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INCORPORATED VILLAGE OF FREEPORT
ZONING BOARD OF APPEALS

MUNICIPAL BUILDING

46 North Ocean Avenue
Freeport, NY 11520

January 19, 2023
6:00 p.m.

M E M B E R S :

- | | |
|----------------|--|
| ROSA RHODEN | CHAIRPERSON |
| DIEGO PINZON | MEMBER (ALTERNATE) |
| JENNIFER CAREY | MEMBER |
| *** | |
| ROBIN CANTELLI | SECRETARY TO THE ZONING BOARD OF APPEALS |
| JENNIFER UNGAR | DEPUTY VILLAGE ATTORNEY |

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2 CHAIRPERSON RHODEN: Good
3 evening, everyone. We're going to
4 open up the Zoning Board of Appeals
5 meeting for January 19th, 2023.

6 If everyone could please join me
7 for the Pledge of Allegiance.

8 (Whereupon, the Pledge of
9 Allegiance was said.)

10 CHAIRPERSON RHODEN: Can I have a
11 Motion to enter into Executive
12 Session, please.

13 MS. CAREY: So moved.

14 MR. PINZON: Second.

15 THE CLERK: All in favor?

16 MR. PINZON: Aye.

17 CHAIRPERSON RHODEN: Aye.

18 MS. CAREY: Aye.

19 THE CLERK: Any opposed?

20 (Whereupon, there was no verbal
21 response given.)

22 CHAIRPERSON RHODEN: We'll be
23 right back.

24 (Whereupon, the Board entered
25 into Executive Session.)

1 Zoning Board of Appeals - January 19, 2023

2 CHAIRPERSON RHODEN: If everyone
3 can please join me for the pledge of
4 Allegiance.

5 (Whereupon, the Pledge of
6 Allegiance was said.)

7 CHAIRPERSON RHODEN: Today we
8 have a member absent, and so therefore
9 I designate Diego Pinzon as an
10 alternate member to the Board to
11 substitute as an absent member.

12 Do we have requests for approval
13 of the Minutes for December 14th, 2022
14 meeting?

15 MS. CAREY: So moved.

16 MR. PINZON: Second.

17 THE CLERK: All in favor?

18 MR. PINZON: Aye.

19 CHAIRPERSON RHODEN: Aye.

20 MS. CAREY: Aye.

21 THE CLERK: Any opposed?

22 (Whereupon, there was no verbal
23 response given.)

24 CHAIRPERSON RHODEN: Do we have
25 any Affidavits of Publication that

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2 need to be entered into the record as
3 exhibits?

4 THE CLERK: Yes, so I have one
5 Affidavit of Publication and one
6 Affidavit of Posting to be entered
7 into the record as Board Exhibits.
8 These will be Board Exhibit's 1 and 2
9 for this individual Public Hearing.

10 (Affidavit of Publication was
11 marked as Board's Exhibit 1, for
12 identification, as of this date.)

13 (Affidavit of Posting was marked
14 as Board's Exhibit 2, for
15 identification, as of this date.)

16 CHAIRPERSON RHODEN: Do we have
17 any requests for adjournments this
18 evening?

19 THE CLERK: Madam Chair, we do
20 not.

21 So we have a request for
22 Application 2022-18. It's 39-43 A
23 Woodcleft Avenue. They have made a
24 request for an extension for their
25 Affidavit of Compliance.

1 Zoning Board of Appeals - January 19, 2023

2 CHAIRPERSON RHODEN: Okay.

3 MS. CAREY: I would like to make
4 a Motion to extend the Application to
5 a time so they can submit their
6 information from 60 days from today's
7 date.

8 Do we have a second?

9 MR. PINZON: Second.

10 THE CLERK: All in favor?

11 MR. PINZON: Aye.

12 CHAIRPERSON RHODEN: Aye.

13 MS. CAREY: Aye.

14 THE CLERK: Any opposed?

15 (Whereupon, there was no verbal
16 response given.)

17 CHAIRPERSON RHODEN: Can we call
18 the first application on tonight's
19 calendar?

20 THE CLERK: Yes. The first
21 Application is #2022-41 - 67 South
22 Main Street, Business B - Section
23 55/Block 205/Lot 19 - 67 South Jara
24 LLC - Commercial alterations - 2
25 retail spaces on first floor, 2

1 Zoning Board of Appeals - January 19, 2023

2 bedroom apartment on the second floor
3 and no change in the basement.

4 Variances: Village Ordinance §210-6A,
5 §210-80A- Permitted uses, §210-
6 172A(2)(a) - Required parking spaces,
7 §210-172A(12) - Required parking.

8 I have two Affidavits of Mailing,
9 and one Nassau County Planning
10 Commission Recommendation to be
11 entered into the record as Board
12 Exhibits. These will be Board
13 Exhibit's 2 through 4 for this
14 individual Public Hearing.

15 (Affidavit of Mailing was marked
16 as Board's Exhibit 2, for
17 identification, as of this date.)

18 (Affidavit of Mailing was marked
19 as Board's Exhibit 3, for
20 identification, as of this date.)

21 (Nassau County Planning
22 Commission Recommendation was marked
23 as Board's Exhibit 4, for
24 identification, as of this date.)

25 CHAIRPERSON RHODEN: Welcome.

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2 MR. CURCIO: Good evening, madam
3 Chairperson, Members of the Zoning
4 Board of Appeals.

5 My name is Anthony Curcio from
6 Curcio Law, PLLC, located at 200 Broad
7 Hollow Road, Suite 207, Melville, New
8 York 11747. I represent the
9 applicant, 67 South Jara LLC.

10 The applicant today is requesting
11 variance relief from the following
12 sections of the Village of Freeport
13 code, Section 210-6A, Section
14 210-80A - Permitted uses, residential
15 use in a zone which only permits
16 commercial use, which is a Zone B
17 Business B, Section 210-172A - (2)(a),
18 Section 210-172A(12) - Required
19 parking, requesting a variance of 12
20 spaces when none are offered.

21 Also joined tonight by
22 Barry Nelson, who's our real estate
23 expert from Nelson Reality Group, Inc.
24 and Sean Mulryan, traffic and parking
25 expert from Mulryan Engineering, P.C.

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2 Also with us today that, if you
3 have any other questions, we have
4 Brian O'Connor and *Beachres Verco,
5 they are the architects for Green
6 Design, and Deyanira Haverly, who is
7 the principle of 67 South Jara LLC.

8 Prior to tonight's hearing, the
9 applicant met with the Village ZBA
10 Counsel to discuss possible solutions
11 to required parking variances.

12 The meeting was productive and
13 positive, where all parties were in
14 agreement that the applicant would
15 agree to enter into a lease with the
16 Village for four parking spaces in the
17 municipal lot to the east of the
18 subject property as a condition of
19 approval of the application before you
20 today if the request to relief is so
21 approved.

22 As such, the applicant is now
23 providing four parking spaces instead
24 of zero, requiring the applicant to
25 obtain a variance approval for eight

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2 parking spaces, not 12.

3 The subject property is located
4 at 67 South Main Street, on the
5 northeast side of South Main Street,
6 with frontage on South Main Street.

7 The lot area is 5,000-square feet
8 with building coverage of 2,967-square
9 feet and lot width of approximately
10 20-square feet.

11 Directly across from the subject
12 premises is a three-story building
13 which houses the Church of Jesus
14 Christ Latter-day Saints.

15 Directly to the east of the
16 subject premises is a municipal
17 parking lot, which contains
18 approximately 100 parking stalls.
19 North, south, and west of the subject
20 premises are multiple mixed use
21 properties with commercial space on
22 the ground level with apartments on
23 the second level, including 69 South
24 Main Street and 87-89 South Main
25 Street, which is currently under

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2 construction.

3 Subject property is currently
4 vacant and consists of one commercial
5 space on the first floor and one
6 commercial space on the second floor.

7 The applicant is proposing to
8 take the existing first floor of
9 commercial space and convert it into
10 two separate commercial spaces, one
11 space with frontage facing South Main
12 Street with a total square footage of
13 1,378-square feet and the other
14 commercial space in the rear of the
15 subject premises with a total square
16 footage of 1,185-square feet, which
17 will be used by the applicant for her
18 business for a total square footage of
19 2,563-square feet.

20 The second floor commercial space
21 will be converted to one
22 two-bedroom -- I'm sorry, one two
23 bedroom apartment with a total square
24 footage of 1,318-square feet.

25 It should be noted that the

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2 second floor will slightly be extended
3 in the rear with a 186.67 addition,
4 which will aline the rear wall of 67
5 South Main Street with the rear wall
6 of 69 South Main Street.

7 Regarding the applicant's
8 business: The applicant is the owner
9 of a Merry Maids cleaning service
10 franchise. Will be using the rear
11 commercial space -- regarding the
12 applicant's business, the applicant is
13 the owner of a Merry Maids cleaning
14 service franchise and will be using
15 the rear commercial space as a new
16 office location.

17 The hours of operation for the
18 business are Monday through Friday,
19 8:00 to 4:00, Saturday 9:00 to 12:00,
20 and they're closed on Sundays.

21 Regarding the operations of the
22 business, around 8:30 each morning,
23 the cleaning crews arrive at the
24 office to pick up cleaning supplies
25 and then leave for the day, returning

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2 at the end of the day to drop off
3 remaining supplies.

4 It should be noted, the crews
5 will only use their own vehicles, so
6 there won't be any company vans that
7 require overnight parking spaces.

8 During the day, there will be at
9 most two employees in the office, one
10 receptionist and one control manager,
11 quality control manager. However, the
12 quality control manager will be in the
13 office in addition to being on the
14 road, checking up on the cleaning
15 crew. So in reality, only one person
16 will be occupying the office the
17 entire business day. Not withstanding
18 the fact that the Village code
19 requires the applicant to offer 12
20 parking spaces, all 12 spaces will not
21 be needed by the applicant when the
22 building is fully in use.

23 In fact, the proposed mix used of
24 the building requires less parking
25 that if the building were to remain as

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2 is. The building used as is would
3 normally require 16 spaces. The
4 proposed configuration only requires
5 12 or less.

6 As will be discussed by our
7 parking expert, our study supports the
8 fact that on street parking is more
9 than plentiful to accommodate the
10 parking variance we'll be requesting.

11 Members of the Board should have
12 received a copy of the parking study
13 yesterday. If not, I have hardcopies,
14 I can distribute to the Board.

15 MS. CAREY: We have them.

16 MR. CURCIO: In addition to the
17 requested material alterations, the
18 applicant will be renovating the
19 facade of the building and providing
20 much needed cleanup to the premises.

21 In addition to the parking
22 variance required, the applicant is
23 also applying for a used variance to
24 convert the subject property to mixed
25 use.

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2 The Village of Freeport zoning
3 code in regulations have caused an
4 undo-hardship to the applicant and a
5 use variance should be granted because
6 one, the applicant cannot realize a
7 reasonable return provided that a lack
8 of return is substantial as
9 demonstrated by confident and
10 financial evidence.

11 Our real estate expert,
12 Barry Nelson, in his testimony will
13 discuss his economic analysis, which
14 will provide financial evidence that
15 the applicant will be unable to
16 realize a reasonable return by any
17 other permitted use other than what is
18 proposed.

19 Two, the alleged hardship is
20 unique. It does not apply to the
21 substantial portion of the
22 neighborhood.

23 As discussed prior, the buildings
24 in the immediate vicinity of the
25 subject property are being used as

1 Zoning Board of Appeals - January 19, 2023
2 mixed used buildings with commercial
3 on the first floor and residential on
4 the second floor.

5 Three, the requested use variance
6 will not alter the essential character
7 of the neighborhood.

8 As stated, the use of the
9 buildings in the immediate vicinity of
10 the subject property are mixed use.

11 Granting a use variance today
12 will be putting the applicant's
13 building in line with the existing
14 character of the neighborhood.

15 In addition, the proposed work
16 will refresh the building's appearance
17 and provide a much needed upgrade to
18 the area. Before the alleged hardship
19 has not been self-created.

20 The application before you
21 tonight is not something this Board
22 has not seen before. In fact, this
23 Board granted similar relief to the
24 properties located at 69 South Main
25 Street and 87-89 South Main Street,

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2 both just south of the subject
3 premises.

4 On 69 South Main Street, at the
5 hearing dated October 26th, 2018, the
6 applicant requested a variance to
7 convert the second floor of the
8 premises from commercial to
9 residential and also requested a
10 parking variance. This Board granted
11 both variances. However, the decision
12 provided for our foil request did not
13 state the number of parking spaces
14 granted for the variance.

15 87-89 South Main Street, at the
16 hearing dated October 26th, 2017, the
17 applicant requested a use variance to
18 construct a two-story building with
19 two retail spaces on the first floor
20 and four two bedroom apartments on the
21 second floor, along with a parking
22 variance for 24 cars. The Board
23 granted both variance requests.

24 Two years later on October 24th,
25 2019, an additional application was

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2 brought before this Board for the same
3 building requesting, an amendment to
4 the prior approval to add an
5 additional floor containing four
6 additional apartments, creating a
7 three-story building with two retail
8 spaces on the first floor and eight
9 total apartments, four on the second
10 floor and four on the third floor.
11 The parking variance granted was also
12 expanded from 24 spots to 26 spots.

13 As the Board can clearly see, the
14 applicant's requested use variance is
15 similar to relief and recently granted
16 by the Board.

17 In addition, the parking relief
18 request is not substantial, will not
19 have an adverse impact on the
20 neighborhood and is in line with the
21 existing character of the
22 neighborhood.

23 I would now like to turn over to
24 our real estate expert, Barry Nelson,
25 to discuss the economic analysis.

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2 (Whereupon, the Court Reporter
3 swore in the Witness.)

4 MR. NELSON: Yes.

5 For the record, it's
6 Barry Nelson. 220 Pettit Avenue,
7 Bellmore, New York 11710.

8 (Handing.)

9 So I'm going to identify what I
10 just handed to the steno girl
11 (indicating).

12 The first, is an original and a
13 copy of photographs of the subject
14 property and the surrounding uses. I
15 believe there's 34 photographs. They
16 identify the subject property and the
17 photographs that I took in and around
18 the subject property that will include
19 South Main Street, the municipal
20 parking field to the east and the
21 municipal parking field on the east
22 side of Church Street.

23 (Photographs were marked as
24 Applicant's Exhibit A, for
25 identification, as of this date.)

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2 MR. NELSON: The second exhibit
3 was a -- is an economic analysis for
4 the subject property for a reasonable
5 return based on the applicant's
6 proposal versus a detriment to the
7 value and to the economic reasonable
8 return as is.

9 (Economic analysis for subject
10 property was marked as Applicant's
11 Exhibit B, for identification, as of
12 this date.)

13 MR. NELSON: Counselor, has gone
14 over the application substantially.

15 And the perks to the application
16 is we have an existing building, one
17 of two-stories in the downtown
18 business district between Sunrise
19 Highway on the north and Merrick Road
20 on the south. It is on the east side
21 of the street.

22 The municipal parking field would
23 be in the subject block to the east of
24 the subject property on the west side
25 of Henry Street, south of Newton

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2 Boulevard and north of Merrick Road.

3 The applicant is the owner of the
4 property. She purchased it one
5 11/20/21, has been carrying it to date
6 without any uses in the property.

7 Taxes are substantial on the
8 parcel. The applicant paid market
9 value in excess of \$500,000 for the
10 property, now intends to upgrade the
11 exterior and renovate the interior
12 first floor for two retail uses. One
13 will be the owners/occupant in the
14 back and the retail up front would be
15 along South Main Street.

16 The second floor is proposed at
17 two bedrooms, two baths and it will be
18 approximately 1,400-plus square feet.
19 So it's a decent size apartment.

20 The area character, I worked on
21 several years ago, and it's actually
22 about seven years ago, southeast
23 corner of Sunrise Highway and South
24 Main Street, the Olive building where
25 it was all offices, retail on the

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2 first floor. Now it's retail offices
3 and then two levels apartments above
4 that.

5 As Counsel mentioned earlier,
6 just to the south, new development,
7 retail on the first floor, apartments
8 originally on the next few levels,
9 came back for a third level above
10 that, so it would be a mixed used.

11 Directly opposite the subject
12 property, just before the Olive
13 building was the Muse. And that's
14 retail on the first floor and
15 apartments above that. That's
16 four-stories.

17 The photographs that I've
18 submitted will depict one and
19 two-story buildings on the east and
20 west side of South Main Street in the
21 *corridor that I described earlier in
22 the boundaries of Sunrise Highway and
23 Merrick Road.

24 Most of the second stories are
25 now occupied, whether it's lawful or

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2 not, by apartments. And why do I say
3 that is, because it's a downtown
4 business district that really doesn't
5 generate office space on the second
6 level and it hasn't. And the economic
7 analysis that I've submitted will
8 demonstrate with economic rents for
9 the first floor and the -- it follows
10 through the first page, the analysis,
11 is the perimeters of the existing
12 building and the proposed perimeters.

13 Again, we're not adding, except
14 for a small square bump-out on the
15 second level to the apartment.
16 Otherwise, it's existing as is, the
17 building. No grade footprint.
18 Slightly larger on the second level.
19 And it's less than, I think he said
20 approximately 150-square feet.

21 So Page 2, we'll go through the
22 economic analysis on the building as
23 existing. It still needs renovation,
24 whether you do the apartment or not.
25 At the end of the day, with

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2 renovations, facades and everything,
3 the applicant's going to be into this
4 building for close to 900-plus
5 thousand dollars, which is a
6 significant investment. And that will
7 have to be done on an all cash basis
8 up-front. There's nobody lending out
9 now on a deal like that for financing,
10 so -- unless you get private financing
11 and that's at a greater rates.

12 So I went through the economics.
13 Economics for the first floor,
14 approximately \$28 a square foot.
15 Second floor approximately \$18 a
16 square foot. That will lead you right
17 down to the basics, the minimum
18 expenses on the property, real estate
19 taxes, insurance, common areas,
20 accounting. That taken away, those
21 expenses, and it's on Page 2, will
22 yield a net operating income of
23 approximately, which identified at
24 \$53,442. On an all cash basis of
25 almost \$935,000, that's a 5.7 percent

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2 return. Not bad. But who's going to
3 put all their money in a property and
4 leave it there? They want to finance
5 it. Everybody finances and takes the
6 money out to move on.

7 And the next stage would be a 65
8 percent mortgage on the property,
9 which is reasonable. And that would
10 be approximately 600 and \$7,000 (sic)
11 financing. Get your money out so you
12 can continue to operate your business
13 and so on, pay back the people who you
14 borrowed to get that \$935,000.

15 With that said, you'd still have
16 in the property \$327,000. You'll be
17 paying your mortgage, let's say,
18 financial return on your money of 3.8
19 percent. You can put that in the bank
20 and get it today without any risk.

21 There is a risk in real estate.
22 Everybody thinks real estate is an
23 ideal situation. Real estate is very
24 risky, whether you're in the business
25 for a long time, whether you're new at

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2 it, it is a risky business. Not that
3 putting your money in the bank is not
4 anymore either.

5 That said, I continue to Page 3.
6 And you'll see apartments are the
7 trend. They're in demand. They have
8 a less of vacancy rent loss than a
9 office on a second floor in this
10 locale. Secured.

11 In fact, I personally just went
12 through that. I'm downtown Bellmore
13 for a second-story with an apartment
14 above. There's nobody -- even in
15 Bellmore, there's nobody -- wants an
16 office space on the second floor.
17 They want street-level for retail.
18 And then they'll go to -- and you can
19 get pretty good deals in office
20 buildings now.

21 Nevertheless, you'll see, I went
22 through the same analysis right
23 through. This will be a little bit
24 more investment, a little over a
25 million dollars, but at the end of the

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2 day, a return on your investment is
3 almost 7 percent before a mortgage and
4 almost the same thing with the
5 mortgage on your money that you have
6 equity in the building.

7 That said, it's my opinion that
8 the building will not yield a
9 reasonable return with an office on
10 the second floor, that if an apartment
11 is created at that level it's not
12 going to alter or change the character
13 of the neighborhood. It's going to
14 blend in, and it is the trend of the
15 future.

16 The applicant is not adding more
17 space, not asking this Board to
18 approve a new second floor. The
19 second floor is there.

20 My photographs will depict the
21 character of the neighborhood, both on
22 the east and west side, mixed uses.
23 And the applicant will blend in, make
24 it an owner/occupied -- well, it's a
25 their property, an investment there

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2 and it's a reasonable request before
3 this Board.

4 Any questions, I will be more
5 than happy to answer.

6 MS. CAREY: I do have a question.

7 Page 2 is with only retail space
8 on upper and lower levels, and Page 3
9 is with the upper apartment --

10 MR. NELSON: Correct.

11 MS. CAREY: Thank you. I just
12 wanted to clarify.

13 MR. NELSON: I can go through the
14 permitted uses in the Business B
15 District, and if we just went through
16 those permitted businesses, it's
17 interesting, it really calls for
18 retail and offices and funeral
19 parlors, ice cream, restaurants. The
20 fact that property right next store
21 came before your Board probably about
22 15 years ago for the restaurant, and
23 it was a condition that the second
24 floor would not be used for a
25 restaurant, so really the permitted

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2 uses are limited. And considering the
3 area character doesn't lend itself for
4 a permitted use within the Business B
5 District, which also allows for a more
6 restricted uses in the Business A and
7 the Business AA.

8 Thank you.

9 CHAIRPERSON RHODEN: Thank you.

10 MR. CURCIO: I would like to call
11 up our parking expert, Sean Mulryan.

12 (Whereupon, the Court Reporter
13 swore in the Witness.)

14 MR. MULRYAN: Yes, I do.

15 Sean Mulryan, 1225 Franklin
16 Avenue, Garden City, New York.

17 Good evening.

18 MR. PINZON: Good evening.

19 MS. CAREY: Good evening.

20 MR. MULRYAN: As we had
21 mentioned, this site sits near some
22 other properties that have been
23 developed in a similar fashion. I
24 actually had the opportunity to work
25 with Mr. Nelson on the Olive building,

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2 which is located to north of the
3 subject site and is shown in the
4 aerial photograph behind me to my
5 left, and also to your left, on the
6 corner of Sunrise Highway and South
7 Main Street. That building, again,
8 was developed with mixed use and was
9 approved by this Board back in 2015.

10 The building directly across the
11 street, which has been mentioned
12 several times, also came before this
13 Board. I didn't have the pleasure to
14 work on that property, there's the
15 Muse building at 70 South Main Street,
16 that is also currently developed as a
17 mixed use building with residential on
18 the top. And the building that has
19 been before the Board several times
20 apparently and most recently in
21 October is 87-89, which is a brand new
22 building that's currently under
23 construction. That site prior to that
24 was vacant.

25 One of the things that we've

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2 looked up on this property that we're
3 here tonight to discuss is, on the
4 county website, they have different
5 information about the different
6 properties, and on that website it
7 indicates that this building was built
8 on the subject site 100 years ago. So
9 this building has been there for a
10 long time and certainly outdates me,
11 but it has been part of this area, it
12 is part of the community. It sits
13 directly in front of a municipal
14 parking lot. Those other buildings
15 that I mentioned, which have been
16 developed as mixed used buildings have
17 entered into agreements with the
18 Village. The Olive building, the Muse
19 and more recently the building at
20 87-89 have all entered into agreements
21 with the Village to lease parking
22 within the municipal lots.

23 The applicant has also agreed if
24 approved by this Board to enter into a
25 similar agreement to mitigate the

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2 impacts of the parking associated with
3 the building that has sat in this
4 location for over 100 years.

5 We did a thorough review of the
6 on-street parking and municipal
7 parking in the area. Once again, we
8 did work on the Olive building, and
9 that was back in 2015, so we've
10 actually looked at the parking in this
11 area several times over the last few
12 years.

13 The report that was done down the
14 block for 87-89 was done by another
15 firm. That firm is called R&M
16 Engineering. We also had an
17 opportunity to review the report that
18 they prepared. So that report was
19 prepared in June of 2019. Our report
20 was prepared this year. And we have
21 current counts, which mimic basically
22 the trends that we've seen throughout
23 the years in these areas. Those --
24 the summary of those results is that
25 there is ample parking available, on

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2 street and within the municipal lot to
3 accommodate this existing building.

4 Those findings mimic those of other
5 firms, again, that did a site down the
6 block, and the counts that we've seen
7 and the results that we've found in
8 previous studies throughout the years
9 in this area surrounding South Main
10 Street.

11 So I believe that this building
12 will not cause a negative impact to
13 the community and is certainly within
14 the character of the community and the
15 new trends that have taken place over
16 the last few years along South Main
17 Street, it is not out of character.
18 It will not create an impact to
19 traffic or parking and we believe that
20 is good use.

21 That is a very brief summary of
22 my report. If there's any questions
23 from the Board, I'll be happy to try
24 to answer.

25 MS. CAREY: I have a question.

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2 I read your entire report and I
3 saw that, you know, we're not really
4 talking a lot about municipal lots,
5 because -- but I saw a lot of
6 off-street parking in all cases --

7 (Crosstalk.)

8 MR. MULRYAN: On previous
9 applications, we have discussed
10 municipal parking versus on-street
11 parking, and when we separated those
12 two counts into two different
13 categories, so that they'd be
14 separated -- one of the things that
15 hasn't been mentioned tonight and I
16 bring up just for discussion purposes,
17 but also as it relates to the mixed
18 use concept, this property is also
19 located approximately, I'll call it
20 two blocks, but I'm sure you're
21 familiar enough with the area to
22 understand that this is located in
23 close proximity to the Long Island
24 Railroad station, there's also bus
25 service available in close proximity

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2 to the subject site and it also
3 provides an opportunity if someone was
4 to not have a vehicle to live in the
5 area and work in the area.

6 There's obviously restaurants
7 that have been before the Board that
8 all hire and employ people that may
9 live in the community. This would be
10 a convenient place for someone to live
11 who works on Main Street or on Sunrise
12 Highway.

13 There are numerous businesses,
14 car dealerships which have also
15 flourished over the last few years,
16 all have employees that may want to
17 live in the community. So they don't
18 need to rely on a car which is an
19 expense that is an added expense,
20 where someone can live in a downtown
21 community, where there's restaurants,
22 shops and places of employment, this
23 might be a very good opportunity for
24 them to live in a facility like that
25 in a downtown area.

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2 Mr. Nelson has mentioned that
3 apartment complexes typically do not
4 have the same vacancy rate as office
5 space or retail, and I'm sure the
6 Board is very familiar with some of
7 the problems that retail users and
8 office users have had over the last
9 few years, and you see more and more
10 vacancies on that behalf.

11 So this application is looking to
12 utilize the existing building, make
13 use of the upper section of the
14 building as residential. And we
15 believe that is a good fit for the
16 neighborhood and will not have an
17 impact on parking.

18 Thank you very much.

19 CHAIRPERSON RHODEN: Thank you.

20 MS. CAREY: Thank you.

21 MR. PINZON: Thank you.

22 MR. CURCIO: In conclusion, we
23 respectfully request this Board grant
24 the use variance for the proposed
25 mixed use for the subject premises due

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2 to the undo hardship it would cause
3 the applicant if the requested relief
4 would be denied.

5 In addition, we respectfully
6 request this Board grant the parking
7 variance relief requested as the
8 benefit to the applicant by granting
9 the parking variance is not outweighed
10 by the detriment and the health and
11 safety and welfare of the neighborhood
12 before the community.

13 On behalf of the applicant, we
14 thank you for your time and
15 consideration.

16 If there's any other questions
17 from the Board, we'll be happy to
18 answer them.

19 MR. PINZON: I just have one
20 clarifying question.

21 MR. CURCIO: Sure.

22 MR. PINZON: So one of the retail
23 spaces is going to be owner/occupied
24 by the owner?

25 CHAIRPERSON RHODEN: By Merry

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2 Maids.

3 MR. PINZON: By Merry Maids.

4 And then the other retail and the
5 apartment will be rented?

6 MR. CURCIO: Correct.

7 MR. PINZON: To third-parties?

8 MR. CURCIO: The upstairs is
9 actually -- there's some people
10 already in line to rent that. The
11 front, we're still looking for
12 tenants.

13 MR. PINZON: Thank you.

14 MS. CAREY: I have a question.

15 MR. CURCIO: Sure.

16 MS. CAREY: So Instead of it
17 having it split into -- there's going
18 to be a front and a back --

19 (Crosstalk.)

20 MR. CURCIO: Correct.

21 MS. CAREY: -- retail. Okay.

22 CHAIRPERSON RHODEN: So I thought
23 both apartments are being rented.

24 MR. CURCIO: It's only one
25 apartment.

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2 MR. PINZON: It's a one two
3 bedroom?

4 MR. CURCIO: One two bedroom,
5 yeah, I'm sorry.

6 CHAIRPERSON RHODEN: Okay.

7 I have no further questions.

8 MR. CURCIO: All right, thank you
9 for your time.

10 CHAIRPERSON RHODEN: Thank you.

11 MS. CAREY: Thank you.

12 CHAIRPERSON RHODEN: At this
13 time, do we have anyone who would like
14 to speak for or against this
15 application this evening?

16 THE CLERK: The slips that I got
17 are from the applicant's team.

18 Deyanira Haverly, did you want to
19 speak?

20 MR. CURCIO: No, she just had us
21 fill them out in case I had to call
22 her (indicating.)

23 THE CLERK: No, then, we don't
24 have anyone.

25 CHAIRPERSON RHODEN: At this

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2 time, can I please have a Motion to
3 reserve decision and close for further
4 evidence and testimony.

5 MS. CAREY: So moved.

6 MR. PINZON: I second.

7 THE CLERK: All in favor?

8 MR. PINZON: Aye.

9 CHAIRPERSON RHODEN: Aye.

10 MS. CAREY: Aye.

11 THE CLERK: Any opposed?

12 (Whereupon, there was no verbal
13 response given.)

14 THE CLERK: The next application,
15 Application #2022-44 - 23 Rose Street,
16 Residence AA - Section 62/Block
17 110/Lot 9 - Randy Abreu.

18 Proposed East and West two-story
19 addition with basement, new front
20 wraparound porch, two exterior
21 basement entrances, new rear covered
22 porch with balcony above, new 22 foot
23 by 22.5 foot detached garage, 17 foot
24 by 20 foot pool cabana and new HVAC.
25 Variances: Village Ordinance §210-6A,

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2 §210-21A- Permissible
3 extensions of use, §210-33 - Lot
4 coverage; floor area ratio.

5 I have one Affidavit of Mailing
6 to be entered into the record as a
7 Board exhibit. This will be Board
8 Exhibit Number 1 for this individual
9 Public Hearing.

10 (Affidavit of Mailing was marked
11 as Board's Exhibit 1, for
12 identification, as of this date.)

13 (Whereupon, the Court Reporter
14 swore in the Witness.)

15 MR. GARCIA: I do.

16 Jose Garcia. Architect. 11
17 Roslyn Street, Islip Terrace, New York
18 11752.

19 We're here requesting to extend a
20 two-family use on the property at 23
21 Rose Street.

22 I did some research and in 1967
23 there was a two-family dwelling with a
24 detached garage permit that was
25 closed. There was nothing that was --

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2 nothing was in record on that as to
3 what that extended use was, so the
4 foil came back with nothing. But in
5 1967, there was a two-family dwelling
6 established. That was the earliest
7 record we have on that property.

8 And we are looking to also do a
9 lot coverage for accessory structures.
10 We are currently demolishing an
11 existing detached garage, which is
12 about 800-square feet. So what we're
13 asking for isn't much more than that.
14 We're asking for 937-square feet
15 between the cabana and the detached
16 garage that we're proposing as opposed
17 to the existing 805-square feet
18 detached garage that we're demolishing
19 for the purpose of -- the detached
20 garage currently is really close to
21 the property and we're moving this
22 closer to allow Mr. Abreu a bigger
23 rear yard, because the garage is all
24 the way in the back of the property.

25 I'll be happy to answer any

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2 questions you may have.

3 MS. CAREY: So on the drawing, it
4 says "new grass area." Is that the
5 area where the --

6 MR. GARCIA: Yes.

7 MS. CAREY: -- current garage is?

8 MR. GARCIA: Yes.

9 MS. CAREY: Okay.

10 MR. GARCIA: So it's, like --
11 it's about a foot away from the
12 property and they want to move it
13 closer to the house and have more of a
14 backyard.

15 MS. CAREY: Do you know off the
16 top of your head -- I know it's
17 probably somewhere in here, I can't
18 recall, the percentage you're over the
19 lot coverage amount right now?

20 MR. GARCIA: For the accessory?
21 The house itself conforms. The --
22 well, here's the code, the code says 7
23 and a half percent but not to exceed,
24 I believe it's 750-square feet. But
25 if we were to follow the 7 and a half

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2 percent, we would be allowed to do
3 1,968-square feet of detached
4 structure. This is a fairly big lot
5 for the area, but we're -- roughly
6 we're about 230-square feet over the
7 750.

8 MS. CAREY: Okay. So that's
9 about, what, 33 percent? Percentage
10 wise.

11 MR. GARCIA: Yeah, about that.

12 MS. CAREY: And that's only for
13 the detached garage structure?

14 MR. GARCIA: Yeah, the accessory
15 structures combined, yeah.

16 MS. CAREY: And those are the
17 garage.

18 And what's the other structure?
19 You said --

20 MR. GARCIA: It's a pool cabana.

21 MS. CAREY: Thank you.

22 If you took the cabana out, how
23 many square feet is the cabana, just
24 out of curiosity?

25 MR. GARCIA: The pool cabana is

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2 492-square feet.

3 The detached garage is 495-square
4 feet.

5 MS. CAREY: So each of them alone
6 separately would be fine?

7 MR. GARCIA: Yes, right. But
8 this is where we go back to the 7 and
9 a half percent rule of the total lot
10 but not to exceed the 750. It's kind
11 of -- if we were to go by the 7 and a
12 half, we can have up to 2,000-square
13 feet of accessory structure, but the
14 cap limits that.

15 MR. CAREY: Okay, got it.

16 Thank you.

17 I don't think I have any other
18 questions.

19 MS. UNGAR: Can you talk a little
20 bit more about the addition to the
21 main structure?

22 MR. GARCIA: Right. So we're
23 doing an addition. Primarily that
24 addition to the right of the house is
25 basically for their part. It's going

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2 to be a two-story addition that
3 they'll be using. The apartment --
4 you know, the two-family use is kinda
5 staying -- you know, it's being
6 rebuilt, but it's staying kinda the
7 same footprint that it is now. The
8 purpose of the addition is to give
9 them room for their children on the
10 second floor. Right now on the first
11 floor there's three bedrooms,
12 including theirs. So right now the
13 kids are sharing a room, so now they
14 want to make this addition, which we
15 comply with the setbacks and
16 everything to give their kids, you
17 know, each a bedroom.

18 MS. UNGAR: So it's still going
19 to remain a two-family house?

20 MR. GARCIA: Correct.

21 MS. UNGAR: Okay.

22 MR. GARCIA: It's family that
23 live on the second floor, if that
24 makes any difference. It's not
25 rented.

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2 MS. UNGAR: Doesn't necessarily
3 specifically make a difference for
4 zoning given that --

5 MR. GARCIA: Right.

6 MS. UNGAR: -- they can sell it
7 tomorrow and --

8 MR. GARCIA: Right.

9 MS. UNGAR: And just --

10 MR. GARCIA: They bought it with
11 the two-family use.

12 MS. UNGAR: Correct.

13 MR. GARCIA: Yeah.

14 MS. UNGAR: So the idea behind
15 the code is, at this point in time,
16 the code doesn't permit two-family
17 uses, and so one of the things in the
18 code is prohibiting extensions of
19 nonconforming uses, basically not
20 wanting to encourage nonconforming
21 uses to increase, which is why you're
22 here for the use variance.

23 MR. GARCIA: Right.

24 MS. UNGAR: So sometimes it helps
25 to have a little bit of the rational

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2 behind why they're looking for the
3 expansion --

4 MR. GARCIA: Right.

5 MS. UNGAR: -- given the
6 underlying reasons for the code.

7 MR. GARCIA: Right.

8 MS. CAREY: Even though it's a
9 two-family currently, there's not a
10 kitchen on both levels, there's only
11 one kitchen --

12 MR. GARCIA: No, there's a
13 kitchen on each level.

14 MS. CAREY: I see it, sorry.

15 MS. UNGAR: How many square feet
16 are being added to the home?

17 MR. GARCIA: We are adding 2,000
18 per floor. 2,000-square feet per
19 floor. 2004-square feet. On the
20 first floor and the second floor we're
21 adding 2004-square foot as well.

22 (Inaudible response from
23 audience.)

24 MS. UNGAR: Well, that was going
25 to be my next question.

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2 What's existing?

3 MR. GARCIA: Well, we're talking
4 about just living area, we're not
5 talking about, like, you know -- the
6 existing footprint is 1,542-square
7 feet on the first floor, and then the
8 second floor is 1,306-square feet.

9 CHAIRPERSON RHODEN: So you're
10 adding a total of 550-something on --

11 MR. GARCIA: Once it's all said
12 and done, it's going to be
13 6,562-square feet of lot coverage -- I
14 mean, 5,918-square feet of lot
15 coverage. And we're allowed 6,562, so
16 we're under that. And under the *FAR
17 we're -- based on the 40 percent,
18 we're allowed 10,500, we'll be at
19 9,872.

20 MS. UNGAR: So you're more than
21 doubling the size of the house?

22 MR. GARCIA: Right now, yes.

23 MS. UNGAR: Because you
24 mentioned, like, 13 and 1,500 --

25 MR. GARCIA: Right.

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2 MS. UNGAR: -- which is a little
3 under 3,000 and --

4 MR. GARCIA: Right.

5 MS. UNGAR: -- you're adding
6 another 4,000 --

7 MR. GARCIA: Right.

8 MS. UNGAR: -- square feet?

9 MR. GARCIA: Yes.

10 MS. UNGAR: Roughly?

11 MR. GARCIA: Uh-huh.

12 (Inaudible response from the
13 audience.)

14 CHAIRPERSON RHODEN: I'm sorry,
15 if you want to speak, you have to be
16 sworn in. If you want to, you can.

17 MR. PINZON: I'm confused with
18 the total square footage after this
19 renovation.

20 CHAIRPERSON RHODEN: Yes, me too.

21 MR. PINZON: What is the
22 estimated total square footage of the
23 home after the two extensions that
24 you're talking about?

25 MR. GARCIA: On the first floor,

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2 will be 3,546, and on the second floor

3 it will be 3,310.

4 MR. PINZON: I'm sorry, repeat
5 that again. 35?

6 CHAIRPERSON RHODEN: 3,546 and
7 3,310. The first floor is 3,536.

8 MR. PINZON: Got it.

9 MS. CAREY: This question is more
10 for the attorney.

11 So we're not worried -- they're
12 not going over the lot coverage --

13 MS. UNGAR: No.

14 MS. CAREY: -- Only in terms of
15 the exterior -- the structure, but
16 it's a conformance issue of granting a
17 nonconforming variance under --

18 MS. UNGAR: Of expanding a
19 nonconforming use.

20 MS. CAREY: Right. Thank you.

21 CHAIRPERSON RHODEN: Because they
22 have the use right now. It is a
23 two-family currently, so.

24 And I'm sorry, we are expanding
25 this because, again?

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2 MR. GARCIA: They need --

3 (Inaudible response from the
4 audience.)

5 CHAIRPERSON RHODEN: If you're
6 going to speak, you can come up.

7 (Whereupon, the Court Reporter
8 swore in the Witness.)

9 MS. ABREU: Michelle Abreu, 23
10 Rose Street, Freeport, New York 11520.

11 So we're expanding -- we have
12 four boys, a lot kids, so it up to --
13 right now we're cramped in a
14 three-bedroom. You know, we've worked
15 very hard to save to be able to expand
16 this house, because it's a double lot.
17 So when we first got the house, our
18 dream was always to eventually expand
19 on it.

20 It's a legal two-family right
21 now. We bought it as a legal
22 two-family. I just actually renewed
23 the permit for the rental upstairs,
24 which is actually his sisters' aunt
25 that live upstairs, which is a

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2 blessing for us. They're a huge help.

3 And they're going to be staying there.

4 And we want to make them comfortable

5 as well, because we don't want them

6 going anywhere.

7 CHAIRPERSON RHODEN: Not with

8 four kids.

9 MS. ABREU: No.

10 So that's reason for the huge

11 expansion.

12 You know, the boys are getting

13 older, they need their own space.

14 We're all about generational wealth,

15 we're trying to build them up, but we

16 don't want them leaving our home until

17 it's time for them to purchase their

18 own, hence, the reason we're adding

19 what I call the wing so that we can be

20 comfortable and the boys can be

21 comfortable upstairs and the oldest

22 can have his own space.

23 I work from home a lot. I'm a

24 loan officer so I needed my space to

25 work from home. Especially after the

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2 pandemic. So it just made sense.

3 We're a huge family, we have a
4 lot of gatherings. We're not going
5 anywhere, we've been in Freeport for
6 years. We actually own other
7 properties in Freeport. So this is
8 our dream home. You know, we worked
9 really hard to do it.

10 And it sounds like a big house,
11 you know, but there's a lot room. We
12 just did an in-ground pool. We went
13 through all the permits through
14 Freeport, you know, we made sure
15 everything was done correctly. And we
16 really just want to enjoy our home,
17 hence, the reason it looks big, but
18 it's what we need. It's a lot us.

19 And I understand, you know --
20 affordable living here on Long Island
21 doesn't exist, so we know our kids are
22 gonna be with us for a long time. So
23 that's why we want to just make
24 comfortable for them to have their
25 space so we can have our space.

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2 And that's the reason for the
3 house. And I'm sure everyone can
4 relate with that.

5 CHAIRPERSON RHODEN: Yes.

6 MS. ABREU: So that's just my two
7 piece, that's it.

8 CHAIRPERSON RHODEN: Thank you.

9 MS. CAREY: Thank you.

10 MR. PINZON: Thank you.

11 CHAIRPERSON RHODEN: Anyone have
12 any additional questions?

13 MS. CAREY: No.

14 MR. PINZON: No.

15 CHAIRPERSON RHODEN: I don't have
16 any other.

17 MR. GARCIA: Okay.

18 CHAIRPERSON RHODEN: Do you have
19 anyone else coming?

20 MR. GARCIA: No, that was it.

21 MS. CAREY: I do have one last
22 question.

23 MR. GARCIA: Sure.

24 MS. CAREY: If it's a double lot,
25 and if we make this a variance

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2 application approved, will the house
3 be so large that a second -- that the
4 lot cannot be subdivided to make two
5 houses?

6 MR. GARCIA: Yeah, it's basically
7 going into the double lot. So there
8 will be no, you know, availability to
9 building another house.

10 MS. CAREY: And you pay double
11 lot taxes, do you not?

12 MS. ABREU: We pay a lot of taxes
13 as it is.

14 MR. GARCIA: The pool would be on
15 the lot.

16 MS. CAREY: Thank you.

17 MS. UNGAR: It looks like the
18 house is pretty reasonably centered on
19 the property.

20 MS. ABREU: Yeah, it's smack in
21 the middle.

22 MS. UNGAR: Right.

23 MR. GARCIA: I mean, that house
24 is really old. You know, it's an old
25 house. It's a third -- it's great. I

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2 love the house.

3 MS. ABREU: Smack in the middle.

4 CHAIRPERSON RHODEN: Okay.

5 MS. CAREY: Thank you.

6 CHAIRPERSON RHODEN: Thank you.

7 MR. PINZON: Thank you.

8 MR. GARCIA: Thank you.

9 CHAIRPERSON RHODEN: Do we have
10 anyone who would like to speak for or
11 against this Application this evening?

12 THE CLERK: We do not, Madam
13 Chair.

14 CHAIRPERSON RHODEN: At this
15 time, can I have a Motion to reserve
16 decision and close for further
17 evidence and testimony?

18 MS. CAREY: So moved.

19 MR. PINZON: Second.

20 THE CLERK: All in favor?

21 MR. PINZON: Aye.

22 CHAIRPERSON RHODEN: Aye.

23 MS. CAREY: Aye.

24 THE CLERK: Any opposed?

25 (Whereupon, there was no verbal

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2 response given.)

3 CHAIRPERSON RHODEN: Can we call
4 the next application on tonight's
5 calendar.

6 THE CLERK: Yes, Madam Chair.
7 The next application is #2022-45 - 123
8 East Milton Street, Residence A -
9 Section 55/Block 249/Lot 90 -
10 Guillermo Romero - Construct a new
11 second floor addition. Variances:
12 Village Ordinance §210-6A,
13 §210-43A(1)-Required yards; front yard
14 depth.

15 I have one Affidavit of Mailing
16 to be entered into the record as a
17 Board exhibit. And this will be Board
18 Exhibit Number 1 for this individual
19 Public Hearing.

20 (Affidavit of Mailing was marked
21 as Board's Exhibit 1, for
22 identification, as of this date.)

23 (Whereupon, the Court Reporter
24 swore in the Witness.)

25 MR. SEDOROWITZ: Yes.

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2 Jack Sedorowitz. Architect.

3 2174 Hewlett Avenue, Merrick, New York

4 11566.

5 Good evening, everyone.

6 CHAIRPERSON RHODEN: Good

7 evening.

8 MR. SEDOROWITZ: Happy New Year.

9 MR. PINZON: Happy New Year to
10 you.

11 MR. SEDOROWITZ: So I'm here
12 tonight to represent the owner,
13 Guillermo Romero.

14 Basically Mr. Romero purchased
15 the house in 2013. The house was
16 vacant at the time and he decided to
17 take on the task of renovating the
18 house for his young family to occupy.

19 He received a building permit to
20 do an alteration for the first floor
21 in 2018 and then his family was
22 growing and so he needed to build a
23 second floor also.

24 The house is built in
25 approximately 1912. The owner has

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2 researched that and determined that
3 the house was built in 1912.

4 And so basically he wants to put
5 a second floor on the full footprint
6 of the house that's there.

7 And so the variance that we're
8 looking for -- presently, the house is
9 set back from the front property line
10 at 17.58 feet and the permitted front
11 yard is 20 feet. So we're looking for
12 a variance of under 3 feet for the
13 front yard.

14 Basically that's the extent of
15 the application. If anyone has any
16 questions, I'll be happy to answer.

17 MS. CAREY: The application
18 denial states that you're at 17.84, or
19 17. --

20 MR. SEDOROWITZ: 58.

21 MS. CAREY: 58 feet, and you need
22 to be at 20 feet.

23 Now, is the current front of the
24 house at that 17 --

25 MR. SEDOROWITZ: Yes.

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2 MS. CAREY: -- anyway?

3 MR. SEDOROWITZ: Yes.

4 MS. CAREY: So you're not
5 changing the current front of the
6 house, you're just adding --

7 MR. SEDOROWITZ: That's right.

8 MS. CAREY: -- just adding --
9 (Crosstalk.)

10 MR. SEDOROWITZ: We're just
11 adding the second floor to the first
12 floor footprint.

13 MS. CAREY: Great, thank you.

14 So, in other words, the front
15 yard is already at 17.85 feet, and
16 that is not changing for -- it's been
17 there for a hundred years, you said?

18 MR. SEDOROWITZ: Well, yeah, the
19 owner said that the house is built in
20 1912.

21 MS. CAREY: Okay.

22 MR. SEDOROWITZ: 17.58 --

23 MS. CAREY: Thank you.

24 CHAIRPERSON RHODEN: But you said
25 it was renovated a while back, right

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2 in 20 --

3 MR. SEDOROWITZ: Yeah, just the
4 first floor.

5 CHAIRPERSON RHODEN: Just the
6 first floor?

7 MR. SEDOROWITZ: The inside.

8 CHAIRPERSON RHODEN: Just the
9 inside.

10 MR. SEDOROWITZ: Yeah, no work
11 was --

12 CHAIRPERSON RHODEN: All right.
13 So then, you're just adding the
14 additional second floor --

15 MR. SEDOROWITZ: Correct.

16 CHAIRPERSON RHODEN: -- for the
17 additional rooms?

18 MR. SEDOROWITZ: Right.

19 CHAIRPERSON RHODEN: Do you have
20 questions?

21 MS. CAREY: I have no further
22 questions.

23 MR. PINZON: No.

24 CHAIRPERSON RHODEN: Thank you.

25 I have no questions, so I appreciate

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2 it.
3 MR. SEDOROWITZ: Okay, thank you
4 very much.
5 MR. PINZON: Thank you.
6 MS. CAREY: Thank you.
7 CHAIRPERSON RHODEN: Do we have
8 anyone who would like to speak for or
9 against this application this evening?
10 (Whereupon, there was no verbal
11 response given.)
12 THE CLERK: We do not, Madam
13 Chair.
14 CHAIRPERSON RHODEN: Thank you.
15 We will be in touch.
16 Can I please have a Motion to
17 reserve decision and close for further
18 evidence and testimony?
19 MS. CAREY: So moved.
20 MR. PINZON: Second.
21 THE CLERK: All in favor?
22 MR. PINZON: Aye.
23 CHAIRPERSON RHODEN: Aye.
24 MS. CAREY: Aye.
25 THE CLERK: Any opposed?

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2 (Whereupon, there was no verbal
3 response given.)

4 CHAIRPERSON RHODEN: Can I please
5 have a Motion to enter into Executive
6 Session?

7 MR. PINZON: So moved.

8 MS. CAREY: Seconded.

9 THE CLERK: All in favor?

10 MR. PINZON: Aye.

11 CHAIRPERSON RHODEN: Aye.

12 MS. CAREY: Aye.

13 THE CLERK: Any opposed?

14 (Whereupon, there was no verbal
15 response given.)

16 (Whereupon, the Board entered
17 into Executive Session.)

18 CHAIRPERSON RHODEN: Do we have
19 any decisions to be read into
20 tonight's session?

21 THE CLERK: Yes.

22 The first decision is Application
23 2022-4515- 123 East Milton Street,
24 Residence A, Section 55, Blocks 249,
25 Lot 90 - Guillermo Romero.

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2 Construct a new second floor
3 addition.

4 MR. PINZON: Good evening, Madam,
5 Chair, regarding Application #2022-45
6 for the premises located at 123 East
7 Milton Street, Freeport, the Applicant
8 comes before this Board seeking a
9 variance from Village Ordinances
10 §210-6A and 210-43A seeking approval
11 to construct a new second floor
12 addition.

13 I, Diego Pinzon, move that this
14 Board make the following findings of
15 fact:

16 A public hearing was held on
17 January 19th, 2023 wherein applicant
18 was represented by architect
19 Jack Sedonowitz. He explained that
20 the applicant purchased the house in
21 2013, renovated the first floor and
22 now with a growing family, needs space
23 on a second floor. The proposed
24 addition is right in line with the
25 existing front setback of 17.58 feet.

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2 Nothing else is changing.

3 1. On balance, the benefit to the applicant by the
4 granting of this variance is not outweighed by the
5 detriment to the health, safety and welfare of the
6 neighborhood or community if such variance were to
7 be granted. The Board has determined:

- 8 a. That an undesirable change will not be
9 produced in the character of the
10 neighborhood and a detriment to nearby
11 properties will not be created by the
12 granting of the area variance;
- 13 b. That the benefit sought by the applicant
14 cannot be achieved by some method, feasible
15 for the applicant to pursue, other than an
16 area variance;
- 17 c. That the requested area variance is
18 insubstantial;
- 19 d. That the proposed variance will not have an
20 adverse effect or impact on the physical or
21 environmental conditions in the
22 neighborhood or district; and
- 23 e. That the alleged difficulty was not
24 self-created.

25 The Board, as lead agency has

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2 determined that this action is a Type

3 II action and under SEQRA and no

4 further review is required.

5 I further move that this

6 application be granted subject to the

7 following conditions:

- 8 1. Applicant/Owner must comply with all the Rules and
9 Regulations of the Village of Freeport.
- 10 2. Applicant must obtain the required permits from the
11 Building Department.

12 MS. CAREY: Seconded.

13 THE CLERK: All in favor?

14 MR. PINZON: Aye.

15 CHAIRPERSON RHODEN: Aye.

16 MS. CAREY: Aye.

17 THE CLERK: Any opposed?

18 (Whereupon, there was no verbal
19 response given.)

20 THE CLERK: The next decision is
21 Application is 2022-30, 179 North Main
22 Street, Service District - Section 55,
23 Block 262, Lot 9 - Greenwood & Sons
24 Inc.

25 Divide structure to create four

1 Zoning Board of Appeals - January 19, 2023

2 separate stores.

3 MS. CAREY: Madam Chair,
4 regarding Application #2022-30 for the
5 premises located at 179 North Main
6 Street, Freeport, the Applicant comes
7 before this Board seeking a variance
8 from Village Ordinances §210-6A,
9 210-172A(12) seeking approval to
10 divide structure to create four
11 separate stores.

12 I, Jennifer Carey, move that this
13 Board make the following findings of
14 fact:

15 A public hearing was held on
16 August 18, 2022 whereas applicant
17 Greenwood and Sons, Inc. Was
18 represented by Bill Greenwood. He
19 explained that he was in the process
20 of purchasing the building, which
21 served as a moving company until about
22 15 years ago. He is in the shipping
23 industry, doing packing and shipping.
24 He wants to bring business to North
25 Main Street, and envisions clerical or

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2 service based businesses in his
3 building. No bars, no food and no
4 alcohol. 29 parking spaces are
5 required for his proposed use under
6 the code. He had figured that on
7 street parking would be sufficient.
8 He did inquire as to renting parking
9 spaces nearby, but had been
10 unsuccessful. He explained that he
11 had done a lot of work to clean up the
12 property. One problem had been
13 rodents, which is part of the reason
14 he did not want food-related
15 businesses. During public comment, a
16 resident spoke about the problems with
17 parking in the area. The hearing was
18 adjourned to permit Mr. Greenwood to
19 gather more information about the
20 parking situation.

21 The hearing continued on October
22 20, 2022 wherein Mr. Greenwood
23 explained that he had come to an
24 agreement with Gala Foods wherein they
25 would allow the customers of Mr.

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2 Greenwood's building to park in their
3 lot. He explained that his tenants
4 would put up signs that they are
5 allowed to park in Gala's lot. The
6 Board had concerns that the letter did
7 not state how many spaces were
8 available to customers of
9 Mr. Greenwood's building. There was
10 concern as to whether or not Gala had
11 sufficient parking to meet its own
12 parking requirements as well as that
13 of 179 N. Main St. There was also
14 concern as to there being no end date
15 to the agreement, simply a statement
16 that Gala could stop allowing the use
17 whenever it wanted. Mr. Greenwood
18 explained that no money is being
19 transferred with this agreement.
20 During public comment, a neighbor
21 again spoke with concerns about the
22 parking agreement, as well as the
23 buffer zone along the west side of the
24 property that was mandated in a 1961
25 zoning decision. A second neighbor

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2 also spoke about the buffer zone. He
3 said when Middendorf was there, it was
4 all greenery. He also had concerns
5 about the Gala parking. He also
6 complained about spotlights on the
7 outside of the building, in violation
8 of the 1961 variance. Mr. Greenwood
9 said he would try to remedy the
10 spotlight in a way as to not bother
11 the neighbors.

12 The hearing was continued on
13 November 17, 2022. Mr. Greenwood
14 introduced an updated five year
15 agreement with Gala for up to 29
16 parking spaces. He also introduced
17 plans for Gala's parking lot showing
18 how many spaces they need and that
19 they had excess available. There was
20 concern that Gala's plans show 92
21 spaces, with 66 required, such that if
22 they were to give Mr. Greenwood use of
23 29 spaces, they might end up short 3
24 spaces. As to the distance between
25 Gala and 179 N Main, Mr. Greenwood

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2 showed photos from Roosevelt Field
3 Mall, showing that within a mall,
4 customers walk further to go from one
5 end to the other, making the point
6 that the distance is not too long to
7 walk from Gala to 179 N Main. A
8 neighbor spoke about questions as to
9 the validity of the lease.

10 The Buffer Zone:

11 As a first matter, regarding the
12 buffer zone. The Board finds that the
13 buffer zone must be put back in place.
14 The original zoning decision said 15
15 feet where it borders residential
16 properties, along with a six foot
17 fence. That must be restored.

18 Although the zoning code has changed
19 and the referenced ordinance is no
20 longer a code section in the village,
21 there is a code section referring to
22 buffer screening found in 210-95,
23 which requires evergreen shrubs and/or
24 hedges at close intervals so as to
25 provide a visual screen of sufficient

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2 size to be six feet in height one year
3 after the commencement of the
4 building's use. As there was
5 testimony at the hearings regarding
6 the presence of trees or hedges, these
7 must be restored. There also must be
8 a six foot fence as well, dropping
9 down to 4 feet towards the street or
10 to whatever is required in the code.
11 The buffer area is also not to be used
12 as parking. Applicant is to abide by
13 all other conditions in the 1961
14 variance.

15 Parking:

16 1. On balance, the benefit to the applicant by the
17 granting of this variance is not outweighed by the
18 detriment to the health, safety and welfare of the
19 neighborhood or community if such variance were to
20 be granted. The Board has determined:

21 a. That an undesirable change will not be
22 produced in the character of the
23 neighborhood and a detriment to nearby
24 properties will not be created by the
25 granting of the area variance.

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2 Applicant has presented a five year
3 agreement with Gala allowing access
4 for up to 29 parking spaces. The
5 Board is modifying this to 26 spaces
6 so as not to cause any potential harm
7 to Gala, based on the plans on file in
8 the building department. This Board
9 is comfortable with the provision of
10 26 spaces, with the other 3 being
11 absorbed into the surrounding area.

12 b. That the benefit sought by the applicant
13 cannot be achieved by some method,
14 feasible for the applicant to pursue,
15 other than an area variance. Applicant
16 has a building with no parking. If a
17 variance were not granted, the building
18 could not be used.

19 c. That the requested area variance is
20 insubstantial. With the provision of 26
21 off site spaces, the remaining variance
22 of 3 cars is insubstantial.

23 d. That the proposed variance will not have
24 an adverse effect or impact on the
25 physical or environmental conditions in

1 Zoning Board of Appeals - January 19, 2023

2 the neighborhood or district; and

3 e. That the alleged difficulty was not
4 self-created. This is a pre-existing
5 non-conforming building.

6 To the extent that this parking
7 variance must granted subject to the
8 powers of the Zoning Board contained
9 in 210-12K (the Board notes that
10 distance between the edge of 179 North
11 Main Street and the edge of the Gala
12 parking lot is less than 500 feet).

- 13 2. This Application as conditioned will not
14 substantially depreciate the value of other
15 properties
- 16 3. This Application as conditioned will not appreciably
17 alter the essential character of the neighborhood.
- 18 4. This Application as conditioned will not because of
19 noise, noxious odors or other undesirable
20 attributes, create a nuisance.
- 21 5. This Application as conditioned will secure public
22 safety and welfare and assure substantial justice.
- 23 6. This Application as conditioned will not create or
24 tend to create a fire hazard or endanger the
25 structure or premises wherein or whereon such use is

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sought.

7. This Application (as submitted/conditioned) will fully comply with §§ 87-20 and 87-21 of Chapter 87, Flood Damage Prevention, of this Code.
8. The Board, as lead agency, has determined that this action is an unlisted action under SEQRA. A short environmental assessment form has been completed by the applicant and this Board. The Board finds no environmental impact under SEQRA, issues a negative declaration, and no further review is required.

I further move that this

application be granted subject to the following conditions:

1. Applicant/Owner must comply with all the Rules and Regulations of the Village of Freeport.
2. Applicant must obtain the required permits from the Building Department.
3. This application for variance(s) is being granted on the basis of the specific use proposed. If anything in this application is to change, the applicant must return to the Board for further review.
4. Applicant/Owner must execute an Affidavit of Compliance and return same to the Office of the Village Clerk within thirty (30) days of this

- 1 Zoning Board of Appeals - January 19, 2023
2 approval as a prerequisite for issuance of any
3 permit.
- 4 5. To avoid any noise or noxious odors or rodents, as
5 applicant agreed, there will be no restaurants, bars
6 or alcohol sales on the property.
- 7 6. As this Board has conditioned previously when
8 parking is being obtained from off-site, applicant
9 must maintain a lease year-round showing access to
10 26 off street parking spaces. Applicant must keep a
11 copy of the current parking agreement on file with
12 the Building Department at all times. Should
13 applicant should ever fail to provide the full
14 amount of parking required, applicant must return to
15 the Board for further review.
- 16 7. Leased parking spaces at Gala must be designated for
17 179 North Main Street through signage or painted
18 labels in parking spaces, etc.
- 19 8. As parking on the North Main Street is a challenge,
20 this variance of 3 spaces is conditioned on
21 continuously providing 26 additional leased spaces
22 within a close proximity to the business. Should
23 applicant fail to lease spaces, this parking
24 variance and permit to allow off-street spaces
25 within 500 feet for the premises is automatically

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2 revoked. As such, all operations must then cease
3 immediately, because with no off-street parking,
4 applicant will no longer have the required 29
5 parking spaces. To continue operations, applicant
6 would have to return to the zoning board for further
7 review.

8 MR. PINZON: I second.

9 THE CLERK: All in favor?

10 MR. PINZON: Aye.

11 CHAIRPERSON RHODEN: Aye.

12 MS. CAREY: Aye.

13 THE CLERK: Any opposed?

14 (Whereupon, there was no verbal
15 response given.)

16 CHAIRPERSON RHODEN: Can I please
17 have a Motion to close the Legislative
18 Session, please.

19 MS. CAREY: So moved.

20 MR. PINZON: I second.

21 THE CLERK: All in favor?

22 MR. PINZON: Aye.

23 CHAIRPERSON RHODEN: Aye.

24 MS. CAREY: Aye.

25 THE CLERK: Any opposed?

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(Whereupon, there was no verbal
response given.)

(Time Noted 8:02 p.m.)

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C E R T I F I C A T E

STATE OF NEW YORK)

:ss

COUNTY OF NASSAU)

I, AMANDA MICILLO, a Notary
Public within and for the State of New
York, do hereby certify:

That the witness whose
examination is hereinbefore set forth
was duly sworn and that such an
examination is a true record of the
testimony given by such a witness.

I further certify that I am not
related to any of these parties to
this action by blood or marriage, and
that I am not in any way interested in
the outcome of this matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 19th day of
January, 2023.

Amanda Micillo

signature