

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 April 21, 2016 at 7:00 p.m. with Chairman William Villanova presiding.

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

Also in attendance was Anthony Ceretto, Village Attorney.

Date of Hearing: April 21, 2016
Case No. 2015-0126
Applicant: Kimberly Tuteri Martelli
KTM Architect
43 North Main Street
Port Chester, NY 10573

Nature of Request:

on the premises No. **43 King Street** in the Village of Port Chester, New York, located in an R2F Building Zone District being **Section 142.31, Block 1, Lot 34** 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 sign permit application

- (1) Property is located in the C1 Commercial Retail District A wall identification sign shall be attached to or incorporated in a building wall. Such sign shall not: (b) be located above the second story of the building wall. Proposed are 4 signs to be located and displayed in the window(s) on the third floor therefore; a variance to permit the installation of identification signs above the second floor are required.
- (2) (a) One permanent, durably constructed and approved sign no greater than 20% of the window area or eight square feet, whichever is smaller. Proposed are 4 signs, each exceed the allowable are within the window that they will be located in and therefore; variances are required for each window.
 1. KTM signage: max permitted allowable area is 1.73 sq. ft., proposed is 6.09 sq. ft. therefore; a 4.36 sq. ft. allowable window area coverage variance is required.
 2. Emilia signage: max permitted allowable area is 1.73 sq. ft., proposed is 6.09 sq. ft. therefore; a 4.36 sq. ft. allowable window area coverage variance is required.
 3. Cuono signage: max permitted allowable area is 3.71 sq. ft., proposed is 15.89 sq. ft. therefore; a 12.18 sq. ft. allowable window area coverage variance is required.
 4. Well Built Company signage: max permitted allowable area is 3.71 sq. ft., proposed is 15.89 sq. ft. therefore; a 12.18 sq. ft. allowable window area coverage variance 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:

Correspondence was received from the applicant requesting the matter be withdrawn without prejudice

Findings of Board:

Action taken by Board:

No vote was taken and the matter was withdrawn without prejudice.

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

Signed _____
William Villanova
Title Chairman _____

ATTEST:

MINUTES OF MEETING

Application for Zoning Variance

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

Also in attendance was Anthony Ceretto, Village Attorney.

Date of Hearing: April 21, 2016
No. of Case: 2016-0129
Applicant: Laura and Joseph Devita
1 Shore Drive
Port Chester, NY 10573

Nature of Request:

on the premises No. **1 Shore Drive**, being **Section 142.63, Block No 1, Lot No. 4** 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 2nd curb cut and driveway and parking area in front yard.**

Property is located in the R7 One family Residential District where Accessory off-street parking spaces, other than those which might be incidentally available within an actual access driveway area, shall not be located within the required front yard.

Proposed is the construction of a new driveway and (2) parking spaces to be located within the required front-yard and therefore, a variance to construct a new driveway and permit parking to be located within a required front is required.

Access driveways through the required front yards and required side yards shall not exceed 10 feet in width, except that in the instance where a garage two car spaces wide is set back beyond the required front yard, such garage may have an access driveway as wide as the parking spaces in the garage, which driveway extends not more than 30 feet in front of the access doors to such garage. Proposed driveway varies from 12 to 16 feet wide therefor a 6' variance for driveway width is required.

Proposed is the construction of a new driveway that will exceed 10 feet in width with a proposed maximum width of 16 feet at the front courtyard within the required front-yard and therefore, a variance to construct a new driveway exceeding the maximum width of 10 feet to be located within a required front is required

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:

Correspondence was received from the applicant requesting a one month adjournment to the May 19, 2016 meeting.

Findings of Board:

Action taken by Board:

On the motion of Commissioner Luiso, which was seconded by Commissioner Espinoza, the matter was adjourned to the May 19, 2016 meeting

Record of Vote: For 5 Against Absent Recuse Abstain

List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent, R-recuse

Adjourn to May 19, 2016

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

Signed _____
William Villanova
Title Chairman _____

ATTEST:

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 April 21, 2016 at 7:00 p.m. with Chairman William Villanova presiding.

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

Also in attendance was Anthony Ceretto, Village Attorney.

Date of Hearing: April 21, 2016
No. of Case: 2013-0076
Applicant: Luis Perez
139 South Main Street
Port Chester, NY 10573

Nature of Request:

A letter and related material dated March 7, 2016 was received from Luis Perez applicant, regarding variances granted on October 17, 2013 which have expired for property located at 139 South Main Street. Due to circumstances explained in the correspondence the applicant has been unable to start/complete the project in the time frame allowed per Village Code. §345.23 (6) The applicant is requesting an extension of the granted variances.

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:

Mr. Perez said he was there requesting an extension on the prior approvals which have expired. There were issues with the building and the owner was in bankruptcy proceedings, and the building became available for sale. Mr. Perez said he was trying to obtain a loan to purchase the building. Mr. Perez also stated that while all of this was transpiring the approvals expired. Mr. Perez said he finally got everything straightened out in August

Mr. Perez further stated that it's all the same, nothing has changed on the plans and the business operations are also the same. He also does his own delivery and pick up. Mr. Perez said upon questioning from the chairman that the restaurant was operating but is not operating today. Mr. Perez said he does not currently have a Certificate of Occupancy. Mr. Perez said he was cited by the building department for being open and immediately stopped operations. Mr. Perez said he is working as quickly as he can to get all of the necessary approvals to get back on track. He has been working with Ms. Phillips in the Planning Department along with the Planning staff and also with the Building Department.

Mr. Perez said there are a couple of outstanding items such as Fire Inspection, final walk through inspection. Village Attorney Anthony Ceretto received a list of cited violations from Assistant Building Inspector Steven Velardo, listing items that need correcting prior to any approvals. These items require an appearance before the Justice Court.

Village Attorney Anthony Ceretto also informed the Board that this application also needs sight plan approval from the Planning Commission because that approval has also lapsed. In

addition the submitted plans to the Planning Commission were incomplete and therefore have not yet been processed.

Findings of Board:

After a brief discussion with the Board and Attorney it was determined that 30 days is not enough time to correct the outstanding issues and render a decision with regard to the approvals.

Action taken by Board:

On the motion of Commissioner Petrone, which was seconded by Commissioner D'Estrada, the matter was adjourned to the June 16, 2016 meeting.

Record of Vote: For 5 Against Absent Recuse Abstain
List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent, R-recuse

Adjourn to June 16, 2016

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

Signed _____
William Villanova
Title **Chairman** _____

ATTEST:

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 April 21, 2016 at 7:00 p.m. with Chairman William Villanova presiding.

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

Also in attendance was Anthony Ceretto, Village Attorney.

Date of Hearing: April 21, 2016

No. of Case: 2016-0130

Applicant:

Cosmo Micarone

18 Hilltop Drive

Port Chester, NY 10573

Lisa K Tuccio

4301 Gulf Shore Blvd.

Naples, FL 34103

Michiel Boender

Edgewater Architects

163 North Main Street

Port Chester, NY 10573

Nature of Request:

on the premises No. **115 Pearl Street** in the Village of Port Chester, New York, located in a Commercial ("C4") Building Zone District being **Section 142.38, Block 1, Lot 18 and** 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: Proposed use as "Parking Business"

Applicant proposes to use as Parking Business with office. Applicant proposes to lease parking spaces with electrical hookups for refrigerated trucks, - 6 trucks maximum.

A determination of use is needed,

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

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

Mr. Nelson

82 Pearl Street

Port Chester, New York 10573

Summary of statement or evidence presented:

John Colangelo Esq. represented the application. Also present representing the case was Michiel Boender – Architect and Cosmo Micarone – Applicant. Mr. Colangelo started by saying that they were there for an interpretation of the Village Code. Mr. Colangelo handed out copies of Section 345 Attachment 3A:2 which showed that in a C4 Zone off street parking is permitted use and also a wholesale business is a permitted use.

There is an old office type trailer on the site that is going to be renovated to meet all the appropriate codes. It will have a front office, there will be plumbing and there will be a bathroom. The applicant proposes to park his business trucks there which are box trucks that he uses for his business. The trucks will arrive in the evening for parking and taken out in the morning. There is no loading or unloading on the site. The applicant is not leasing the spaces out to others, the spaces are for the applicants' business. The business is for Boar's Head Trucks. At times these trucks will be hooked up to electrical outlets on the site for refrigeration purposes. The property had been used in the past as a used car lot. However, the property has been vacant for a number of years. The office in the past had been used to sell insurance which was ancillary to the used car business.

The entrance to the property will only be from Broad Street. There is no loading or unloading, strictly in and out. The lot will be vacant for most of the day. This application will also need Site Plan approval from the Planning Commission.

Michiel Boender reviewed the submitted plans and told them the site was vetted with the Building Department before being submitted to Zoning and Planning. The parking spaces will be right beside the building and 3 will be right by the South Broad Street exit/entrance. Mr. Boender said that photometric and turning radius are all included on the submitted material which he reviewed. There will be some paving changes and drainage changes to the current setup. There are decibel levels for the trucks which will be further vetted with the Planning Commission. (high speed 67/low speed 63)

Screening – currently chain link fence all around. Applicant is willing to do weaving material into the fence to obscure the trucks from sight. Activity would be none strictly parking. Trucks go out at 6am in the morning and return around 4 pm in the evening to be parked and plugged in.

Open storage of materials – interpretation is different from the application before the Board. There was a brief discussion trying to determine what part of the application needs an interpretation.

Mr. Macarone testified as to the operations of his business which were in concurrence with the material presented by Mr. Colangelo.

PUBLIC: Mr. Nelson, 82 Pearl Street, Port Chester, New York 10573
Was in opposition of the application because of his concern about the noise levels and the view of the trucks from several properties that he owns in the area. He said that he was willing to work with the applicant to further understand how this might have a positive outcome. Mr. Macarone said he was willing to show Mr. Nelson his operation and let him hear the noise level of the trucks.

Findings of Board:

The trucks are a permitted use in the C4 District.

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 5 Against Absent Recuse Abstain
List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent, R-recuse

Close Public Hearing

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

On the motion of Commissioner Petrone, which was seconded by Commissioner Espinoza, the Village Attorney was directed to prepare Favorable Findings of Fact for the May 19, 2016 meeting.

Record of Vote: For 5 Against Absent Recuse Abstain
List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent, R-recuse

Prepare Findings

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

Signed _____
 William Villanova
Title **Chairman** _____

ATTEST:

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 April 21, 2016 at 7:00 p.m. with Chairman William Villanova presiding.

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

Also in attendance was Anthony Ceretto, Village Attorney.

Date of Hearing: April 21, 2016
No. of Case: 2016-0131
Applicant: Bar Taco Port Chester LLC
1-11 Willett Avenue
Port Chester, NY 10573

Nature of Request:

NOTICE IS HEREBY GIVEN that the undersigned has applied to the Zoning Board of Appeals of the Village of Port Chester, N.Y.

on the premises No. **1-11 Willett Avenue Avenue** in the Village of Port Chester, New York, located in the C2 Building Zone District being **Section 142.23, Block 2, Lot 16** 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: acquire variances to obtain Certificate of Occupancy

Required Variances:

Area Variance: uses in C2 require a minimum 20ft. rear yard setback. Applicant has 0 ft. rear yard setback; therefore a 20 ft. rear yard setback is required

Loading Variance: 9,089.96 sq. ft. of restaurant space requires 2 loading spaces. Applicant provides 1 loading space; therefore a 1 loading space variance is required

Side Yard Variance: uses in C2 require a minimum 10 ft. side yard setback if provided. Applicant has a 3.5 ft. side yard setback; therefore a 6.5 ft. side yard variance 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:

Anthony Tirone, Esq. represented the application for EOS Realty (Bar Taco). Along with Mr. Tirone was Tav Passerelli – Property Owner, Rocco DeLeo and Scott Lawton, owners and operators of Bar Taco and Michiel Boender – Architect.

Mr. Tirone began by saying they are before the Board to ultimately obtain a Certificate of Occupancy and Site Plan from Planning for Bar Taco. To legitimize the existing use which has been there since 2010 some issues arose and three were referred to the Zoning Board to resolve. Two off street loading spaces. The calculation of the square footage include the interior space as well as the deck therefore requiring two off street truck loading spaces. To the left is an easement

which is 20 ft. wide by 70 ft. that runs adjacent to the property and is owned by the property owner. This is often used by the applicant and is also used as an ingress and egress to get to the Mariner property and to the waterfront. One truck loading space is located in that area. The site is directly across from the marina parking lot and a wide area of Willett Avenue. This is typically where trucks load and unload for bar Taco and other business in the area. The trucks that deliver to Bar Taco are vans and smaller trucks, not the typical tractor trailer trucks. They do a day to day delivery of produce and materials so the frequency is greater than the size of the trucks. Most trucks offload in the easement area.

The Code requires a 20 ft. rear yard setback in the C2 District. This building was built in the 1950's and was part of a larger industrial complex that was in the area. This building was part and parcel to another building and possibly part of a common lot. At some time the lot was subdivided and the building remained in its original location at the property line. In the 1990 Mr. Passerelli was offered rights to the building as part of the property exchange. The building has been existing on the property line since the 1950's. Minor structural changes were made to the front and the south side of the building. The footprint of the building was not changed nor was the setback.

With regard to the Side yard variance in the C2 District, the code requires either no setback if built to the property line, or if provided, at least 10 ft.. It has been interpreted to mean if you're going to provide one you must have 10 ft. if you have two you must have 20 ft. and if you build to the property line 0 is required.

After reviewing the architectural drawings and square footage it was determined that there are no neighbors, character of neighborhood would remain the same, no other feasible methods, not substantial variances and no impact on environment. The hardship was not created by the applicant or the occupant.

In 2010 the processes at that time did not allow for the applicant to obtain a Certificate of Occupancy and has therefore been operating with a Temporary Certificate of Occupancy. The application is now trying to bring the establishment into compliance and obtain a certificate of occupancy.

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

Findings of Board:

The positive is that the applicant is providing 1 loading space, most businesses in the area do not have that luxury and use the nearest loading zone. They just barely went over the 2 space threshold.

It was determined that with regard to the rear yard setback, there is no way to change the existing structure. There is an easement with the Mariner on the rear of the property which is only a walkway.

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 ___5___ Against _____ Absent___ Recuse_____ Abstain_____
List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent, R-recuse

Close Public Hearing

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

On the motion of Commissioner D'Estrada, which was seconded by Commissioner Espinoza, the Village Attorney was directed to prepare Findings of Fact for the May 19, 2016 meeting keeping in mind the denial written by the professional staff.

Record of Vote: For 5 Against Absent Recuse Abstain
List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent, R-recuse

Prepare Findings

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

Signed _____
William Villanova
Title **Chairman** _____

ATTEST:

MINUTES OF MEETING

Application for Zoning Variance

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

Also in attendance was Anthony Ceretto, Village Attorney.

Date of Hearing: April 21, 2016

Case No.

Applicant:

Nature of Request: ADJOURN MEETING TO: May 19, 2016

On the motion of Commissioner Petrone, which was seconded by Commissioner Espinoza, the meeting was adjourned to May 19, 2016.

Record of Vote: For 5 Against _____ Absent _____ Recuse _____ Abstain _____

List names of members and how voted – symbols as follows: F-for, A-against, Ab-absent, R-recuse, Abs-Abstain

Adjourn to May 19, 2016

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

Signed _____
William Villanova
Title **Chairman** _____

ATTEST: