains, NY, 10601

Anthony Gioffre, Esq.
Cuddy & Feder LLP
445 Hamilton Avenue
White Plains, NY 10601

Nature of Request:

on the premises No. **120 North Pearl Street** in the Village of Port Chester, New York, situated on the **Northern** side of **North Pearl Street** distant **336.22 ft.** from the corner formed by the intersection of **North Pearl Street and Irving Avenue** being **Section 142.22, Block No 2, Lot No. 62** 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 50 unit multifamily building on the premises.

Property is located in the C2 Main Street Business District and also borders the R2F Two Family Residence District. Per Section 345-61(Q) (2) Special Exception multifamily developments must be more than 500 linear feet from a one or two family district. Proposed location abuts an R2F Two Family District, therefore a variance of 500 ft. is required.

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

Charles Gotlieb, Esq. of Cuddy & Feder LLP

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, Anthony Cerreto.

Findings of Board:

Action taken by Board:

On the motion of Commissioner Petrone, seconded by Commissioner Luiso, the Favorable Findings of Fact as prepared by the Village Attorney, Anthony Cerreto were approved.

Record of Vote: For 5 Against _____ Absent 1

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

Approve Findings

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

Signed _____

Title _____

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 on July 17, 2014 at 7:00 p.m. with Chairman William Villanova presiding

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

Also in attendance were Peter Miley, Building Inspector and Anthony Cerreto, Village Attorney.

Date of Hearing: July 17, 2014

Case No: 2014-0095

Applicant: Aline Polimeni
220 Westchester Corp.
220 Westchester Avenue
Port Chester, New York 10573

Bernard A. Edelstein, Esq.
315 Westchester Avenue
Port Chester, NY 10573

Nature of Request:

on the premises No. **220 Westchester Avenue** in the Village of Port Chester, New York, situated on the **South** side of **Westchester Avenue** distant **110 feet** from the corner formed by the intersection of **Westchester Avenue & Grove Street** being **Section 142.22, Block No 1, Lot No. 6** 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: **Create medical and dental offices on 2nd floor of an existing mixed use building.**

Property is located in the C1 Neighborhood Retail District where a Use Variance is required for medical/dental office use with X-Ray per Village Code 345 Attachment #A Schedule of Regulations for Nonresidence Districts

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

Bernard Edelstein, Esq. represented this matter. Bob Stanziale, Architect and Aline Polimenti, Property Owner were also in attendance.

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

None

Summary of statement or evidence presented:

Mr. Edelman stated that the application is for a use variance for a medical and dental office in the C1 District. The building is a two and one half story brick building that occupies the entire space of the property. The first floor has three retail stores- A Mexican Restaurant, A Hair Salon and a Pharmacy. The third floor or penthouse had a general office space but is now vacant. The second floor is now a medical office and a dental office. The applicant purchased the building on April 29, 1996. The second floor at that time was the office of Attorney Bruno Gioffre. At that time April 25, 1996 (prior to the purchase) a letter was received from the Building Inspector Anthony Fontana which indicated that the medical office was an accepted use and in line with the Village Code. He also indicated that there were no violations on record. After purchasing the property the applicant converted the law office into a medical office. After a while a portion of the second floor was leased to the dentist who still practices at the site. The dentist filed for a building permit and a certificate of occupancy in 1997 and nothing was conveyed to him at the time that the dental office was an improper use in the C1 District. There is an elevator in the rear of the building and the property abuts Grove and Elm Streets. There is plenty of parking around and it is easy to walk to. The dentist said that he may be retiring in the near future and might be moving out of the area. With that in mind Mr. Edelstein said he suggested that a municipal search be done to avoid any problems later if they decide to sell the building. The medical and dental office has

been in existence since 1996. Dr. Polemini speaks many languages and serves the Hispanic community almost exclusively and there is a need for this office in the area.

Mr. Miley stated that the applicant was before this Board because the Planning Commission referred them because they want to increase the intensity of a non-existing use. The applicant could have taken advantage of the amnesty program had he not intensified the use. There is a Certificate of Occupancy for the existing space and would have been corrected under the amnesty program, however the increase in intensity is why the applicant is before the Board.

The documents received did not reflect accurately why the applicant is before the Board. A discussion was held with regard to the submitted drawings which showed an increase to the existing space. The architect Mr. Stanziale explained that the drawings were submitted as a construction drawing to show what was done in 1996 (as built). Currently there are no plans to do any additional renovations. Mr. Miley stated that this application would need to be compared to the original plans that were submitted and if there is a match, the application could be submitted under the amnesty program.

Action taken by Board:

On the motion of Commissioner Petrone, seconded by Commissioner D'Estrada, the matter was adjourned to the August 21, 2014 meeting.

Record of Vote: For 5 Against _____ Absent 1

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

Adjourn to August 21, 2014

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

Signed

William Villanova
Title 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 on July 17, 2014 at 7:00 p.m. with Chairman William Villanova presiding

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

Also in attendance were Peter Miley, Building Inspector and Anthony Cerreto, Village Attorney.

Date of Hearing: July 17, 2014
Case No: 2014-0096
Applicant: Joseph & Deryl DePauw
12 Chestnut Street
Port Chester, NY 10573

Nature of Request:

on the premises No. **12 Chestnut Street** in the Village of Port Chester, New York, situated on the **NorthEast** side of **Chestnut Street** distant **125 feet** from the corner formed by the intersection of **Chestnut Street and Willett Avenue** being **Section 136.71, Block No 1, Lot No. 61** 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: Convert a single family home and rear barn into a two family dwelling by connecting two structures via a breezeway.

Property is located in the R2F Zoning District. Per Article IV Supplementary Regulation 345-6 Accessory Buildings and Uses (I) *In One and Two Family Residential Districts: (3) Accessory off-street parking spaces, other than those which might be incidentally available within an actual access driveway area shall not be located within a required front yard nor within a required side yard.* Proposed are 4 parking spaces, one space can be utilized and relocated by use of the proposed 1 car garage. Three spaces are located within the required side yard and one space is located within the required front yard; therefore a variance to allow 3 spaces to be located within the required side yard and one space to be located within the required front yard is requested

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

Joseph DePauw

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

None

Summary of statement or evidence presented:

Peter Miley, Building Inspector said that variances were received back in the early 1990's for the exact same thing they are requesting today however, certain things have changed. The kitchen located on the first floor has changed on the submitted plans. There was never a granted variance for the cars that are being parked in the setbacks. However there is a 1 car garage that can accommodate one car on the inside and one car on the outside but this will require a variance as laid out on the site plan. The applicant was before the Board in 1987 where they received a variance for several variances (area and side yard setback) and they do not require a use variance for the two family home. (At one time this property was a three family residence). Basically this application is to amend the original variance and to include changes such as the kitchen, connecting the breezeway and the four parking spaces. Mr. Miley said that this application is to amend the original granted variances to include the changes, the kitchen, the connecting breezeway and the four parking spaces.

Mr. Joe DePauw said he was in concurrence with the facts as stated by Mr. Miley. Mr. DePauw said that in 1987 the home belonged to his aunt and uncle and his parents were about to inherit the home. Shortly after his father inherited the house he passed away and nothing was done to further the sought after permits. Three years ago Mr. DePauw purchased the home with the violations and has been trying to remedy the outstanding violations. The property is two houses which the applicant wishes to connect via a breezeway. The structure in the front is a one family dwelling lived in by the applicant. The structure in the rear is a garage in which a portion of it has been converted into living space. An illegal kitchen was constructed on the first floor of the rear structure which violates the previously granted approval. This kitchen was built before the applicant purchased the property. Mr. Miley said there is no certificate of occupancy for the property. In 1988 a ZBA approval was granted for a rear dwelling for domestic use. This supplication has been before the Board on several occasions for various renovations to the property. The rear property is currently in violation because no kitchen was to be constructed on the first floor of the property and one currently exists there today.

Village Attorney Anthony Cerreto asked the applicant if this matter is currently in court? To which the applicant said yes. The applicant said he was 15 days late with his submission to the court and he missed the deadline.

This application should be heard in Court first and then come before the Zoning Board. There are many questions with this application hat still need to be answered.

Action taken by Board:

On the motion of Commissioner Luiso, seconded by Commissioner Espinoza, the matter was adjourned to the August 21, 2014 meeting

Record of Vote: For 5 Against _____ Absent 1

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

Adjourn to August 21, 2014

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

Signed

William Villanova

Title Chairman

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Also in attendance were Peter Miley, Building Inspector and Anthony Cerreto, Village Attorney.

Date of Hearing: July 17, 2014

No. of Case:

Applicant:

Nature of Request: ADJOURN MEETING TO August 21, 2014

On the motion of Commissioner Luiso, seconded by Commissioner D'Estrada, the meeting was adjourned to August 21, 2014

Record of Vote: For 5 Against _____ Absent 1

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

Adjourn meeting to August 21, 2014

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

Signed _____
William Villanova
Title Chairman