

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 August 20, 2015 at 7:00 p.m. with Commissioner Evelyn Petrone presiding.

Present in addition to Commissioner Petrone were Messrs.: Luiso and Espinoza

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

Date of Hearing: August 20, 2015
Case No. 2015-0118
Applicant: Jose Perez Martinez
23 Riverdale Avenue
Port Chester, NY 10573

Nature of Request:

On the premises No. **23 Riverdale Avenue** in the Village of Port Chester, New York, situated on the **East** side of **Riverdale Avenue** distant **250 feet** from the corner formed by the intersection of **Putnam Avenue and Riverdale Avenue** being **Section 136.56, Block No 1 Lot No. 43** 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 driveway and one parking space within the required front yard.**

Property is located in the R5, One Family Zoning District.

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

None

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

None

Summary of statement or evidence presented:

No one was here to represent this application or to receive the findings of fact.

Findings of Board:

Commissioner Petrone summarized the Findings of Fact as prepared by the Village Attorney Anthony Cerreto.

Action taken by Board:

On the motion of Commissioner Petrone, which was seconded by Commissioner Luiso, the Findings of Fact were disapproved and the request for the variance denied.

Record of Vote: For _____ Against 3 Absent 2 Recuse _____ Abstain _____
List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent, R-recuse, Abs-Abstain

Findings Disapproved

A **Petrone**
A **Luiso**
Ab **D’Estrada**
A **Espinoza**
Ab **Villanova**

Signed _____
 William Villanova
Title **Chairman** _____

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

Date of Hearing: August 20, 2015
Case No. 2014-0095
Applicant: Bernard Edelstein, Esq.
220 Westchester Avenue
Port Chester, NY 10573

Nature of Request:

A letter dated July 22, 2015 was received from Bernard M. Edelstein, Attorney representing 220 Westchester Corporation for property located at **220 Westchester Avenue Section 142.22, Block 1, Lot 6** on the Assessment Map of the said Village requesting an adjournment of their application to the October 2015 meeting. The matter is currently pending before the Board of Trustees (Medical Uses in the Proposed C1M District). If the local law is enacted no variance will be needed.

On the motion of Commissioner Luiso, which was seconded by Commissioner Espinoza, the matter was adjourned to the October 15, 2015 meeting.

Record of Vote: For ___3___ Against _____ Absent_2___ Recuse_____ Abstain_____
List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent, R-recuse, Abs-Abstain

Adjourn to October 15, 2015

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

Signed _____
William Villanova
Title Chairman _____

MINUTES OF MEETING

Application for Zoning Variance

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Present in addition to Commissioner Petrone were Messrs.: Luiso and Espinoza

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

Date of Hearing: August 20, 2015
Case No.: 2014-0089
Applicant: O'Connor Redd LLP
242King Street
Port Chester, NY 10573

Nature of Request:

A letter dated July 27, 2015 was received from Gary Gianfrancesco AIA of Arconics Architecture, representative for O'Connor Redd LLP for property located at **242 King Street**, being **Section 136.78, Block No 3, Lot No. 39** on the Assessment Map of the said Village requesting an extension of Zoning approvals previously granted on May 15, 2014. Construction will not take place until the Fall of 2015

On the motion of Commissioner Luiso, which was seconded by Commissioner Espinoza, the extension was granted to November 19, 2015

Record of Vote: For 3 Against _____ Absent 2 Recuse _____ Abstain _____
List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent, R-recuse, Abs-Abstain

Grant Extension

F Petrone
F Luiso
Ab D'Estrada
F Espinoza
Ab 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 August 20, 2015 at 7:00 p.m. with Commissioner Evelyn Petrone presiding.

Present in addition to Commissioner Petrone were Messrs.: Luiso and Espinoza

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

Date of Hearing: August 20, 2015
Case No.: 2015-0120
Applicant: Colley W. Criss
70 Grove Street
Port Chester, New York 10573

Nature of Request:

on the premises No. **70 Grove Street** in the Village of Port Chester, New York, located in an R2F Building Zone District being section 142.30, Block 1, Lot 5 on the tax assessment map of the Town of Rye, New York

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 the expansion of an existing, non-conforming structure and use. Expansion of garage housing an auto body shop by adding second floor office and storage space.

Off-Street Parking Requirements

Provided 0 Required 5 Variance Yes - 5 spaces

Off-Street Loading Requirements

Provided 0 Required 0 Variance No

Required Variance(s)

Per §345-13 of the Village Code, expansion of a non-conforming use requires a use variance.

Per Schedule §345, Attachment 1B, maximum FAR permitted is .70. The proposal provides an FAR of .92. A variance of .22 FAR is required.

Per Schedule §345, Attachment 1B, the minimum single side yard setback is 8'. The proposal provides a single side yard setback of 1.39'; therefore, a single side yard variance of 6.61' is required.

Per Schedule §345, Attachment 1B, the minimum combined side yard setback is 14'. The proposal provides a combined side yard of 2.68'; therefore, a combined side yard setback variance of 11.32' is required.

Per Schedule §345, Attachment 1B, the minimum permitted rear yard setback is 30'. The proposal provides a rear yard setback of 0.91'; therefore, a rear yard setback variance of 29.09' is required.

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

Colley William Criss - applicant

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

None

Summary of statement or evidence presented:

John Colangelo, Esq. represented this application. Mr. Colangelo started by saying that this property has been owned by the applicant and his family since the 1960's or a little prior to that. It was a 3 family house with a little garage in the rear. The garage was built according to the plans on file in the 1920's. It was determined to be a legal non-conforming use according to the building inspector (1981) A Certificate of Occupancy was issued for the garage. There has been a non-conforming auto body use in existence there for many years. The applicant has always maintained the appropriate Health Department approvals. There have been Village Building Department inspections over the years.

Admittedly the building was expanded and the footprint enlarged. The original garage was in disrepair. The new garage was built in 1989-1990 has 3 bays just like the original garage. In order to accommodate the second floor, stairs were added which expanded the structure to the side and to accommodate the weight bearings that were added to accommodate the weight of the second floor. The office and storage were accessory to the non-conforming auto body and a certificate of occupancy was issued.

In the late 1980's the applicant decided he needed to expand the structure. He had plans drawn, (March 1989), he met with the building inspector at that time, he commenced the construction, and had several visits by the Building Inspector and Village Engineer testing the integrity of the steel for the second floor. Most of the building was completed when he was advised that since it was a non-conforming structure that he would have to get Planning and Zoning approval. Most of the work had already been completed however he submitted plans to the Planning Commission in 1990, starting the process. Unfortunately the records from that time period are sparse and all of the proceedings are not accounted for in the records. There are Planning Commission minutes reflecting the applicant's appearance before the Commission for three appearances. The last minutes (January 1990) reflect that the matter was adjourned so the Commission could go visit the site. That was the end of the minutes as well as any further documentation on the site.

Mr. Colangelo further stated that he has met with the building department of the past year trying to construct what happened. There are no records to indicate what else happened. The applicant continued his use of the structure and continued to have numerous inspections over the years by the Building/Code Department and the Westchester County Health Department which is necessary when you have an auto body shop. The structure as it exists today has existed since 1990. In 2013 there was an inspection of the 3 family house which had several violations and this is when the inspector pointed out the garage is different from the on file records. A violation was issued. The attorney at the time decided to focus on the court issue in an adversarial manner as opposed to following up with the Planning and Zoning portion of the matter. The matter is still pending before the Village Justice Court. Meetings were held with Mr. Miley and Mr. Gomez who is no longer here, and the applicant is proceeding with the planning application. The matter went before the Planning Commission and was referred to the Zoning Board. The use of the garage as an auto body repair shop never ceased and has been continuous to date.

Mr. Colangelo said he was presenting a unique set of facts that do not fit into any of the Zoning Criteria Analysis. There were no violations filed until 2013 and the auto body and repair shop has existed for over 50 years and in its present configuration since 1990 for over 20 years. The area is zoned R2F. This is a very unique and Different R2f Zone with its varied multi uses both residential and commercial. Behind the applicants business are numerous four and five family houses. (Smith Street). There is another auto body a block away and on William Street an old brush factory etc. There are numerous business up and down, Smith, Grove and Oak streets

Mr. Colangelo further stated the business will not change the character of the neighborhood or have an adverse effect on the environmental or physical conditions of the neighborhood because it has been operation for over fifty years. Most of the uses in the area are not your typical R2F uses. The business has had the same owner for over 50 years. The applicant had no intention of violating the code because he submitted the proper paperwork when the violation was brought to his attention. There was never on sight parking. There was always tandem parking in the driveway. The original garage that was built in 1929 did not conform to the setback requirements.

It was clarified by Commissioner Petrone that all of the variances that are being requested pertain to the garage and not the home. Mr. Colangelo confirmed that the house was not renovated in any way. The applicant no longer resides in this home. The parking requirement is for the garage and for the office above and not for the home.

Mr. Miley concurred with the information provided by Mr. Colangelo. He also concurred that the applicant did appear before the Planning Commission, however there is no resolution on file.

The applicant Colley William Criss was sworn in before giving testimony. Mr. Chris answered the questions put before him by Ms. Petrone. None of the people who live in the house run the business, it is completely separate. Mr. Chris said the business is currently being run by Alberto Sanchez and one employee. The shop is an auto body and an auto mechanic shop. They do not do paint jobs however they do spot repairs. Only once in a while does any painting if the full vehicle occur. The health department makes them put in a filtration system to deal with the paints. Most of the paints today are water based paints.

Mr. Criss said that after his appearances before the Planning Commission he thought everything was ok because no one ever came back to him with anything. Mr. Belfato told him to go ahead and put the second floor on the building and once he did he told him that now he needed to submit plans. Mr. Belfato then told him he didn't have a certificate of occupancy for the second floor. Mr. Criss said he thought everything was fine because whatever they asked him to do he tried to comply. Mr. Criss said the second floor is currently used for storage of old tools etc. The building inspector told him that he needed light switches so he hired Manning electricians to provide the electrical work. The building was brought up to code, circuit breakers were installed and fire proof sheet rock was installed all in 2013 and the inspectors never came back to take a look at the completed work.

More information is needed from the operator of the shop to determine the business operation and work hours. It was suggested that the matter be adjourned until next month's meeting and the operator be present to explain the daily operations of the business.

Public – No one from the public spoke for or against this application.

Findings of Board:

Action taken by Board:

On the motion of Commissioner Espinoza, which was seconded by Commissioner Luiso, the matter was adjourned to the September 15, 2015.

Record of Vote: For 3 Against _____ Absent 2 Recuse _____ Abstain _____
List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent, R-recuse, Abs-Abstain

Adjourn to September 15, 2015

F Petrone
F Luiso
Ab D'Estrada
F Espinoza
Ab Villanova

Signed _____
William Villanova
Title Chairman _____

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Present in addition to Commissioner Petrone were Messrs.: Luiso and Espinoza

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

Date Of Hearing: August 20, 2015
Case No.: 2015-0122
Applicant: Marilyn Schmehl, Arena Contracting Inc
15 Linden Street 132 Pearl Street
Port Chester, NY 10573 Port Chester, NY 10573

Nature of request:

on the premises No. **15 Linden Street**, being **Section 136.62, Block No 1, Lot No. 69** 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 an elevated patio in rear southwest corner of the dwelling

Property is located in the R7 One family Residential District where the minimum required rear yard property line setback is 30 feet and the minimum required side yard property line setback is 10 feet. Proposed is a rear yard setback of 19.08 feet and a 2.97 feet (1) side yard setback; therefore a minimum rear yard setback variance of 10.92 feet and a minimum (1) side yard variance of 7.03 feet is required

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

None

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

None

Summary of statement or evidence presented:

The application was presented by Richard Horseman, Architect for Arena Contracting who was sworn in before giving testimony. Mr. Horseman started by saying the house was inspected by the Village and found to need some repairs and, among these repairs was the condition of the patio. It needed repairs for safety and insurance concerns. The original patio was on-grade with steps to the lower grade in the rear yard and extended to the side yard property line. There was a small portion of a raised yard that was about the same level as the side yard topographically and the rear was lower and paved to allow access to the garage.

During the patio repair work, the patio was pulled back from the side yard line so planting could be done to separate it from the neighboring property. When the patio was replaced in the rear, the existing steps and a related door to the house was removed and replaced with a window. The steps were removed to a more functional location to allow for access to the patio, and they were replaced with a plant bed. The patio was expanded to allow the remaining small portion of raised rear yard area to be more useable to the use of the yard. It was also integrated into the use of the existing patio system. The rest of the lower portion of the rear yard remains as a driveway access to the garage. The garage is located beneath the house. Planting has been added to the rear and side yard to buffer and soften views to the property. On the side yard the patio was on grade and on the rear yard portion the patio is elevated.

Peter Miley, Building Inspector offered that this deck is considered a structure as per the Village Code. The reason the patio needs a variance is because of the elevation (at one section it is 30" or four risers) and the setbacks. Commissioner Petrone then inquired as to how this matter came about? Mr. Horseman answered that the Building Department was doing an inspection of the house, some deteriorating aspects of the house and during the course of the inspection the matter of the condition of the patio arose. Ms. Petrone asked Mr. Miley if he could obtain additional information for the next meeting regarding the Building Department's visit to the premises.

Linda Schmehl, applicant was sworn in before giving her testimony. Ms. Schmehl said that she received a summons from the Building Department for a large crack in the back pavement. Her mother who is 80 resides in the house and does not go into the back and was therefore unaware of the crack in pavement. There had been a leak in the upstairs master bathroom and water made its way down into the garage. Once the summons was obtained the matter was fixed and the applicant renovated the entire house. Upon inspecting the renovations, the patio was observed, thus the appearance before the Zoning Board for a variance. Mr. Miley concurred with the applicant. Permits were obtained by the applicant to do the renovations,

No one from the public spoke for or against the application.

Findings of Board:

Action taken by the Board:

On the motion of Commissioner Luiso, which was seconded by Commissioner Espinoza, the Public Hearing was closed and the Village Attorney was directed to prepare Findings of Fact for the September 17, 2015 meeting.

Record of Vote: For 3 Against _____ Absent 2 Recuse _____ Abstain _____
List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent, R-recuse, Abs-Abstain

Close Public Hearing/Prepare Findings

F Petrone
F Luiso
Ab D'Estrada
F Espinoza
Ab Villanova

Signed _____
William Villanova
Title Chairman _____

MINUTES OF MEETING

Application for Zoning Variance

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Present in addition to Commissioner Petrone were Messrs.: Luiso and Espinoza

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

Date of Hearing: August 20, 2015
Case No.: 2015-0123
Applicant: Kathryn Krzeminski
551 King Street
Port Chester, NY 10573

Nature of request:

on the premises No. **551 King Street**, being **Section 136.54, Block No 1, Lot No. 21** 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 an existing deck.

Property is located in the R7 One family Residential District where the minimum required side yard setback is 10 feet, proposed is a 6 feet, 6 inch (1) side yard setback; therefore a 3 feet, 6 inch side yard setback is required

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

Kathryn Krzeminski (applicant)

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

None

Summary of statement or evidence presented:

Kathryn Krzeminski, applicant represented this matter and began by saying in 2000 an in-ground swimming pool was installed and at that time they were told that the deck they wanted to install (proper paperwork obtained) which was 14 inches above the ground was really not a deck but a patio and a building permit was not necessary. Ms. Krzeminski went through the amnesty program to determine if there were any other issues, old open building permits etc. The application before the Board tonight is the last open item. The deck has been there for over 15 years. The matter is before the Board due to the location of the deck. Ms. Krzeminski said she is the 5th owner of this house. There are no pictures on file prior to 2009 to substantiate the deck's existence. The applicant purchased the house in 1997 and still lives in the house.

Peter Miley, Building Inspector said there was a permit and Certificate of Occupancy for the pool but no records can be found to determine when the deck was actually built. Mr. Miley said that Ms. Krzeminski is still an Amnesty applicant and everything fit the criteria with the exception of the deck. Ms., Krzeminski did not apply for a permit to construct the deck because at that time she was told by building officials that she did not need one. Ms. Krzeminski said there was a cement patio underneath that was in poor condition so they decided to build the deck on top of it.

No one from the Public spoke for or against the application.

Findings of Board:

On the motion of Commissioner Luiso, which was seconded by Commissioner Espinoza the Public Hearing was closed and the Village Attorney was directed to prepare Findings for the September 17, 2015 meeting.

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Action taken by the Board:

Record of Vote: For 3 Against Absent 2 Recuse Abstain
List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent, R-recuse, Abs-Abstain

Close Public Hearing/Prepare Findings

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

Signed _____
William Villanova
Title **Chairman** _____

MINUTES OF MEETING

Application for Zoning Variance

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Present in addition to Commissioner Petrone were Messrs.: Luiso and Espinoza

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

Date of Hearing: August 20, 2015

Case No.

Applicant:

Nature of Request: ADJOURN MEETING TO September 17, 2015

On the motion of Commissioner Luiso, which was seconded by Commissioner D’Estrada, the meeting was adjourned to September 17, 2015.

Record of Vote: For 3 Against _____ Absent 2 Recuse _____ Abstain _____
List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent, R-recuse, Abs-Abstain

Adjourn meeting to September 17, 2015

- F Petrone**
- F Luiso**
- Ab D’Estrada**
- F Espinoza**
- Ab Villanova**

Signed _____
 William Villanova
Title Chairman _____ +