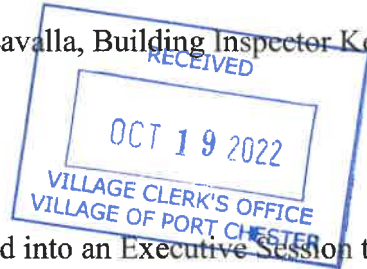


MINUTES OF MEETING

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, May 19, 2022, at 7:00 p.m. with Chairman Evelyn Petrone presiding.

Present in addition to Ms. Petrone were Messrs., D'Estrada Morlino, Simmons, and Falk

Also in attendance was Village Planning Director Curt Lavalla, Building Inspector Kevin Donohue, Village Attorney Anthony Cerreto



Date of Hearing: May 19, 2022

Prior to the start of the regular meeting, the Board entered into an Executive Session to consult with legal counsel

On the motion of Commissioner Simmons, seconded by Commissioner D'Estrada, the Board entered into an Executive Session at 7:08pm

Record of Vote: For 5 Against ___ Absent ___ Abstain ___
List names of members & how voted – F-for, A-against, Ab-absent, Abs-Abstain

Enter Executive Session

Petrone	F
D'Estrada	F
Morlino	F
Simmons	F
Falk	F

On the motion of Commissioner Morlino, seconded by Commissioner D'Estrada, the Board exited an Executive Session at 7:12 pm

Record of Vote: For 5 Against ___ Absent ___ Abstain ___
List names of members & how voted – F-for, A-against, Ab-absent, Abs-Abstain

Enter Executive Session

Petrone	F
D'Estrada	F
Morlino	F
Simmons	F
Falk	F

Signed

Evelyn Petrone

Title Chair

ATTEST:

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, May 19, 2022, at 7:00 p.m. with Chairman Evelyn Petrone presiding.

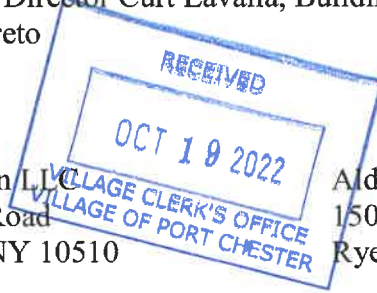
Present in addition to Ms. Petrone were Messrs., D'Estrada Morlino, Simmons, and Falk

Also in attendance was Village Planning Director Curt Lavalla, Building Inspector Kevin Donohue, Village Attorney Anthony Cerreto

Date of Hearing: May 19, 2022

No. of Case: 2022-0212

Applicant: SJA Reconstruction LLC
435 Pleasantville Road
Briarcliff Manor, NY 10510



Aldo Vitagliano, Esq.
150 Purchase Street
Rye, NY 10510

Nature of Request:

On the premises **no # at this time Sylvan Road** in the CD-3.R7 Zoning District, being **Section: 135.44, Block: 2, Lot(s): 8** on the assessment map of the Town of Rye, New York the applicant is requesting an interpretation that proposed access to applicant's property via a driveway onto Sylvan Road constitutes a street; that such a street need not be located entirely within the Village of Port Chester as a pre-condition to receipt of a Building permit; and further than the dedication of Sylvan Road by the Town of Rye constitutes a determination that same has been suitable improved to the satisfaction of the Planning Board.

Summary of statement or evidence presented:

Chair, Evelyn Petrone informed the public that there are Findings that have been prepared by Special Counsel Lieberman who could not be present tonight. The Board has reviewed the Findings which are quite lengthy and will not be reading them aloud tonight. The Board has determined that on the grounds of Lack of Standing and Lack of Jurisdiction, the matter should be dismissed

Action taken by Board:

On the motion of Commissioner Simmons which was seconded by Commissioner D'Estrada, the Public Hearing was closed

Record of Vote: For 5 Against Absent Abstain

List names of members & how voted – F-for, A-against, Ab-absent, Abs-Abstain

Close Public Hearing

Petrone F
D'Estrada F
Morlino F
Simmons F
Falk F

On the motion of Commissioner Simmons which was seconded by Commissioner D'Estrada, the Findings were approved

Record of Vote: For 5 Against Absent Abstain

List names of members & how voted – F-for, A-against, Ab-absent, Abs-Abstain

Approve Findings

Petrone **F**
D'Estrada **F**
Morlino **F**
Simmons **F**
Falk **F**

Signed



Evelyn Petrone

Title **Chair**

ATTEST

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, May 19, 2022, at 7:00 p.m. with Chairman Evelyn Petrone presiding.

Present in addition to Ms. Petrone were Messrs., D’Estrada Morlino, Simmons, and Falk

Also in attendance was Village Planning Director Curt Lavalla, Building Inspector Kevin Donohue, Village Attorney Anthony Cerreto

Date of Hearing: May 19, 2022

No. of Case: 2022-0211

Applicant: Port Chester OZ Fund III
181 Eastchester Avenue
Port Chester, NY 10573



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

Nature of Request:

On the premises **140-150 Westchester Avenue** in the CD-6 Zoning District, being **Section: 142.30, Block: 2, Lot(s): 17 & 65** on the assessment map of the Town of Rye, New York, the applicant is requesting area variance relief from the following provisions of the Village of Port Chester Character Based Code:

Section 345.405.N.1.v “Lots shall be limited to one curb per lot” The applicant is proposing 3 curb cuts

Section 345. 405.2.d “Any gates, arms, or booths must be set back at least 20 feet from the Frontage” The applicant proposes to locate the security grills within 20 feet of the frontage.

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

No One

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

Anthony Tirone, Esq.

Summary of statement or evidence presented:

The matter was represented by Anthony Gioffre Es. And Dan Patrick, Esq of Cuddy & Feder LLP, along with Carlito Holt, Architect and Nick Williams, applicant. The team gave an overview of the submitted application

Action taken by Board:


On the motion of Commissioner Simmons, seconded by Commissioner D’Estrada, the matter was adjourned to the June 16, 2022 meeting

Record of Vote: For 5 Against Absent Abstain

List names of members & how voted – F-for, A-against, Ab-absent, Abs-Abstain

Adjourn Hearing to May 19, 2022

Petrone F
D’Estrada F
Morlino F
Simmons F
Falk F

Signed 
Evelyn Petrone
Title Chair

ATTEST:

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, May 19, 2022, at 7:00 p.m. with Chairman Evelyn Petrone presiding.

Present in addition to Ms. Petrone were Messrs., D'Estrada Morlino, Simmons, and Falk

Also in attendance was Village Planning Director Curt Lavalla, Building Inspector Kevin Donohue, Village Attorney Anthony Cerreto

Date of Hearing: May 19, 2022
No. of Case: 2022-0213
Applicant: Edison Criollo
98 Birch Street
Port Chester, NY 10573



Nature of Request:

On the premises 98 Birch Street, located in the CD-3.R5 Zoning District, being Section: 136.63, Block: 1. Lot: 27 on the assessment map of the Town of Rye, New York the applicant is requesting a Use Variance to construct a 12 x 22 rear deck with stairs on an existing legal non-conforming two family dwelling.

Village of Port Chester Zoning Code Section 345-901D (2) Extension of Non-Conforming Uses states “Any such Non-Conforming Use may be extended throughout any parts of the structure that were manifestly arranged or designed for such use of the effective date of this chapter, any amendment of this chapter or any amendment to the Zoning Map”

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

No One

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

No One

Summary of statement or evidence presented:

The Applicant (Edison) along with his wife (Angelica) presented this matter. Mr. Criollo informed the Board because he was trying to make a small deck on the back of the house. (12’ x 22’) An application was filed last year. R. Criollo said the application is being denied because they live in a single family zone and his house is a two family house. Mr. Criollo said his house is not the only two family house in the Zone and he provide proof of other houses with porches in the backyard. He also provided pictures of his current house (Attachment A)

Chair Petrone stated that from what she understands, the problem with the applicant’s situation is the house, is a 2 family house in this zone is non-conforming because this is a single family zone.

Clarity Question: is this non-conforming because the Zoning Code changed or was it prior to the adoption of new Code?

Mr. Donohue informed the Board that they have a denial letter in their materials which he read to the Board *Village of Port Chester Zoning Code Section 345-901D (2) Extension of Non-Conforming Uses states “Any such Non-Conforming Use may be extended throughout any parts of the structure that were manifestly arranged or designed for such use of the effective date of this chapter, any amendment of this chapter or any amendment to the Zoning Map”*/after which he stated that there is no further amendments to the code. In addition, there is no guidance nor are there any thresholds, etc. The original application for this matter was received in the Building Department back in July 2021.

It was requested of Board Counsel Anthony Cerreto to provide some clarity on the language of the Code in relationship to the term “expansion/extension” Mr. Cerreto said that he would need to research this matter in greater detail and have a further discussion with the Building Inspector.

Ms. Petrone then explained to the applicant that a more detailed review of this application is necessary by the Board. In addition, a Use Variance requires certain specific information from the applicant as well as proof of a hardship by not having this deck.

2 children (17 and 9)

There are renters on the 2nd floor

The applicant is on the first floor which is on the front of the house and uses the back door to enter and exit. The stairs on the back of the house are actually for the 1st floor. There is also an empty basement. The applicant does not use the front door because the renters use that door to get to the 2nd floor.

Determined to be a legally non-conforming use, there are no encroachments or area variances needed.

Public: Linda Torino - neighbor

Findings of Board:

Action taken by Board:

On the motion of Commissioner D'Estrada, which was seconded by Commissioner Simmons, the matter was adjourned to the May 19th meeting.

Record of Vote: For 5 Against Absent Abstain

List names of members & how voted – F-for, A-against, Ab-absent, Abs-Abstain

Adjourn to May 19, 2022

Petrone	F
D'Estrada	F
Morlino	F
Simmons	F
Falk	F

Signed



Evelyn Petrone

Title Chair

ATTEST:

Attachment A



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, May 19, 2022, at 7:00 p.m. with Chairman Evelyn Petrone presiding.

Present in addition to Ms. Petrone were Messrs., D'Estrada Morlino, Simmons, and Falk

Also in attendance was Village Planning Director Curt Lavalla, Building Inspector Kevin Donohue, Village Attorney Anthony Cerreto

Date of Hearing: May 19, 2022
Case No.: 2022-0214
Applicant: 44 Broad Street Owner, LLC
Stephen Matri
271 Madison Avenue
New York, NY 10016



Nature of Request:

On the premises **44 Broad Street**, located in the CD-6T Zoning District, being **Section: 142.22, Block: 2, Lot(s): 69, 70, 71, 72, 73, 74, 75** on the assessment map of the Town of Rye, New York the applicant is requesting three area variances relating to the location of curb cuts and a loading area. Specifically, in order to increase pedestrian safety and the convenience of vehicular ingress/egress to the Property, the Applicant is seeking to maintain: (i) two curb cuts on a single lot (one curb cut per lot is the maximum (§ 345.405.N-4)); (ii) a driveway width of 26 feet (24 feet is the maximum) (§ 345.405.A-9); and (iii) a loading area rolling gate set back 1 foot 4 inches from the lot line (20 feet is the minimum) (§ 345.405.N-4(2)(d)).

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

No one

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

No one

Summary of statement or evidence presented:

David Cooper, Brian Sinsebaugh, Steven Matri, Kevin Lahey represented this matter for the applicant. It was stated that the applicant proposes to build a 15 story mixed use building consisting of first floor commercial space with residential units on the above floors. The Team offered the following overview of the project.

The Project would replace numerous existing vacant commercial buildings with a new premier transit oriented mixed-use building consistent with the Village's CD-6T Urban Core TOD Character District. The Project would transform the streetscape directly across from the Port Chester Train Station as one enters the Village, activating Broad Street with commercial uses attractive to residents and visitors in the downtown. The Project would also include pedestrian enhancements along Broad Street, such as curb extensions and a widened sidewalk, to accommodate the anticipated increased activity in the area.

In order to best enhance the pedestrian experience along Broad Street, however, the Applicant must locate vehicular access to the building's parking garage and loading docks away from Broad Street. In addition, the Applicant believes providing separate driveways to the 322 resident/visitor parking garage and the loading area for commercial tenants is necessary to maintain safe and convenient vehicular access to the Project. It would also permit the Applicant to maintain a 5' wide "pedestrian refuge island" between the two driveways along Pearl Street. While the Property already contains curb cuts on Irving Street and Pearl Street, the Applicant is proposing to use only Pearl Street for vehicular ingress/egress. The Planning Commission's Traffic Consultants have concurred that limiting vehicular access to the Pearl Street side of the Property is the most logical approach.

While relocating the two curb cuts to Peal Street may be the best approach, it would not comply with the requirement in the Form Based Code that limits the number of curb cuts per property to one. In addition, the Applicant is seeking to create a loading area that is wide enough for two trucks to use at one time to avoid on-street queuing, which would require a 26'-wide loading area, whereas the Form Based Code limits all driveway widths to 24'. Finally, the Applicant wishes to use screen the loading area along the Pearl Street sidewalk when not in use with roll down door, which would violate the requirement in the Form Based Code that "in all Districts any gates, arms or booths must be set back at least 20 feet from the Frontage." See Village Zoning Code§ 345-405.N(2)(d).

The benefits afforded by the requested variances would far outweigh any potential detriment to the community. The Project will provide much needed upgrades to the pedestrian crossings at the easterly comers of Broad Street and Irving Avenue, enhancing pedestrian safety. The Project will also provide increased traffic to the local businesses through the increase in residency. The variances will permit the Applicant to maximize the pedestrian experience along Broad Street, consistent with the intent of the Form Based Code to encourage a walkable and vibrant downtown. In contrast, allowing the Applicant to maintain two curb cuts, a wider loading area and a roll down gate close to the sidewalk on Pearl Street would not result in a significant detriment to nearby properties.

Public:

Findings of Board:

Action taken by Board:

On the motion of Commissioner Morlino, which was seconded by Commissioner Simmons, the matter was adjourned to the June 16, 2022 meeting

Record of Vote: For ___ Against ___ Absent ___ Abstain ___

List names of members & how voted – F-for, A-against, Ab-absent, Abs-Abstain

Adjourn to July 21st Meeting

Petrone	F
D'Estrada	F
Morlino	F
Simmons	F
Falk	F

Signed



Evelyn Petrone

Title Chair

ATTEST:

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, May 19, 2022, at 7:00 p.m. with Chairman Evelyn Petrone presiding.

Present in addition to Ms. Petrone were Messrs., D’Estrada Morlino, Simmons, and Falk

Also in attendance was Village Planning Director Curt Lavalla, Building Inspector Kevin Donohue, Village Attorney Anthony Cerreto

Date of Hearing: May 19, 2022
Case No.: 2022-0215
Applicant: 130 Midland Owner LLC
130 Midland Avenue
Port Chester, NY 10573



Nature of Request:

On the premises **130 Midland Avenue**, in the CD-4 Zoning District, being **Section: 142.53, Block: 1, Lot(s): 5**, on the assessment map of The Town of Rye, New York the applicant seeks 7 area variances : (i) maintain the existing driveway width of 52' at the curb, with a slight expansion internally to 57'-6" (whereas 24' is the maximum allowed) (§345.405.A-5); (ii) continue parking in the 2nd lot layer (whereas parking is limited to the 3rd layer in the CD-4 District) (§345.405.A-5); (iii) provide less facade void areas on Floor and Decor building (whereas 20% is required / 2% proposed) (§345.405.A-5); (iv) provide less facade glazing on the Floor and Decor Building (20% of total facade area minimum / 1% proposed) (§345.405.A-5); (v) maintain 86% impervious surfaces on the Property in order to comply with contamination "capping" remediation measures (whereas 80% is the maximum) (§345.405.A-5); (vi) maintain no buildings along the Property's Frontage (whereas a minimum of 60% must be built out in the CD-4 District) (§345.405.A-5); and (vii) allow Floor and Decor to use its standard 8' tall logo on the building (whereas a 3' maximum for signs is imposed) (§345.701.B-3).

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

No one

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

No one

Summary of statement or evidence presented:

- David Cooper Esq. of Zarin & Steinmetz represented this matter for the applicant along with his team Phil Fruchture, Kevin Lahey and KevinL Lahey

Mr. Cooper began by saying the variances are primarily the result of the Form Based Code where the provisions were not crafted for the Midland Avenue corridor. This is a project that will revitalize the vacant Key Foods Shopping Center area with a Floor and Décor Store. This location is also part of the Brownfield Cleanup program because of prior uses. The applicant proposes to replace the whole key foods building with a new Floor and Décor Flagship Building. Because the applicant is proposing a retail building at this site it does not match up with the CD4 Zoning in this location. Currently there is a moratorium in place however the applicant did seek a waiver from the BOT in March and it was granted. A Site Plan application was submitted with the Planning Commission acting as Lead Agency for the SEQRA review with a Public Hearing scheduled at their next meeting. The applicant realizes the Zoning Board cannot take an action until the SEQRA Review is completed. However, they want to familiarize you with the plan to make it easier to vote at the June meeting when SEQRA is complete.

Mr. Fructure provided a review of the architectural drawings along with a question and answer session from the Board. Mr. Cooper provided the Board with the Balance test supporting the variance requests (see below)

First, granting the area variances would not result in an undesirable effect on the character of the community, or a detriment to nearby properties. The width of the curb cut, location of the parking, and building setback are long-existing conditions in the neighborhood. In addition, the impervious surface variance is necessary to accommodate site remediation, which is a desirable outcome for the community. Moreover, the façade requirements in the CD-4 District do not appear to be tailored to address the Midland Avenue commercial corridor. Indeed, there are few, if any, uses along this corridor which would comply with the glazing, void and sign requirements of the CD-4 District. As such, allowing the Applicant to replace the vacant former Key Foods building with a 1-story Floor and Décor flagship store at the Property would result in significant benefit to the neighborhood.

Second, there is no feasible alternative method to obtain the benefits associated with the requested area variances. In order to comply with the height, coverage and setback requirements, the Applicant would be unable to clean up and redevelop the Property in a manner that could accommodate a flagship Floor & Décor store, or any other quality national retailer of this size.

Third, the requested variances are not substantial, particularly when viewed in light of limited impact the additional sign height and impervious surface coverage. While the percent deviation associated with some of the variances may be significant, the Applicant's use of permeable pavement, though not considered to be permeable due to the liner beneath directing water to the stormwater management facilities would ensure that the actual environmental impact of the lack of "permeable" surfaces would be minimal. In addition, as the sign size is consistent with the signage on neighboring parcels and is located on a building that does not front Midland Avenue but rather is set back more than 200 feet from the roadway ensures that the size of the sign will have a minimal impact. When weighed in light of the overall benefit that revitalizing the Site provides to the neighborhood and the Village as a whole, the extent of the variances requested should not be classified as "substantial." As the New York courts recognize, the "substantiality" prong is not simply satisfied by a mathematical calculation: The ZBA's consideration of this percentage deviation alone, taken in a vacuum, is not an adequate indicator of the substantiality of Petitioners' Variance Application. Certainly, a small deviation can have a substantial impact, or a large deviation can have little or no impact depending on the circumstances of the variance application. Substantiality must not be judged in the abstract. The totality of the relevant circumstances must be evaluated in determining whether the variance sought is, in actuality, a substantial one.

Fourth, there would not be an adverse impact on the environmental or physical conditions of the neighborhood if your Board were to grant the requested variance. The Applicant proposes to maintain the same curb cut and driveway distance as existing on the Site today. The Project would result in a reduction in traffic when compared to the prior grocery store use, which is also reflected in the reduction of parking area through the utilization of landscaped parking islands. This landscaping will work in conjunction with the improved on-Site stormwater management system to reduce the impact of stormwater to the Site and prevent infiltration of stormwater into the Site's soil which is known to have been contaminated. In addition, to the extent that the minimal façade voids and glazing and/or Floor and Décor sign could result in a visual impact, such conditions would be screened by the proposed landscaping along the Property's frontage.

Fifth, arguably, the need for the variances is not self-created because the variances are mostly the result of provisions in the Form Based Code that were not tailored to the Midland Avenue commercial corridor. To the extent your Board considers the alleged hardship concerning the requested variances self-created, however, such determination does not preclude the granting of the requested area variance. See N.Y. Village Law § 7-712-b(3)(b) ("whether the alleged difficulty was self-created . . . shall not necessarily preclude the granting of the area variance.").

Public:

No one from the Public spoke for or against this matter

Findings of Board:

Action taken by Board:


On the motion of Commissioner Simmons, which was seconded by Commissioner D'Estrada, the Public Hearing was adjourned to the June 16th meeting.

Record of Vote: For 5 Against Absent Abstain

List names of members & how voted – F-for, A-against, Ab-absent, Abs-Abstain

Adjourn

Petrone	F
D'Estrada	F
Morlino	F
Simmons	F
Falk	F

Signed 

Evelyn Petrone
Title Chair

ATTEST:

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, May 19, 2022, at 7:00 p.m. with Chairman Evelyn Petrone presiding.

Present in addition to Ms. Petrone were Messrs., D'Estrada Morlino, Simmons, and Falk

Also in attendance was Village Planning Director Curt Lavalla, Building Inspector Kevin Donohue, Village Attorney Anthony Cerreto

Date of Hearing: May 19, 2022

ADJOIURN MEETING

On the motion of Commissioner Morlino, seconded by Commissioner Simmons, the meeting was adjourned to June 16, 2022.


Record of Vote: For 5 Against Absent Abstain

List names of members & how voted – F-for, A-against, Ab-absent, Abs-Abstain

Adjourn meeting to June 16, 2022

Petrone	F
D'Estrada	F
Morlino	F
Simmons	F
Falk	F



Signed 
Evelyn Petrone
Title Chair _____

ATTEST: