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RECEIVED
INCORPORATED VILLAGE OF FREEPORT
2023 JUL -6 A 10: 55 ZONING BOARD
CLERK'S OFFICE
VILLAGE OF FREEPORT, NY

MUNICIPAL BUILDING
46 North Ocean Avenue
Freeport, NY 11520

June 15, 2023
6:00 p.m.

M E M B E R S :

ROSA RHODEN	CHAIRPERSON
JENNIFER L. CAREY	DEPUTY CHAIR
BEN JACKSON	MEMBER
CHARLES HAWKINS	MEMBER

* * *

ROBIN CANTELLI	SECRETARY
JENNIFER UNGAR	DEPUTY VILLAGE ATTORNEY
SCOTT BRAUN	BUILDING DEPT REPRESENTATIVE

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June 15, 2023

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-----EXHIBITS-----

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APPLICATION 2023-2

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* * *

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June 15, 2023

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

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June 15, 2023

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1
2 CHAIRPERSON RHODEN: Good evening,
3 everyone. I'd like to open up the Zoning
4 Board of Appeals meeting for June 15th. If
5 everyone could please join me in the Pledge
6 Allegiance.

7 (Pledge of Allegiance recited.)

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

11 MEMBER JACKSON: So moved.

12 MEMBER HAWKINS: Second.

13 THE SECRETARY: All in favor.

14 MEMBER HAWKINS: Aye.

15 MEMBER JACKSON: Aye.

16 CHAIRPERSON RHODEN: Aye.

17 THE SECRETARY: Any opposed.

18 (No response was heard.)

19 (WHEREUPON, the Board entered into
20 executive session from 6:07 p.m. to
21 6:38 p.m., after which the following
22 transpired:)

23 CHAIRPERSON RHODEN: If everyone
24 could please join me for the Pledge of
25 Allegiance.

June 15, 2023

6

(Pledge of Allegiance recited.)

CHAIRPERSON RHODEN: Can I please have a motion for approval of May 18th Zoning Board of Appeals minutes?

MEMBER JACKSON: So moved.

MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

DEPUTY CHAIR CAREY: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed.

(No response was heard.)

CHAIRPERSON RHODEN: Do we have any Affidavits of Posting or Publication to be entered into the record as exhibits this evening?

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

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

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2, for identification, as of this date.)

CHAIRPERSON RHODEN: Do we have any requests for adjournment this evening?

THE SECRETARY: We do not, Madame Chair.

CHAIRPERSON RHODEN: Before I do that. If there's anyone here who would like to speak for or against an application this evening, please fill out a form on the back table and hand it to the clerk.

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

THE SECRETARY: The first application is 2023-2, 307 Guy Lombardo Avenue, Business B, Section 62, Block 80, Lot 6. Jude Derivois. Use building for church assembly. Variances: Village Ordinance 210-6A, 210-172(3), required parking spaces.

I have one Affidavit of Mailing to be entered into record as a Board exhibit. This will be Board Exhibit Number 1 for this individual public hearing.

(WHEREUPON, the above-referred to document was marked as Board's Exhibit 1, for

1
2 identification, as of this date.)

3 MS. UNGAR: We provided an
4 interpreter here tonight, in case that will
5 be at all helpful.

6 MR. DERIVOIS: We were doing it last
7 time. We can do it, yes.

8 J U D E D E R I V O I S,
9 having been first duly sworn by a Notary
10 Public of the State of New York, was
11 examined and testified as follows:

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

14 MR. DERIVOIS: Jude Derivois. 307
15 Guy Lombardo Avenue.

16 We were here last time. We come back
17 today because -- we did it to bring some
18 information. We have eight copies of the
19 contract and survey; that's what you asked us
20 to bring today. We have everything. We
21 ready to submit to you.

22 CHAIRPERSON RHODEN: That's going to
23 be entered as records for us?

24 MR. DERIVOIS: Yes. Last time, this
25 is what you ask us to bring: The survey and

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copy of the contract.

CHAIRPERSON RHODEN: We'll mark that.

(WHEREUPON, the above-referred to documents were marked as Applicant's Exhibits A & B, for identification, as of this date.)

MS. UNGAR: Looking at the survey, does it have the parking calculations required for each of building? I see the spaces and everything, which is great, but are the parking calculations there?

MR. DERIVOIS: It's the survey for all the parking spaces surrounding the building.

MS. UNGAR: Is the calculation there? How many are needed for the liquor store? That was part of the question. If the liquor store has 12 spaces but they need all 12 for their own business, does it have the calculation of how many spaces are needed for each business?

CHAIRPERSON RHODEN: I think three on the side, required spaces.

MS. UNGAR: I think it's on here.

CHAIRPERSON RHODEN: 303 has two

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spots.

MS. UNGAR: Do you want to put on the record a little bit what the spaces you have available are? What the Board does is makes decisions based on what's been put on the record. Would you like to kind explain what is available?

MR. DERIVOIS: The spaces that are available to us?

MS. UNGAR: Yes.

MR. DERIVOIS: Last time, we did explain how many parking we have. The building belong to the same owner. He's the one who give to each person how much parking we have. We know. Last time we explained that. I thought, when we got the survey you will make the calculation, because we had -- in each location, we have five on one side, we have seven, we have seven. It's like we have 23 to --

E N O C K J E A N J U L I E N,
having been first duly sworn by a Notary
Public of the State of New York, was
examined and testified as follows:

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

4 MR. JEANJULIAN: Enock Jeanjulian.
5 307 Guy Lombardo, Freeport, New York.

6 So, I as we mentioned a couple of
7 weeks back, we have about five parking in
8 front of the building 307, and on the side of
9 that property there is also shared with us in
10 the deli, we have, I believe, nine parking.
11 And on the back wall, which is adjacent to
12 the liquor store, there's about over five
13 parking space, which technically belong to
14 us -- not belong. It's shared with us and
15 the deli, but the deli never use it, even on
16 Sunday, because people come in, they don't
17 have to sit down and eat at the location.
18 That's how the deli goes. They come in, grab
19 their stuff and go.

20 The deli have four parking space in
21 front of the business. The employees have
22 only two parking spaces. The employees that
23 come, in and out. And there is street
24 parking, which is right in front of the
25 building.

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2 Now the liquor store, which is 150
3 Atlantic Avenue, belongs to the owner of all
4 the properties, and we share that parking
5 with him on Sundays, Monday, and also
6 Saturdays. And whenever we have special
7 occasion, like a wedding, we let them know
8 ahead of time that we are parking in spot.
9 We only use two parking on his lot, which is
10 actually -- I lost count. It's a few
11 parking: One in the liquor store, a few up
12 front, and nine parking, I believe, on the
13 side, which we shared with him as well. So,
14 it's three different properties are sharing
15 the same parking lot with us. That's one
16 that belongs to the owner, which he lease all
17 the parking spots out. I don't know if that
18 makes sense.

19 So, in other words, simply put, it's
20 hard to tell you how many parking we have.
21 We have about five that's ours for that
22 building. Everything else, if it's 23
23 parking spots to the lot, it's 23 parking
24 spots that are shared with the others.
25 Again, the weekend, most of those businesses

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people are in and out, so it's normally not any issue for us.

DEPUTY CHAIR CAREY: I have a question. In front of your actual building where you're going to be having the church, you are already there, right?

MR. JEANJULIEN: Yes.

DEPUTY CHAIR CAREY: Right now the parking spots are facing the door. Now they are facing the dinette next door? Is that what you have?

MR. DERIVOIS: No, the parking will remain the same, the way it's set up. It's just now, from front of our property to the front of his, we actually use some of that parking space. On the side of his property, he has a few parking as well, which we access to on the back wall, which is a lot of parking. We have access to that as well. But it's all in the back, facing into the parking lot. We don't go for the side of the building.

MEMBER HAWKINS: I think you mentioned before your services were on

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Sunday, correct?

MR. DERIVOIS: Sunday.

MEMBER HAWKINS: Just now you said you are going to have Saturday.

MR. DERIVOIS: No, for meetings.

MR. JEANJULIEN: Sometimes we have meeting for Saturdays; they're aware of it. And also on Monday we have Bible study, five, six of us. Young folks, they don't want to come to church for the most part. Like I mentioned last time, a lot of us travel in one vehicle for most of the seating. Me and the Pastor, we both live in Valley Stream. So, we share cars from the church, both for our kids. I have a seven seater. So, we jump in one car. We and also have a van that sometimes picks up few of the members that come to church as well. The last five years, we haven't had any issue with the parking.

MR. DERIVOIS: With six cars only, we drive about 30 the 35 people to the church. We don't drive many cars. Five people in a car, it's like we okay.

CHAIRPERSON RHODEN: Okay. Thank you

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very much.

MS. UNGAR: I have one more question, Madame Chair.

Just so we have a sense, what is the largest capacity that you have had at your church at any one time? What has the busiest or biggest day or event been?

MR. DERIVOIS: We usually? The busy we can have 45 to 50 people. 45 inside.

MS. UNGAR: Okay.

MR. DERIVOIS: We're not a big church.

MS. UNGAR: I understand. You said the congregation is usually about 20. We don't want to tell you, you can have 20 and then you have a larger event. But by the same token, with the a church your size, given that you can hold 345 people, we're also not going to say go ahead have 345 every single day with what is currently being presented. We're trying to find the kind of reasonable boundaries that would give you the ability to do. That's why I ask that question.

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MR. DERIVOIS: Basically, if we were a big size church, this location would not be physical good for us, we would like for bigger. But now it's good, because we're not a large church.

MS. UNGAR: Understood.

CHAIRPERSON RHODEN: Thank you. We no have no further questions. Thank you.

MR. DERIVOIS: Thank you.

CHAIRPERSON RHODEN: Do we have anyone who would like to speak for or against this application this evening?

THE SECRETARY: We do not.

CHAIRPERSON RHODEN: Can I please have 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.

DEPUTY CHAIR CAREY: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

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(No response was heard.)

CHAIRPERSON RHODEN: You will be notified in writing on our decision, okay? You don't have to stay.

MR. DERIVOIS: Thank you very much.

CHAIRPERSON RHODEN: Can you call the next application on tonight's calendar, please.

THE SECRETARY: Yes. The next application is 2023-8, 327 Arthur Street, Residence A, Section 62, Block 90, Lot 117. Blanca Marquez. Install 213 feet of six foot high PVC fence with two walk gates. Variances: Village Ordinance 210-6A, 210-171D(3), fences and enclosures.

I have one Affidavit of Mailing to be entered into the record as a Board exhibit. This will be Board Exhibit Number 1 for this individual public hearing.

(WHEREUPON, the above-referred to document was marked as Board's Exhibit 1, for identification, as of this date.)

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B L A N C A M A R Q U E Z,
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.

MS. MARQUEZ: Blanca Marquez. 327
Arthur Street, Freeport.

I here because I want to put fence in
my property. So, I am with my daughter.
She's going do explain everything.

CHAIRPERSON RHODEN: She can come up
and be sworn in as well.

A D R I A N A R A M O S,
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.

MS. RAMOS: My name is Adriana Ramos.
My address is 327 Arthur Street, Freeport.

So, basically, we're trying to get
the variance approved for the 213 feet of six
foot high PVC fence. In the packet is

1
2 everything in regards to the color and in
3 regard to measurements. The only reason why
4 we're here is because we're asking, within
5 the plans, that if on the side of the
6 property going to the bulkhead on our grass,
7 on our land we can still remain to have a six
8 foot high fence, instead of having a four
9 foot, because we do have a neighbor who has a
10 six foot fence. I'm sure it was approved,
11 because I know this came up later on, and it
12 just makes no sense when I have a small one
13 and there's another one blocking.

14 So, if it were possible could it be
15 approved.

16 MEMBER HAWKINS: Do you know when
17 your neighbor came and got that approval?

18 MS. RAMOS: I am not sure, but I know
19 for the fact that this home was within my
20 family line for a very long time, and I do
21 know that there's always people from the Town
22 who come. Literally, I got a letter for my
23 sprinkler system. They're always checking.
24 And I respectfully know the neighbor; she's
25 very up with having everything up to code.

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So, yeah.

MEMBER HAWKINS: What is the address of your neighbor?

MS. RAMOS: I don't have the specific. It's towards my right side. I don't have a specific number. There's other neighbors down my block that have the same high fence as well. I can give you that number, because I wrote that one down. But again, I'm not here to try to get anyone in trouble. If you guys approve it. We gave the license, insurance. Literally it's going to be on the grass with cement, three foot deep on the grass, each post. It's going to be done properly. Everything is done by code.

MEMBER JACKSON: Why would you want six foot instead of four foot?

MS. RAMOS: So, just my privacy. I just feel like it would look odd. And we have had, since we moved in recently -- like I said, the house has been within the family, my grandparents were there. We moved in three years ago, and we have had nonstop

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2 problems with dogs literally going in he our
3 yard and making holes everywhere. I have two
4 small dogs and I can't let them out. So,
5 it's to keep the dogs out, to make it look
6 clean and. I also submitted a photo of our
7 property, so you can literally see how it
8 looks, and also the plans as well. It's
9 open.

10 We still have that -- on the
11 boardwalk, we still have that four foot see
12 through fence. So, it's not blocking
13 anything, it's just having a little privacy
14 between neighbors. And the front is just
15 closed off within the guidelines and on my
16 property, specifically with the actual base
17 of the house, and then the front yard is
18 open.

19 DEPUTY CHAIR CAREY: I'm a little
20 confused. If your neighbor has a six foot
21 fence, which is an illegal fence.

22 MS. RAMOS: No.

23 DEPUTY CHAIR CAREY: I'm just saying.
24 How are the dogs coming into your yard?

25 MS. RAMOS: Because there's

1
2 another -- my yard is open. There's no fence
3 at all. There is only a little four foot
4 fence, which you see in the photo, going to
5 the bulkhead. It's open. But closing the
6 front will resolve that problem. However,
7 the sides, it will look off. That's why.
8 I'm just guessing it's six foot. I don't
9 know that's what it is. I'm guessing. It's
10 taller than four foot and -- you know, I'm
11 just trying to just make it look presentable.

12 DEPUTY CHAIR CAREY: One of the
13 reasons why the zoning code was written to
14 have five foot -- four foot fence in that
15 location, normally five foot is allowed with
16 one foot lattice -- I'm sorry, we don't.
17 People have applied and we have granted
18 variances for that.

19 I also have the same situation where
20 at one time, when I first moved in, the fence
21 that was there was knocked down by Hurricane
22 Sandy, and I had to conform to what was
23 required at the time, which is four foot in
24 height. But it's kind of hard too, when your
25 neighbor has it, why you don't have it.

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2 There is an issue probably that's why he has
3 a fence. Maybe they built it without permit
4 and did stuff. A lot of times that happens
5 in the Village. People don't know they
6 aren't supposed to be doing things. We're
7 not trying to be hard on everybody. We're
8 just trying to make it look better. Having a
9 six foot high fence --

10 MR. RAMOS: Even five foot. I don't
11 know if you can work with me. The plans are
12 all there. It's pretty open. I have, like I
13 said, another address within my block. I
14 live on the canal and there are other
15 addresses on the canal that have that same.
16 I know there's no way it could be a couple of
17 residents and then they're getting away with
18 it. It's literally -- I means you guys can
19 send the surveyor there or whoever you want
20 from the town to come see it's done properly.

21 CHAIRPERSON RHODEN: Would you
22 consider having the fence -- I'm not giving a
23 number, I'm just saying. Let's say you have
24 a four foot fence and then you have a one
25 foot lattice that's open. You have some,

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2 descriptions here of pictures that you sent.
3 Whether it's open like this or like this.
4 Would you be considered to that? It could be
5 five foot. I'm just saying, it would be four
6 feet enclosed and the top be some type of
7 opening.

8 MS. RAMOS: Respectfully, this
9 project is \$11,000, and just -- it would look
10 off because it's a PVC privacy standard
11 fence. If having that, I just feel like it
12 will make it look off.

13 Like I said, the boardwalk going into
14 the canal is all open. Standard is literally
15 the sides. Every neighbor has their own
16 privacy. I don't know. I submitted
17 everything that I have. I went by the book.
18 There's nothing that hasn't been submitted.
19 It's just up to you guys, if you allow it.

20 MEMBER HAWKINS: The photos you
21 submitted to us, that's your neighbor's fence
22 to the south?

23 MS. RAMOS: Yeah.

24 CHAIRPERSON RHODEN: This photo right
25 here.

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MEMBER HAWKINS: That goes all the way back to the bulkhead?

MS. RAMOS: No, it's before the bulkhead. It's literally on my grass. This is the bulkhead fence, and this is the bulkhead. Right here is grass. Instead of having four foot, if I could continue where that ended just the same as what I'm asking for. Nothing more.

DEPUTY CHAIR CAREY: The reason why we also graduated done from those heights toward the water is so the views of the neighbor's aren't blocking people next to you, maybe blocking your view. It's kind of a hard.

MS. RAMOS: I understand. Like I said, other neighbors on the canal literally down the block at another house has that as well. Respectfully, my neighbors to my left side has a big tree. I don't complain. I don't care, it's just -- you know I can't really see. I could see, but you're talking about the view of the sky, all of that stuff by the water. It's literally --

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2 CHAIRPERSON RHODEN: Just to make
3 sure I'm understanding this correctly and I'm
4 not misinterpreting. What you're saying is
5 that this white fence does not belong to you
6 right now, that's your neighbor's fence. You
7 want to take it and go back to that wood
8 fence right back there, and you want to put
9 the fence there to go across?

10 MS. RAMOS: I can explain to you.
11 Literally, the fence is the same color as the
12 house -- close to it. This is the corner of
13 the house. If you go straight from here,
14 like here (indicating) going over the
15 property line towards the back, the little
16 gate, and literally following only on the
17 side, following the end gate to where their
18 fence presently is. That's it. It's just
19 so -- like, when I power wash, so I don't
20 mess up the fence. It's literally that and
21 keeping it neat.

22 MS. UNGAR: Hang on. Are you putting
23 your own fence along their fence?

24 MS. RAMOS: Well, not along. It's
25 going to be at a distance. It's within my

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property line.

MS. UNGAR: So there is going to be a double fence?

MS. RAMOS: Yeah. I don't want to touch their stuff. So, I would like to have just -- and it matches our home. So, that's why. It's more presentable.

DEPUTY CHAIR CAREY: I'm also confused. Their fence does go to the bulkhead?

MS. RAMOS: No, it doesn't. It's before that.

DEPUTY CHAIR CAREY: What is the six foot high fence to the back, the wood fence? Do you have a fence that goes straight across the bulkhead to keep the animals from getting under the dock?

MS. RAMOS: Can I just show you guys something? This is literally what I'm looking. Obviously, I drew it myself. But that's literally what we're trying to do. It's still within the grass. It's on both ends, the same color.

MS. UNGAR: We're just trying to

1
2 understand what the fences are on either side
3 of your property and what height. What are
4 they right now? That's what we're trying to
5 understand.

6 MS. RAMOS: Well, on the other side,
7 it's much shorter. I don't know exactly.
8 That's the neighbor's fence. I don't have a
9 fence. My yard is open.

10 MS. UNGAR: Correct. I understand.
11 Certainly it wouldn't surprise me, people in
12 your situation coming to put up something in
13 the front to close it off.

14 MS. RAMOS: Right. And the side.
15 You know, I pay so much. I'd like to have a
16 little bit of privacy.

17 MEMBER HAWKINS: The picket fence in
18 the photo.

19 MS. RAMOS: The black -- what do you
20 mean the picket fence? I'm sorry.

21 CHAIRPERSON RHODEN: This right here
22 (indicating).

23 MS. RAMOS: The white one?

24 CHAIRPERSON RHODEN: This all the way
25 in the back. This fence right here

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(indicating).

MEMBER HAWKINS: That runs along your property, the back of your property?

MS. RAMOS: It's on, I guess, the borderline. It's not on my property, it's on the property line in the middle ground, where it's on the neighbor's end. It's not my fence, it just connects.

MEMBER HAWKINS: It's connected to the right fence?

MS. RAMOS: Yes. It's all connected straight. I just want it to look presentable. I want to do the same thing following my line.

MEMBER HAWKINS: How long is that picket fence, do you know?

MS. RAMOS: No, I'm not sure.

MS. UNGAR: Is what we're calling the picket fence 20 feet back from the bulkhead?

MS. RAMOS: I'm not sure. I'm not sure. I didn't measure.

MS. UNGAR: Their six foot high white fence does not go up to the water.

MS. RAMOS: No, no, no. There's a

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walkway and everything no.

DEPUTY CHAIR CAREY: You want yours
to?

MS. RAMOS: No. I want mine to match
what they have, so I can be clean. That's
it.

CHAIRPERSON RHODEN: Your fence would
not be able to go -- it would have to -- you
can't go to the bulkhead.

MS. RAMOS: No, it's behind the
bulkhead but still on the grass. If you see
really closely in the photo, you'll see by
their fence there's a little deck kind of
material on the ground by our end. It would
be a post right there to follow exactly what
they are, going towards the front where we
have a measurement that we would be approved
of. And that is just to make it look clean.
Literally, the fence is a see through fence.
I walk on the boardwalk. It's not -- there's
nothing conflicting.

MEMBER HAWKINS: You're saying the
fence you want to put up would stop where it
is now?

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MS. RAMOS: It's exactly the way it is there. The only difference is, in the front it's a little longer because their house, I guess, where the base of their home is a little more behind than ours is. That's about it. When we initially submitted the permit, there were no issues with the front, it's that little small area in the back because of the regulation of the boardwalk. That's why we decided to ask you guys.

MS. UNGAR: I see something on the survey here that says walk six feet wide. Does their white fence go up to that walk?

DEPUTY CHAIR CAREY: Your dock.

MS. RAMOS: No. This is my fence. This is my dock to walk. Literally, the post is here and I would continued. I would like the follow. It's literally before the gate of the dock, and then you open the gate.

MS. UNGAR: You're telling us their white fence is almost up to the bulkhead.

MS. RAMOS: I'm not sure. But I could tell you my side. I can't see on their side. They have their fence. I can't see

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through. My side, that's where it shows.

MS. UNGAR: How close, if you walk to the end of their fence, their white fence on your property, how much farther is it, if you keep walking straight, until you walk into the water?

MS. RAMOS: Let's just say this is the end right here of the boardwalk that you can stand on. Here's the gate. Literally, the post is right here within the grass. And like I said, the gate right here, a distance right here to walk back and forth on our property, and then their post goes straight. And then if I could just continue with our post and go straight and then just have our own. There is a distance.

MS. UNGAR: It sounds like you're saying it's about that six feet is the walk.

MS. RAMOS: Probably. I don't want to say 100 percent. I didn't really check that. I thought the survey would be suffice showing what it is. You guys have, obviously, the other ones. I just wanted to continue it.

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DEPUTY CHAIR CAREY: In the photograph you have, it looks like the white fence is all the way to the bulkhead except to the walkway.

MS. RAMOS: No.

DEPUTY CHAIR CAREY: We're not trying to get your neighbors in trouble.

MS. RAMOS: I understand it's not. If you really look into the photo, you'll see the black fence, it curves. There's a bit of a distance. It curves in.

MEMBER JACKSON: It's not three feet, it's 20 feet.

MS. RAMOS: Probably. I'm not 100 percent sure. If you don't mind. My husband helped me with this, he can help to explain.

K E V I N R A M O S,
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. RAMOS: Kevin Ramos. 327 Arthur Street, Freeport.

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2 So, I wanted to clarify. Talking
3 about the picket fence in the back. That is
4 our fence. Right before the bulkhead, the
5 white fence, alongside of our neighbor's
6 yard, is going up to that fence itself.
7 That's right by the bulkhead. What we're
8 looking to do is have that same type of
9 fence. The reason why we want to put the
10 fence up is because on the other side of the
11 house we have issues where dogs jump from
12 that neighbor's house and jump into our yard.
13 If they didn't have a four foot fence, which
14 they have on their side, dogs wouldn't jump
15 our yard. They have gone around neighbors
16 bulkhead to get to our yard as well. So,
17 it's to minimize that.

18 We have had issues where other
19 neighbors come in, really walk through along
20 the side of the bulkhead and try to get onto
21 our property. That's the reason we want a
22 six foot fence. We saw all our other
23 neighbors on your block have the same type of
24 fence, six foot fence all the way to the
25 bulkhead.

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2 That's the issue we're having. If we
3 have a four foot fence it doesn't really cure
4 our problem, because dogs are all over our
5 block and continue to jump onto our property.
6 It has been an issue for us, because we have
7 people showing up, going through our stuff
8 looking for dogs everywhere. That's why
9 we're trying to put a fence here.

10 MS. UNGAR: You still have a four
11 foot fence along the water?

12 MR. RAMOS: Yes.

13 MS. RAMOS: That's not being removed.

14 MR. RAMOS: The thing is, our
15 neighbors on the side, what has been kind of
16 stopping the dogs from jumping over is they
17 can't get their foot long along the side of
18 the bulkhead from the other side of the
19 fence. There's a six foot fence on the other
20 side, so it's kind stopping them coming over.
21 But the other side, it's not really closed
22 off. So, they get to the end of the bulkhead
23 from the other property on the left-hand
24 side. They still have to jump over to get
25 the our property. Even though that bulkhead

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2 is four feet, our main issue is the dogs are
3 coming over, directly to the left side of,
4 they are jumping over. If we put a four foot
5 PVC, they are still jumping right over and be
6 an issue. We've never had an issue coming
7 the other side to go through our property.
8 If they did have an issue, they would fall
9 into canal, because that six foot fence is
10 there and wraps around it. The other
11 property doesn't have that, it's four foot.
12 They scale right over. That's the issue that
13 we're having.

14 MEMBER HAWKINS: Your neighbor to the
15 north, they have a fence that goes all the
16 way to the bulkhead. That's why.

17 MR. RAMOS: The white fence?

18 MEMBER HAWKINS: Yes.

19 MR. RAMOS: Yeah. That one is going
20 up, I believe, up to the bulkhead, where our
21 picket fence meets on the corner right there.

22 MEMBER JACKSON: On the south side.

23 MEMBER HAWKINS: On the north.

24 MR. RAMOS: The opposite side. Yes,
25 our neighbor has the fence going up to the

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2 bulkhead as well. That is only four foot
3 high. You can't see in the pictures. The
4 opposite end, that's where we have a bunch of
5 dogs continually coming. She has issues as
6 well. I don't know how she dealings with it,
7 it's her property. For us, it's an issue
8 with four or five dogs. We videos of
9 everything, them scaling over the fence,
10 coming through the property, digging holes,
11 ripping everything apart. We held off for
12 three years to see what we can do. This is
13 the best solution we have come up with.

14 MS. UNGAR: You're not having dogs
15 coming from the fence right up against the
16 water because they are not able to get a
17 running start.

18 MR. RAMOS: They can't get to that
19 area. So, that side, the south side of that,
20 that's where our neighbors have a fence.
21 It's a dead end, so we don't really have too
22 much activity going on there. So, we even
23 have had issues where somehow they had gotten
24 into our property, I'm guessing from their
25 neighbor on the other side, going over the

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2 same issue, a four foot fence they jump over.
3 Their property sits higher. They go over and
4 get into their property and they come into
5 our yard and work their way around. It's
6 tougher to do so. With the other side, for
7 sure, it's been a constant issue.

8 MS. RAMOS: If I can just add, we
9 live, like he said, it's a dead end and it's
10 not much traffic in regards to, I guess, cars
11 coming and being parked but delivery
12 services. Besides that, the biggest problem
13 is no one there really respects leash laws.
14 I have Yorkie's, they're small. There are
15 dogs with no leash or anything walking
16 around, come around, and they're going
17 through trash cans all over our yard. We had
18 to fix the yard many times. It's just to
19 avoid this. At the same time, so it's all
20 neat and done properly.

21 MR. RAMOS: Also, I explained it
22 wouldn't stop the view of seeing the canal,
23 whatever it is. Our neighbors -- quite
24 honestly, we don't care much about the view
25 on the south side of us, because there hasn't

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2 been an issue. The right side of us, I guess
3 kind of the same thing. Two houses over,
4 same thing; they have a six foot fence right
5 to the bulkhead. A few houses down, same
6 thing as well. I don't really see it causing
7 an issue for the view. We have a pretty wide
8 property. Some of the neighbors to left and
9 right of us have a wide property and see the
10 entire view and not have obstruction. So,
11 they can't see what's past their fence.

12 The house to the south side of us on
13 that side of the canal is very open, so you
14 can see the entire canal going out to the
15 boats. Everything else to the left of us
16 goes to the north side is going down to the
17 end of the canal is a dead end. There's
18 nothing in. The canal itself, it's two feet
19 here down to the railing over there, it's not
20 too wide. In regards to the view, I wouldn't
21 say it's not much of a view to begin with by
22 putting a fence. An way that's what we have
23 now. The only difference is we have PVC.

24 MS. RAMOS: I would like to mention
25 that on each house literally by our neighbors

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2 it's all lifted. Our is elevated, we all
3 have decks. You can see everybody's yard.

4 MR. RAMOS: The view isn't really --
5 I would it isn't an issue. I understand your
6 stance, what you mentioned for that reason.
7 But that's our main issue. If it wasn't for
8 the constant dogs coming into our yard,
9 people randomly showing up into our yard, we
10 wouldn't have an issue. It's like a dog
11 chase every day. We have videos and photos.

12 We have talked to the neighbors.
13 They don't listen. They continue to let dogs
14 out in morning and run wild. I guess because
15 our lot is little bigger than most lots
16 there, most lots don't have grass or a side
17 yard, they just let them go in our yard and
18 run free. Our neighbor to the north side of
19 us has a decent yard to so they jump her yard
20 and come into our yard as well.

21 MEMBER JACKSON: Have called the
22 police about the dogs?

23 MR. RAMOS: Yes, multiple times.
24 They told us to contact them if we see them
25 off the leash. We do. By the time they get

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2 there, the guys in the house. We don't know
3 the exact addresses of the people to contact
4 with. Since then, they tried to keep them on
5 the leash. At 7:30 in the morning, getting
6 ready for work, they let them out. It's a
7 daily routine. By the time I go to work,
8 they wait for me to leave, the dogs run wild.
9 She calls me, we confront them. The cops
10 have gone up to them and told them what was
11 going on, if they continue they would give
12 them a citation, whatever it is. It doesn't
13 seem to cure anything. We tried for three
14 years to be amicable with our neighbors, but
15 they don't seem to care by any means.

16 MEMBER HAWKINS: You have people
17 randomly coming into your yard?

18 MR. RAMOS: Literally walking into
19 our yard looking for dogs. They open their
20 doors and let them run wild. They have come
21 into our yard. We have had three occasions
22 where someone is alongside of our house
23 looking for a dog and we're on our deck,
24 digging holes. We have had another occasion
25 on the south side along the fence looking for

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2 the dog, peeking over, seeing if it went in
3 our neighbors yard and they couldn't find the
4 dog. We didn't know who it was. We're
5 sitting back there and they don't even
6 announce they are coming in. It's just been
7 an issue.

8 MS. RAMOS: I would like to add as
9 well, like I stated, I have two Yorkies. My
10 Yorkies don't go on the grass. I have them
11 corralled on the cement. My fear is when I
12 take them out these dog will come in and want
13 to hurt my dogs. They're ten pounds.

14 MR. RAMOS: She had to take our dogs
15 out, a dog ran up to her and she had to pick
16 them up and run inside. It's been a constant
17 issue. We called the cops multiple times
18 over the three years. I can't count how many
19 times we called for particular neighbors.
20 People come, same thing. I don't know what
21 it is about our property that they're
22 running. Maybe it's the space. They go
23 crazy.

24 DEPUTY CHAIR CAREY: In my
25 experience, I've never seen a dog jump over a

1
2 fence. I don't know how big the dogs are
3 coming onto your property. They must be
4 pretty big dogs.

5 MR. RAMOS: We had a Shiba Inu that's
6 about this tall (indicating) just scale right
7 over. There's a Labrador scale as well that
8 somehow got away. There was another, I want
9 to say a Pit Bull. That was one that came
10 and started digging holes all over the
11 property. I don't know where that person is
12 from, where they live, because I haven't seen
13 them before. But continuous with the Shiba
14 Inu that came thorough; it's a constant
15 thing. We've talked to them, the cops about
16 them, and they don't seem to care. The cops,
17 I guess -- I don't want to say they're not
18 pushing them to stop, but they continue to
19 seem to stop. It's been consistent.

20 MEMBER HAWKINS: How long have you
21 lived there?

22 MR. RAMOS: Three years now.

23 CHAIRPERSON RHODEN: Okay. We don't
24 have any additional questions, at this time.
25 Thank you. Thank you very much.

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Do we have anyone who would like to speak for or against this application this evening?

THE SECRETARY: We do not.

CHAIRPERSON RHODEN: Can we have 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.

DEPUTY CHAIR CAREY: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

CHAIRPERSON RHODEN: You will be notified in the mail. You don't have to stay. Thank you so much. Have a good night.

Can we call the next application on tonight's calendar, please.

THE SECRETARY: Yes. Application 2023-9 - 27 Lenox Place, Residence A, Section 62, Block 58, Lot 16. Joseph Argueta.

1
2 Maintain a 23 foot by 23 foot detached wood
3 frame garage. Variance: Village Ordinance
4 210-6A, 210-39(A) sky exposure plane.

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

9 (WHEREUPON, the above-referred to
10 document was marked as Board's Exhibit 1, for
11 identification, as of this date.)

12 L U I S R O D R I G U E Z,
13 having been first duly sworn by a Notary
14 Public of the State of New York, was
15 examined and testified as follows:

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

18 MR. RODRIGUEZ: Luis Rodriguez. 92
19 Atlantic Avenue, Freeport, New York 11520.

20 So, I'm here on behalf of the owner
21 of the property, Mr. Argueta, who is here
22 with us today. He is a Marine Veteran. I
23 just wanted to point that out to everyone.
24 He bought this house in 2020, November of
25 2020, and he's done massive amounts of repair

1
2 on the house. He's a first time buyer. This
3 is his first rodeo.

4 So, we're here tonight based on the
5 can sky exposure plane, which, logically, it
6 was done without a permit. So, that's why
7 we're here. The code calls for 20 foot
8 height being the max. Unfortunately, in this
9 case he is at 20 foot nine inches; that's
10 what we're here for. Code also allows for it
11 to be six units vertically, he is seven units
12 vertically. So, those are the two very
13 variances that he's basically looking for.

14 I just want to point out that there
15 is a home that is literally right in front --
16 actually, it would be to his south on
17 Atlantic Avenue. He's on a dead end on
18 Lenox. 74 Atlantic Avenue was a home that a
19 garage was built, very big garage also with
20 egress windows on the second floor. It abuts
21 this property.

22 So, I mean, there's not really much
23 that we're here to talk about. The property
24 exists as it is. It's a maintain. That's
25 what we're here trying to relieve: The

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2 maintain. If he would have known, he would
3 have made it nine inches shorter, if he would
4 have gotten the permit. Unfortunately, it is
5 what it is.

6 The garage is being utilized for
7 storage purposes and, eventually, a wood
8 shop. He wants to have a wood shop to do
9 stuff in there, and possibly gym equipment,
10 but not for occupying it for any other use.

11 MEMBER JACKSON: The garage that you
12 say is next door, that abuts his garage?

13 MR. RODRIGUEZ: The other garage,
14 yeah. It's literally --

15 MEMBER JACKSON: I know you don't
16 know the measurements. It sounds like it
17 also has sky exposure.

18 MR. RODRIGUEZ: It is not conforming.
19 I can tell you, it's literally -- it's two
20 doors down from me, from my office. So, I
21 can tell you that I saw it being built. I
22 didn't come to the hearing because it's a
23 garage.

24 MEMBER HAWKINS: The one on Atlantic
25 Avenue?

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MR. RODRIGUEZ: Yeah, 74. So, the two properties meet each other. So, this would be to the right of his property. That's the back of that garage; that's what abuts it.

MEMBER HAWKINS: Is there a second floor on the garage?

MR. RODRIGUEZ: There is. There is. Similar to the one that's built right in front of it.

DEPUTY CHAIR CAREY: Is this for storage?

MR. RODRIGUEZ: Storage, correct. If you guys want to go there now, all there is is just stuff in there, stuff that's not in the house.

DEPUTY CHAIR CAREY: Is there electric and water supply in there?

MR. RODRIGUEZ: No.

DEPUTY CHAIR CAREY: Some people try to make illegal apartments. That's why we have to ask the question.

MR. RODRIGUEZ: You have all the right in the world to say those things. No,

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2 it's just used strictly for storage purposes.
3 Again, I was explaining to Mr. Argueta, that
4 we built a house like that once and we were
5 six inches off, six inches off, and we had to
6 come for a variance as well.

7 MEMBER JACKSON: There was an
8 existing garage on this property, wasn't
9 there.

10 MR. RODRIGUEZ: Yes. That existing
11 garage was literally almost on the property
12 line. So, this, they way it's built now
13 actually meets the setbacks, the proper
14 setbacks. He actually has seven feet on the
15 back. And then on the right-hand side he has
16 five feet.

17 CHAIRPERSON RHODEN: That's funny
18 about the setback, but they couldn't do the
19 nine inches in height.

20 DEPUTY CHAIR CAREY: Usually the sky
21 plane exposure is of some concern to the
22 neighbors, it blocks the sun, what have you.
23 I believe there are other cases that are next
24 that will probably speak about it. Have you
25 had any complaints from neighbors around the

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house?

J O S E P H A R G U E T A,
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. ARGUETA: Joseph Argueta. 27
Lenox Place, Freeport, New York.

No, I have had no issues with any of
my neighbors. I've spoken to them, shaken
hands with them. Unfortunately, the police
showed up to the neighbor's house for
whatever issue they had. They informed me
that it isn't issue for my neighbors. They
come over to apologize to me. None of my
neighbors have had any complaints about the
fencing, visual, cleaning, debris. I'm
pretty straight forward, how I am, what I
have learned in the military. I clean my
house, clean the front property. I'm still
learning, obviously. I'm a first time house
owner. I'm still learning the hard way but
learning.

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2 DEPUTY CHAIR CAREY: No one's
3 complained about your garage casting shadows
4 on their yard?

5 MR. ARGUETA: No. That garage was
6 falling apart. I tried to fix it the best I
7 could. Kept the footing. Told the builders
8 to make it where it's supposed to be. Again,
9 I did it the hard way. I learned from my
10 mistakes. So, I'm appearing on this. Again,
11 no neighbors complained about pretty much
12 anything. They come to me about other
13 issues. I live in the corner. I believe one
14 of the larger sections. But again, no
15 complaints about anything like that.

16 MEMBER HAWKINS: Is that a two car
17 garage, a one car garage?

18 MR. ARGUETA: I would say one and a
19 half size. I'm a gym guy. I have my own
20 private gym. I'm going to have my car go in
21 there, a little wood shop to do what I do. I
22 fix stuff. I'm kind of handy with those
23 things. The second floor is going to be
24 mostly for weights, treadmill, if that. So,
25 just something I could use as my own man

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cave.

CHAIRPERSON RHODEN: I have no other questions. Thank you.

MR. ARGUETA: Thank you guys.

MEMBER JACKSON: Thank you for your service.

CHAIRPERSON RHODEN: Do we have anyone who would like to speak for or against this application this evening?

THE SECRETARY: We do not.

CHAIRPERSON RHODEN: Can I have a motion to reserve decision and close to further evidence and testimony, please.

MEMBER JACKSON: So moved.

MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

DEPUTY CHAIR CAREY: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

CHAIRPERSON RHODEN: Call the next application on tonight's calendar.

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THE SECRETARY: Will you be presenting both applications together?

MR. INGBER: Yes.

THE SECRETARY: I'll call both of them.

Application 2023-10 - 131 West Merrick Road, Business B, Section 62, Block 108, Lot 23. Freeport Realty, LLC. Installation of four ground signs. Variances: Village Ordinance 210-6A, 210-212, ground signs.

And together, Application 2023-11, 131 West Merrick Road, Business B, Section 62, Block 108, Lot 23. Freeport Realty, LLC. Remove existing canopy over existing dispensers, install 49 foot by 42 foot canopy over four new dispensers, convert existing service station building 2,365 square feet to 2,040 square feet convenience store with drive thru and associated site improvements. Variances: Village Ordinance 210-6A, 210-325, Parking, 210-86A, Front yards.

I have one Affidavit of Mailing and one Nassau County Planning Commission

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2 recommendation to be entered into the record
3 as Board Exhibits. These will be Board
4 Exhibits 1 and 2 for this individual public
5 hearing.

6 (WHEREUPON, the above-referred to
7 documents were marked as Board's Exhibits 1
8 and 2, for identification, as of this date.)

9 MR. INGBER: Good evening. For he
10 applicant, Matthew Ingber, I-N-G-B-E-R, from
11 the Law Firm of Brown, Altman & DiLeo. 538
12 Broad Hollow Road, Suite 301, Melville,
13 New York.

14 With me this evening are the
15 following experts who are here to answer any
16 questions that you may have. To my right is
17 Nick Buscemi of High Point engineering, as
18 well as Aaron Roberts, PE of Creighton
19 Manning, project engineer.

20 We are here for Bolla EM on this
21 application to redevelop the gasoline fueling
22 station and to develop the Bolla Market with
23 a Tim Horton's drive-thru at the property
24 located at 131 West Merrick Road. For the
25 record, the site plan that's currently before

1
2 this Board was presented to the Board of Site
3 Plan Review and granted site plan approval on
4 February 28th of 2023.

5 This evening, Bolla is here for area
6 parking and sign variances in connection with
7 the overall redevelopment of the property.
8 With the application, the applicant prepared
9 a memorandum in support of the requested
10 variances, and we ask that be incorporated
11 into this evening's record.

12 So, just briefly about the property.
13 Based on the available records from Nassau
14 County Assessor's Office, the property has
15 been approved with a gasoline fueling station
16 and with auto services since approximately
17 1958. The general character of the area
18 consists mainly of commercial and office
19 uses. Just to the east of the property is a
20 parking area, followed by the Gala Food
21 supermarket. Included with our memorandum of
22 support was a picture of the Gala supermarket
23 building which shows that the building itself
24 was developed at or very close to the front
25 yard property line along West Merrick Road.

1
2 Further south of the property is an
3 office building, and further south is an
4 off-street parking area used for patrons of
5 the supermarket as well as for the office
6 building; this is followed by a residential
7 development.

8 To the west of the property, on the
9 opposite side of South Ocean, is a two-story
10 office building. Further west is a
11 McDonald's restaurant drive-thru, as well as
12 a Bank of America building also with a
13 drive-thru.

14 Across the street from the property
15 to the north, on the opposite side of Merrick
16 Road, is the Post Office, the Freeport Public
17 Library, as well as another gasoline fueling
18 station with a convenience store.

19 The property is currently improved
20 with gasoline fueling stations with three
21 dispensers, for a total of six fueling
22 positions. A fueling canopy, which is
23 approximately 11.9 feet from Merrick Road, as
24 well as a 2,365 square foot building that is
25 used as a three bay auto service facility, as

1
2 well as a convenience store. As can be seen
3 from the existing photographs, the
4 improvements at the property are dated and
5 the property has little to no landscaping.

6 So, the application will replace the
7 three gasoline fuel dispensers with four fuel
8 dispensers, so they'll have a total of eight
9 positions, as well as a new canopy. The new
10 canopy will run parallel with Merrick Road.
11 In addition, Bolla will convert the 2,365
12 square foot building to a 2,040 square foot
13 Bolla Market, which will include a Tim
14 Horton's drive-thru with two lines, as seen
15 on the color rendering in front of you, as
16 well as the color rendering also included
17 with our application filed for this evening's
18 hearing.

19 In terms of the design of the site,
20 we note that the drive-thru was previously
21 proposed as a single lane drive-thru, single
22 ordering point. However, based on comments
23 from the Nassau County Department of Public
24 Works, the drive-thru configuration was
25 changed to a drive-thru with two ordering

1
2 lanes. The purpose of the revision was to
3 increase the drive-thru queuing capacity to
4 have less impact of cars potentially queuing
5 on South Ocean Avenue. So, the current
6 layout has a queuing capacity of 15 vehicles
7 measured from the pickup window.

8 In addition, Nassau County Department
9 Public Works also changed the design of the
10 fueling canopy. It was originally designed
11 to be run in an east/west direction, where it
12 would comply with the front yard setback
13 requirement. That had to be changed into the
14 current configuration to a north/south
15 configuration where the fuel dispensers are
16 aligned two-by-two.

17 The reason for the design change was
18 that there was a concern that vehicles at the
19 fuel dispensers may be in the way of vehicles
20 that were entering the site along West
21 Merrick Road. So, by changing the design to
22 what we're proposing now, now the canopy, the
23 fuel dispensers, the potential impact is no
24 longer there. And this design was reviewed
25 and approved by Nassau County Department of

1
2 Public Works, which caused the change in
3 design, and now we need variance relief.

4 As previously mentioned, the
5 character of the area is commercial in
6 nature. This application will continue to be
7 a gasoline station fueling that has is
8 historically associated with the property.
9 It won't change the commercial character of
10 the area. In fact, the landscaping
11 improvements will be a benefit to the
12 neighbor. As previously mentioned, the site
13 has little to no landscaping. As you see by
14 the color rendering, the applicant will be
15 installing green space as well as perennials
16 along South Ocean Avenue, as well as the
17 easterly property line. In addition,
18 arborvitae trees will be planted along the
19 easterly property line, as well as in the
20 southwest and southeast corners of the site
21 to mitigate any potential impact the overall
22 project may have, as well as any potential
23 impact that requested sign variance may have
24 to the neighbors.

25 DEPUTY CHAIR CAREY: Is the north

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side trees the trees on the north side of the curb cut?

MR. INGBER: No, it's a green space. That's a utility strip.

DEPUTY CHAIR CAREY: Grass.

MR. INGBER: Just grass.

DEPUTY CHAIR CAREY: There's no grass now, just concrete?

MR. INGBER: Yeah. The site primarily is comprised of all concrete. As a part of this evening's application, the applicant requested a parking variance where seven stalls are required and six are proposed. As noted before, the Nassau County Department Public Works changed the design from a single drive-thru lane to a double. In the prior configuration of the site seven parking stalls were provided. But to make space and to get approval from Nassau County Department of Public Works, a parking stall previously proposed at the rear of the Bolla Market was removed to make additional space for the second drive-thru lane.

As can be further discussed by the

1
2 project traffic engineer, the six parking
3 stalls will be maximum projected parking
4 demand at the site. In addition, again,
5 which will be more discussed by our project
6 traffic engineer, it's generally recognized
7 in the traffic engineer industry that fueling
8 pumps act as parking stalls for customers who
9 are coming into the site for gas and
10 convenience store items. Customer's at the
11 gas pump, it's highly unlikely they'll get
12 gas and then park in a marked parking stall
13 and go to the convenience store. So, they
14 additional fueling positions will act as
15 parking stalls for customers getting gas as
16 well as using the convenience store.

17 In regard to the sign variances. So
18 the site currently has a pylon identification
19 sign in the northeasterly corner of the site.
20 That sign will be removed and then replaced
21 with a new sign in the northwesterly corner
22 of the site, which will be set back from
23 South Ocean Avenue, as well as set back five
24 feet from West Merrick Road. In addition,
25 the applicant will be getting three

1 directional signs for the drive-thru use.
2
3 The purpose of these signs is really exactly
4 what they're called: It directs customers
5 entering the site to the drive-thru, to
6 improve the overall site circulation. Our
7 project representative from High Point
8 Engineering can speak to the overall design,
9 as well as the purpose of the three proposed
10 directional signs for the drive-thru.

11 DEPUTY CHAIR CAREY: Is there a sign
12 detail on the drawings?

13 MR. INGBER: It should be included in
14 the packet on the first page.

15 DEPUTY CHAIR CAREY: This one? SN1?

16 MR. BUSCEMI: Which detail are you
17 looking for?

18 DEPUTY CHAIR CAREY: I want to know
19 what the northeastern corner big sign that
20 you want is going to be.

21 MR. BUSCEMI: SN1.

22 DEPUTY CHAIR CAREY: This one?

23 MR. BUSCEMI: Correct.

24 DEPUTY CHAIR CAREY: Thank you.

25 So, it's going to be a square. This

1
2 is what it's going to look like on the
3 corner?

4 MR. INGBER: Yeah. As noted on our
5 Memorandum of Support, we should note the
6 type of identification sign. It's customary
7 for gasoline stations, including the Conoco
8 station at 102 West Merrick Road. We did a
9 Freedom of Information FOIL request on that
10 site, where that Board did find the
11 characterization did grant front yard setback
12 variance relief when that site was
13 redeveloped. Similar to this application,
14 the site at 102, the Conoco station, received
15 a front yard setback relief for their
16 proposed canopy.

17 Again, this sign, the new canopy for
18 this site is consistent with the character of
19 the area. As well, the gas station across
20 the street is consistent with present grants
21 by this Board.

22 DEPUTY CHAIR CAREY: I have a
23 question. The impetus for the change is
24 someone has taken over the property? Is it
25 new management? Same people entered into a

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new agreement?

MR. INGBER: Once the site is redeveloped, it will be a Bolla site. So, Bolla will redevelop it and operate as a standard Bolla gas station with a Bolla Market.

DEPUTY CHAIR CAREY: Is this the first Tim Horton's on Long Island?

MR. INGBER: It's not. There is a Tim Horton's in West Hempstead, one in Seaford, and there's quite -- the Bolla operation has quite a few sites that have a Tim Horton's.

DEPUTY CHAIR CAREY: There's a relationship. Are the sign locations similar to this or are they all different depending on the site?

MR. INGBER: They're different.

DEPUTY CHAIR CAREY: I get the idea from the picture.

MR. INGBER: Yes.

MEMBER HAWKINS: Are there other locations with drive-thru's? There's tons of Bolla Markets. Do they have a drive-thru?

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2 MR. INGBER: The two sites I
3 mentioned, the site at 4030 Merrick Road,
4 Seaford, that has a Tim Horton's drive-thru.
5 And 819 West Jericho Turnpike in Smithtown,
6 and 101 Hempstead Turnpike in West Hempstead.

7 Again, with the drive-thru, that use
8 was already approved by the Planning Board.
9 That's not the purpose of this application.
10 The only reason why you're involved is, as
11 discussed today, is that we are asking for
12 directional signs associated with the
13 drive-thru, as well as the fact that from the
14 second ordering lane it required the removal
15 of one of the off-street parking stalls.

16 So, with that, I'd like to open the
17 hearing up for any questions that you may
18 have. We have the project expert here to
19 address any site related questions you may
20 have.

21 MEMBER HAWKINS: As part of the new
22 lane that you have now, or you said a single
23 lane now. Now there are two?

24 MR. INGBER: Yes. I can point to it.
25 There's two ordering points. This is one

1
2 ordering point, that will be the other
3 ordering menu.

4 MEMBER HAWKINS: How is that type of
5 flow? Once you've made your order, how do
6 you regulate the flow of traffic?

7 MR. INGBER: Sure. I'll have the
8 traffic engineer come up.

9 A A R O N R O B E R T S,
10 having been first duly sworn by a Notary
11 Public of the State of New York, was
12 examined and testified as follows:

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

15 MR. ROBERTS: Aaron Roberts. Address
16 is 145 Main Street, Ossining, New York. Like
17 Mr. Ingber said, I'm the project manager here
18 from Creighton Manning.

19 In regards to the drive-thru lane, as
20 you can see on the exhibits, as customers
21 order, receive and exist, they'll have the
22 option to proceed straight ahead, make the
23 right turn on West Merrick, or they could
24 potentially make the left turn and exit onto
25 South Ocean Avenue. We removed three curb

1
2 cuts on West Merrick. And at the request of
3 DPW, there are no left turns out or into the
4 site; it's all right turn movements. That
5 should help improve any collisions, improve
6 safety to the site. Once the customer
7 receives their beverages, snacks through the
8 drive-thru, they'll exit like they would
9 normally.

10 MEMBER HAWKINS: I was talking about,
11 once they place their order at the ordering
12 station and proceed to the pickup order, how
13 does that flow?

14 DEPUTY CHAIR CAREY: Just common
15 courtesy?

16 MR. ROBERTS: Yeah. I can't speak to
17 how Tim Horton's, how they organize their
18 operation. Like a zipper merge pattern would
19 be my assumption.

20 MEMBER HAWKINS: There's one window
21 to pick up?

22 MR. ROBERTS: One pickup window, yes.

23 CHAIRPERSON RHODEN: Have you
24 experienced any problems with that site setup
25 where there might be an accident or something

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2 because they're going to one window. It's
3 not like they are flowing into two lanes,
4 they are merging into one lane.

5 MR. ROBERTS: I can't speak to the
6 accident history.

7 CHAIRPERSON RHODEN: I think that was
8 one of the things that we were looking at.
9 Looking at the diagram, the drawing you have.
10 Okay, I'm trying to get to the same place as
11 the next person is trying to get to the
12 window.

13 MR. ROBERTS: They will be stopped at
14 the ordering station. It won't be a constant
15 flow going past there. They'll be stopped
16 and then proceed slowly to the queuing spot
17 behind the vehicle in front of them or the
18 pickup station.

19 DEPUTY CHAIR CAREY: Can you clarify?
20 You said you are removing the curb cuts on
21 South Ocean or Merrick?

22 MR. ROBERTS: Right. So, there are
23 three curb cuts on Merrick and there are two
24 curb cuts on South Ocean. We're cutting
25 those down to two on Merrick by removing one

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of the curb cuts, and we're cutting down to one curb cut South Ocean down to two. We're removing two total curb cuts on the side.

DEPUTY CHAIR CAREY: That removal will improve on-street parking? So, that's not part of why you have --

MR. ROBERTS: That's correct. Along Merrick you mean?

DEPUTY CHAIR CAREY: Correct. Yes.

MEMBER HAWKINS: With the awning, you said you will reposition it north to south now instead of east to west?

N I C K B U S C E M I,
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.

MR. BUSCEMI: Nick Buscemi. High Point Engineering. Office is at 1860 Walt Whitman Road, Suite 600, Melville, New York 11747. Again, project engineer, project manager for Bolla management.

So yes, originally when we submitted

1
2 this application to DPW, we had four inline
3 at the starting gate. The goal was four at
4 the starting gate inline running west to
5 east. The issue DPW had with that layout was
6 that the inbound traffic, if you're making a
7 right-hand turn into this site, was that if
8 there was a car at the fueling position it
9 would create a conflict between the entering
10 traffic and somebody trying to maneuver out
11 or somebody stopped at that pump. So, their
12 suggestion was to condense it to the square
13 two-by-two, we call it, layout which now
14 clears out and allows a clear lane into the
15 site and also existing the site through the
16 drive-thru. There's no conflict now between
17 the motorist being parked and fueling and to
18 the motorist maneuvering through the site.

19 DEPUTY CHAIR CAREY: I knows across
20 the street to the west, the office building
21 has a large front yard. You are at .9 foot
22 setback. That's because it's already like
23 that and you're trying to create a buffer?

24 MR. BUSCEMI: When we originally
25 designed it, the setback was 16.4 feet to the

1
2 canopy itself. That was driven back because
3 of the single line. Through the change, DPW
4 forced us into that --

5 DEPUTY CHAIR CAREY: Further north?

6 MR. BUSCEMI: Correct. The canopy,
7 where it was originally, it will be a 24 foot
8 wide canopy, 12 feet off the center line.
9 Now you only have 12 feet going into the
10 front yard. Now the issue is you have to
11 expand that out to allow for the second row
12 of columns, and now there is an additional 12
13 foot overhang pushing it forward, so close to
14 the property line.

15 DEPUTY CHAIR CAREY: Now you're going
16 from six to four or four to six?

17 MR. BUSCEMI: There's three pumping
18 stations which allows you fuel up to six
19 people on both sides. Now we have four,
20 which you could fuel eight.

21 DEPUTY CHAIR CAREY: Thank you.

22 MEMBER HAWKINS: The current canopy
23 runs north to south?

24 MR. BUSCEMI: Correct, they do run
25 north to south, which, you know, it's better

1
2 flow I would say, based off what I have seen
3 and done with Bolla. Typically, it's easier
4 traveling. Path you're not coming in and
5 U-turning out. You have a clear path right
6 in, you make that left-hand turn in, nice and
7 easy, and right turn out only. It will help
8 the flow of site traffic.

9 MS. UNGAR: With the change to the
10 double queuing line, does it still have to go
11 back to site plan at all? Has site plan seen
12 it with this?

13 MR. BUSCEMI: Correct, Site Plan had
14 seen it. Originally we went to Planning
15 Board in February, before we got requested by
16 DPW approval before came back for an issue
17 approval. They had seen this exact layout.

18 MS. UNGAR: That's why it went out of
19 order, because you didn't need the parking
20 variance and you didn't need the front yard
21 setback. You went to site plan, they said
22 check with DPW, they changed, you went back
23 to Site Plan and now you're here.

24 MR. BUSCEMI: Correct. All of
25 these -- if it was the way we originally

1
2 designed it, we wouldn't be here. DPW
3 changes is what ultimately drove the major
4 redesign.

5 MEMBER HAWKINS: The other locations
6 you named are all single lane ordering?

7 MR. BUSCEMI: They are all single
8 lane.

9 MR. INGBER: Just for your -- if you
10 want to see how the double lane, side-by-side
11 drive-thru operates, go to McDonald's. Is
12 their preferred drive-thru design, when the
13 site has the capacity to do it. This is the
14 preferred method. The reason being is that,
15 just from knowledge of doing applications for
16 McDonald's, the ordering process in the
17 drive-thru lane is the ordering process. By
18 having two ordering points instead of one,
19 you have an expedited time in the drive-thru
20 to get cars in and out of the site quicker.
21 An example is, you have a car full of kids
22 and you only have a single ordering point,
23 maybe that delays the flow of the drive-thru.
24 But in that same situation, if you have a
25 second drive-thru lane, a minivan full of

1
2 kids, the order may take a while. But while
3 they're ordering the drive-thru lane can keep
4 moving forward because that second ordering
5 point is open. That's the idea of it.
6 That's the idea behind this one as well.

7 Again, it makes the drive-thru lane
8 run more efficient with the additional
9 queuing capacity and decreases any potential
10 impacts the drive-thru lane may have on South
11 Ocean Avenue, as well as the overall site
12 circulation.

13 MEMBER HAWKINS: The hours of
14 operation for the drive-thru?

15 MR. BUSCEMI: For this proposal?
16 We're proposing 24/7.

17 MEMBER JACKSON: I have a question
18 about the sign Bolla on Merrick Road.

19 MR. BUSCEMI: When one?

20 MEMBER JACKSON: There's a Bolla on
21 Merrick Road?

22 MR. INGBER: We're not from here.

23 MEMBER JACKSON: Comparing the sign.
24 It's the same?

25 MR. BUSCEMI: I'm not sure.

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2 MR. INGBER: If you have any other
3 comments or questions, concerns about the
4 application, we're here to address anything
5 that you may have.

6 MEMBER JACKSON: Would you consider
7 reducing the size of the sign?

8 MR. INGBER: Yeah, we would.

9 MEMBER JACKSON: The sign is
10 excessively over.

11 MR. INGBER: We do have an alternate
12 sign here tonight that we will present to the
13 Board. We have feedback on it. I'll have
14 our engineer who designed the signs talk
15 about this new proposed sign and incorporate
16 it with the application.

17 CHAIRPERSON RHODEN: The other signs
18 in the area, I'm sure you did your due
19 diligence. How much higher is this sign?

20 MR. INGBER: I was trying to get the
21 sign details from across the street. I
22 couldn't find it, just from a drive by, the
23 sign at the Conoco station.

24 MR. BUSCEMI: I drove by as well. I
25 didn't FOIL it. I'll probably assume

1
2 somewhere between 18, 22 foot range, which is
3 standard. Again, as Matt mentioned I'll turn
4 this into the Board as exhibits.

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

8 MR. BUSCEMI: If it's easier, I could
9 explain the difference instead of you all
10 looking at numbers.

11 CHAIRPERSON RHODEN: Yes, please.

12 MR. BUSCEMI: So, it's hard to tell
13 in the pictures. I'll explain with what's in
14 front of the Board, which was originally
15 submitted. Shell has what's called eight
16 foot systems and six foot systems. What is
17 being shown there is the eight foot system.
18 So that Shell, that actual shell, that's 64
19 square feet alone, that sign, just from that
20 top square. This what you have in front of
21 you. 1A is a six foot system. So now, this
22 guy is only six by six by six by two. So
23 42.6 square feet is what that works out to
24 be. We removed some panels, the V-Power
25 panel and we reduced the size of the Tim

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2 Horton's down to one foot 11 and a half
3 inches. That's that a single panel is what
4 they call it, as opposed to a double panel.
5 The height of the sign is reduced
6 tremendously. I believe it's about a foot.
7 The reason for that is, what we did here is
8 we increased, actually, the clearance beneath
9 the sign. This is the more typical sign that
10 you see in gas stations at corners. That
11 seven feet allows motorist to be able to look
12 underneath and also allows the clearance of
13 somebody trying to walk through and not bump
14 their head. So, we reduced the sign
15 approximately 75 square feet here.

16 This is, again, probably more in line
17 with Conoco, what they have. It's typically
18 more standard in Villages and smaller
19 municipalities versus the large
20 municipalities who accept, depending on the
21 road. The larger one is a 180 square sign.

22 CHAIRPERSON RHODEN: The width is
23 reduced as well?

24 MR. BUSCEMI: Correct. It's dropping
25 by two feet.

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DEPUTY CHAIR CAREY: Your sign right next to the streetlight, the Ocean Avenue sign, is right inside the property line where that brown dirty thing is? I can't tell you. What is that, all dirt?

MR. INGBER: At one point somebody had a sign there. I don't know what was there.

MR. BUSCEMI: It's on the northwest corner five feet inside both property lines.

DEPUTY CHAIR CAREY: Five feet away from that corner.

MR. BUSCEMI: The property line. It's probably 2 two to that post.

DEPUTY CHAIR CAREY: Thank you. I notice you kind of did a comparison in your documents to how Gala Food has its sign. Do you know what circa that sign was?

MR. BUSCEMI: The food market.

DEPUTY CHAIR CAREY: The only tall sign I see going down the street is -- there's a small sign for Shell. Is that your small sign for Shell on the other side?

MR. BUSCEMI: The existing sign is

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that sign. Tiny little sign as well.

DEPUTY CHAIR CAREY: How much -- is it going to be much bigger than that?

MR. BUSCEMI: I'm not sure of the height in square feet. That is much larger, because that is strictly a Shell sign. We do have to include the price. Unfortunately in today's market, everybody is kind of price hunters. So, we have to make sure that price is visible and not creating somebody at the last minute trying to yank their wheel over to the right side and get into the site.

DEPUTY CHAIR CAREY: Basically, the signage is nonconforming.

MR. BUSCEMI: The location is conforming. The nonconforming is the size and the height.

DEPUTY CHAIR CAREY: That's what I'm saying.

MR. BUSCEMI: Correct. Sorry.

DEPUTY CHAIR CAREY: We go east and west on Merrick Road, there are not any other really tall signs I can see.

MR. BUSCEMI: Right. The closest one

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would be the Conoco. That would be the closest.

DEPUTY CHAIR CAREY: The people are currently own this are no longer involved? I couldn't understand what you were implying.

MR. INGBER: It will be the same owner. Bolla will be the lessee, when Bolla really starts operating the site.

DEPUTY CHAIR CAREY: Operating the market?

MR. INGBER: Yeah.

DEPUTY CHAIR CAREY: Are you going to convert the building, tear it down?

MR. BUSCEMI: Conversion.

MR. INGBER: Partial demolition.

DEPUTY CHAIR CAREY: Thank you.

MR. INGBER: I didn't mention this, but the auto repair bay they have been using at the property as well as all associated cars that are there for the auto use on site, that will no longer happen. No auto repair. The building still strictly be used for Bolla Market with the Tim Horton's.

CHAIRPERSON RHODEN: Thank you very

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much.

Do we have anyone who would like to speak for or against this application this evening?

THE SECRETARY: We do not, Madame Chair.

CHAIRPERSON RHODEN: Can I please have a motion to close to further evidence and testimony and reserve decision.

MEMBER JACKSON: So moved.

DEPUTY CHAIR CAREY: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

DEPUTY CHAIR CAREY: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

DEPUTY CHAIR CAREY: Can I please have a motion to go into executive session.

MEMBER HAWKINS: So moved.

MEMBER JACKSON: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

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DEPUTY CHAIR CAREY: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(Time Ended: 8:19 p.m.)

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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 5th day of July, 2023.


BETHANNE MENNONNA