

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 June 18, 2025, at 7:00 p.m. with Chairman Evelyn Petrone presiding.

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

Also in attendance were Village Attorney James Carpinello, Planning Director Gregory Cutler, Assistant Planning Director Curt La Valla, and Building Inspector Steve Velardo

Date of Hearing:	June 18, 2025, 2025	
No. of Case:	2025-0242	
Applicant:	Waldir and Vera Correia	Jacob Amir, Esq.
	30 Old Mamaroneck Road	Zarin & Steinmetz LLP
	White Plains, NY 10605	81 Main Street
		White Plains, NY 10601

Nature of Request:

On the premises **47 Ellendale Avenue**, located in the CD.3-R-2F Zoning District, being **Section 141.28, Block 3, Lot(s) 16** on the assessment map of the Town of Rye, New York, an application submitted by Jacob Amir, Esq., on behalf of the above-named applicants, requesting an interpretation that the property is a prior existing legal non-conforming3 family dwelling or in the alternative, a Use Variance to continue the property to be maintained as a 3 family dwelling

The applicant has requested this matter be adjourned to the July 17th meeting

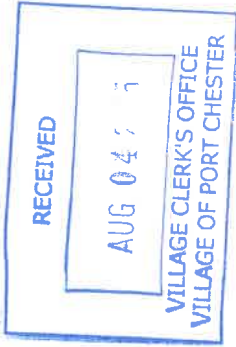
On the motion of Commissioner Morlino, which was seconded by Commissioner D'Estrada, the Matter was adjourned to the July meeting

Record of Vote: For **-5-** Against **Absent** **Abstain**

List names of members & how voted

Adjourn to next meeting

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



	Signed
	Evelyn Petrone
	Title
	Chair

ATTEST:

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Case #2025-0244

Manuel Caivinagua	Jan Cadek, Hans Cadek Architecture
245 Madison Avenue	63 Shelley Avenue
Port Chester, NY 10573	Port Chester, NY 10573

On the premises **245 Madison Avenue**, located in the CD-3.R5 Zone, being **Section , Block , Lot(s)** on the assessment map of the Town of Rye, New York, an application submitted by Hans Cadek., on behalf of Maniel Cavinagua requesting an area variance in connection with the proposal to finish a cellar as a habitable space in an existing 2 family home (two apartments) a variance for 1 additional story is requested

No one appeared for this matter

After a second call – no action was taken on this matter




Signed _____
Evelyn Petrone
Title Chair

ATTEST:

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Case #2025-0243

Jerica & Antonio Adorno	Jan Cadek, Hans Cadek Architecture
90 Shelley Avenue	63 Shelley Avenue
Port Chester, NY 10573	Port Chester, NY 10573

On the premises **90 Shelley Avenue**, located in the CD-3.R5 Zone, being **Section 136.45, Block 2, Lot(s) 44** on the assessment map of the Town of Rye, New York, an application submitted by Hans Cadek., on behalf of Jerica & Antonio Adorno requesting an area variance in connection with the proposal to add a second floor addition over the existing first floor at the back of an existing single family home. The home is legally non-conforming (front, rear and side setbacks)

No one appeared for this matter

After a second call no action was taken on this matter




Signed
Evelyn Petrone
Title
Chair

ATTEST:



MINUTES OF MEETING

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

Also in attendance were Village Attorney James Carpinello, Planning Director Gregory Cutler, Assistant Planning Director Curt LaValla, and Building Inspector Steve Velardo

Date of Hearing:	June 18, 2025	
No. of Case:	2025-0245	
Applicant:	108 Gateway LLC	Ralph E Rossi/The Magellan Building
	108 South Main Street	Managing Member
	Port Chester, NY, 10573	108 South Main Street
		Port Chester, NY 10573

Nature of Request:

On the premises **108 South Main Street**, located in the CD.5 Zoning District, being **Section 142.31, Block 1, Lot(s) 36** on the assessment map of the Town of Rye, New York, an application requesting a 3 area variances pertaining to signage.

1. Section 345.705.B-15: Additional Standards (a): The signs are not composed of letters painted or applied directly to the window.
2. Section 345.705.B-15: Dimensions (b): The area of the signs exceeds the maximum allowable coverage of 33% of the window glass. The total proposed coverage is 66%.
3. Section 345.705.B-15: Additional Standards (b): The signs interfere with the primary function of windows, which is to allow visibility into the premises for passersby and public safety personnel, and to facilitate product displays.

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 matter was represented by Ralph Rossi, Managing Partner of the Magellan. The Code has indicated that the lettering must be painted on the windows to which the applicant disagrees,

The applicant also states that they are in partial agreement with items 2 and 3 listed above but none again, not with item 1.

The ground floor of the building where the full window coverage currently exists, is actually a screen for the shared co-working and office space that exists behind it. The signage is perforated so that insiders can look out, but not the other way around. At night it is completely transparent. The offices behind the window coverings have their own window treatments to their avail (blinds, shades, etc.) The occupants of these office spaces are permanent tenants.

Findings of Board:

The zoning Board unanimously denied the application

The ZBA does not want to set a president that might allow other buildings to be able to have window signage advertising that may not look good.

Action taken by Board:

On the motion of Commissioner Simmons, which was seconded by Commissioner D’Estrada, the application was denied and the Public Hearing was closed

Record of Vote: For 5 Against Absent Abstain

List names of members & how voted

Close Public Hearing	
Petrone	F
D’Estrada	F
DeVita	
Falk	F
Morlino	F
Simmons	F

On the motion of Commissioner Simmons, which was seconded by Commissioner D’Estrada, the staff was directed to prepare Findings of Fact to deny the application.

Record of Vote: For 5 Against Absent Abstain

List names of members & how voted

Deny Application	
Petrone	F
D’Estrada	F
DeVita	
Falk	F
Morlino	F
Simmons	F

Signed
Evelyn Petrone
TitleChair

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 June 18, 2025, at 7:00 p.m. with Chairman Evelyn Petrone presiding.

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

Also in attendance were Village Attorney James Carpinello, Planning Director Gregory Cutler, Assistant Planning Director Curt LaValla, and Building Inspector Steve Velardo

Date of Hearing: June 18, 2025
No. of Case: 2025-0246

Applicant: AKT TWO Realty
16 East 41st Street
New York, NY 10017

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



Nature of Request:

On the premises 123 Oak Street, located in the CD-4MU Zoning District, being Section 142.29 Block 3, Lot(s) 35 on the assessment map of the Town of Rye, New York, an application submitted by Anthony Gioffre, Esq., of Cuddy & Feder LLP, requesting area variance relief in connection with the proposed annex to the existing self-storage building at the Premises relating to the maximum Impervious Surface Coverage as well as the Facade Void Area and Facade Glazing requirements of the Character Based Zoning Code.

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 matter was represented by Anthony Gioffre Esq. and Rex Gedney, Architect and the two principles Alan Getz and Todd Albright were also present.

The applicant provided a brief history of the building and the annex being proposed. This building was formerly known as 200 William street

The variances requested are related to the maximum Impervious Surface Coverage as well as the Facade Void Area and Facade Glazing requirements for a proposed annex.

This application was started in 2016 when the applicants acquired the property and self-storage facility was as of right at that time.

The building was left abandoned and in a bad state of disrepair and deemed an unsafe structure and not safe for human occupancy

The applicant has purchased the property and eliminated all Code Violations,

The applicant was able to open the Vanguard Storage Facility in 2020 with significant improvements, not only to the building but the surroundings around it, which include 6 handicapped accessible sliding doors were added to the building
8 handicapped bathrooms were added
Expandable fire alarms, sprinklers and monitoring systems
Replacement of all sidewalks around the building

And, the redirection of all traffic away from Smith Street

The annex design began in 2022

The proposed annex in approx. 75,000 sq. ft

Incorporation of new planted landscaped areas and equates to an overall reduction in impervious surfaces at the Premises.

A vegetated buffer is expected to achieve the Village’s goal of creating a more welcoming and appropriate streetscape than unoccupied windows or tinted glazing. Also, the 10’-wide landscaped buffer is being accommodated by the enhanced setbacks that have been incorporated into the design of this project

The applicant and architect justified the request of the variances against the five factors

Findings of Board:

The Board approved the requested variances

Action taken by Board:

On the motion of Commissioner Morlino, which was seconded by Commissioner Simmons, the Public Hearing was closed.

List names of members & how voted

Close Public Hearing

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

On the motion of Commissioner Simmons, which was seconded by Commissioner Morlino, the staff was directed to prepare favorable Findings of Fact for this matter that cannot be voted on until the Neg Dec is approved at the Planning Commission

List names of members & how voted

Prepare Findings

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


Signed
Evelyn Petrone
Title
Chair

ATTEST:

MINUTES OF MEETING

Application for Permit or Variance

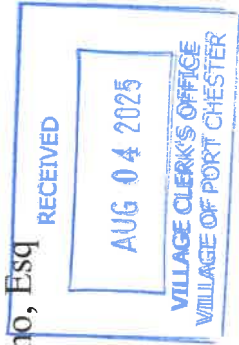
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Present in addition to Ms. Petrone were Messrs., Devita. D'Estrada, Falk, Morlino and Simmons

Also in attendance were Village Attorney James Carpinello, Planning Director Gregory Cutler, Assistant Planning Director Curt LaValla, and Building Inspector Steve Velardo

Date of Hearing: June 18, 2025
No. of Case: 2025-0247

Applicant: SJA Reconstruction, LLC Aldo Vitagliano, Esq
23 Sylvan Road 150Purchase Place
Port Chester, NY 10573 Rye, NY 10580



Nature of Request:

On the premises **23 Sylvan Road**, located in the CD-3.R7 Zoning District, being **Section 135.52, Block 1, Lot(s) 44** on the assessment map of the Town of Rye, New York, an application submitted by Aldo Vitagliano, Esq., on behalf SJA Reconstruction, LLC, requesting an area variance for a proposed finished cellar.

- 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.**

Dean Santon
No address given

Sandra Dujils (spelling of last name may be incorrect)
31 Sylvan Road

Summary of statement or evidence presented:

Aldo Vitagliano, Esq. and Frank Sileo, applicant represented this matter

The premises have been built, certificate of occupancy is pending and the property has been marketed.

The applicant is mindful of an application that was before the Board last month (19 Harbor Drive) which has a lot of similarities to this application. Applicant would like a reference to that application and code changes be a part of this record.

Applicant is looking to utilize the lower level as habitable space as an exercise room. The lower level already exists

The applicant provided the 5 factors for granting the variance in their submission

The application is basically about an existing cellar when used is considered a story. the story is basically already there, it a matter of using it as habitable space

Findings of Board:

The Board approved this application. The footprint of the building will not change

Action taken by Board:

On the motion of Commissioner Morlino, which was seconded by Commissioner Simmons, the Public Hearing was closed.

Record of Vote: For **5** Against **Absent** **Abstain**

List names of members & how voted

<u>Close Public Hearing</u>	
Petrone	F
D'Estrada	F
DeVita	
Falk	F
Morlino	F
Simmons	F

On the motion of Commissioner Falk, which was seconded by Commissioner Simmons, the Staff was directed to prepare favorable Findings of Fact for this matter.

Record of Vote: For **5** Against **Absent** **Abstain**

List names of members & how voted

<u>Prepare Findings</u>	
Petrone	F
D'Estrada	F
DeVita	
Falk	F
Morlino	F
Simmons	F



Signed

Evelyn Petrone

TitleChair

ATTEST:

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

Also in attendance were Village Attorney James Carpinello, Planning Director Gregory Cutler, Assistant Planning Director Curt LaValla, and Building Inspector Steve Velardo

Date of Hearing:	June 18, 2025	
No. of Case:	2025-0248	
Applicant:	250 Boston Road, LLC	Gary Gianfrancesco
	250 Boston Post Road	Arconics Architecture
	Port Chester, NY 10573	545.5 Westchester Avenue Rye Brook, NY 10573



Nature of Request:

On the premises **250 Boston Post Road**, located in the CD-4MU Zoning District, being **Section 142.39, Block 1, Lot(s) 3** on the assessment map of the Town of Rye, New York, an application submitted by Gary Gianfrancesco AIA of Arconics Architecture, on behalf of 250 Boston Post Road, LLC requesting variances pertaining to:

1. Section 345.405.A-13 (CD-4MU) (g) Front Setback, Principal Frontage, 0 ft minimum 20 ft maximum.
2. Section 345.405.A-13 (CD-4MU) (i) [1] Principal Buildings Stories, 3 Stories Maximum
3. Section 345.405.A-13 (CD-4MU)) (i) [3] Finished Floor Level, 2 to 6 ft above average grade at façade.
4. Section 345.405.A-13 (CD-4MU) (l) Garage Location, Third Lot Layer only

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.

Erik Carabello - 32 Olivia Street
Moises Ochoa – 6 Olivia Street
Vincent Giordano – 30 Olivia Street
Jonathan Reason – 153 Smith Street
Tizita Fokredengel – 153 Smith Street

Summary of statement or evidence presented:

The matter was represented by Gary Gianfrancesco, AIA and Anthony Veneziano, Esq representing the owner Steve Brownsner

The applicant appeared before the Planning Commission on May 28th and declared themselves lead Agency for SEQRA

A zoning determination was prepared and received that resulted in the four requested variances.

The property was a different use previously a TD bank.

The applicant has requested that the following letter be included as part of tonight's hearing

VENEZIANO & ASSOCIATES
84 Business Park Drive
Suite 200
Armonk, New York 10504
(914) 273-1300

Evelyn Petrone, Esq., Chair
Port Chester Zoning Board of Appeals
222 Grace Church Street
Port Chester, New York

May 29, 2025



Re: 250 Boston Post Road
Area Variance Application

I.

II. INTRODUCTION & DESCRIPTION OF REQUEST

This firm represents Steven Brauser, the property owner, and Scott Aaron, of Socius Development, as joint venture partners (hereinafter the "Applicant"). Together they intend to jointly develop the subject premises.

The property is 1.48 acres in size and is located at 250 Boston Post Road; formerly the site of TD Bank. The Applicant has submitted a Site Plan Application to the Planning Commission to develop 120 multi-family units at this site.

In response to our submission, we have received a Zoning Compliance Determination from the Village Planner, acting as the Building Inspector. It is from this Determination, copy attached, that we submit this variance application. We have also received a Memorandum from your Planner dated May 23, 2025, also attached.

While there are other technical variances from the "form" zoning requested below, the essence of this Application is a two (2) story variance where three (3) stories is the maximum. It is noted that the fifth story is an amenity space limited to 6,200 s.f. and setback from the front edge of the fourth story of residential units.

II. PROJECT DESCRIPTION

The proposed project is reflected on our Preferred Plan. This Plan reflects 4 stories of residential space, plus 6,200 s.f. of amenity space, over 3 stories of structured parking. You will note that the parking has been pulled forward towards the Boston Post Road to minimize the environmental impacts associated with the blasting and removal of solid rock, as well as limiting the cost of the garage. The garage is 3 stories consistent with the CD-4MU "form" and heavily landscaped. The residential component is setback 30 feet from the front edge of the parking structure.

The project will have 20 studios, 80 one-bedroom and 20 two-bedroom units. Ten percent of all units shall be affordable. The project is proximate to the John F. Kennedy Elementary School located to the rear of the site. And, as submitted with the letter to the Planning Commission, our As of Right plan strictly complies with your zoning. That plan can be built at extreme cost to the Applicant and with significantly more disruption to the abutting neighbors based on layout as well as the removal of rock.

III. ZONING AND REQUESTED VARIANCE(S)

The site is zoned CD-4MU which has a 3-story height limitation, excluding attic and basement. Forcing a developer to comply with this zoning on a site such as 250 Boston Post Road, creates unnecessary hardship, exorbitant expense and greater potential adverse environmental impacts. This site is unique in that it is level in the front where there is a commercial structure at this time. At approximately 50 feet into the site, the site elevates by approximately 40 feet all the way to the rear property line shared with the school. It is solid rock. This rock is expensive to excavate and the excavation would cause substantial impacts to the neighboring property owners associated with reverberations, blasting, noise, trucking, etc. The excavation process alone would take months to complete.

The Zoning Compliance Determination set forth the following zoning requirements that must secure a variance:

- (1) Proposed stories are 5 and the maximum is 3;
- (2) The average of block face must be within 20 feet of the front yard line, we are 22 from the front;
- (3) The garage location can be in the third lot layer only, ours is in the second.
- (4) The Memorandum of the Village Planner also noted that the finished floor level of residential is above the maximum of 6 feet above the average grade at the facade.

We submit that the requested story variance is reasonable from an impact and cost perspective, and also believe that pulling the project to the Boston Post Road complies with the character of the roadway. It is as far away from the elementary school as possible and is also removed from the abutting neighbors. And the three (3) story massing of the garage echoes the form zoning.

Our development is in keeping with the surrounding topography and scale of the neighboring buildings, as well as keeping with the intended future development of the corridor. One should remember that the zone is recently established. Very few properties have reviewed their development potential under the zoning, which zoning will naturally be refined and modified over time.

IV. INTERPRETATION

The ZBA is vested with the jurisdiction to interpret the Zoning Code by both State Law and local Code. As the intent and application of the new form-based Code is tested in practice, the task of interpreting the application of zoning standards is appropriately considered by this Board. It is our position that the intent of the story restriction in the CD-4MU zone is to safeguard the streetscape's scale and form. This interpretation is bolstered by the fact that the "height" limitation is 60' 11" by hypothetical maximum. This speaks to the fact that the desired regulation is of massing, not of height in an absolute sense.

Typically, variances can all be defined in percentages. The form zoning presents additional challenges for the Zoning Board.

V. AREA VARIANCE STANDARDS

Variances from the applicable zoning are authorized by your Code at §345-120, to wit: (D) § 345-120 Appeals and variances.

B. Variances. *Variances may be granted by the Zoning Board of Appeals pursuant to § 345-806D to deviate from a standard or requirement otherwise applicable under this chapter, or otherwise applicable to any land, lot, improvement, building, or structure regulated under this chapter.*

The standard for area variances set forth in the Code which comport with the standards set forth in State Law at Town Law § 267-b (3)(b), are established in 345-806(F)(2)(b), and are as follows:

Area Variance.

[1] In making its determination on a request for an area variance, the Zoning Board of Appeals must make written findings of fact that take into account the benefit to the applicant if the variance is granted as weighed against the detriment to the public health, safety, and welfare by the approval of the variance. In making this determination the Zoning Board of Appeals must also consider:

[a] Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

[b] Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.

[c] Whether the requested area variance is substantial.

[d] Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zone.

[e] Whether the alleged difficulty was self-created, which consideration must be relevant to the decision of the Zoning Board of Appeals but does not necessarily preclude the granting of the variance.

These factors are addressed individually below.

A. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

It is difficult to argue that this new multifamily structure will do anything other than enhance the image and viability of this portion of the Boston Post Road. The character of this area is, for the most part, industrial and commercial. There are regional shopping centers on the street at the intersection of I-287 and I-95. There is a rather significant project currently being developed by Rose Properties at the Hospital Site. There is an LA Fitness several properties to our west with a significant retail project between our site and LA Fitness. Across the street is Westy's Self-Storage Facility and a Tennis Facility. This area has a character which is significantly retail, commercial and high density residential.

The residential uses located nearby enter the Boston Post Road Corridor via a signalized intersection. Our projected traffic is less than the prior TD Bank or a new fast-food restaurant.

B. The benefit to the applicant if the variance is granted as weighed against the detriment to the public health, safety, and welfare by the approval of the variance.

The benefit of the applicant is that we will be able to significantly reduce the need to blast and remove rock from the site. As our As-of-Right option has shown, the As-of-Right plan has approximately 30,000 yd.³ of material that needs to be blasted and removed, while our Preferred Plan has 9,000 yd.³ The variance will allow us to achieve the otherwise intended development under the form zoning. In addition, the neighbors and adjoining school will not have to live through protracted blasting, noise and truck removal time which will take months. The neighborhood will also be benefitted by shifting the development to the front and western portions of the Site, away from the school and the residential uses located to the north and east.

We could split the property and place another fast-food establishment on Boston Post Road (Chick Filet) and place two stories of residential use over parking with access from South Street.

C. Whether the requested area variance is substantial.

We are requesting a 2 story variance, however, the top floor has an amenity space of 6,800 s.f. only; approximately a third of the floor below it.

We submit that this area of the Boston Post Road can accommodate a 4-1/2 story building above a parking garage. The uniqueness of this site associated with the solid rock throughout justifies the requested variance(s).

It is self-evident why we decided to pull the parking forward and into the front lot layer. We do not believe these variances are substantial.

D. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zone.

We believe that the exact opposite will occur. There will be much less physical disruption, noise, air, blasting, trucking, etc. and this site will be improved by placing most of the development along the Boston Post Road; a long-standing very well-developed commercial corridor. The project will be a boon for the neighborhood and all environmental aspects will be significantly mitigated so as to avoid any adverse impacts on the environment.

E. Whether the alleged difficulty was self-created, which consideration must be relevant to the decision of the Zoning Board of Appeals but does not necessarily preclude the granting of the variance.

The difficulty was not self-created. It was created upon the adoption of the current zoning recently by the Village Board. The application of the zoning to the site results in this difficulty. And it is in the millions of dollars for the Applicant to reconcile.

VI. REQUEST FOR RELIEF

We have submitted our Site Plan Application to the Planning Commission which was referred to your Board. It supports this variance request.

We hereby submit the ZBA Variance Application, with appropriate fee, and a Short Form EAF.

Kindly place this on your June 18th ZBA agenda and advise if we need to coordinate the public mailing. Thank you.

Very truly yours,

Anthony F. Veneziano, Jr.

ANTHONY F. VENEZIANO, JR.

Findings of Board:

No findings at this time. The Planning commission has to first act regarding SEQRA

Action taken by Board:

On the motion of Commissioner Simmons, which was seconded by Commissioner D'Estrada, the matter was adjourned to the July 17, 2025 meeting

Record of Vote: For 5 Against Absent Abstain

List names of members & how voted

Adjourn to July 17, 2025

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


Signed _____
Evelyn Petrone
Title Chair _____

ATTEST:

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

Also in attendance were Village Attorney James Carpinello, Planning Director Gregory Cutler, Assistant Planning Director Curt LaValla, and Building Inspector Steve Velardo.

Date of Hearing: May 15, 2025

Adjourn meeting to July, 2025

Action taken by Board:

On the motion of Commissioner Simmons, which was seconded by Commissioner D'Estrada, the meeting was adjourned to June 18, 2025

Record of Vote: For 5 Against 5 Absent 5 Abstain

List names of members & how voted

ACTION TAKEN

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

Signed

Evelyn Petrone

Title Chair