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2023 MAY INCORPORATED VILLAGE OF FREEPORT

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ZONING BOARD

CLERK'S OFFICE  
VILLAGE OF FREEPORT, NY

MUNICIPAL BUILDING  
46 North Ocean Avenue  
Freeport, NY 11520

April 20, 2023

6:00 p.m.

M E M B E R S:

ROSA RHODEN CHAIRPERSON

BEN JACKSON MEMBER

CHARLES HAWKINS MEMBER

DREW SCOPELITIS ALTERNATE MEMBER

\* \* \*

ROBIN CANTELLI SECRETARY

JENNIFER UNGAR DEPUTY VILLAGE ATTORNEY

-----EXHIBITS-----

BOARD'S FOR I.D. PAGE

1	Affidavit of Publication	5
2	Affidavit of Posting	5

APPLICATION 2023-4

BOARD'S FOR I.D. PAGE

1	Affidavit of Mailing	8
2	Nassau County Planning Commission Recommendation	8
3	Letter of request of waiver	8
4	approval letter of waiver	8

APPLICANT'S FOR I.D.

A	Traffic Study	36
B	Environmental Long Form	37

\* \* \*

April 20, 2023

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-----I N D E X-----

APPLICATION#	ADDRESS	PAGE
2023-4	17-33 Buffalo Avenue	6-50

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1 April 20, 2023

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2 CHAIRPERSON RHODEN: Good evening  
3 everyone. I'd like to open up the Zoning  
4 Board of Appeals meeting for April 20, 2023.  
5 If everyone could please join me in the  
6 Pledge of Allegiance.

7 (Pledge of Allegiance recited.)

8 CHAIRPERSON RHODEN: Can I have a  
9 motion to enter into executive session to  
10 confer with counsel, please.

11 MEMBER JACKSON: So moved.

12 MEMBER HAWKINS: Second.

13 THE SECRETARY: All in favor.

14 MEMBER HAWKINS: Aye.

15 ALTERNATE MEMBER SCOPELITIS: Aye.

16 MEMBER JACKSON: Aye.

17 CHAIRPERSON RHODEN: Aye.

18 THE SECRETARY: Any opposed.

19 (No response was heard.)

20 (WHEREUPON, the Board entered into  
21 executive session from 6:13 p.m. until  
22 6:43 p.m., after which the following  
23 transpired:)

24 CHAIRPERSON RHODEN: Good evening.  
25 If everyone could please join me for the

1 Pledge of Allegiance.

2 (Pledge of Allegiance recited.)

3 CHAIRPERSON RHODEN: Can I please  
4 have a motion to accept the minutes of the  
5 March Zoning meeting.  
6

7 MEMBER JACKSON: So move.

8 MEMBER HAWKINS: Second.

9 THE SECRETARY: All in favor.

10 MEMBER HAWKINS: Aye.

11 ALTERNATE MEMBER SCOPELITIS: Aye.

12 MEMBER JACKSON: Aye.

13 CHAIRPERSON RHODEN: Aye.

14 THE SECRETARY: Any opposed?

15 (No response was heard.)

16 CHAIRPERSON RHODEN: Do we have any  
17 Affidavits of Publication or Posting to be  
18 entered as exhibits for the record.

19 THE SECRETARY: Yes. I have one  
20 Affidavit of Publication and one Affidavit of  
21 Posting to be entered into the record as  
22 Board's exhibits. Those will be Board's  
23 Exhibits 1 and 2.

24 (WHEREUPON, the above-referred to  
25 documents were marked as Board's Exhibits 1

April 20, 2023

6

1  
2 and 2, for identification, as of this date.)

3 CHAIRPERSON RHODEN: Do we have any  
4 requests for adjournment?

5 THE SECRETARY: Madam Chair, we do  
6 not.

7 CHAIRPERSON RHODEN: We have a member  
8 absent tonight. As such, I designate  
9 Alternate Member Scopelitis as an alternate  
10 member for today.

11 All in favor.

12 MEMBER HAWKINS: Aye.

13 ALTERNATE MEMBER SCOPELITIS: Aye.

14 MEMBER JACKSON: Aye.

15 CHAIRPERSON RHODEN: Aye.

16 Can we call the first application on  
17 tonight's calendar please.

18 THE SECRETARY: Application 2023-4 -  
19 17-33 Buffalo Avenue, AKA 3 Buffalo Avenue,  
20 and 80-84 Albany Avenue, Residence Apartment  
21 with a partial Golden Age Floating Zone.  
22 Section, Block and Lot 55-190-63 and Section,  
23 Block and Lots 55-190-51, 52, 53, 54 55.  
24 BOSFA Management Corp. Renovate existing  
25 structure and add two stories at the property

1  
2 known as 17-33 Buffalo Avenue, AKA 3 Buffalo  
3 Avenue, to create a total of 200 new  
4 apartment units and to construct stacked  
5 parking on the parcel known as 80-84 Albany  
6 Avenue. Variances: Village Ordinance  
7 210-6A, 210-148A prohibited uses; 210-47A  
8 Building height; 210-48B Lot area,  
9 apartments; 210-49B Lot coverage, apartments;  
10 210-49C Lot coverage, open space; 210-50  
11 Minimum floor area; 210-51 Required yards (A)  
12 front yard depth and (B) side yard width;  
13 210-172(A)2a Required parking spaces;  
14 210-276(K) General site criteria; 210-279  
15 Height; 210-280 Building area; 210-281(A) and  
16 (B) front yard, 210-282(A) side yard;  
17 210-283(A) rear yards; 210-287(A) Separation  
18 of buildings; 210-288 Floor area; 210-290(A)  
19 Parking and garage facilities; 210-291  
20 Population density; 210-294(J) Supplemental  
21 development standards.

22 I have one Affidavit of mailing, one  
23 Nassau Count Planning Commission  
24 Recommendation, one letter of request of  
25 wavier, one approval letter of waiver to be

1  
2 entered into the record as Board exhibits.

3 These will be Board's Exhibits 1  
4 through 4 for this individual public hearing.

5 (WHEREUPON, the above-referred to  
6 documents were marked as Board's Exhibits 1  
7 through 4, for identification, as of this  
8 date.)

9 MR. MARTINS: My name is Jack  
10 Martins. I am the attorney for the  
11 applicant, BOSFA Development, LLC. I'm with  
12 the firm Harris Beach. Our offices are  
13 located in Uniondale.

14 With me this evening we have Chris  
15 from BOSFA Development, Daniel and Aron  
16 Goldstein, as well as the architect  
17 responsible for the design of this  
18 application, Emilio Susa. And we have with  
19 us from VHB a professional engineer, traffic  
20 consultant, Aaron Machtay. Mr. Machtay has  
21 testified before this Board in the past.

22 As was said, this application was  
23 brought with regard to 17-33 Buffalo Avenue.  
24 There are other street addresses, but  
25 generally the property is bounded by Albany

1 Avenue to the west, Buffalo Avenue to the  
2 east, and East Merrick Road to the south. It  
3 is what was is currently known as the Moxey  
4 Rigby House, which was owned and operated  
5 since the mid 1950's by the Freeport Housing  
6 Authority. Currently, it has been vacant.  
7 The property was significantly affected, as  
8 we all understand, by Super Storm Sandy. The  
9 name sake of this particular property was  
10 built across the street. We're now looking  
11 to put a different multi-family use here.  
12

13 To that end, the property has been  
14 rezoned to multi-family use, residential  
15 apartment use, with a portion of the property  
16 dedicated to the Golden Age; so, there is an  
17 overlay for that as well. The idea is to  
18 create multigenerational housing here for  
19 market rate housing, but a portion of the  
20 building will be dedicated to senior housing,  
21 the Golden Age portion, as well as a piece  
22 primarily for veterans.

23 If you look at the site plan,  
24 originally the Moxey Rigby Housing Authority  
25 was composed of three separate buildings:

1  
2 One larger building that faced predominately  
3 on Albany, two smaller buildings that were  
4 predominately on Buffalo.

5 What we're proposing is to join the  
6 three buildings by creating an in-fill of  
7 five stories in order to bring the buildings  
8 together and, obviously, to that point,  
9 adding two floors to the existing three  
10 floors by keeping the historic building as it  
11 was original configured. By doing so, we  
12 were able to not only modernize and increase  
13 accessibility by including such things as  
14 elevators, so that they are more accessible,  
15 but also create activity. Currently, the  
16 Moxey Rigby Housing Development was quite  
17 modular. Many of those apartments had to  
18 come back down in order to visit someone who  
19 may be in the same building but in another  
20 pod, so-to-speak.

21 MR. McLAUGHLIN: When you refer to  
22 the Moxey Rigby, you'll have to.

23 MR. MARTINS: The historic one, not  
24 the one that we have in case.

25 CHAIRPERSON RHODEN: Refer to it as

1  
2 the historic.

3 MR. MARTINS: Thank you.

4 Historically. Through this application, we  
5 will modernize and improve and add amenities  
6 to this historic use.

7 What we're proposing is a 200 unit  
8 development on the site. The historic use  
9 was 102 units. The historic use had 12  
10 parking spots. What we're proposing is 177  
11 parking spots. I was remiss. It isn't just  
12 the old historic Moxey Rigby housing. There  
13 is also a warehouse that is adjacent to the  
14 property immediately to the north which has  
15 been incorporated into this project, which  
16 will be torn down and will essentially be  
17 where the parking will be provided.

18 The configuration for the new  
19 property will be, the units for the new  
20 property will be ten studios units, 100  
21 one-bedrooms, seven two-bedrooms and 20  
22 three-bedroom.

23 The senior housing component and the  
24 veteran housing component both have a total  
25 of 40 units each out of those 200. So, 120

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will be next generation and market housing, the senior and the veteran housing will each be 40 units. Those 40 units will six one-bedroom -- excuse me. They will have 30 one-bedroom, five two-bedrooms and five three-bedrooms in each.

So, this property, BOSFA Development, LLC is a contract vendee. We are not yet entitled to this property, but we are here as contract venders to purchase. As such we brought an application for change of zone, which was referred to 239-M to the Nassau County Planning Commission and approved for local determination. With that, we presented to the Village Board our change of zone application which was granted unanimously by the Board, which allowed us to then introduce our application for our building permit pursuant to the new changed zone.

Pursuant to that changed zone, we received a denial letter. The denial letter included a series of variances that we would have to seek consistent with the application we had submitted. I just want to relay them

1  
2 for the record, although I do believe the  
3 denial letter is in the record, right?

4 MR. McLAUGHLIN: It is.

5 MR. MARTINS: I'll forego that. With  
6 that, we have requested a number of waivers  
7 pursuant to the Village Code. Specifically,  
8 waivers to Section 210-6A, 210-48(B), 210-50,  
9 210-51, 210-172A, 210-172(A)2a, 210-276K,  
10 2102-81, 210-282, 210-283, 210-288, 210-290A,  
11 210-291 and 210-294.

12 They weren't all granted. Some  
13 waivers were granted, others were not those  
14 granted were: 210-48B, 210-50, 210-51,  
15 210-281, 210-282, 210-283, 210-288, 210-291  
16 and 210-294.

17 The reason I mention all of that is  
18 because as a result of those waivers the  
19 scope of the variance application today has  
20 been narrowed somewhat. They have to do with  
21 the size of the units, they have to do with  
22 the lot area coverage for this particular  
23 site, they have to do with the number of  
24 parking spots that we have, given the ratio  
25 that is required in the Village Code not only

1  
2 for residential apartments but also for the  
3 Golden Age Zone, and they have to do with  
4 height. So, I would like to address those in  
5 turn. But before I do, let me introduce  
6 Mr. Susa. I mentioned earlier, he is the  
7 architect who designed the project. I would  
8 like him to, if you would allow him to,  
9 introduce the project and give you some of  
10 the particulars about the project. And then  
11 we'll get into the waivers or the variances  
12 that we're seeking.

13 MR. McLAUGHLIN: If I may, counsel,  
14 correct the record. I believe the units size  
15 was waived as well.

16 MR. MARTINS: Thank you.

17 MR. McLAUGHLIN: You didn't mention  
18 that tonight that it was made for your waiver  
19 request.

20 MR. MARTINS: Counsel, I appreciate  
21 that.

22 Mr. Susa.

23 E M I L I O S U S A,  
24 having been first duly sworn by a Notary  
25 Public of the State of New York, was

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examined and testified as follows:

COURT REPORTER: Please state your name and address for the record.

MR. SUSA: Emilio Susa. I reside at 23 Brussel Drive, New Hyde Park, New York 11040.

Good evening Members of the Board. My name is Emilio Susa, the architect for this application. I want to give you sort of a brief overview of what our vision was, what the concept was aesthetically for the building. I know you are all familiar with the exterior of the building, but I'm not sure anybody here had been inside the building. Certainly the building itself very compartmentalized. It was designed as a pod concept where each individual stack was sort of onto itself. You weren't really able to communicate with people on the other side of the building, at least within the building.

So, it was sort of our vision, as well as the owners, to do away with that and try to link the building, being it's multigenerational, from within to extend to

1  
2 different parts of the building so that there  
3 was better communication and access  
4 throughout the building. As well, we would  
5 like to remove the old facade in its entirety  
6 and really do a top to bottom redo,  
7 re-imagining of the building itself.

8           If you look at some of the renderings  
9 that we have put up here along the front row,  
10 you could see we introduced a new material  
11 for the exterior. It's like a PVC composite  
12 graphic panel. All the existing dark, old  
13 brick will be removed. Also the building is  
14 very tiny, the windows didn't lend a lot of  
15 natural light into the interior hub of the  
16 building. We'd like to do away with that and  
17 really put in large size windows, floor to  
18 ceiling and much more windows throughout the  
19 building itself. I think overall that's  
20 really going to give the inhabitants a much  
21 better feel about being inside the building.  
22 And I think, quite frankly, from the outside  
23 it gives it a nicer aesthetic as well.

24           In terms of the site plan, we added a  
25 lot more walkways, a lot more landscaping,

1  
2 and I think it's just a nicer place to be  
3 both inside and out. As Mr. Harris mention,  
4 we added the additional floors. We have all  
5 new elevators. Right now the building is not  
6 handicap accessible; it will be, after we are  
7 done with the drawings and construction.  
8 Additional fire stairs. It doesn't  
9 necessarily comply with all the fire  
10 requirements, at the moment. I think a  
11 general overall aesthetically, make it  
12 pleasing, bring it into the 21st Century, in  
13 terms of code compliance.

14 If the Board has any questions or  
15 comments.

16 MR. MARTINS: Will you tell the Board  
17 about the heating and air conditioning for  
18 these units?

19 MR. SUSA: Sure. That as well will  
20 be an overhaul as well with all new heating,  
21 air conditioning, electric, plumbing.  
22 Everything will be energy star rated. So, it  
23 will have 98 percent efficient rating. Even  
24 from that mechanical standpoint, it will be a  
25 building that is much more sustainable.

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MR. McLAUGHLIN: All electric?

MR. SUSA: All electric.

MEMBER HAWKINS: You mentioned before access to each building. Will that be each floor will have access to the other buildings?

MR. SUSA: For example, right now this pod -- I'm going to call it a pod. In this pod, you can't go internally from space to space. By adding these additions here and a center hallway, we're able to link somebody here all the way through to somebody there, if they chose to do. We thought it would be a nicer way to set up the building.

MR. McLAUGHLIN: Essentially inside and throughout the whole property?

MR. SUSA: Yes. What you cannot do is go from this side to that side. It's still separated from Buffalo to Albany. In terms of the people on Buffalo Avenue, they'll be able to circulate freely.

MEMBER JACKSON: On each level?

MR. SUSA: On each level, yes. Typical to each level. We also added some

1  
2 lobbies throughout the building as well as  
3 and elevators, like I mentioned.

4 MR. McLAUGHLIN: Presently, there is  
5 no lobby?

6 MR. SUSA: There is no lobby to speak  
7 of. The hallway is existing, the historic  
8 Moxey, is three feet wide. You could have  
9 some areas go from three to six. We're  
10 proposing a five foot hallway. Overall, it's  
11 really quite an improvement.

12 MR. McLAUGHLIN: You're compliant  
13 with state fire code.

14 MS. SUSA: Yes, but more a nod to the  
15 ADA.

16 MEMBER HAWKINS: You have access to  
17 the parking on the Buffalo side?

18 MR. SUSA: There is site access to  
19 the ground floor parking on the Buffalo side  
20 as well as the Albany side. On the Albany  
21 side, a little bit of unique touch. The  
22 parking is going to be vertical parking  
23 spots, which is this rendering here  
24 (indicating). So, it's a four high stacked  
25 parking system that's going to be manned by a

1  
2 24 hour attendant. It will have a roof over  
3 it. It's a metal frame. It has sort of a  
4 mesh that goes around this metal frame. You  
5 may have seen them in Manhattan. I'm not  
6 sure. They're parking garages, you could see  
7 them. However, we're going to screen these  
8 mechanical devices with actual ivy that we're  
9 going to put around the building, so it has a  
10 green aspect look to it.

11 MEMBER JACKSON: You said one  
12 attendant?

13 MR. SUSA: There will be attendants.  
14 There are a number of tenants that will be  
15 there 24 hours.

16 MEMBER HAWKINS: Green space on the  
17 roof. Is there any green space on the ground  
18 level?

19 MR. MARTINS: Green space on the  
20 ground level. You can see from the site plan  
21 on the board that is closest to me, there are  
22 going to be green spaces throughout this  
23 area. There will be plantings, benches,  
24 places where people can congregate is the  
25 idea. We do understand there is a code

1  
2 requirement that we have green space on the  
3 roof for the overlay for the Golden Age. We  
4 are and have sought variances. Certainly if  
5 the Board feels that is something we are  
6 required to do, we are prepared to do that as  
7 well.

8 MEMBER JACKSON: Approximately, how  
9 much room is left after the mechanicals?  
10 Approximately how much room for the  
11 mechanicals, or is it going to stay open?

12 MR. SUSA: Well, I would think the  
13 mechanicals take up a significant portion of  
14 the roof. However, if it were desired by the  
15 board to implement the green space and the  
16 community area just for the Golden Age  
17 overlay, I think because the buildings  
18 connect, we could move around that portion of  
19 the building's mechanicals so that the  
20 dedicated roof area is not impacted by  
21 community.

22 CHAIRPERSON RHODEN: It wouldn't be  
23 on every pod area, it would just be on one  
24 specific area?

25 MR. SUSA: Yes. The senior overlay

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is this shape only. It's just that.

MR. McLAUGHLIN: The requirement for the code is only dedicated for the senior area. It's not required for the other areas.

CHAIRPERSON RHODEN: I know it's not required. I just envisioned a more modern type building and perhaps they will be on top of their roofs constantly. It makes it so much more -- if you want to go up on the roof, you can go walk your dog even, if you have a little dog.

MR. SUSA: You're right about that.

CHAIRPERSON RHODEN: I think there are a lot of activities that can go on there.

MR. SUSA: I guess we thought that providing large amounts on the ground floor level maybe could offset that.

CHAIRPERSON RHODEN: That's just a recommendation. Since you're not really building an irrigation system up on the roof or anything like that. When you say green space, are you talking about small greenery? It's more and more like --

MR. SUSA: It's more like common

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space with maybe small plantings.

CHAIRPERSON RHODEN: I'm sure you're familiar with Manhattan and Brooklyn.

MR. SUSA: We have done a few, yes.

MEMBER JACKSON: I know it's difficult, we put you on the spot, but approximately how much green space could you put on the roof?

MR. SUSA: Certainly that could tie more into the structural aspect of the project. The area's not really known for really good soil. So, we would really need to consult a structural engineer, get his feedback on the weight ratio and go from there. I couldn't really say for sure.

MR. McLAUGHLIN: If I may. I don't think when we talk about green space we're talking about that. I think they are talking more about gathering space. Logically you're not planting anything in that area, something like that. That's what we're talking about. Correct me if I'm wrong.

MR. MARTINS: I think what we can assure the Board is that to the extent

1  
2 possible we will do that. The concern we  
3 have. And Mr. Susa's point is, when we talk  
4 about green space with irrigation and dirt  
5 and plantings and trees, the dead load that  
6 comes from that is quite significant. So,  
7 when you factor that into the structural load  
8 on a building it becomes very difficult.

9 If we're talking about just common  
10 areas and areas where people can congregate,  
11 Madame Chair, I understand exactly what you  
12 mean. These days there are all kinds of  
13 things on roofs from pickle ball courts to  
14 plunge pools. We're not talking about that  
15 right now. But to the extent it doesn't  
16 involve an additional load, we'll certainly  
17 try.

18 CHAIRPERSON RHODEN: Okay.

19 MR. SUSAS: Does anybody have any  
20 questions?

21 CHAIRPERSON RHODEN: Just one. I  
22 wanted to touch base regarding the height.

23 MR. SUSAS: So, we have, to the  
24 highest point from the lowest grade to the  
25 very highest point of the building, which is

1  
2 a stair bulkhead, is 58 feet. And from the  
3 very lowest grade -- the grades vary quite a  
4 bit on the site, to the parapet, is 54.10.  
5 And then from the lowest grade again to the  
6 top of roof deck is about 51.

7 MR. MARTINS: If I may put that into  
8 context, because you can't help comparing old  
9 Moxey Rigby to the new Moxey Rigby, the  
10 development directly across the street, a  
11 multi-family development, is 62 feet 10  
12 inches; about or more feet higher than this  
13 one. As Mr. Susa said, the 58 feet is to the  
14 top of the bulkhead, which is a rather small  
15 part of the overall roof structure. From the  
16 site line, it's more likely that people will  
17 able to see and be impacted by the height to  
18 the top of the parapet wall, which is only  
19 about 54 feet. When you compare that to the  
20 62.10, you're probably closer to nine or so  
21 feet higher with the newer Moxey Rigby  
22 development across the street than you are  
23 with that's being proposed here.

24 MEMBER HAWKINS: In the rendering,  
25 where you have the Golden Age apartment,

1  
2 that's closer to where the parking is,  
3 correct?

4 MR. MARTINS: It is.

5 MR. SUSA: Directly adjacent from the  
6 parking.

7 MR. MARTINS: With the idea of the  
8 parking, if I may, is 1) we have set site.  
9 And the site, historically, those 12 spots  
10 were there for the entire development and for  
11 the offices for the Freeport Housing  
12 Authority, which happens to be in that  
13 building in the northwest corner. So that's  
14 all the park that was there.

15 When we looked at this proposal, we  
16 said we need provide more parking. The idea,  
17 in concept, of stacked parking with a  
18 full-time 24 hour valet service I think makes  
19 a lot of sense. If you are coming to --  
20 that's 132 spots that are in that structure.  
21 If you are coming to the site and leaving  
22 again, there are 45 surface parking spots  
23 that are there. That's the area between that  
24 structure and what used to be the offices for  
25 the housing authority.

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MEMBER HAWKINS: Where is that?

MR. MARTINS: There are 45 spots here. There are 132 spots here (indicating).

The idea was, if someone is coming back to their apartment and leaving, then they can park in the surface spot, go in and they don't have to put their car away, so-to-speak. But if they are going to put their car away for the day or the weekend, they do get to pull right in, someone parks for them, they get to go on their way. So, it allows a certain amount of flexibility.

I think, given the limited space that is here, the opportunity to use that parking, the commitment that the developer has to have in having a person on site to do that 24 hours a day for someone that comes home late in the evening and they don't have to worry where they are going to leave their car, that's important. It provides a certain amount of flexibility, I think, an amenity here that doesn't exist today.

That former office for the Moxey Rigby Housing Authority will be common area.

1  
2 The idea is to build multigenerational space:  
3 Seniors, veterans, and market rate housing,  
4 next generation housing. We want to create  
5 space where people will be able to come  
6 together where there will be amenities,  
7 lounges, maybe a place where people can set  
8 up computers and/or a video, a TV room,  
9 things that will bring people there. That  
10 makes a lot of sense. It's a large building  
11 that is existing. Our intention is to keep  
12 it there and make it available as a common  
13 area for everyone.

14 Anything else for Mr. Susa?

15 CHAIRPERSON RHODEN: That's a maximum  
16 you'll be able to provide, 177?

17 MR. MARTINS: That is the maximum.  
18 We would like to provide more. I can  
19 certainly have Mr. Machtay speak to this  
20 issue, because he did provide the analysis.  
21 I think everyone has the expanded  
22 environmental analysis prepared by VHB. We  
23 really did kind of squeeze this as far as we  
24 could. The alternative could have gone and  
25 do structured parking. Even going with

1  
2 structured parking, we found we actually  
3 could get less efficiency, less spots than we  
4 would by doing it this way. This really was  
5 optimizing those spots.

6 I don't want to steal Mr. Machtay's  
7 thunder, but I will a little bit. This area  
8 is predominately nine to five. There are  
9 commercial/industrial uses in the area. He  
10 will talk to you about having done a survey  
11 and being able to see that in peak hours for  
12 parking, that is overnight and on weekends  
13 where you're more likely to have a greater  
14 need in a residential community this, it's  
15 precisely the time when those spots are  
16 available on the street. We're not  
17 overloading the streets with 300 spots.  
18 There is a shortfall. The shortfall will  
19 probably be closer to 50 spots or so. I'll  
20 let Mr. Machtay speak to that. But given the  
21 survey area and the availability of parking  
22 in the area, we feel very confident that  
23 there will be ample parking in the area to  
24 accommodate the Village requirements.  
25 Albeit, 177 will be on site.

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With that, I'll take this opportunity to introduce Mr. Machtay. Mr. Machtay is a professional engineer. He's with VHB. He can certainly speak to his qualifications. My understanding he is has testified before this Board in the past and has been recognized as an expert. Madame Chair, I'd ask that you consider him to be an expert in this area as well.

A A R O N M A C H T A Y,  
having been first duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

COURT REPORTER: Please state your name and address for the record.

MR. MACHTAY: Aaron Machtay with VHB Engineering. Office is at 100 Motor Parkway, Hauppauge, New York.

Mr. Harris mentioned I prepared a traffic parking assessment which has been submitted to the Board. From the standpoint of traffic parking, this is actually a fairly simple application. In looking at the 200 units, we are able to provide 177 parking

1  
2 stalls. Based on the Village Code, we  
3 require 325, which necessitates the variance.  
4 132 parking stalls we are providing are these  
5 associated stacker systems. And there will  
6 be an attendant full-time, obviously, with  
7 the mechanicals of the stacker system in  
8 place. Without an attendant, you can't have  
9 someone come home at 1:00 in the morning and  
10 not be able to access their vehicle or access  
11 the parking space. It might be a little bit  
12 of a hazard to access the stacker by  
13 themselves. We try to avoid that.

14           Looking at the parking, we have to  
15 figure out what the demand is. To do that,  
16 we consulted our manuals which were developed  
17 by the Transportation Engineers. There's  
18 several sets of data that might be consulted  
19 for this. One set of data is for mult-family  
20 housing units in general. And there's a  
21 separate set of data for senior housing in  
22 general, understanding that seniors have  
23 fewer cars and travel less. So, it accounts  
24 for those different notations.

25           The other thing that the datasets

1  
2 account for and reference is that not all  
3 apartment units in the same environment. If  
4 you go out to some parts of Long Island, Long  
5 Island is pretty transitional, it very rural  
6 in nature. As you get further west, closer  
7 to the City, obviously Manhattan, it's  
8 closer, a lot more density. What that means  
9 is, there are certain parts of Long Island  
10 you see these sort of transitional suburban  
11 environments, but there are different  
12 datasets might be considered applicable that  
13 we refer to, in terms of how we expect people  
14 to own vehicles and occupy the units.

15           So, looking at those datasets and  
16 accounting for the difference between the  
17 senior housing and the standard multi-family  
18 housing, we end up coming up with a range  
19 where we expect the parking demand is going  
20 to be. It would be anywhere from  
21 approximately within 160 parked vehicles to a  
22 little over 200. From one standpoint we  
23 consider this more towards getting towards  
24 the urban environment part of suburban you  
25 would say parking would be just adequate on

1  
2 site. But if you are more suburban, you  
3 understand that many people live here will  
4 probably still own vehicles. Obviously,  
5 living on Long Island you would expect that  
6 to some extent. The 177 will not be  
7 adequate.

8           So, to see where we would be, it's  
9 understood that there's parking available on  
10 the street on Albany Avenue and Buffalo  
11 Avenue which, historically, the original  
12 former Moxey Rigby relied almost entirely.  
13 As Mr. Martins mentioned, there were only 12  
14 parking stalls in connection with the area  
15 where the offices were and there were 102  
16 units previously. So, those 102 units,  
17 anyone who may have owned a vehicle would  
18 have to be parking away from the site for  
19 sure.

20           Regardless, we looked at during the  
21 overnight periods a couple of different times  
22 when you would expect the parking demand to  
23 be highest with residents, everyone is home,  
24 and there was more than adequate capacity to  
25 handle that overage. Even looking at the

1  
2 highest estimate that we were looking at, in  
3 terms of the sort of range of where we would  
4 expect the generation to be for this  
5 property.

6 So, overall, we think that between  
7 parking on site, which is a great benefit  
8 that's also very much in addition to  
9 something that didn't previously exist with  
10 the previous parking occupancy, plus the  
11 on-street parking, that would be more than  
12 adequate capacity for this use.

13 As far as traffic is generated,  
14 similarly to the parking, we looked at the  
15 peak hours of activity. There are different  
16 rates for senior apartments versus standard  
17 multi-family estimating that total traffic.  
18 For this development, it wouldn't exceed 100  
19 trips in a single hour. 100 trips is the  
20 gold standard that traffic engineers use to  
21 determine whether or not it could be an  
22 impact. So, right there that kind of tells  
23 us it's probably not going to have an impact.

24 Regardless, we looked at that traffic  
25 in the main arterial highways in the area.

1  
2 There is one percent, just about, of the  
3 daily hourly traffic, which is pretty much  
4 the demand. You would expect, when you  
5 observe one day versus another, approximately  
6 ten percent fluctuation. One percent is  
7 really a drop in the bucket, it wouldn't have  
8 any capacity to have any significant impact  
9 on operations.

10 Between that and between the fact  
11 that the parking will be on-site and in the  
12 area adjacent to the development and the  
13 development itself, won't have a significant  
14 impact on the traffic conditions. It's my  
15 opinion the application will not generate  
16 undue traffic hazard or congestion.

17 I'll be happy to answer any  
18 questions.

19 MEMBER HAWKINS: The parking from the  
20 parking lot is Buffalo or onto Albany Avenue.

21 MR. MACHTAY: Access is provided both  
22 on Albany and Buffalo. Looking at traffic  
23 operations, I would expect flow onto Buffalo,  
24 just because of the way it can access Sunrise  
25 Highway to the north, make a right turn and

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you get to the parkway. A little bit less congestion, in general, going through the signals. I would expect that predominately, when looking at how people exit, they'll probably make the right turn. But you can access on both sides.

MEMBER HAWKINS: When you took it into consideration the parking on the street, was there parking on both Buffalo and Albany at this time?

MR. MACHTAY: Yes. We tried to take into account if you go to some areas there are different parking regulations. I think I saw some hours were one hour parking. We wouldn't consider that, because if it's one hour parking, you're certainly not parking overnight. You're probably going to be asleep more than one hour. I would hope everyone gets more than one hour sleep.

MR. McLAUGHLIN: Do you have an extra copy of that to submit to the stenographer?

(WHEREUPON, the above-referred to document was marked as Applicant's Exhibit A, for identification, as of this date.)

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2 MR. MARTINS: I was going to say, as  
3 that parking analysis is part of the larger  
4 expanded environmental assessment prepared as  
5 part of our long form environmental  
6 assessment, perhaps we can hand this up as  
7 well, so that it would be included. It can  
8 either be a separate exhibit or however you  
9 would like.

10 MR. McLAUGHLIN: Give it to her and  
11 we'll do it separately.

12 (WHEREUPON, the above-referred to  
13 document was marked as Applicant's Exhibit B,  
14 for identification, as of this date.)

15 MR. MARTINS: Just going back a half  
16 step. The idea of these units is to truly  
17 make them modern. There will be individual  
18 heating and air conditioning units in each  
19 unit, there will be split electric. There  
20 will be a washer and dryer in each unit  
21 separately. So, there will not be common  
22 washers and dryer and laundry rooms on site,  
23 but they will be in each unit to provide the  
24 kind of independent living, the kind of  
25 community that you would expect from

1  
2 apartments in today's day and age. So, I do  
3 want to point those things out, because there  
4 are sometimes an overload.

5 We're taking what we believe to be a  
6 historic building with really good bones that  
7 went through some tough times because of a  
8 significant natural disaster and we're going  
9 to bring it back. Part of that, we had  
10 spoken to members of the community and in  
11 doing some research, we did focus on the  
12 veterans, seniors and the next generation  
13 market housing. So, we wanted to refer to  
14 the senior housing component as the Alder.  
15 And that will that piece having to do with  
16 the Golden Age overlay.

17 The piece that deals with the  
18 veterans or has the veterans, that other  
19 piece in that site plan that you're looking  
20 at in the lower left corner, which would be  
21 about 40 units, as I mentioned earlier.  
22 We're going to call that The Weaver after  
23 Arthur Weaver, a World War II veteran born  
24 here in Freeport and served in the U.S. Army  
25 in the Philippines during the war. He was

1  
2 the former president of the Harlem  
3 Hellfighters. That's the 369 Veterans  
4 Association, 15 Regiment New York Guard. So,  
5 he moved to Freeport in 1968, was active in  
6 the American Legion. We think it's  
7 appropriate that we name that building  
8 because of its focus on veterans after  
9 Mr. Weaver.

10 As far as the rest of the building,  
11 the building that is more on Buffalo, we want  
12 the call that The Prodigy. The Prodigy,  
13 because The Prodigy was a Freeport musician  
14 and rapper by the name of Albert Johnson.  
15 Mr. Johnson went by the stage name Prodigy  
16 and was one half of the hip hop duo Mobb  
17 Deep. He passed away in 2017, but again, a  
18 Freeport resident.

19 If we're going to take a building  
20 that was named after Judge Moxey Rigby, the  
21 first African American judge in Nassau  
22 County. I think it's also appropriate that  
23 we also pay homage to the history that is in  
24 the Village by recognizing the building in  
25 those names as well.

1  
2 Now, the Board is more than well  
3 aware of the balancing required under Section  
4 7-712B of the Village Code. The balance  
5 limits the five factors considered in whether  
6 or not to give a variance or grant a  
7 variance. Essentially, they all agree that  
8 those five factors balance to determine  
9 whether or not there's going to be an  
10 inordinate impact on the community by  
11 granting the variance.

12 I would argue, based on the factors  
13 that we discussed, the issue of a predominate  
14 condition that already exists in the local  
15 economy with regard to height. The factors  
16 that we have that this is an existing  
17 building that is being modified, and to the  
18 extent possible we're increasing parking and  
19 providing the amenities to make this into a  
20 21st Century building and providing those  
21 kind of access, ADA access and the like, that  
22 the impact being granted to the community are  
23 relatively minor.

24 We are also faced with the fact that  
25 we do not have immediate residential

1  
2 communities adjacent to this property. So,  
3 there aren't going to be immediate impacts on  
4 the residential community. Although, it  
5 isn't limited to the residential community,  
6 we have to consider impacts to the community  
7 as it exists: Commercial and industrial.

8           It is my position and I would urge  
9 this Board to consider that the impacts of a  
10 residential community that is, in many  
11 instances, symbiotic with commercial and  
12 industrial communities. That is, as people  
13 are going to work, leaving their residential  
14 apartments, others are coming to work, coming  
15 to that commercial/industrial area. And vice  
16 versa, at the end of the day, people are  
17 leaving, going to their homes in this area,  
18 and these residents are coming back to their  
19 homes.

20           So, it is that kind of symbiotic  
21 relationship that I think we do encourage in  
22 land use planning, the idea of creating  
23 opportunities where they're not going to  
24 overlap. If there was ever a location where  
25 that opportunity exists where there isn't

1  
2 going to be that kind of overlap, I would  
3 suggest this is it, where they can have,  
4 literally, the opportunity to live quite well  
5 side by side.

6 We do have, as I said, the residents  
7 of Moxey Rigby housing across the street. It  
8 is a little taller, but there is precedent  
9 for that. But the density we're talking  
10 about, certainly with the parking  
11 requirements are certainly in keeping with  
12 that and are certainly more than what was  
13 there with the original Moxey Rigby.

14 That's why when you're doing that  
15 balancing test between the impacts and the  
16 benefits, I think they skew quite well to the  
17 developer's application and, as such, I would  
18 respectfully request the Board consider  
19 granting these variances and allowing this  
20 developer to take this great building and  
21 bring it into the 21st Century.

22 With that, I would take whatever  
23 questions the Board may have.

24 MS. UNGAR: Before any questions from  
25 the Board, can you talk a little about lot

1  
2 coverage. The lot coverage permitted is 40  
3 percent and it's 41.7 percent?

4 MR. MARTINS: Yes. Thank you for  
5 that. We are 1.87 percent over the lot  
6 coverage requirement. A lot of that has to  
7 do precisely with the fact that the building  
8 is an existing building and we're building  
9 over it. It also has a bit to do with the  
10 fact that we're creating that parking  
11 structure. And although it used to be a  
12 warehouse, we're taking down the warehouse  
13 and building a structure in order to optimize  
14 parking.

15 I would just suggest that the 1.87  
16 percent variance in lot coverage, thank you  
17 for that, is, again, using that balance is  
18 such that the Board would consider the  
19 benefit to the applicant in dealing with  
20 existing condition as opposed to the de  
21 minimum, if any, impact that it would have on  
22 this surrounding community.

23 MEMBER HAWKINS: When you did your  
24 parking study, did you take into  
25 consideration the proximity to the Long

1  
2 Island Railroad, that more people might be  
3 taking the Long Island Railroad and not have  
4 a vehicle?

5 MR. MARTINS: We did think about  
6 that. We measured it. It's interesting.  
7 From this building to the platform at the  
8 Long Island Railroad, it is .7 miles. Now,  
9 if you measure it to the parking lot, it's  
10 less than half a mile. So, there is a very  
11 strong chance, when we talk about Transit  
12 Oriented Development, you talk about roughly  
13 a half a mile radius to the Long Island  
14 Railroad train station, this would qualify.

15 We have had a lot of talk lately  
16 about the need for housing, the need for  
17 greater housing stock in and around not only  
18 New York City Metropolitan area but across  
19 New York State. The proximity to the train  
20 station is a big part of that, and the  
21 opportunity for people to avail themselves to  
22 mass transit. I thank you for bringing that  
23 up.

24 It does factor in most consideration  
25 as far as people need for a car. I will tell

1  
2 you that from personal experience and we  
3 probably all understand this, there are many  
4 people out there who don't have cars anymore.  
5 When I was growing up, everyone sort of lived  
6 around their car. Today, the younger  
7 generation, they don't. They rely on Uber  
8 and Lyft, they rely on walking to train  
9 stations and taking trains where they're  
10 going. Certainly, I think that plays a  
11 factor as well. So, thank you.

12 MEMBER JACKSON: There's also a bus  
13 stop; is that correct?

14 MR. MARTINS: I don't know, off hand,  
15 but I would say that on Merrick Road.

16 MEMBER JACKSON: On Merrick Road.  
17 The question about feasibility. It's two  
18 stories and you are only adding one.  
19 Financially, is that viable? Does that make  
20 sense?

21 MR. MARTINS: There is a braking  
22 point for development. Part of the cost of  
23 this project has to do with what will it take  
24 to take a building that is vintage. Again,  
25 we think it has good bones, and we'd like to

1  
2 keep that building there for all of the  
3 obvious reasons. But when you factor that  
4 out from a business standpoint, you do need a  
5 certain amount of the density in order to  
6 make that work. That's really why  
7 calculating that out that is the braking  
8 point.

9           The reconfigured building itself,  
10 Moxey Rigby, had a lot of three-bedrooms and  
11 four-bedrooms in there as well. There are  
12 still three-bedrooms here, but predominately  
13 there are two's, one's and studios for a  
14 reason. That seems to be what many young  
15 adults and some empty nesters are looking  
16 for. So, the opportunity to take a building,  
17 modernize it, add all the amenities, add the  
18 elevators and accessibility and make the kind  
19 of investment in things like this, these  
20 parking structures, that's why the density is  
21 there.

22           MEMBER JACKSON: It wouldn't be  
23 financially feasible.

24           MR. MARTINS: It would not be, unless  
25 they were able to add new.

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MEMBER JACKSON: Thank you.

MEMBER HAWKINS: I want to ask about the parking. Is there a drop-off point of the parking where residents would be under shelter in a drop-off area?

MR. MARTINS: The parking itself is going to be covered. The idea is to have it covered so the cars are not over --

MR. McLAUGHLIN: He's talking about how it will work. When people pick up their cars and pull the car out, how does that work?

MR. MARTINS: I haven't thought about it. I don't know if they've given that much thought.

MR. McLAUGHLIN: You're not anticipate them waiting for their car in the rain.

MR. MARTINS: I would assure you -- let me go on the record, I'm not going to look to my right here.

MR. SUSA: Just looking at the website for this company that provides the stackers. Putting a roof over the drive

1  
2 aisles between one set of stackers and the  
3 opposite adjacent set of stackers is 24 feet.  
4 Certainly there is more than enough room for  
5 someone to take the car down, pull it out and  
6 have that person waiting for their car and  
7 pick it up all within the confines of the  
8 roofed over area. No one will be waiting  
9 outside.

10 MR. MARTINS: Which was a must better  
11 answer then I would have given. But that  
12 certainly makes sense. Thinking about it,  
13 there is the drive lane. That building is  
14 very wide. Thank you, Mr. Susa.

15 MEMBER JACKSON: I want to go over  
16 lot coverage. Part of the reason for lot  
17 coverage is because you're connecting the  
18 buildings; is that correct?

19 MR. MARTINS: It's because we're  
20 connecting the buildings. Those two in-fills  
21 here and here which allow for the  
22 connectivity that Mr. Susa spoke of earlier,  
23 put us over that 1.87 percent. Again, I  
24 would suggest that they really are important  
25 parts of this application, the ability for

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connectivity.

When people come to a building, the lobby experience, the opportunity to come into an area and to go up to your floor, see your neighbors not just see those immediately above you or below you is important. In order to achieve that, connecting the building is important. Adding the elevator is important, providing that space is important. That's why we're 1.87 percent off.

MEMBER JACKSON: Thank you.

MR. MARTINS: So, with that, if I may, again, if there are no other questions, I thank you for the opportunity to present here on behalf of my clients who are here and the entire design team, we stand ready to build. I think what will be, and I know it will be a state of the art building and a building that the community can be proud of, and really a signature building here in the great Village of Freeport. Thank you.

CHAIRPERSON RHODEN: Do we have anyone who would like to speak for or against

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this application this evening?

THE SECRETARY: We do not, Madame  
Chair.

CHAIRPERSON RHODEN: At this time,  
I'd like a motion to close to further  
evidence and testimony and reserve decision.

MEMBER JACKSON: So moved.

MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

ALTERNATE MEMBER SCOPELITIS: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

CHAIRPERSON RHODEN: Thank you.

Can I please have a motion to go in  
to into executive session?

MEMBER HAWKINS: So moved.

MEMBER JACKSON: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

ALTERNATE MEMBER SCOPELITIS: Aye.

MEMBER JACKSON: Aye.

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CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

(WHEREUPON, the Board entered into executive session from 7:40 p.m. to 8:13 p.m., after which the following transpired:)

CHAIRPERSON RHODEN: Do we have any decisions to be read tonight?

THE SECRETARY: Yes. Application 2023-4 - 17-33 Buffalo Avenue, AKA 3 Buffalo Avenue and 80-84 Albany Avenue, Residence Apartment with a partial Golden Age Floating Zone.

MR. McLAUGHLIN: Madame Chairman, I'd like to enter the following findings of fact for consideration of the Board.

The Board notes that the publication noted a required variance from Section 210-148A, which is for a prohibited use. The Board notes that this section was not in the denial letter issued, and applies to the Industrial B Zone, which after the rezoning of the property, granted by the Board of

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2 Trustees, is no longer a variance required.

3 At the outset, this Board takes  
4 notice that on April 11, 2023, the  
5 Superintendent of Buildings received a letter  
6 from architect, Emilio Susa, requesting  
7 waivers and modifications of the Village  
8 Code, pursuant to Section 86-6E(1) and (2)  
9 where strict adherence would result in  
10 practical difficulty and unnecessary hardship  
11 on the part of the applicant. On April 13,  
12 2023, Superintendent of Buildings, Sergio  
13 Mauras, granted waivers for Section 210-48B,  
14 210-50, 210-51, 210-281, 210-282, 210-283,  
15 210-288, 210-291 and 210-294. As such, these  
16 variances outlined in the denial letter dated  
17 April 6, 2023 are no longer before the Zoning  
18 Board in this hearing. The variances  
19 remaining before this Board for action are  
20 those outlined above; specifically, 210-6A,  
21 210-47A, 210-172(A)2a, 210-276K, 210-279,  
22 210-280, 210-287A, 210-49B, 210-49C and  
23 210-290A.

24 Additionally, this Board notes that  
25 210-287A is a variance related to separation

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2 of buildings on a property. As the plans  
3 show, and applicant has explained, this  
4 project consists of a single building joined  
5 such that any part of the building may be  
6 accessed from inside without going outside.  
7 As such, the need for a variance for distance  
8 between individual buildings is rendered  
9 moot.

10 The variances before this Board are  
11 divided into four categories: Height 210-47A  
12 and 210-279; lot coverage 210-49B and  
13 210-280; open space/green space 210-49C and  
14 210-276K; and parking 210-172(A)2a and  
15 210-290A. Each variance comes in a pair due  
16 to the fact that the project is a mix of the  
17 Residence Apartment Zone, with a partial  
18 overlay of the Golden Age District.

19 A public hearing was held on April  
20 20, 2023, wherein applicant was represented  
21 by attorney Jack Martins. He explained that  
22 the property is the old Moxey Rigby apartment  
23 complex. It has been vacant. The property  
24 has been rezoned to Residence Apartment, with  
25 a Golden Age overlay. The intention is to

1  
2 create generational housing, with market  
3 housing, senior housing, and veteran housing.  
4 The original Moxey Rigby consisted of three  
5 buildings. The proposal is to create one  
6 connected five-story building. By doing so,  
7 they can modernize and increase accessibility  
8 by including elevators. A 200-unit  
9 development is proposed. Originally, there  
10 were 102 units with 12-units. This proposal  
11 will provide 177 parking spaces. The units  
12 will be ten studios, 100 one-bedroom, 70  
13 two-bedrooms and 20 three-bedrooms.

14 Senior and veteran each have 40 units  
15 out of the 200. 30 one-bedroom, five  
16 two-bedrooms and five three-bedrooms.

17 BOSFA is a contract vendee. They  
18 previously applied for a change of zone,  
19 which was unanimously granted. Now they are  
20 before the Zoning Board.

21 Emilio Susa, the architect on the  
22 project spoke. He explained the vision of  
23 the project. The original building was based  
24 on a pod concept where parts of a single  
25 building could not access each other without

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2 going outside and back in. They want to  
3 remove the entire existing facade. The  
4 existing windows are small, and larger floor  
5 to ceiling windows will be introduced. The  
6 current building is not handicapped  
7 accessible, but the new one will be. New  
8 heating, air conditioning, electric, and  
9 plumbing. Each unit will have individual  
10 controls for heat and air conditioning. Each  
11 unit also will have its own washer and dryer.

12 The highest point of the building is  
13 58 feet, but the wall of the parapet is  
14 likely to be the highest point seen from the  
15 street, and that height about 54 feet.

16 The former Moxey Rigby office will be  
17 used as common space.

18 VHB traffic consultant, Aaron Machtay  
19 spoke. He has prepared a traffic and parking  
20 analysis. 325 spaces are required by Code,  
21 177 are provided. 132 are provided as part  
22 of the stacker system. 45 are provided at  
23 ground level. There will be a valet service  
24 provided 24 hours a day. To figure out  
25 parking demand, they consult the manuals.

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2 Different data sets might be considered  
3 applicable for how people will own vehicles  
4 and occupy these units. They expect the  
5 range to be about 160 parked vehicles to over  
6 200 vehicles. The highest amount of  
7 anticipated parking demand for residential  
8 use occurs at night, and the study shows that  
9 there will be adequate parking for the  
10 expected demand between the on-site parking  
11 and street parking, which will open up after  
12 5:00 p.m.

13 Green space can be provided on the  
14 roof of the senior housing building. And to  
15 the extent possible, applicant pledged to  
16 provide rooftop green space on other  
17 buildings, subject to the concern about  
18 structural load on the building. However,  
19 the Board clarified that by green space they  
20 are not anticipating grass and an irrigation  
21 system; rather, they are looking for common  
22 space, gathering space.

23 Height: As to the required variance  
24 for height under Section 210-47A and 210-279,  
25 the Board has determined:

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

8 The Board has determined:

9 a. That an undesirable change will  
10 not be produced in the character of the  
11 neighborhood and a detriment to nearby  
12 properties will not be created by the  
13 granting of the area variance. Under the  
14 Golden Age District, a height of 50 feet is  
15 permitted, and 32 feet is permitted under the  
16 Residence Apartment District. The Board  
17 takes note that the new Moxey Rigby apartment  
18 building across the street at 195 East  
19 Merrick Road was approved by this Board at a  
20 height of 62 feet, ten inches. At 58 feet,  
21 the proposed project is shorter than its  
22 neighbor across the street.

23 b. That the benefit sought by the  
24 applicant cannot be achieved by some method  
25 feasible for the applicant to pursue, other

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2 than an area variance.

3 c. That the requested area variance  
4 is insubstantial.

5 d. That the proposed variance will  
6 not have an adverse effect or impact on the  
7 physical or environmental conditions in the  
8 neighborhood or district; and

9 e. That the alleged difficulty may  
10 be considered self-created, but this factor  
11 is not dispositive.

12 Lot Coverage/Building Area:

13 As to the requested variance for lot  
14 coverage/building area under Section 210-49B  
15 and 210-280, the Board has determined:

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

22 The Board has determined:

23 a. That an undesirable change will  
24 not be produced in the character of the  
25 neighborhood and a detriment to nearby

1  
2 properties will not be created by the  
3 granting of the area variance. As outlined  
4 in the denial letter, a lot coverage or  
5 building area for either Residence Apartment  
6 Districts or for Golden Age is permitted to  
7 be 40 percent of the lot area. Applicant  
8 proposes a lot coverage of 41.87 percent.

9 b. That the benefit sought by the  
10 applicant cannot be achieved by some method,  
11 feasible for the applicant to pursue, other  
12 than an area variance.

13 c. That the requested area variance  
14 percent lot coverage sought by the applicant  
15 is de minimis in nature.

16 d. That the proposed variance will  
17 not have an adverse effect or impact on the  
18 physical or environmental conditions in the  
19 neighborhood or district; and

20 e. That the alleged difficulty was  
21 not self-created. This issue may be  
22 considered self-created as it appears that  
23 this variance is due in part to enclosing and  
24 joining the buildings. This is a benefit to  
25 the future residents of this building. So

1  
2 while the issue might be self-created, it  
3 alone is not determinative.

4 Green Space/Open Space:

5 As to the requested variance for  
6 green space/open space under Section 210-49C  
7 and 210-276K, the Board has determined that  
8 the applicant must put green space on the  
9 roof of the senior housing, as well as other  
10 rooftop green space on the veteran and market  
11 area, to the extent possible. The Board is  
12 requiring open base available for recreation.  
13 However, to the extent that this does not  
14 meet the total requirements under the Code:

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

21 The Board has determined:

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

1  
2 granting of the area variance.

3 b. That the benefit sought by the  
4 applicant cannot be achieved by some method,  
5 feasible for the applicant to pursue, other  
6 than an area variance.

7 c. That the requested area variance  
8 is insubstantial.

9 d. That the proposed variance will  
10 not have an adverse effect or impact on the  
11 physical or environmental conditions in the  
12 neighborhood or district; and

13 e. That the alleged difficulty may  
14 be considered self-created, but this factor  
15 is not dispositive.

16 Parking:

17 As to the requested variance for  
18 parking under Section 210-172(A)2a and  
19 210-290A, the Board has determined:

20 4. On balance, the benefit to the  
21 applicant by the granting of this variance is  
22 not outweighed by the detriment to the  
23 health, safety and welfare of the  
24 neighborhood or community if such variance  
25 were to be granted.

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The Board has determined:

a. That an undesirable change will not be produced in the character of the of neighborhood and a detriment to nearby properties will not be created by the granting of the area variance. The parking study provided by VHB shows that during peak hours, the anticipated parking demand will be met either solely by on-site parking or by a combination of on-site and off-site parking.

b. That the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance.

c. That the requested area variance in insubstantial.

d. That the proposed area will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

e. That the alleged difficulty may be considered self-created, but this factor is not dispositive.

5. The Zoning Board, as lead agency,

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has determined that this action is an unlisted action under SEQRA. A full environmental assessment form Part 1 has been completed by the applicant and this Board has completed Parts 2 and 3. The Board finds no environmental impact under SEQRA, issues a negative declaration, as 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/Owner must obtain the required permits from the Building Department.

3. This application for variance is being granted on the basis of the specific use proposed. If anything is to change, the applicant must return to the Board for further review.

4. Applicant must provide rooftop green space on the Golden Age portion. By

1  
2 green space, the Board means open space,  
3 common space, designed to facilitate  
4 community, gathering, socialization and  
5 recreation. No fields or grass with  
6 irrigation is required.

7 5. Applicant expressed concerns  
8 about structural load in providing more green  
9 space on the rooftops of other buildings.  
10 However, now that it has been clarified that  
11 the Board is not seeking grass or irrigation  
12 systems, to the extent practicable, applicant  
13 must put open space to facilitate community  
14 on the veterans building and market rent  
15 building as well.

16 6. Applicant must provide 24 hour  
17 access to stacked parking, ensuring that  
18 there are ample attendants to meet the needs  
19 of the residents during peak hours.

20 Madame Chair, at this time I'll ask  
21 for a motion for the recommendation that I  
22 just read.

23 ALTERNATE MEMBER SCOPELITIS: So  
24 moved.

25 MEMBER HAWKINS: Second.

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THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

ALTERNATE MEMBER SCOPELITIS: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

CHAIRPERSON RHODEN: May I have a  
motion to close legislative session.

MEMBER JACKSON: So moved.

ALTERNATE MEMBER SCOPELITIS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

ALTERNATE MEMBER SCOPELITIS: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(Time Ended: 8:29 p.m.)

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April 20, 2023

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C E R T I F I C A T E

I, BETHANNE MENNONNA, a Notary Public within and for the State of New York do hereby certify that the foregoing is a true and accurate transcript of the proceedings, as taken stenographically by myself to the best of my ability, at the time and place aforementioned.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of May, 2023.

  
BETHANNE MENNONNA