

**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 May 19, 2016 at 7:00 p.m. with Chairman William Villanova presiding.

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

Also in attendance was Kevin Donahue, Building Inspector

**Date of Hearing:** May 19, 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** 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).

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

**Findings of Board:**

**Action taken by Board:**

On the motion of Commissioner Petrone, which was seconded by Commissioner Espinoza, the Favorable Findings of Fact were approved.

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

**Approve Findings**

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

On the motion of Commissioner D’Estrada, which was seconded by Commissioner Espinoza

**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 May 19, 2016 at 7:00 p.m. with Chairman William Villanova presiding.

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

Also in attendance was Kevin Donahue, Building Inspector

**Date of Hearing:** May 19, 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.**

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

The applicant Cosmo Micarone represented the application

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

### **Findings of Board:**

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

On the motion of Commissioner Petrone, which was seconded by Commissioner D'Estrada, the Favorable Findings of Fact were approved.

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

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

**Approve Findings**

**F     Petrone**  
**Ab    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 May 19, 2016 at 7:00 p.m. with Chairman William Villanova presiding.

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

Also in attendance was Kevin Donahue, Building Inspector

**Date of Hearing:** May 19, 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 2<sup>nd</sup> 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 June 16, 2016 meeting.

### **Findings of Board:**

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

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

**Record of Vote: For   4   Against   1   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**  
**Ab    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 May 19, 2016 at 7:00 p.m. with Chairman William Villanova presiding.

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

Also in attendance was Kevin Donahue, Building Inspector

<b>Date of Hearing:</b>	<b>May 19, 2016</b>	
<b>No. of Case:</b>	<b>2016-0132</b>	
<b>Applicant:</b>	<b>Mary Lou Cassone</b>	<b>James McTigue</b>
	<b>202 South Regent Street</b>	<b>Risoli Engineering</b>
	<b>Port Chester, NY 10573</b>	<b>1166 East Putnam Avenue</b>
		<b>Riverside, CT 06878</b>

**Nature of Request:**

on the premises No. **202 South Regent Street**, being **Section 141.36, Block No 2, Lot No. 46** 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: **Obtain a Use variance and Parking variances.**

Property is located in the C4 General Commercial District where per Section 345 Attachment 3A, retail is not a permitted use in the C4 District. **Therefore a Use Variance is required.**

**Parking Variance** per 345-14 – 4,476 sq. ft. of office space requires 23 off street parking spaces; 1,129 sq. ft. of retail requires 6 off street parking spaces and 72,209.4 sq. ft. of bakery plant requires 72,209.4 sq. ft. of off street parking for a total of 43 spaces and 72.209.4 sq. ft. of required of street parking. Applicant will provide 48 parking spaces. Applicant will need a parking area variance to account for the required parking square footage incurred by the bakery plant.

**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:**

James McTigue –Engineer of Risoli Engineering represented this application. Mr. McTigue began by saying the original bakery pre-dates Village Certificate of Occupancy ordinances and the bakery has been there for about a century. In 1955 a building permit was issued which was the first point at which the retail space was recorded and established. The Certificate of Occupancy for the store was never issued, or was lost, nobody really knows. That is why the application is in front of the Board today. There were three zone changes over the years 1954, 1975 and 2011. The 1954 Zone allowed the retail and then thereafter it was changed to the C4 Zone which doesn't allow retail. The store has been in continuous use since 1955.

In regards to the parking, the bakery has been expanded several times. The two biggest expansions were in 1970 and 1988. A variance was issued in 1971 for rear yard setback and another variance issued in the 90's for expansion of the bakery which then created the current parking lot configuration. Mr. McTigue said reason we were brought here today was because the applicant has applied for a site plan change to swap out a piece of recycling equipment in the front of the building. Over the course of discovery it was determined that there were some outstanding building permits and the discovery of no Certificate of Occupancy was ever issued for the store.

There are 43 spaces required, the bakery is providing 48 spaces. An area variance is needed because of how the bakery and parking lot square footage is calculated. A variance is requested for

the square footage. The applicant has the required number of spaces but does not meet the area sq. footage requirement. The parking lot itself is not large enough to meet today's standards. The bakery usage requires a certain amount of footage by today's standards and there is no more land.

Chairman Villanova said that Cassone's Bakery owns a parcel of land on South Regent Street, to the left of Corpus Christi School. Mr. McTigue said that is an empty lot where trucks are stored. Chairman Villanova said that that variance for that lot was for employees to park their vehicles. One of the Board's concerns was having trucks park on that property. The variance was for cars and the lot is striped for cars. Chairman Villanova also said having the trucks park there affects this application because it is not being used for car parking. Mr. McTigue said they are not experiencing parking issues because they have enough parking for the facility. The majority of the employees commute. The owner runs a van back and forth from the city to transport the workers, some employees live in the neighborhood and some employees commute to work. The daily demand for parking is being met. Chairman Villanova said that perhaps there was a misunderstanding, the Parking lot on the side of the church is supposed to be for cars but they are parking trucks there and that wasn't part of the approved application. McTigue said he has not studied that lot as part of this application and has no knowledge on the matter.

Upon questioning of Commissioner Petrone, Mr. McTigue indicated that of the variance is approved the result will be the issuance of a certificate of occupancy for the retail space. There were no additional questions from the Board however Commissioner Espinoza said he was also in agreement with regard to the other lot being approved for cars, not trucks. The Commissioner indicated that they are confused about how the variance is written and the area portion of the variance is not clear.

A question was asked of Kevin Donahue with regard to the specifics of the application. All parties referred to the Zoning Compliance form that was issued. The Board members along with Mr. McTigue discussed the matter further for clarity to understand that it is a parking area variance as opposed to a parking variance.

The Board also stated that the application as submitted does not accurately reflect what is being asked for. The application should reflect the criteria necessary for proving the need for a use variance.

Chairman Villanova suggested that the matter be adjourned and that the correct numbers be given pertinent to the variance. In addition the matter will require a use variance and the 5 criteria need to be reflected in the application. Commissioner Petrone summarized the actions as follows: Applicant is to provide status of the Parking Lot across the street where the trucks are parked; applicant attorney should meet with the Building Department to revise the variance request and discuss the need to perhaps amend the Notice; and, provide proof of the need for a use variance using the 5 criteria.

**Findings of Board:**

**Action taken by Board:**

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

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

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

**Adjourn to June 16, 2016**

**F Petrone**  
**Ab 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 MAY 19, 2016 at 7:00 p.m. with Chairman William Villanova presiding.

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

Also in attendance was Kevin Donahue, Building Inspector

**Date of Hearing:** May 19, 2016  
**No. of Case:** 2016-0133  
**Applicant:** Lawrence Bennett/Applicant      Eswin Hernandez/Owner  
312 Ronbru Drive      83 Inwood Avenue  
New Rochelle, NY 10804      Port Chester, NY 10573

**Nature of Request:**

on the premises No. **83 Inwood Avenue** in the Village of Port Chester, New York, located in a Commercial ("C4") Building Zone District being **Section 141.44, Block 3, Lot 16** 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 to: **construct a study room off of an existing basement.**

Property is located in the R2F Two Family District where the required minimum (1) side yard setback is 8.0 feet, proposed is 3.0 feet, therefore a side yard setback variance of 5.0 feet is required.

The home is a preexisting non-conforming three family dwelling. No such non-conforming use of land shall be enlarged or increased; therefore a use variance is required for the proposed enlargement of a non-conforming use,

**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:**

Lawrence Bennet of Bennett Home Design Studio represented this matter for the owner Eswin Hernandez, who was also present in the audience. Mr. Bennett began by showing the Board pictures of the houses in the neighborhood. Mr. Bennett pointed out that as you enter the home you would walk down the sidewalk and enter a vestibule and access the lower level via a staircase. Mr. Bennet's photographs also showed a picture of a shed in the yard which is where he indicated the enlargement would take place. The apartment is currently made up of two bedrooms a combination living room dining room and a kitchen. The house is a three family house in a two family zone. Mr. Hernandez is the owner and lives in the basement apartment. The upper two apartments are rented and Mr. Hernandez needs the revenue. The lower level apartment is an above ground basement apartment.

Mr. Hernandez purchased the home without being informed of its non-conforming use. The shed in the rear is on concrete so therefore there are no environmental hazards, (the shed is approximately 8ft x 10ft). The addition is keeping with other houses in the neighborhood and makes the house more accommodating to the family. The applicant is looking to come out from the house an additional 3 feet. Chairman Villanova asked if the applicant would come out from the

house square off the building and make it equal to the existing footprint of the house. Commissioner Espinoza suggested the applicant come forward and give testimony.

Chairman Villanova asked the applicant, "Why can't you move to a different apartment in the house?" The applicant replied that all of the apartments have the same dimensions. The bottom line is that he would still need more room for his family. The applicant said he used to own a home at 25 Breckenridge Avenue, but he couldn't afford it any longer because at that time he lost his job. He sold that house at a loss. (2 years ago) Mr. Hernandez said he moved to his old house And wants to stay in Port Chester. Mr. Hernandez said he talked to his neighbors and they are fine with the proposed addition. Mr. Bennett said the first and second floor apartments are both 989 Square feet each. The Commissioners said that is approximately 300 ft. larger than the basement. The applicant said the boiler also uses space in the basement. The bathroom is near the boiler room. There is also a hallway leading up to the second floor which is not useable space. (680sq. ft. of livable space in the basement, 959sq. ft. on the first floor, and 881sq. ft. on the second floor.) Based on this there is 300 more sq. ft. of livable space on the first floor if the applicant chooses to change apartments.

Chairman Villanova asked the applicant if he was willing to expand the house only to square it off so that the side line and rear line will all be even. The applicant will not be infringing and further to the front or rear, merely squaring of the existing structure.

The applicant also needs a use variance. Currently the home is in a two family district existing as a three family non-conforming use. Mr. Bennett said that the application is for continuation of the existing non-conforming use. Since the applicant is not going to extend out beyond the side of the existing building it seems to be a pretty de minimis extension of an existing non-conforming use.

Chairman Villanova explained to the applicant that there is a specific set of criteria that needs to be presented with an application for a use variance. The applicant has to show the hardship based on this criteria. Mr. Bennett said it is a hardship because the applicant does not have enough space for his family. There are no environmental hazards because the entire spot is paved with concrete. There is no change to the character of the neighborhood. Mr. Villanova said that if the hardship is financial the applicant has to make the case based on financial records. Mr. Donahue, Building Inspector read from NY State law the financial criteria needed to establish financial hardship.

Chairman Villanova said that the area variance portion of the application is fine, the applicant can square off the building not going beyond the side yard setback of the house. The use variance has not been established by the applicant and the matter should be adjourned until the applicant can present a case since this is a 3 family house in a 2 family zone. The applicant should also submit revised plans.

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

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

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

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

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

#### **Adjourn to June 16, 2016**

**F     Petrone**  
**Ab    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:** May 19, 2016

**Case No.**

**Applicant:**

**Nature of Request:** ADJOURN MEETING TO: June 16, 2016

On the motion of Commissioner Petrone, which was seconded by Commissioner Espinoza, the meeting was adjourned to June 16, 2016.

**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*

**Adjourn to June 16, 2016**

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

**Signed**

\_\_\_\_\_  
William Villanova

**Title** Chairman

ATTEST: