

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 21, 2022, at 7:00 p.m. with Chairman Evelyn Petrone presiding.

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

Also in attendance was Village Attorney Anthony Cerreto, Planning Director Curt Lavalla, Building Inspector Kevin Donohue and Assistant Planner Matthew Wilkes.

Date of Hearing: July 21, 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

Findings of Board:

The Findings of Fact were prepared by Village Attorney Anthony Cerreto and summarized by the Chair, Evelyn Petrone

Action taken by Board:

On the motion of Chairman Petrone, which was seconded by Commissioner Morlino, the Findings of Fact as orepared by the Village Attorney were approved

Record of Vote: For 4 Against \_\_\_ Absent \_\_\_ Abstain \_\_\_

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

**Approve Findings**

<b>Petrone</b>	<b>F</b>
<b>D'Estrada</b>	<b>F</b>
<b>Morlino</b>	<b>F</b>
<b>Simmons</b>	<b>Ab</b>
<b>Falk</b>	<b>F</b>

**Signed**



**Evelyn Petrone**

**Title Chair**

**ATTEST:**

**MINUTES OF MEETING**

**Application for Permit or Variance**

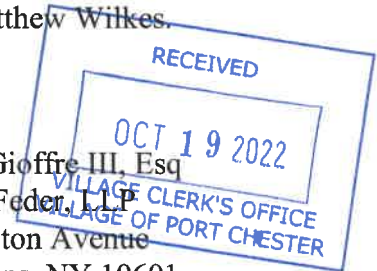
A meeting of the Zoning Board of Appeals was held at the Courtroom of the Police Headquarters Building, 350 North Main Street, Port Chester, NY, on July 21, 2022, at 7:00 p.m. with Chairman Evelyn Petrone presiding.

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

Also in attendance was Village Attorney Anthony Cerreto, Planning Director Curt Lavalla, Building Inspector Kevin Donohue and Assistant Planner Matthew Wilkes.

**Date of Hearing:** July 21, 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.

**Summary of statement or evidence presented:**

A letter was received Anthony Gioffre Esq., attorney for the applicant, requesting the matter be adjourned and placed on the August 18, 2022 agenda


**Action taken by Board:**

On the motion of Commissioner D'Estrada, seconded by Commissioner Morlino, the matter was adjourned to the August 18, 2022 meeting with the Public Hearing remaining open.

**Record of Vote: For 4 Against     Absent     Abstain**  
**List names of members & how voted – F-for, A-against, Ab-absent, Abs-Abstain**

**Adjourn Hearing to August 18, 2022**

**Petrone** F  
**D'Estrada** F  
**Morlino** F  
**Simmons** Ab  
**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, on July 21, 2022, at 7:00 p.m. with Chairman Evelyn Petrone presiding.

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

Also in attendance was Village Attorney Anthony Cerreto, Planning Director Curt Lavalla, Building Inspector Kevin Donohue and Assistant Planner Matthew Wilkes.

**Date of Hearing:** July 21, 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 Esq. of Zarin & Steinmetz represented this matter for the applicant. Mr. Cooper said that the Planning Commission is Lead Agency for the SEQRA Review and has not yet finalized their review. Therefore, he is asking an adjournment of this matter to the August 18th meeting

**Findings of Board:**

The Public Hearing will remain open and the matter will be adjourned to the August 18th meeting as requested.

**Action taken by Board:**

On the motion of Chair Petrone, which was seconded by Commissioner Morlino, the matter was adjourned to the August 18, 2022 meeting

**Record of Vote: For 4 Against     Absent     Abstain      
List names of members & how voted – F-for, A-against, Ab-absent, Abs-Abstain**

**Adjourn to August 18, 2022 Meeting**

<b>Petrone</b>	<b>F</b>
<b>D'Estrada</b>	<b>F</b>
<b>Morlino</b>	<b>F</b>
<b>Simmons</b>	<b>Ab</b>
<b>Falk</b>	<b>F</b>

**Signed**



**Evelyn Petrone**

**Title Chair**

**ATTEST:**

The applicant is requested to provide the deeds to the right of way and the property maintenance agreement. In addition, the applicant is requested to provide photos of the site.

He Building Inspector Kevin Donohue said that Village Law says he cannot issue a permit unless there is frontage on a Village Road. There is not a lot of case or Village Law, mostly Town Law Based on the number of lots with no access therefore there are hundreds of TOWN Cases with regard to access. Most deeds state that the roads will be maintained by the residents in perpetuity. In addition, there is law regarding the type of Road, which is called the Fire Apparatus Law which ensures access by fire and emergency vehicles. Mr. Donohue and Mr. Ceretto have discussed this matter and expressed and discussed the needed items with the applicant and Mr. Donohue said that if the variance is granted, they will have to return to the Building Department for compliance.

**Public:**

Mike Garzilli -241 Mortimer Street

Dominique Iani Read a letter from the disabled neighbor at 239 Mortimer Street

Julie DeRosa – 241 Mortimer Street

**Findings of Board:**

The Board will make a visit to view the property and the applicant is requested to bring the deed and also submit photos of the site

**Action taken by Board:**

On the motion of Commissioner D'Estrada, which was seconded by Commissioner Morlino, the matter was adjourned to the August 18, 2022 meeting

**Record of Vote: For 4 Against     Absent     Abstain**

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

**Adjourn to August Meeting**

<b>Petrone</b>	<b>F</b>
<b>D'Estrada</b>	<b>F</b>
<b>Morlino</b>	<b>F</b>
<b>Simmons</b>	<b>Ab</b>
<b>Falk</b>	<b>F</b>

**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, on July 21, 2022, at 7:00 p.m. with Chairman Evelyn Petrone presiding.

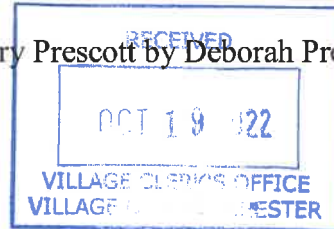
Present in addition to Ms. Petrone were Messrs., D'Estrada Morlino and Falk

Also in attendance was Village Attorney Anthony Cerreto, Planning Director Curt Lavalla, Building Inspector Kevin Donohue and Assistant Planner Matthew Wilkes.

**Date of Hearing:** July 21, 2022

**Case No.:** 2022-0216

**Applicant:** Damion Barrett Estate of Jennie Mary Prescott by Deborah Prescott  
463 Pelham Road  
New Rochelle, NY 10575



### **Nature of Request:**

On the premises **245 Mortimer Street**, located in the CD-3.R5 Zoning District, being **Section:136.63, Block: 1, Lot(s): 63.2** on the assessment map of the Town of Rye, New York, the applicant is requesting two area variances related to construction of a new Single Family Dwelling.

**Attachment "A"** - Village of Port Chester Zoning Table 345-405.A-4, CD-3.R5 District Standards requires a minimum of 20 feet of Street/Highway Frontage. *The construction plans propose 0 feet.*

**Attachment "B"** - NYS Village Law section 7-736 requires access from the structure to a street or highway duly placed on the Official Map (Public Street). *The site plan proposes an easement access to Mortimer Street a Public Street.*

**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**

Jack Adesso Esq., 153 Stevens Ave, Mt Vernon, NY represented this matter for the applicant Damien Barrett.

Prior to 1984 there was a sub-division of this property into 3 lots. Two of the lots were built on with the same issue that is before the Board – access to Mortimer Street. A right of way was filed with the County Clerk and was deeded to each of the three lots so they each could act as a 1/3 owner in fee simple of the right-away.

1990 The variances were extended for an additional six months giving time for the 2<sup>nd</sup> of the 3 lot to be built upon, leaving the 3 lot (which is the largest and farthest away from Mortimer Street) undeveloped. This 3rd lot complies to all other Zoning Requirements. The rear of the property has a heavy rock issue which is irregular and narrow in shape. Mr. Barrett wants to build a one family home on the 3rd lot which can only be placed in a certain location on the lot and the only issue is access to the right of way. At its widest point the right of way is over sixty feet wide and at the narrowest point it is thirty feet wide. All that needs to be done on the lot is to move the location of a utility pole. The property also complies with all of the emergency access requirements and driveway widths.

Village Attorney Anthony Cerreto agreed with the testimony of Mr. Adesso and said that this applicant is straightforward but very unique and the applicant must also prove they have a deed for access to the right of way same as the residents of the other two lots. A copy of the deed should be submitted and become part of the permanent record. What's needed for this application is proof that he has a permanent access to Mortimer Street and the responsibility agreement between all of the property owners.

**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 21, 2022, at 7:00 p.m. with Chairman Evelyn Petrone presiding.

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

Also in attendance was Village Attorney Anthony Cerreto, Planning Director Curt Lavalla, Building Inspector Kevin Donohue and Assistant Planner Matthew Wilkes.

**Date of Hearing: July 21, 2022**



**ADJOIURN MEETING**


On the motion of Chair Petrone, seconded by Commissioner Morlino, the meeting was adjourned to August 18, 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 August 18, 2022**

<b>Petrone</b>	<b>F</b>
<b>D'Estrada</b>	<b>F</b>
<b>Morlino</b>	<b>F</b>
<b>Simmons</b>	<b>Ab</b>
<b>Falk</b>	<b>F</b>

**Signed**   
 \_\_\_\_\_  
**Evelyn Petrone**  
**Title Chair**  
 \_\_\_\_\_

**ATTEST:**