

# 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 September 17, 2015 at 7:00 p.m. with Chairman William Villanova presiding.

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

Also in attendance was Peter Miley, Building Inspector.

**Date Of Hearing:** September 17, 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

### **3. Summary of statement or evidence presented:**

### **Findings of Board:**

Chairman Villanova said in lieu of having the paper document (Findings of Fact) the Board would entertain a motion to approve the Findings as Favorable

### **Action taken by the Board:**

On the motion of Commissioner Luiso, which was seconded by Commissioner Petrone, the Findings of Fact were approved as favorable.

**Record of Vote: For 4 Against \_\_\_\_\_ Absent 1 Recuse \_\_\_\_\_ Abstain \_\_\_\_\_**  
*List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent, R-recuse, Abs-Abstain*

**Approve Findings**

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

**Signed** \_\_\_\_\_  
William Villanova  
**Title** **Chairman** \_\_\_\_\_

**MINUTES OF MEETING**

**Application for Zoning Variance**

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

Also in attendance was Peter Miley, Building Inspector.

**Date of Hearing:** September 17, 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.**

None

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

None

**3. Summary of statement or evidence presented:**

**Findings of Board:**

Chairman Villanova said in lieu of having the paper document (Findings of Fact) the Board would entertain a motion to approve the Findings as Favorable

**Action taken by the Board:**

On the motion of Commissioner Luiso, which was seconded by Commissioner D'Estrada Findings of Fact were approved as favorable.

**Record of Vote: For \_\_\_4\_\_\_ Against \_\_\_\_\_ Absent\_1\_\_ Recuse\_\_\_\_\_ Abstain\_\_\_\_\_**  
*List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent, R-recuse, Abs-Abstain*

**Approve Findings**

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

**Signed** \_\_\_\_\_  
William Villanova  
**Title** **Chairman**

**MINUTES OF MEETING**

**Application for Zoning Variance**

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

Also in attendance was Peter Miley, Building Inspector.

**Date of Hearing:** September 17, 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  
Alberto Sanchez – Lessee (Alberto's Auto Body)  
Bruce Lord – Nephew of applicant  
Chris Young – undetermined relationship?

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

None

### 3. Summary of statement or evidence presented:

John Colangelo, Esq. represented this application. Mr. Colangelo also said that as the Board had requested at the last meeting, present tonight is Mr. Alberto Sanchez, who is the lessee at 70 Grove Street and the owner of Alberto's Auto Body.

Prior to the presentation by Mr. Colangelo, Chairman Villanova asked Mr. Miley to confirm a couple of items so everyone would have the same understanding of what is being presented.

The renovations that were done to the property, the permitting process was started lawfully and all of the applications and all the documents were submitted lawfully and it was a mistake/oversight in the process which caused the permit to not be given or received by the applicant.

Mr. Miley concurred with the summation and added that he has completed an analysis of the matter and has broken it down by dates. Mr. Criss had an auto body shop at 70 Grove Street long before 1981. He has a certificate of occupancy that was granted for the original auto body in 1981. On 6/25/1990 he had an appearance before the Planning Commission (Case # P-4491) to enlarge an existing garage by adding a second floor for storage space. Based on the plans, the case was to increase the non-conformity, however no resolution is on file. This case may have been put on for the next month and they never proceeded with the application or at some point as indicated by the applicant, he got an approval from the building inspector and was allowed to proceed. There were minutes from the meeting however the minutes indicate that there was no further action.

Mr. Miley also said that the plans that are on file now represent the structure as it is today. These plans show that they expanded the then existing garage and they added a second floor storage area with office space. The expanded garage is a little less than a traditional sized commercial bay (11 ft.). The Planning Commission case was prior to the construction, however no permit can be located in the files. Although no permits can be located the applicant testified that the Building Inspector at that time gave him the permission to proceed.

Chairman Villanova said that it appears as though the applicant did all of the lawful things needed to go forward and was not trying to defraud or deceive anyone. Currently we have a set of plans and a structure that matches those plans. The structure has been in place for 25 years, it's not changing the integrity of the neighborhood. Mr. Miley indicated that he has not done an inspection of the building, however if the applicant were to receive an approval the premises will have to be upgraded to today's building codes and the applicant must also bring everything up to meet today's safety and fire codes. Applicant would have to file for a permit and an updated Certificate of Occupancy if the matter is approved.

Commissioner Petrone clarified the matter by stating that the application before the Board is to legalize what is existing today and not to add or detract from what is currently there.

Commissioner Luiso indicated that on his visit to the site, cars were being worked on in the driveway which is not allowed. Mr. Miley said he can, depending on the type of work, use the driveway which also has three parking spaces. Washing and detailing a car is no different from any resident washing a car in their driveway. Auto body painting is not allowed by the Village or by the Board of Health. The supplicant must comply with these laws and will be subject to enforcement by the Code Enforcement Department. There was a brief discussion regarding having a clause in the resolution regarding working in the driveway and it was later determined that all resolutions state that the supplicant must abide by the Zoning requirements of the Village Code and Zoning District in which they are located. Mr. Miley also reminded the Board that this application is a Use Variance and an Area Variance because a non-conformity is being increased. (The structure and the Certificate of Occupancy to operate in the structure).

Technically the use has been the same for the past twenty-five years. The use was established in 1981 and expanded in 1990 and remains the same to date. It was also discussed that the operations cannot take place in the driveway today because it was not in existence back in 1981 or in 1990. The operator back then was the owner (Colley Criss) and there is a different operator today (Alberto Sanchez) who has been the operator for the past 10-12 years.

Mr. Colangelo said he wanted to clarify for the records a statement previously made by Mr. Miley regarding the bay extension. Mr. Colangelo said technically the bays were not expanded but the bays were increased in order to accommodate the stairs to the second floor. There are two oversized bays and tow overhead doors and a staircase to the second level. (The initial garage had

three bays with three barn type doors). The right side of the garage is where the spraying operation is located. All of the necessary County Board of Health Inspections and certificates have been obtained for this operation. The area where the staircase is located is separated by a wall. Mr. Colangelo also told the Board that some of the cars in the driveway belong to the tenants in the three family house.

Commissioner Luiso said he has visited the second floor of the building and it appears to be minimally used. There is storage, area, there is no kitchen and there is a couch to accommodate the owner who needs to rest periodically due to his medical condition.

The Tenant Alberto Sanchez took the stand to describe the business operations. He was sworn in before giving testimony. Mr. Sanchez said that he rents a garage across the street to house the cars rather than park them on the street. Mr. Miley said the house has no parking requirement based on an earlier version of the code, however the business has a parking requirement of two spaces which could also be inside the structure. Mr. Sanchez said he is the operator of 70 Grove Street and has been there 10 -13 years. His business is auto body with some mechanical and there is also a spray facility which has been licensed by the county. Mr. Sanchez said that he repairs no more than three cars on a daily basis depending on the amount of work that is needed on each. People do come in and out of the building daily (making inquiries and obtaining estimates) and they may sometimes park in the driveway. All painting and mechanical work is done on the inside of the building. On the outside of the building there is detailing, vacuuming, changing of wipers etc. Mr. Sanchez said there are only two bays and it is impossible to fit three cars in the garage at any one time to be worked on. There is also one hydraulic lift in the garage. Mr. Sanchez said he has one full time employee other than himself. Sometimes he utilizes others on a part time basis. These employees wash and clean the cars and sometimes they may help with body work.

#### **Public**

The following people testified in **favor** of the application

Colley William Criss – applicant  
Alberto Sanchez – Lessee (Alberto's Auto Body)  
Bruce Lord – Nephew of applicant  
Chris Young – undetermined relationship?

No one testified in **opposition** to the application

#### **Findings of Board:**

#### **Action taken by Board:**

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

**Record of Vote: For**   4   **Against**            **Absent**   1   **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**

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

On the motion of Commissioner Petrone, which was seconded by Commissioner D'Estrada, the Village Attorney was directed to prepare Favorable Findings of Fact for the October meeting.

**Record of Vote: For \_\_\_ 4 \_\_\_ Against \_\_\_\_\_ Absent 1 \_\_\_ 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**

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

**Signed** \_\_\_\_\_  
          William Villanova  
**Title** **Chairman** \_\_\_\_\_

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

Also in attendance was Peter Miley, Building Inspector.

**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**

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