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INCORPORATED VILLAGE OF FREEPORT
ZONING BOARD

MUNICIPAL BUILDING
46 North Ocean Avenue
Freeport, NY 11520

September 21, 2023
6:00 p.m.

M E M B E R S :

ROSA RHODEN	CHAIRPERSON
BEN JACKSON	MEMBER
DREW SCOPELITIS	ALTERNATE MEMBER

* * *

ROBIN CANTELLI	SECRETARY
JENNIFER UNGAR	DEPUTY VILLAGE ATTORNEY
SCOTT BRAUN	BUILDING DEPARTMENT REP.

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* * *

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* * *

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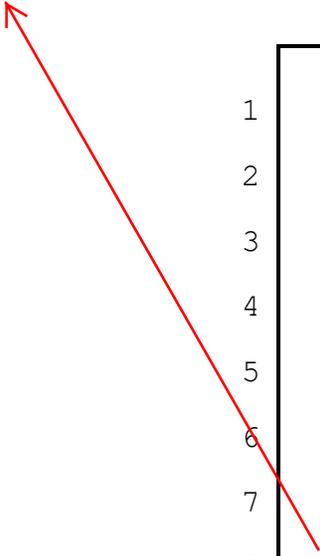
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start here Robin

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* * *

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2 CHAIRPERSON RHODEN: Good evening,
3 everyone. Right now I would like to open up
4 the Zoning Board of Appeals meeting. If
5 everyone could please join me for the Pledge
6 of Allegiance.

7 (Pledge of Allegiance recited.)

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

11 MEMBER JACKSON: So moved.

12 ALTERNATE MEMBER SCOPELITIS: Second.

13 THE SECRETARY: All in favor.

14 ALTERNATE MEMBER SCOPELITIS: Aye.

15 MEMBER JACKSON: Aye.

16 CHAIRPERSON RHODEN: Aye.

17 THE SECRETARY: Any opposed?

18 (WHEREUPON, the Board entered into
19 executive session from 6:06 p.m. to
20 6:51 p.m., after which the following
21 transpired:)

22 CHAIRPERSON RHODEN: Good evening,
23 everyone. If everyone could join me for the
24 Pledge of Allegiance.

25 (Pledge of Allegiance recited.)

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2 CHAIRPERSON RHODEN: Can I please
3 have a motion to accept the minutes from the
4 August 17th Board meeting.

5 MEMBER JACKSON: So moved.

6 ALTERNATE MEMBER SCOPELITIS: Second.

7 THE SECRETARY: All in favor.

8 ALTERNATE MEMBER SCOPELITIS: Aye.

9 MEMBER JACKSON: Aye.

10 CHAIRPERSON RHODEN: Aye.

11 THE SECRETARY: Any opposed?

12 (No response was heard.)

13 CHAIRPERSON RHODEN: Do we have any
14 Affidavits of the publication and Posting to
15 be entered into the record as exhibits this
16 evening?

17 THE SECRETARY: I have one Affidavit
18 of Publication and one Affidavit of Posting
19 to be entered into the record as Board's
20 Exhibits. These will be Board's Exhibits 1
21 and 2 for this public hearing.

22 (WHEREUPON, the above-referred to
23 documents were marked as Board's Exhibits 1 &
24 2, for identification, as of this date.)

25 CHAIRPERSON RHODEN: Do you we have

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any request for adjournment this evening?

THE SECRETARY: We do not, Madame Chair.

CHAIRPERSON RHODEN: Before we call for first application on tonight's calendar, if anyone here is to speak for or against an application this evening, please fill out a form that's in the back and bring it up to the Clerk. Thank you.

Can we call the first application on tonight's calendar?

THE SECRETARY: Application 2023-7, 65 Porterfield Place, Residence A, Section 54, Block 92, Lot 19. Juan Puntiel. Maintain existing accessory awning. Variances: Village Ordinance 210-6(A), 210-43A(2) required rear yard.

I have two Affidavits of Mailing to be entered into the record as Board exhibits. These will be Board's Exhibits 1 and 2 for this individual public hearing.

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

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M I G U E L R O D R I G 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.

MR. RODRIGUEZ: Miguel Rodriguez. 92
Atlantic Avenue, Freeport New York 11520.

Good evening, ladies and gentlemen of
the Board. We're here for a variance to
maintain an existing accessory awning that
was built in the backyard over an outdoor
kitchen. I have pictures here that I'd like
to submit as exhibits. I'm sure that your
packages also have pictures. I'm just
confirming that.

CHAIRPERSON RHODEN: We have the
pictures.

MR. RODRIGUEZ: We have two of the
neighbors here, the neighbors abutting the
property to the left and to the right. We'd
like the call them up to just give their
opinion on the structure that exists.
Mr. Joseph Espinoza, who lives at 61

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2 Porterfield, which is the property to the
3 left of the structure. He's here.

4 J O S E P H E S P I N O Z A,
5 having been first duly sworn by a Notary
6 Public of the State of New York, was
7 examined and testified as follows:

8 COURT REPORTER: State your name and
9 address for the record.

10 MR. ESPINOZA: Joseph Espinoza. 61
11 Porterfield Place, Freeport.

12 I'm the neighbor on the side. I have
13 no issue with the backyard. I have no
14 problem with that.

15 MR. RODRIGUEZ: He's the neighbor
16 that's to the left of the property. We also
17 have the neighbor that's to the right of the
18 property, Ms. Agustina Romero. We'd like to
19 call her up as well.

20 COURT REPORTER: State your name and
21 address for the record.

22 MS. ROMERO: Agustina Romero. I live
23 at 69 Porterfield Place. I don't have any
24 issues with the thing.

25 MR. RODRIGUEZ: So, the structure, as

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exists -- I don't know if you guys saw it both open and closed.

CHAIRPERSON RHODEN: I don't see it closed, I see it open.

MR. RODRIGUEZ: I have images of it.

CHAIRPERSON RHODEN: We only have pictures of it opened.

MR. RODRIGUEZ: I'm going to submit some of these as exhibits.

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

MR. RODRIGUEZ: So the structure, from what I understand from the owners, was built after they made an outdoor kitchen. That would have been the right time to actually apply for the permit, because then I know it would have been put in the right place. But the outdoor kitchen was already built. They had plumbing permits for that, which were both gas and water that they have back there for the outdoor kitchen.

In essence, when they built it, they really didn't think of anything, like it

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wasn't like a fixture, since it opens up. It looks like an awning, more than anything.

MEMBER JACKSON: What's behind this property?

MR. RODRIGUEZ: There's a commercial building behind there. There's two of them. There's a church, one of them, and there's like a medical building that abuts Merrick Road.

CHAIRPERSON RHODEN: So, I remember this house, because you were here -- well, not you, but the owners were here --

MR. RODRIGUEZ: They're here.

CHAIRPERSON RHODEN: -- for the fence, which is not allowed, and they were denied for that specific thing. So, I see that it's still there and nothing has been done to fix that. Because that fence was denied, it wasn't allowed to stay because, as you know, we don't allow these type of fences in Freeport.

MR. RODRIGUEZ: Correct.

CHAIRPERSON RHODEN: So, that's an issue right now for us. Even looking at this

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application, first off.

MS. UNGAR: Was there a permit obtained for the wall that's around the property now, because what has been before the Board six years ago was maintain a concrete wall, and the Board denied it.

MR. RODRIGUEZ: Correct.

MS. UNGAR: So, this looks, I believe, slightly different from what was originally before the Board. Either way, fences made of stone or masonry or bricks are supposed to go to zoning for approval. That's why I'm wondering.

MR. RODRIGUEZ: He's aware that he has to do something with the fence. The property that's behind the plot is a commercial property. If they would apply for a permit on their own, I don't know if that would be granted either. It's not an industrial area.

MS. UNGAR: It was six years ago. It looks like the same fence, the same wall that's still there, and now there's additional work.

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2 MR. RODRIGUEZ: So, it is in the
3 works to be now -- concerning with what's
4 transpiring right now, to have it changed as
5 well. I have an image of the side of the
6 property as well that shows where the
7 structure meets. I didn't submit this one.
8 If you want me to, I could submit it.

9 MEMBER JACKSON: The pictures even
10 show it as a masonry wall. Even if you give
11 the commercial property a permit, the rear of
12 the property, you still have the sides of the
13 property.

14 MR. RODRIGUEZ: The sides, yeah.

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

18 MR. RODRIGUEZ: There's another image
19 in there that shows the back of the
20 structure, and that was the left side that
21 would abut 61 Porterfield, which was
22 Mr. Joseph's property.

23 So, in essence, from what I gather is
24 that if and when this zoning hearing would be
25 approved, he is will to immediately rip

1
2 everything out, because part of that -- if
3 you look at it right there, that picture that
4 I just gave you, you can see the side there,
5 some of that stuff is sitting on top of that
6 wall. I think that's just like PVC on top,
7 not any construction part of it, which could
8 be aesthetically moved. But he would have to
9 apply for a permit for a new fence, install a
10 new fence.

11 So, the idea is to install a PVC
12 fence around the whole property.

13 MEMBER JACKSON: Remove the masonry?

14 MR. RODRIGUEZ: Remove the masonry,
15 install PVC. Now, none of the masonry can
16 stay at all, right?

17 MEMBER JACKSON: Not without a
18 variance from the Board.

19 MR. RODRIGUEZ: Not even like a foot
20 as a lower level? I'm just trying to think
21 outside the box.

22 CHAIRPERSON RHODEN: Why would he
23 want to keep that masonry wall there, if he's
24 going to be putting a fence? What would be
25 the purpose? If you're trying to block the

1
2 other side, right? The whole purpose of that
3 was to prevent from having -- right -- to see
4 from the other side. It would serve no
5 purpose to have that.

6 MR. RODRIGUEZ: I'm just asking if he
7 could keep a foot of it as a base.

8 CHAIRPERSON RHODEN: I understand
9 it's something that he ask and we denied it
10 six years ago, and they went and built an
11 additional structure and have not addressed
12 that. So, that's the problem.

13 MS. UNGAR: Does this have windows on
14 the side.

15 MR. RODRIGUEZ: There's no windows.
16 That basically opens up. It's like --
17 imagine having an electric shade in the
18 house. It rolls all the way up. It's
19 actually pretty nice.

20 MS. UNGAR: But it's not solid on the
21 sides?

22 MR. RODRIGUEZ: No. It literally
23 rolls all the way up like an awning would
24 roll up. It rolls all the way to the top,
25 all the way around.

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MS. UNGAR: So, it's clear and rolled up?

MR. RODRIGUEZ: Yeah, the whole thing. I think it's more for like wind, if you have wind and insects. If you're in there, it repels from that.

MS. UNGAR: I'm actually also wondering why side yard setback wasn't called out for an accessory structure, because it looks like it's even closer to the side of the property than it is to the rear of the property.

MR. RODRIGUEZ: Correct.

MS. UNGAR: I know accessory structures, like garages, can't be within five feet of the property line. I think this is eight inches from the property line, it looks like, on the side.

MR. RODRIGUEZ: There was a garage on the property, at one point, which would have been the accessory structure, which was demolished, in the right-hand corner, if I recall. That was demolished and that was removed. So, they don't have an accessory

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structure but this one.

MS. UNGAR: Correct. But this is -- the permit here was originally for maintaining an accessory structure.

MR. RODRIGUEZ: Correct. If it's enclosed, it's considered an accessory structure. If it's open, it's literally -- you have images there that show the whole thing is like on stilts. It's on stilts.

MS. UNGAR: I'm looking at the application that was submitted to the Building Department. They called it an accessory structure.

MR. RODRIGUEZ: That's the way -- we asked how they wanted us to name it. We didn't even know what to name it.

MS. UNGAR: The definition of the code is a combination of varying materials to make something.

MR. RODRIGUEZ: What was that?

MS. UNGAR: The definition of structure is a combination of materials to make something. So, under the code the definition, it is considered a structure.

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So, I'm just looking at why the side yard setback wouldn't have been -- it's steel beams, whatever, metal beams, right, eight inches from the property line.

MR. RODRIGUEZ: The Building Department is the one who acknowledges the variance, correct?

MS. UNGAR: I understand. But it's also the design professionals job to list out the requirements under the code. I don't see it here, which is why I'm asking about that.

MR. RODRIGUEZ: I have nothing else. I don't know if there's any other questions that you guys have. If you want to hear from the homeowners. If you have questions for the homeowners as well, they're here. Both of them are here.

CHAIRPERSON RHODEN: So, this structure was built prior to coming for the permit?

MR. RODRIGUEZ: Which one?

CHAIRPERSON RHODEN: The beams.

MR. RODRIGUEZ: Yeah.

CHAIRPERSON RHODEN: There was no

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permit?

MR. RODRIGUEZ: That's what they are here for.

CHAIRPERSON RHODEN: They're here afterwards. So, that's why you weren't made aware that you needed to have a certain setback for this, right?

MR. RODRIGUEZ: Correct. Exactly.

CHAIRPERSON RHODEN: I just want to make sure we're clear.

MR. RODRIGUEZ: Exactly.

MS. UNGAR: So, the code talks about side yard for accessory building structures, barbecues, attached garages and breezeways as examples of accessory structures that can't be in the side yard lot.

MEMBER JACKSON: Or rear, right?

MS. UNGAR: Required rear yard is five feet.

MR. RODRIGUEZ: Five feet. They have two and a half feet on the back. That's what they have. That's one of the variances that they're asking for. They have two and a half feet off. A little bit more planning for

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them. If they would have done a little bit more planning, they wouldn't need this two and a half feet.

MEMBER JACKSON: I don't understand that, because they came before us for a ~~will~~^{wall} they built without a permit. We told them they have to check with the Building Department. They didn't follow the denial, nor did they take down the wall, then they started to build something else. You get where I'm going, right? It's kind of ridiculous, at this point.

MR. RODRIGUEZ: It becomes a ripple effect.

MEMBER JACKSON: Excuse me?

MR. RODRIGUEZ: It's a ripple effect.

MEMBER JACKSON: Had they come to the Building Department, they would have said, this is where you have to put it. It's not like they didn't know. We just went through the whole process six years ago. I sat here and I remember it. I see they built a fence by mistake; I get it and I understand that. Then you're not following the code to even

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take down the fence and you just keep building.

MR. RODRIGUEZ: I think I can't really speak for what transpired with the fence because, logically, I wasn't involved. But in reference to the structure that's there now, they built an outdoor barbecue, whatnot, as you see in the pictures, and then, in essence, they didn't think they needed a permit for the structure because it's not -- "it's not enclosed."

MEMBER JACKSON: It's one phone call, you look it up online.

MR. RODRIGUEZ: You're singing to the choir. You know I know that. It's really simple and straightforward. You know that's what we're here for. We have our cards on the table, we're not walking away from it. I'm involved now, so I think the fence coming down, get a new fence installed, will actually happen now. I can't speak, again, for the prior reference because I wasn't involved.

MEMBER JACKSON: I understand. I

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understand.

CHAIRPERSON RHODEN: So, just to make sure we're clear, you are putting in a permit for your new fence, right?

MR. RODRIGUEZ: 100 percent. 100 percent. What color the fence is going to be, I don't know yet. I'm assuming they have to select a PVC fence to put around the property, but 100 percent.

CHAIRPERSON RHODEN: I don't have any further questions at this time.

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

THE SECRETARY: We do not, Madame Chair.

CHAIRPERSON RHODEN: Thank you.

MEMBER JACKSON: Thank you.

MR. RODRIGUEZ: Thank you so much.

CHAIRPERSON RHODEN: At this time --

MS. UNGAR: Madame Chair, I think this hearing needs to be adjourned for the Building Department to review view the side yard setback issue, and we can pick it up

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next month.

Nothing that you said tonight has to be repeated, but any additional questions that may come up because of the side yard question.

MR. RODRIGUEZ: I'm in agreement.

MS. UNGAR: Being aware of it, should the Zoning Board render anything, they need to make sure that everything that needs to be part of an application is included.

MR. RODRIGUEZ: Yes. Yes.

CHAIRPERSON RHODEN: Can I please have a motion to adjourn please?

MEMBER JACKSON: I move we adjourn.

ALTERNATE MEMBER SCOPELITIS: Second.

THE SECRETARY: All in favor.

MEMBER SCOPELITIS: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

CHAIRPERSON RHODEN: Can we please call the next application on tonight's calendar?

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2 THE SECRETARY: The next application
3 is 2023-14, 226 Atlantic Avenue, Residence
4 AA, Section 62, Block 119, Lot 22. ^{Lot 220} Azin
5 Tarifard. Maintain existing new garage,
6 432.64 square feet. Variances: Village
7 Ordinance 210-6(A), 210-35C(2) & (3),
8 required yards.

9 I have two Affidavits of Mailing to
10 be entered into the record as Board exhibits.
11 These will be Board's Exhibits 1 and 2 for
12 this individual public hearing.

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

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

19 S H I M A T O R A B I,
20 having been first duly sworn by a Notary
21 Public of the State of New York, was
22 examined and testified as follows:

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

25 MS. TORABI: Shima Torabi. This is

1
2 my sister, Azin Tarifard. 226 Atlantic
3 Avenue, Freeport.

4 So, my sister is a pediatric dentist.
5 We bought a property two years ago and we
6 have applied for all the proper permits to
7 renovate this building. As part of the
8 process, obviously we had inspector checking
9 the entire process. So, she still works in
10 Boston and comes on weekend until the office
11 is back in place.

12 So, on one of the site visits that I
13 had, the contractor told me that the wood on
14 the garage is all rotten. He said, "This is
15 a safety issue, if you don't replace it. You
16 should do it." I said, "If it's a safety
17 issue, of course we should do it." I asked
18 him how much it's going to be. He said the
19 number is insignificant. It was like a
20 couple of \$1,000, whatever. I was like, "It
21 doesn't matter. Whatever needs to happen
22 needs to happen. We need to get it down, we
23 need to get it down." So, he said okay and
24 he did it. And then the next time the
25 inspector came, I said, "This is what we

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2 did." He says, "You were not supposed to do
3 that. The garage there was grandfathered.
4 Now that you touched the wood, you have to
5 apply for a permit to do it," because I think
6 we are about a foot and a half short of
7 meeting the setback. So, I said, "What
8 should she do?" They said, "Put in the
9 application to maintain it." And therefore,
10 as part of the process, we are here to see if
11 you would allow us to maintain it.

12 As soon as inspector came and saw it,
13 obviously, they knew we're not trying to do
14 something illegal or just doing something
15 without applying for the proper permit. They
16 said, "We just going to stop until we have
17 the permit." They told us not to worry, just
18 proceed. That's what we are here to see what
19 we need to do.

20 MEMBER JACKSON: This is an existing
21 garage you did a repair to?

22 MS. TORABI: Exactly. There's no new
23 foundation, it hasn't been moved an inch.
24 It's in the same exact place.

25 CHAIRPERSON RHODEN: Same size?

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2 MS. TORABI: Same exact size, in the
3 same exact place. It's just the wood was
4 rotten; that's why it was replaced. There
5 are no residential homes on either -- on both
6 side of the garage. There's a nursery with
7 just parking.

8 MEMBER JACKSON: I pass it every day.

9 MS. TORABI: They're really nice
10 people we have been talking with. I don't
11 believe they would have an issue. I didn't
12 know we had to ask them to come here.

13 CHAIRPERSON RHODEN: Thank you. Do
14 we have anyone this evening who would like to
15 speak for or against this application this
16 evening?

17 THE SECRETARY: We do not, Madame
18 Chair.

19 CHAIRPERSON RHODEN: At this time,
20 can I please have a motion to close to
21 further evidence and testimony and reserve
22 decision please?

23 MEMBER JACKSON: So moved.

24 ALTERNATE MEMBER SCOPELITIS: Second.

25 THE SECRETARY: All in favor.

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ALTERNATE MEMBER SCOPELITIS: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

CHAIRPERSON RHODEN: You'll be notified in the mail.

MS. TORABI: I didn't understand.

It's not okay?

CHAIRPERSON RHODEN: We don't make a decision tonight. You will be notified. We have ⁶²60 days to notify you.

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

THE SECRETARY: 2023-17, 53 Hanse Avenue, Industrial B, Section 62, Block 230, Lot 38. Paul Burns. Maintain existing steel assembly frame structure. Variances: Village Ordinance 210-6(A), 210-148(A) Prohibited uses. 210-172(A)10 required parking spaces.

I have one Affidavit of Mailing to be entered as a Board Exhibit. This will be Board's Exhibit 1 for this individual public

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hearing.

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

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

COURT REPORTER: State your name and address for the record.

MR. BENNETT: Robert Bennett,
Engineer. Eight West Merrick Road, Freeport,
New York with Rabco Engineering.

Good evening ladies and gentlemen,
members of the Board. We're here for an assembly bear steel on 53 Hanse Avenue in Freeport. We're here for two issues on the use and also the parking.

The facility is a steel fabrication shop. They -- not manufacturer, but they take prefabricated steel, punch it, cut it, pre-assemble members for use at other facilities. They have been in business for four years. The code, the zoning code, when

1
2 I was filling it out, it was actually
3 surprising that the zoning does not allow
4 steel fabrication. So, I was a little
5 shocked to see that in an industrial area.
6 There is basically no noise, no complaints.
7 It's not like in the old days when they did
8 rivets. There's no side iron, as indicated
9 in the zoning board. I have a feeling that
10 might have been left over in the zoning from
11 years ago when steel was a lot more invasive.
12 Nonetheless, we're addressing that use issue
13 here tonight.

14 It's in compliance with the fire
15 marshall; he has been there. We're in
16 compliance with all the requirements, in that
17 respect. It's an open frame assembly. There
18 is no roof, it's not an enclosed building.
19 There is a storage shed there, which I asked
20 them to remove, and it's on the drawing as
21 well. That will be removed. Basically, it's
22 an open assembly. The whole purpose of
23 having this assembly is for height. To
24 maneuver steel, they need height to lift the
25 members, shuffle it around. They could use

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2 forklifts, but that's a lot more dangerous, a
3 lot more noisy. Safety-wise and
4 production-wise, the overhead assembly is a
5 requirement for construction.

6 They are active in the community,
7 working with the Freeport Chamber of
8 Commerce. They have done work and helped out
9 the police on several work items, and we
10 think that is a positive. They have been
11 there for four years. I think they are a
12 positive impact to the community.

13 The second issue that we had is the
14 parking. They have about 6,800 square feet
15 of the building. The building is actually on
16 the frontage of Hanse Avenue, but they did
17 receive a variance for that building, which
18 they didn't alter in any way. That was
19 approved by a variance in 1998; so, there
20 were no modification to that. The building
21 is 6,800 square feet which required 1,000 --
22 for every 1,000 square feet you need one
23 parking space. So, in effect, we need a
24 total of seven parking spaces. There are
25 three parking spaces on site; so, we're

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asking for relief for four parking spaces.

Some of the employees there -- they have really no issue with parking. It is a crowded area, as most of the industrial area is. Some of their employees take the N4 bus, they walk from Merrick Road. Others take the train and walk from the Long Island Rail Road station.

I did a parking study a couple of years back nearby on Stadium Drive, which is about that time 60 percent occupied. There are spaces along Stadium Drive. We're not using or asking for any parking municipal, even though personally that should be included, but we're not asking for anything of that nature. We're asking for relief on those two issues: The use and the parking.

MEMBER JACKSON: I want to confirm a few things. Reading Chapter 210-138, I'm assuming these are not things that are done there. I'm familiar with what they do. Metal finishing, metal cleaning, cleaning etching and other processes normally used in waste containing metals inside.

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MR. BENNETT: There is some waste, but definitely no cyanide.

MEMBER JACKSON: I think metals. I don't think anything about steel shavings.

MR. BENNETT: They're in compliance with the EPA, fire marshall, and there's no mental risk. You have auto body shops that are ~~probably~~ ^{probably} a lot worse than ~~a~~ ^a steel fabrication shop that is in compliance with EPA and the fire marshall's office.

MEMBER JACKSON: My question, as far as parking, they must have trucks which they do park on site. They have three trucks that are there. Can you describe?

MR. BENNETT: They have been in operation four years. They do have trucks there. They have a gate, which I'm not sure what the side street is to Hanse Avenue there, off the top of my head. They also have good neighbors. Milro is right by there. As far as I know, they haven't had any complaints.

MEMBER JACKSON: But this steel structure, does it take up parking spaces, is

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that the problem, or is it existing nonconforming issue? Did they originally have enough parking spaces?

MR. BENNETT: No, I think when -- that did change. They always had three parking spaces on site. That hasn't changed.

MEMBER JACKSON: The structure in question did change the amount of parking?

MR. BENNETT: They're using that area, a lot of that area, for fabrication. So, they can't increase the number of parking spaces that are required.

MEMBER JACKSON: Okay.

MR. BENNETT: I have the owners here, if you have any questions, as well as Paul Burns is here.

MS. UNGAR: How long did you say they were in operation for? Four years?

MR. BENNETT: Four years in Freeport. They have been in operation longer, but in Freeport for four years.

CHAIRPERSON RHODEN: Thank you very much.

MEMBER JACKSON: Thank you.

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MR. BENNETT: I think we have someone here also that wanted to talk in favor.

CHAIRPERSON RHODEN: We're going to call them up. Thank you.

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

THE SECRETARY: Yes. The first person is Andrew Shabica.

A N D R E W S H A B I C 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. SHABICA: Andrew Shabica. Home address. 1811 Commonwealth Avenue, Merrick, New York. But they keep me at 125 Buffalo Avenue in Freeport.

I'm a steel engineer/fabricator/installer, and I'm affiliated with the Freeport Revolver and Rifle range. They contracted me over the last four years to build their roof, renovate their interior/exterior facilities. My first

1
2 project is when I met this gentleman right
3 there who helped offload some of the largest
4 steel that I think this town has seen in a
5 while. He was very open arms. He's just
6 been an incredible asset. I have known Paul
7 since they have been here and their
8 facilities. After being in the steel
9 industry for 35 years, their facility has to
10 be the cleanest, quietest, safest facility I
11 have seen from here to Chicago and Ohio, and
12 some of the Ohio River Valley areas. For
13 what they do for us and -- I mean, you can
14 drive past and never know that they're there.
15 They have been a great asset to us. I just
16 want to thank Paul for doing what he does.

17 CHAIRPERSON RHODEN: Thank you.

18 MEMBER JACKSON: Thank you.

19 THE SECRETARY: The next person is
20 Frank Grossman.

21 F R A N K G R O S S M A N,
22 having been first duly sworn by a Notary
23 Public of the State of New York, was
24 examined and testified as follows:

25 COURT REPORTER: State your name and

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address for the record.

MR. GROSSMAN: Frank Grossman. Four St. Mary's Place, Freeport, New York.

Well I'm here for this. I just want to verify the fact that -- to get some of this information that's on record now to clarify it. This here says, on the application here, if you read it, "Maintain existing steel assembly frame structure." That's not existing. That's been there only since he purchased it. The property that was about 7,500, 7,200 square feet to St. Mary's. That was all parking. When Bear came in, they converted that to some kind of fabrication for steel products before they were being shipped. So, that moves all the cars on there on the streets.

I wanted to get that on record, because that wasn't an existing steel structure. That was a parking lot there, where that steel truck structure is.

MEMBER JACKSON: If I may. The meaning for that, right now it's an existing structure. They're maintaining an existing

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2 structure. The wording is correct. Even
3 though it may have been four years ago,
4 recently, right now it's an existing
5 structure. So, I think that's the meaning
6 that you're questioning.

7 MR. GROSSMAN: Now they're
8 maintaining a steel structure.

9 MEMBER JACKSON: Yes.

10 MR. GROSSMAN: I understand that.
11 What I'm saying is it wasn't there, when they
12 purchased it. That was an addition. Parking
13 wasn't an issue.

14 MEMBER JACKSON: Understood.

15 MR. GROSSMAN: I don't see the issue.
16 They don't bother me. I do have a problem
17 with the parking. It's not been bad. I just
18 wanted to make sure that -- in case something
19 came up, that that would be -- if that was
20 germane to any of the decisions that you're
21 going to make, because there was, as you
22 said, seven parking spots. There's no way
23 they have seven parking spots on that
24 property now.

25 MEMBER JACKSON: Correct.

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MR. GROSSMAN so, I just wanted to make that clear. And I guess it's no time to bring it up now, but where I do -- what's going on with Six St. Mary's and Eight St. Mary's.

MEMBER JACKSON: That's the house that had the fire?

MR. GROSSMAN: Pardon me?

MEMBER JACKSON: The house that had the fire?

MR. GROSSMAN: That was two years ago.

MEMBER JACKSON: I would suggest talking to the Building Department. This isn't -- we don't get information.

MR. GROSSMAN: I go to the Building Department for that information?

MEMBER JACKSON: That may be the best place to ask, yes.

MR. GROSSMAN: What about the house, Six? They're talking about permits and not getting permits or something now.

MEMBER JACKSON: Again, that's out of our purview.

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MR. GROSSMAN: Is that the Building Department issue?

MEMBER JACKSON: Correct. Yes.

MR. GROSSMAN: I should go to the Building Department to find out what's going on with those two places?

MEMBER JACKSON: Yes. Absolutely. Thank you very much.

MR. BENNETT: The gentleman is correct. It has been built in the past four years, but we're maintaining it now. We're paying double the fee, because it was built without the initial permit and approval.

Secondly, there is some on-site parking within the building. But correct again, they don't have -- even probably more. Like he said, initially, before that, you can't use that area now for parking. That's the request of the Board.

As a final note, I believe that the owner is willing to buy into municipal parking, if necessary, if that's part of the consideration. They are willing to reduce that requirement by paying into the municipal

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funds.

MEMBER JACKSON: I have a question maybe more for the owner. How many employees are there during the day?

P A U L B U R N 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. BURNS: Paul Burns. 1055 47th Avenue, Long Island City is where I live. My workshop is 53 Hanse Avenue.

MEMBER JACKSON: My question was: How many employees do you formally have during the day?

MR. BURNS: In the shop, it varies between nine and 12, and in the field 30 or so. So, at certain times some of them guys come back, give us pressure.

MEMBER JACKSON: Do they travel together?

MR. BURNS: Yeah. They're fathers and sons. Two sets of fathers and sons, and

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then there's a couple of guys, locals, that take bicycles. But my myself, I have my own car, and one other guy in the office, he's there. Between workers, we do probably have about, on average, seven cars, and the other guys take the railroad and buses and stuff.

MEMBER JACKSON: Okay. Pretty much answered my question.

MR. BURNS: Yeah.

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

THE SECRETARY: We do not.

CHAIRPERSON RHODEN: Thank you very much. At this time, can I please have a motion to close to further evidence and testimony and reserve decision.

MEMBER JACKSON: So moved.

ALTERNATE MEMBER SCOPELITIS: Second.

THE SECRETARY: All in favor.

ALTERNATE MEMBER SCOPELITIS: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

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(No response was heard.)

CHAIRPERSON RHODEN: Can we call the next application on tonight's calendar?

THE SECRETARY: 2023-19, 16 Niagara Avenue, Industrial B, Section 62, Block D, Lot 366. Amritpal Singh. Chain link fence eight feet high by 130 feet long. Variances: Village ordinance 210-6(A), 210-171(E)2, fences and enclosures.

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

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

A M R I T P A L S I N G H,
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. SINGH: My name is Amritpal Singh. I live at 35 Kallas Street, Valley

1 Stream, New York. The property address is 16
2 Niagara Avenue, Freeport, New York.

3
4 Good evening everyone. I recently
5 purchased the property three months ago, and
6 my company we do construction. We're using
7 the facility as storage facility, and it's in
8 the Industrial Zone. So, the reason why I'm
9 asking for the additional two feet, because
10 six foot is the zoning approval. Just for
11 safety is one factor. Another reason is to
12 maximize storage, like when we stack wood or
13 steel to a certain capacity. We're not
14 trying to go too high with steel, for safety,
15 and for vandalism. That's about it.

16 I mean, other than that, I recently
17 had an issue where over the weekend some kids
18 broke my glass. So, I started monitoring
19 that, and I saw over one weekend when I got
20 home late from event there was a lot of kids
21 there and about 20 cars were there. And then
22 I said look because my windows broke twice,
23 it cost over \$1,000 for Plexiglass. I called
24 the police. They sent over, I think, four or
25 five cars. I was not happy about the police

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2 let all of them go without stopping them,
3 asking what they're doing, because I saw
4 everything on my camera. I have a recording
5 as well. Kids late at night, 1:00 in the
6 morning, I don't think they are sitting like
7 we are having a meeting. If you're breaking
8 my glass, it's costing thousands of dollars,
9 I think the police should do their job in the
10 sense of stopping them, asking, searching
11 their car, what are you doing. 1:00 in the
12 morning, I don't think people are sitting
13 here talking about meaningful things, you
14 know. Any how, I won't get too much into
15 that, but as the person who pays taxes. I
16 bought the property at high interest. In
17 this day, people costing me extra money for
18 no reason, throwing rocks over onto my
19 property. So, I'm a little angry.

20 Anyway, getting back to the fence. I
21 have an exhibit -- two exhibits. One is
22 showing the area. If you want, I can give
23 you guys showing, highlight in red, where I
24 want the fence. And then I have another
25 exhibit with -- I mean, I want to be very

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2 nice, not open up a can of worms. I have
3 four other properties on the same block. I
4 could have went and looked more into, but
5 that's not the nature of what I'm trying to
6 do here. So, I have the addresses of each
7 property, four properties here that have with
8 the height. You can you go check. I also
9 have pictures where I can Email you that I
10 zoom in that shows eight feet where they
11 don't have blockades.

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

15 MR. SINGH: That's all. If you have
16 any questions.

17 MS. UNGAR: So, there's no fence
18 there at all?

19 MR. SINGH: No. I bought the
20 property, no fence there.

21 MS. UNGAR: When the kids were there,
22 there wasn't anything blocking right now?

23 MR. SINGH: I'm trying to stick to
24 the point, but at the end of the day when I
25 came the next morning, or I think it was the

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day after, because I don't have my people coming there every day, there were rocks, big rocks, that were thrown in. This happened two times. We fixed the glass once, but they broke, you know.

MS. UNGAR: It was just -- I'm just trying to understand. It was windows on the building or glass that was --

MR. SINGH: No, I have windows. I have five windows.

MS. UNGAR: They broke windows on the building?

MR. SINGH: Yeah.

MS. UNGAR: I didn't know if we were talking about materials. You mentioned about construction. I was trying to understand. Gotcha.

MEMBER JACKSON: So, the only concern that I see is you're on the corner, you might obstruct the view of people coming around the corner. It is an open chain link fence?

MR. SINGH: Yeah, I don't mind. I'm fine with an open chain link. It's an area, like a dead end. When the people go there,

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2 it's either like I said. There's a company
3 called L&M Welding, and there's another
4 property toward the end, but I think their
5 property goes from another side. I think
6 that's the one on Taylor Avenue. Their
7 address is Taylor Avenue. So, that's like
8 the back side or -- I don't know how you want
9 to put it. So, it's obstructing the view, I
10 guess, of only people who have to go there.
11 But I'm open to leaving that, you know, open.

12 CHAIRPERSON RHODEN: Thank you. I
13 have no further questions.

14 MR. SINGH: Thank you.

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

18 THE SECRETARY: We do not, Madam
19 Chair.

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

23 MEMBER JACKSON: So moved.

24 ALTERNATE MEMBER SCOPELITIS: Second.

25 THE SECRETARY: All in favor.

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2 ALTERNATE MEMBER SCOPELITIS: Aye.

3 MEMBER JACKSON: Aye.

4 CHAIRPERSON RHODEN: Aye.

5 THE SECRETARY: Any opposed?

6 (No response was heard.)

7 CHAIRPERSON RHODEN: Can we call the
8 next application on tonight's calendar?

9 THE SECRETARY: The next application
10 is 2023-20, 56 West 1st Street, Residence A,
11 Section 62, Block 61, Lot 182. Christina
12 Straub. Install a 20 foot by 12 foot semi
13 in-ground pool and maintain a 422 square foot
14 deck. Variances: Village Ordinance
15 210-6(A), 210-43(C)2, required yards.

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

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

23 B A R B A R A B U N D A S,
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: State your name and address for the record.

MS. BUNDAS: Barbara Bundas, B-U-N-D-A-S. 19 Indiana Street, Hicksville, New York.

I'm here tonight -- I work for Steven Truber, the engineer of record. Good evening members of the Board. I'm here with Christina Straub, the owner of 56 West 1st street. Christina had filed for a permit for a semi in-ground pool and deck in August of '22. The permit was granted on January 26, 2023, and work began in March. During the excavation, it was determined that the location of the pool was set back to 7.5 instead of five. The installer measured from the bulkhead and not the property line. So, it was pushed back a little bit. So, we are here for five foot, but it was actually 7.5.

Inspector Petros was called and he conducted a site visit, when the excavation was complete. He took pictures and told Christina everything was fine, go ahead and

1
2 proceed. After the full installation was
3 complete in late May, the owner had some
4 issues with her contractor and needed to hire
5 someone else. Also at this time she decided
6 to change the deck material from concrete
7 pavers to wood framing. It was a large cost
8 saving and allowed easier access to the pool,
9 in case something happened. I advised her
10 that the plans had to be changed, but I
11 determined there were no other zoning issues,
12 setbacks, lot coverage or anything like that.

13 Christina called Inspector Petros,
14 spoke with him several time and Emailed him
15 the information. Christina called me and
16 asked me to formulate and revise the plans,
17 since she informed me of the material change.
18 The deck was also made a little bit wider on
19 the side to make up for lost square footage
20 in moving the pool back, skill complying with
21 the maximum square footage.

22 This is where the communication error
23 began though, because even though there were
24 several Emails between the owner and the
25 Village, I don't think anyone understood the

1 material and the decking was going to change.
2 There was an Email with it. I don't know
3 what happened. But on July 29th, Inspector
4 Petros did another site visit, again he took
5 pictures, said everything looked fine, and to
6 call him when everything was complete for the
7 final. Christina also gave him the revised
8 plans, at this time.
9

10 Hours later, Inspector Petros called,
11 and Christina was told that the project now
12 required a variance for required rear yard
13 setback of 20 feet. Emails followed,
14 confirming the decision. That's why we're
15 here.

16 MEMBER JACKSON: You say it was
17 originally concrete pavers?

18 MS. BUNDAS: Originally pavers.

19 MEMBER JACKSON: Pavers at grade
20 level?

21 MS. BUNDAS: At pool level. The
22 permit granted to have the pavers at the pool
23 level.

24 MEMBER JACKSON: They were raised to
25 grade to come up three feet?

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MS. BUNDAS: It was going to be on concrete. If you look at the plan, there would be perimeter footings, so that the pavers would be right at the pool level and at the door level coming out.

MEMBER JACKSON: It seems, as of right now, the deck is at three feet, where the pavers would have been.

MS. BUNDAS: Yes, exactly. So now it's the same setup except wood framing.

MEMBER JACKSON: That was -- you have the approval for that?

MS. BUNDAS: Yeah.

MEMBER JACKSON: Do you have a copy of it?

MS. BUNDAS: The excavation passed, the pool installation passed.

MS. UNGAR: I was going to say is, this looks like an original.

MS. STRAUB: This is my original. I have a copy at the house, and I have the original plans.

MS. UNGAR: Can we look at it?

MEMBER JACKSON: Do not submit it, so

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you get it back.

MS. STRAUB: If you see on the site plan on that, it's a five foot setback to the deck and the pool.

MS. UNGAR: But you actually have seven foot.

MS. STRAUB: Correct.

MS. UNGAR: You have more than you originally planned to have.

MS. STRAUB: Yes.

MS. UNGAR: Just for the record, we're looking at an original, the original Building permit granted for installing a 20 by 12 semi in-ground pool with 366 square foot raised paver patio, issued on 1/26/23, and these are the accompanying plans. Presumably these are still on file in the Building Department, if the Board needs further reference.

MS. BUNDAS: I'm assuming the revised plans as well.

MS. UNGAR: So, you obtained a permit for the pool and pavers. When did the plan change from pavers to wood? What happened?

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MS. BUNDAS: The pool was installed.

MS. UNGAR: You put in the pool.

MS. BUNDAS: Correct.

MS. UNGAR: And then you decided you wanted the wood deck and then amended the permit?

MS. BUNDAS: Yes.

MS. UNGAR: It seems like everything was fine.

MS. BUNDAS: That's when everything blew up after that.

MS. STRAUB: These are the newer plans.

CHAIRPERSON RHODEN: I think we have copies of that. Thank you.

So you submitted the amended for the wood pavers --

MS. STRAUB: Wood decking. Wood frame deck.

MS. UNGAR: That's when it was determine a five foot setback was required.

MS. BUNDAS: Yeah.

MS. UNGAR: It was really 230 feet, because of the semi in-ground pool.

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MS. BUNDAS: It was should have been 230 foot initially but it wasn't.

MS. UNGAR: Correct.

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

COURT REPORTER: State your name and address for the record.

MS. STRAUB: Christina Straub. 56 West 1st Street, Freeport, New York.

I called Inspector Petros after the wood deck was framed, because people always told me, "Call proactively as you go along," just as I had done after the excavation. So, he came over, he was like, "Yeah, everything is fine." And then they called me on the phone three hours later and they were like, "Oops, we have a problem."

So, the pool is already installed and has been, and the deck was already framed. It's just in a holding pattern, switching from the stone to the wood for the most part.

CHAIRPERSON RHODEN: Thank you very

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much for your time.

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.

ALTERNATE MEMBER SCOPELITIS: Second.

THE SECRETARY: All in favor.

ALTERNATE MEMBER SCOPELITIS: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

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

THE SECRETARY: The next application is 2023-21, 662 Miller Avenue, Residence A, Section 62, Block 183, Lot 368. Matthew Ranaldo. Install rear deck first floor 414.3 square feet, rear deck second floor 91.8

1 square feet, and front balcony at first floor
2 104 square feet. Variances: Village
3 Ordinance ~~0106~~²¹⁰-6(A), 210-43(C)2, required
4 yards.
5

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

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

13 M A T T H E W R A N A L D O,
14 having been first duly sworn by a Notary
15 Public of the State of New York, was
16 examined and testified as follows:

17 COURT REPORTER: State your name and
18 address for the record.

19 MR. RANALDO: Matt Ranaldo. 662
20 Miller Avenue, Freeport, New York 11520.

21 Good evening Board. So, I wanted to
22 come here tonight and speak to you regarding
23 the deck that we are building in our
24 backyard. Our home was flooded, back in
25 December 2022. We had approximately two feet

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2 of water in our house and, unfortunately, the
3 slab, our home and our foundation was serious
4 compromised, due to the flooding that
5 occurred, so we decided to raise our home.
6 The deck in question in the rear right now is
7 set back regarding the 20 feet from the
8 bulkhead, and I was told there was an issue
9 regarding. And this particular deck that we
10 are building is the same specifications of
11 the deck that's currently existing when I
12 purchased the home back in 2019. So, this
13 deck is not changing, in terms of structure
14 or size in the rear of the home.

15 So, because the house is being raised
16 now, we had to remove the deck. We kept all
17 the lumber from the deck, we saved the frame
18 from the removed decking, so we didn't have
19 to spend money to buy new material for that
20 portion of it. The home, right now is
21 currently in the air, raised up. Once the
22 house gets put back down on the spring, we'd
23 like to have the deck in the rear of the
24 home. The deck in the front of the house, I
25 was told, wasn't a zoning issue, it was more

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of a site plan, which hopefully we get to the next step.

MEMBER JACKSON: The original deck, how high above the ground was it?

MR. RANALDO: Level with the second floor, the rear door in the back of the house. It was eight feet fall.

THE SECRETARY: The original was eight feet off the ground?

MR. RANALDO: Yes.

ALTERNATE MEMBER SCOPELITIS: Not talking to the top of the railing, the platform.

MS. FUDULI: Eight feet from the ground, because there is a deck a foot above the ground. This was from the ground. It's eight feet. It was, I think, about seven feet from the deck underneath it.

I S A B E L L A F U D U L 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 for the record.

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2 MS. FUDULI: Isabelle Fuduli. 662
3 Miller Avenue, Freeport, New York 11550.

4 MS. UNGAR: I'm a little bit
5 confused. The deck that you're proposing had
6 been pre-existing at the same location and
7 the same height as you're proposing putting
8 it back it?

9 MR. RANALDO: Because of the FEMA
10 requirements and grade and flood plane and
11 all of that stuff, this new deck is
12 technically one foot higher than where it was
13 currently existing when we purchased the
14 home; that's because the foundation that is
15 being built for the ground level is nine feet
16 versus eight feet from where it was when --
17 like the original.

18 MS. FUDULI: The original foundation
19 on the original floor right now is eight
20 feet, the deck, but it's going to be one foot
21 taller because of the way the house is being
22 raised. It's the same distance that it is
23 from the water.

24 MEMBER JACKSON: Is deck is only one
25 foot higher?

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MS. FUDULI: The only thing changing is one foot higher. Everything else is the same.

CHAIRPERSON RHODEN: Because it was raised?

MS. FUDULI: Yeah.

CHAIRPERSON RHODEN: Thank you. 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.

ALTERNATE MEMBER SCOPELITIS: Second.

THE SECRETARY: All in favor.

ALTERNATE MEMBER SCOPELITIS: 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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2 THE SECRETARY: The next application
3 is 2023-22, 213 Juanita Avenue, Residence A,
4 Section ~~55~~⁵⁴, Block 199, lot 327. Keenan
5 Stokes. 73.5 square foot garage addition and
6 new roof. Variances: Village Ordinance
7 210-6(A), 210-43(C)2, required yards.

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

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

15 R U S S E L L J O R D A N,
16 having been first duly sworn by a Notary
17 Public of the State of New York, was
18 examined and testified as follows:

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

21 MR. JORDAN: Russell Jordan.
22 Architect on the property. Address is 44
23 Casino Street here in Freeport.

24 First I'd like to introduce a couple
25 of photographs of the existing garage.

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2 (WHEREUPON, the above-referred to
3 documents were marked as Applicant's
4 Exhibit A, for identification, as of this
5 date.)

6 MR. JORDAN: What you're looking at
7 there is one photograph in front of the
8 existing garage, and the other one would be
9 to the left-hand side of the garage, which is
10 where the new work is going to take place.

11 If you reference the site plan, what
12 we're roughly doing here is squaring the
13 garage off, is that there are a couple of
14 small additions to the north side of it that
15 you can see in the photograph. We really
16 just want to make that into a straight
17 rectangle.

18 The current rear yard setback on this
19 property is 3.15 feet. We would be
20 maintaining that for the area that's been
21 added, which amounts to about 75 square feet
22 total. In addition, we're going to -- no, I
23 guess it's more of site plan issue. We're
24 keeping all of the existing finishes, siding,
25 roofing, color, so on and so forth.

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I open it to questions from the Board.

MEMBER JACKSON: Correct me if I'm wrong, you're not going to any more encroaching than it is now in the rear yard setback.

MR. JORDAN: No, it would not.

CHAIRPERSON RHODEN: You just need the additional space?

MR. JORDAN: We'd like to clean it up. There were two additions that you see in the photograph there that it sort of -- it's really sort of non-functional, the way it works right now, because one of those little additions is accessed from the outside and the other one is not really totally accessible from the inside. So, we'd like to square it off.

If you look at the floor plan that was submitted, you can see how it has improved the functionality of the building. You can see those two little additions on north side; one has a double door facing north, the other one is a single door facing

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west, and we just really wanted to incorporate that all into a single space garage.

CHAIRPERSON RHODEN: Thank you.

MR. JORDAN: 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, Madame Chair.

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

MEMBER JACKSON: So moved.

ALTERNATE MEMBER SCOPELITIS: Second.

THE SECRETARY: All in favor.

ALTERNATE MEMBER SCOPELITIS: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

CHAIRPERSON RHODEN: Can we please call the next application on tonight's calendar?

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2 THE SECRETARY: Application 2023-23,
3 20 Meister Boulevard, Residence A, Section
4 54, Block 333, Lot 30. Nassau/Suffolk
5 Partnership. New FEMA compliant single
6 family residence 1,194.21 square feet, two
7 stories. Variances: Village Ordinance
8 210-6(A), 210-39(A)(B)1&2, building height,
9 sky exposure plane, 210-40, lot area, 210-40
10 street frontage.

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

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

18 MS. UNGAR: Before you begin, it's
19 come to the attention of the Board that one
20 of variances that was called out on the plan
21 for the secondary front yard setback was left
22 off the denial letter and, therefore, wasn't
23 published as part of the application. So, at
24 the end of the evening we are going to have
25 to adjourn to the next time to allow for that

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2 variance to be published. However, given
3 that there are members of the public here to
4 speak, if you are able to speak on that issue
5 tonight as well, to be able to fully flesh it
6 out. If there are no further questions or
7 concerns at the next meeting, it would be,
8 hopefully, a relatively quick issue. But we
9 do need the make public all of the required
10 variances. The secondary front yard was left
11 off of the denial letter.

12 N I C H O L A S P F L U G E R,
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: State your name and
17 address for the record.

18 MR. PFLUGER: It's Nicholas Pfluger
19 with Bouler and Pfluger Architects. 85 East
20 Main Street, Bay Shore, New York 11706.

21 I'm the architect on the project.
22 I'm here on behalf of the Long Island Housing
23 Partnership. I presented to the Board
24 previously on this project back in July of
25 2021, and the decision was not to grant our

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2 variance requests. If I were to sum up the
3 main reason, I believe it was that the house
4 was too large for all of the property. So,
5 after some discussions with town officials,
6 we are taking their suggestions and
7 implementing them into the new design, and we
8 had modified the design to be hopefully more
9 palatable to the Board and neighborhood.
10 With that, we are requesting a variance to
11 construct a new FEMA compliant residence and
12 demolish the existing home. The existing
13 home was damaged during Hurricane Sandy and
14 is in disrepair.

15 The new design before you today is
16 1,194.21 square feet, where the previous
17 design that we have presented was 1,496
18 square feet. So, we reduced the overall
19 square footage by about 23 percent of what we
20 previously proposed. Also, the overall
21 square footage is smaller than the existing
22 home that currently exists on the property
23 that is in disrepair. That square footage is
24 1,283 square feet, which is approximately six
25 percent, where our new design is

1
2 approximately six percent smaller than the
3 existing.

4 It was also suggested in the previous
5 denial notes that the house of 1,275 square
6 feet may be more suitable for the property.
7 Although the suggestion had a slightly
8 different split in square footage from the
9 first floor to the second floor, our new
10 design is very close to what that suggestion
11 was and, of course, is a little bit under.
12 In terms of total square footage, it's a
13 little bit under the suggested square footage
14 of 1,194.

15 Our new design also has a one story
16 portion in the front of the house and a
17 covered front entry porch to visually and
18 physically bring the scale of the house down,
19 so the house does not seem too massive for
20 the property, knowing that the property is,
21 obviously, on a small scale.

22 We are also improving all of the
23 setbacks -- we are improving some of the
24 setbacks from the existing home that exists
25 on the property currently, which is at the

1 rear, the secondary front, and the side yard.
2 All of the setbacks are larger than what
3 currently exists today, along with the
4 overall footprint that exists on the property
5 that is also smaller with our new design.
6

7 With respect to the sky exposure
8 plane, the house next door to the west, and
9 there's also a house across the street to the
10 south, also seem to be encroaching on the sky
11 exposure plane in a similar manner that our
12 design is. There are other properties in the
13 area that have been raised, or other houses
14 in the area that have been raised and also
15 seem to actually encroach on the sky exposure
16 plane. So, in saying that, we feel that our
17 design is in line with the immediate context
18 of the neighborhood and would fit in
19 architecturally.

20 In closing, we believe the proposed
21 residence will not have an adverse affects on
22 the neighborhood, and will be an advanced
23 improvement from what currently exists on the
24 house today. With that, I'll take any
25 questions from the Board.

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MEMBER JACKSON: Is the overall floor area reduced from what is existing now?

MR. PFLUGER: Correct. The existing square footage of the first, plus second floor, is 1,283. Our proposed square footage of the first and second floor is 1,194; about six percent less.

MEMBER JACKSON: Right.

CHAIRPERSON RHODEN: Just to confirm, you mentioned that the sky exposure was similar to the homes next to?

MR. PFLUGER: Correct. If you're familiar with the home just to the west, it's relatively close to the property line. But that house was raised to the proper FEMA -- I assume the proper FEMA. Elevation was certainly raised, and the first floor is, approximating, probably about 70 feet or so above the grade. So, just visually speaking, being so close to grade, so tall, it definitely makes the sky exposure plane. There are a couple of other houses that do something similar.

In that regard, we feel that what

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we're proposing isn't necessarily out of character for the neighborhood, being that all those homes were, or many of the homes were FEMA. So, there is no choice to put the first floor at elevation that is required.

CHAIRPERSON RHODEN: Right.

MR. PFLUGER: I'll also mention that house is also a two-story house, full two-story house elevated, just to be clear.

MEMBER JACKSON: It's technically a three-story house.

MR. PFLUGER: Technically three-story. If you count the ground floor as a story, correct.

CHAIRPERSON RHODEN: Thank you.

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

THE SECRETARY: Yes, we do, Madame Chair. Margaret Larbach.

M A R G A R E T L A R B A C H,
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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COURT REPORTER: State your name and address for the record.

MS. LARBACH: Margaret Larchach. 250 Meister Boulevard.

So, my friends and I are here. We live right across the street from the house. It's been empty almost ten years, if not ten years. So, we're concerned about our precious little corner of the neighborhood. It's so beautiful, you know.

Our first concern is in how the process works, as far as the wildlife that's in the home that we suspect is living there.

MEMBER JACKSON: I can answer that. You're not allowed to demolish the house until the Health Department inspects. Once inspected for no vermin, then you have a week, ten days to tear down the house through the help of the Health Department. It's a requirement of the Village.

MS. LARBACH: What about friendly cats that are living in the house? Do you know?

MEMBER JACKSON: That I'm not an

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expert.

MS. LARBACH: We're worried about that. So, when the process begins, can we talk with the people that are there to make sure that everybody's concerns -- that's one of our concerns.

Also, we love the idea of bringing in a new family, but we don't know if the property is already sold. Do we have an applications in the agency that have already been completed? Do they know who is coming in or purchasing the house?

CHAIRPERSON RHODEN: We're going to address -- you can ask your questions to the Board, and then afterwards the gentleman will come back up and answer the questions. But all the questions that you're asking, you're asking the Board.

MS. LARBACH: Gotcha. Then, as far as -- I guess there is a secondary component, the front yard issue. I'm not really sure what that means, but we were concerned about maintaining the footprint of the current house, which is nice in proportion to the

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sidewalk and the street. We were concerned about that not being overextending. I didn't know the application had been denied in 2021 and that the process had been reviewed.

CHAIRPERSON RHODEN: Right. So the application, the presentation that they made earlier, actually, the footprint is smaller than the existing home that is there now.

MS. LARBACH: The front is smaller. Will the grade of the lot be raised? Not just the three levels of the property, but will the lot be raised.

MEMBER JACKSON: I think we'll allow him to answer that.

MS. LARBACH: That's going to increase the height.

MEMBER JACKSON: To answer your question about the secondary front yard. Because this is a corner lot, it's considered two front yards. Even though Meister is the front yard, that side yard has the same setback because it lines up with the houses down the block.

MS. LARBACH: On the side.

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MS. UNGAR: Under the Code, 20 feet is required, and they are posing 17.5 feet.

MS. LARBACH: Sorry, what was that?

MS. UNGAR: The Code requires 20 feet. And for the secondary front yard, they are proposing 17.5 feet which, based on the plans, the outline of the current, existing structure, it's a substantial improvement in that secondary front yard that you had from the existing structure.

MS. LARBACH: Okay. You know, some houses get built in Freeport and they never get moved into and then turn into rentals. Of course in our neighborhood, we're concerned about that, because everybody has a stake. So, we're worried about what happens with this application that comes through this agency, if they build because they have a purchaser and then the house never gets purchased. So, we're concerned about what kind of oversight there is with that.

We also were wondering if the house is going to be built in ADA compliance. I don't know if it is, because I don't see the

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plans, so I wouldn't know. We were wondering about that.

MEMBER JACKSON: From looking, I can tell you it's not, because you won't have any lifts or an elevator. Also, it's not a code requirement on a single-family.

MS. LARBACH: I wasn't sure if the partnership was going to.

MEMBER JACKSON: The plans don't show ADA.

MS. LARBACH: Thank you. How high? Would the height of the building be higher than the house to the west? Would it be higher, or is it just as high?

MEMBER JACKSON: Higher than the house or the west or existing? It will be higher than what's existing because it has to be raised.

MS. LARBACH: When they mentioned that the house across the street was raised, of course it's our house, and the house to the west of it, which is another neighbor's house. That is high and that's three stories. Will the house that they're going

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to build be higher than that house? We understand that all the levels of high houses are getting higher. Will it be higher than that? That's the question.

MEMBER JACKSON: I would be guessing, if I told you. I don't think so. It's probably around the same height.

MS. LARBACH: That's it. I've been excused. Thank you.

MEMBER JACKSON: You're welcome.

CHAIRPERSON RHODEN: Do we have anyone else that would like to speak for or against the application?

THE SECRETARY: We do not, Madame Chair.

MS. UNGAR: Just before you respond in terms of issues that are before zoning, the question of whether there is already a family chosen to move in, that's not a relevant question for the zoning board, or whether or not it's going to be purchased as rental home or home. You don't have an obligation to answer those or address those in any way, if you don't wish to.

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2 MR. PFLUGER: Thank you. So, since
3 I'm the architect, I'll talk to some of the
4 points about the house and the zoning. We
5 have Doug Hurst here from Long Island Housing
6 Partnership that can answer any other
7 questions --

8 CHAIRPERSON RHODEN: He can come up
9 and be sworn in.

10 MR. PFLUGER: -- having to deal with
11 the property, the program, and so forth.

12 To answer a few of the questions.
13 ADA compliance. No, it is not ADA compliant.
14 As mentioned, it's not required, so it was
15 not planned for.

16 In terms of the height, comparing to
17 the house to the west, of course we didn't
18 have an exact measurement for the house to
19 the west, but all I can say it will be
20 comparable, Number One.

21 Number Two, the height that we are
22 proposing for our design is within the
23 maximum height limit anyway. It's compliant,
24 but in concept it will be very close to the
25 house next door, being of a similar building

1
2 type, obviously elevated to the same first
3 floor height. In terms of exact height, I
4 can't speak to that because we don't have
5 that measurement of the house to the west.

6 With respect to the grade. No, we
7 are not proposing to raise the grade at all.
8 Obviously, building any new house there will
9 be some regrading that's happening. We're
10 not bringing in fill or anything like that
11 that would divert off of the property and
12 cause any water problems on neighboring
13 properties. The existing grade is to remain.

14 In terms of the secondary front yard,
15 as mentioned, I'll through a few number out
16 there. The existing house on the secondary
17 front yard, that's 9.3. Again, we're
18 proposing 17.5 feet. So, it's about an eight
19 foot difference there. It's eight feet
20 further from the road, on the secondary side
21 yard.

22 And another point that wasn't asked,
23 but on the rear yard, the existing setback
24 was 6.4 feet, and we're proposing 20.2 feet.
25 So, it's a considerable amount away from the

1 rear yard. Like I said, the side yard, which
2 would be the yard to the west, that's also
3 less or more than existing by .2 feet. So,
4 the existing was five feet, we're proposing
5 5.2 feet. So, on all of these three sides,
6 we're further away from the property lines
7 than what the house currently exists now.
8

9 With that, I'll hand it over to Doug
10 to speak to any other questions that you
11 might have.

12 D O U G H U R S T,
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: State your name and
17 address for the record.

18 MR. HURST: Doug Hurst. 41 Denis
19 Drive, Ronkonkoma, New York.

20 I believe Nick answered all the
21 zoning questions and stuff. Not to belabor
22 this any longer, I'll be happy to give you my
23 contact information and we can schedule a
24 meeting or a Zoom call, anything like that to
25 discuss all the issues. I do have answers --

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I apologize. If that would be an amenable, I'll take care of it that way. Thank you.

CHAIRPERSON RHODEN: We're fine with that, if you want to communicate with your neighbors.

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

THE SECRETARY: We do not, Madame Chair.

CHAIRPERSON RHODEN: At this time, can I have a motion to close to further --

MS. UNGAR: To adjourn.

CHAIRPERSON RHODEN: I'm sorry. Can I have a motion to adjourn for the --

MS. UNGAR: Republication and notice of meeting.

For those of you who have turned out today, nothing about the plans that were already proposed is changing. The only thing that will be added to the description is the secondary front yard, which is going to be 17 and a half feet when 20 feet is required. You heard the testimony that the current

1 house has a secondary front yard of 9.3 feet.
2 So, that's the only thing that is changing.
3 So, if you receive a notice for this
4 hearing -- you will receive another one for
5 next month. So, if you want to attend,
6 absolutely feel free. But I don't expect
7 that we're going to get anything additional
8 from the applicant, unless there is a
9 specific question that comes up.
10

11 MEMBER JACKSON: It's a formality.

12 CHAIRPERSON RHODEN: Can I have a
13 motion to adjourn?

14 MEMBER JACKSON: So moved.

15 ALTERNATE MEMBER SCOPELITIS: Second.

16 THE SECRETARY: All in favor.

17 ALTERNATE MEMBER SCOPELITIS: Aye.

18 MEMBER JACKSON: Aye.

19 CHAIRPERSON RHODEN: Aye.

20 THE SECRETARY: Any opposed?

21 (No response was heard.)

22 CHAIRPERSON RHODEN: Thank you.

23 Can I have a motion to go into
24 executive, please.

25 MEMBER JACKSON: So moved.

September 21, 2023

85

ALTERNATE MEMBER SCOPELITIS: Second.

THE SECRETARY: All in favor.

ALTERNATE MEMBER SCOPELITIS: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

(WHEREUPON, the Board entered into executive session from 8:29 p.m. to 8:50 p.m., after which the following transpired:)

THE SECRETARY: The first decision is Application 2023-13. 355 Atlantic Avenue, Business A, Section 64, Block 144, Lot 565. Esther White. Change of use to daycare.

ALTERNATE MEMBER SCOPELITIS: Chairman, regarding Application 2023-13 for the premises located at 355 Atlantic Avenue, Freeport, the Applicant comes before this Board seeking a variance from Village Ordinances 210-6A, 210-72A(12) and 210-70 seeking approval for a change of use to daycare.

I, Drew Scopelitis, move that this

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Board make the following findings of fact:

A public hearing was held on August 17, 2023 wherein applicant was represented by John Novello from John Capobiano Architect. He is representing Esther White, owner of Carousel of Learning, the daycare located next door to the location that is seeking the variance. Ms. White currently serves the Freeport community and has a waitlist of 30 children, so she is looking to expand her business. The location next door has been empty. She cannot expand behind or to the east. She purchased the property in December of 2022. He explains that with regard to parking, they are not changing the building size. It was previously a dance studio. He said that he expects the parking demand would be less than the dance studio because there is no turnover in classes. Children arrive in the morning and leave late in the afternoon. There are some bus services picking up and dropping off children, which further reduces parking demand. The daycare has been open since 1996 with no issues. He

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explained that by gaining the corner building they can take the traffic off of Atlantic Avenue and use the entrance on St. Marks.

Regarding the use, Mr. Novello explained that the code does not say that daycare is a permitted or prohibited use; so, given that she is running a daycare next door and wants to expand, the use should be permitted. The expansion into the building will allow for two additional classrooms.

Ms. White explained that some people park in front of the building, some in the driveway, and some in the municipal lot. The daycare operates from 6:00 a.m. to 6:00 p.m., and has a total of 16 employees in different shifts.

Regarding the use variance, the Board finds that this is a use previously accepted by the Board as being similar to those permitted in the district. As such, this use is a permitted use and no variance is needed.

Regarding the required parking variance, six additional parking spaces would be required. As testified to, there will not

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2 be additional employees, so the parking
3 demand will not change beyond perhaps a small
4 increase in the traffic during the drop off
5 and pick up times.

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

13 a. That an undesirable change will
14 not be produced in the character of the
15 neighborhood and a detriment to nearby
16 properties will not be created by the
17 granting of the area variance.

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

22 c. That the requested area variance
23 is insubstantial.

24 d. That the proposed variance will
25 not have an adverse effect or impact on the

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2 physical or environmental conditions in the
3 neighborhood or district; and

4 e. That the alleged difficulty was
5 not self-created.

6 The Board, as lead agency, has
7 determined that this action is an unlisted
8 action under SEQRA and a short environmental
9 assessment form has been completed by the
10 applicant and this Board. The Board finds no
11 environmental impact under SEQRA, issues a
12 negative declaration, and no further review
13 is required.

14 I further move that this application
15 be granted subject to the following
16 conditions:

17 1. The Applicant/Owner must comply
18 with all the Rules and Regulations of the
19 Village of Freeport.

20 2. The Applicant must obtain the
21 required permits from the Building
22 Department.

23 3. This application for variances is
24 being granted on the basis of the specific
25 use proposed. If anything in this

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2 application is to change, the applicant must
3 return to the Board for further review. If
4 this becomes to separate daycare's under
5 different ownership, then this application
6 must return to zoning.

7 MEMBER JACKSON: Second.

8 THE SECRETARY: All in favor.

9 ALTERNATE MEMBER SCOPELITIS: Aye.

10 MEMBER JACKSON: Aye.

11 CHAIRPERSON RHODEN: Aye.

12 THE SECRETARY: Any opposed.

13 (No response was heard.)

14 THE SECRETARY: The next decision is
15 Application 2023-15, 284 Miller Avenue,
16 Residence A, Section 62, Block 163, Lot 192.
17 Lorena Idrovo. Second floor front and rear
18 addition totaling 439.85 square feet.

19 MEMBER JACKSON: Madame Chair,
20 regarding Application 2023-15 for the
21 premises located at 284 Miller Avenue,
22 Freeport, the applicant comes before this
23 Board seeking a variance from Village
24 Ordinances 210-6A, 210-39B(1) and 210-43A(3)
25 seeking approval for a second floor front and

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rear addition totaling 439.85 square feet.

I, Ben Jackson, move that this Board make the following findings of fact:

A public hearing was held on August 17, 2023 wherein applicant was represented by Nick Cacoperdo. He explained that the house presently has a 4.1 foot side yard setback. The house is pre-existing and the addition is in line with the rest of the house. He explained that this causes a sky exposure plane issue on the side and it will be difficult to find a house within 200 feet of the property that does not violate the sky exposure plane.

There is also an issue with the front sky exposure plane due to the addition of the covered front porch on the house.

There was a question as to a window being added on the second floor, which was planned as a window on the south wall, but the architect agreed that it could be relocated to the west wall.1. On balance, the benefit to the applicant by the granting of this variance is not outweighed by the

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2 detriment to the health, safety and welfare
3 of the neighborhood or community, if such
4 variance were to be granted. The Board has
5 determined:

6 a. That an undesirable change will
7 not be produced in the character of the
8 neighborhood and a detriment to nearby
9 properties will not be created by the
10 granting of the area variance.

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

15 c. That the requested area variance
16 is insubstantial.

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

21 e. That the alleged difficulty was
22 not self-created.

23 2. The Board, as lead agency, has
24 determined that this action is a Type ii
25 action under SEQRA and no further review is

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required.

I further move that this application be granted subject to the following conditions:

1. The Applicant/Owner must comply with all the Rules and Regulations of the Village of Freeport.

2. The Applicant must obtain the required permits from the Building Department.

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

4. There are to be no new windows on the south side of the house.

ALTERNATE MEMBER SCOPELITIS: Second.

THE SECRETARY: All in favor.

ALTERNATE MEMBER SCOPELITIS: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

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THE SECRETARY: The next decision is Application 2023-16, 435 Woodcleft Avenue, Marine Commerce, Section 62, Block 177, Lot ~~334~~ ³³⁹, 520, 542, ^{add 541} 540. NBD Holdings, Inc.

Proposed hotel and utilize lots 2 & 3 on Block 233, Section 62 for additional accessory use off-site parking. Lot 410 on Block 183, Section 62 for additional accessory use off-site parking.

MEMBER JACKSON: Madame Chair, regarding Application 2023-16 for the premises located at 435 Woodcleft Avenue in Freeport, the applicant comes before this Board seeking a variance from Village Ordinances 210-6A, 210-239, 210-3, 210-172(6) seeking approval for a proposed new 145 room hotel, 100 occupant restaurant, and 175 occupant banquet room and to utilize Section 62, Block 233, Lots 2 & 3 and Section 62, Block 183, Lot 410 for additional accessory use off-site parking.

I, Ben Jackson, move that this Board make the following findings of fact:

A public hearing was held on

1 August 17, 2023, wherein applicant was
2 represented by attorney Kathleen Dickson.
3 She explained that she was previously before
4 the Board in August of 2020 where the
5 variances were granted for a new 100 room
6 hotel with a banquet hall, restaurant, and
7 parking. Since that time, costs have
8 increased and the project, as approved, is no
9 longer economically viable.
10

11 The applicant is before the Board
12 seeking an additional height variance to add
13 an additional floor to the hotel (for a total
14 of five floor, with parking at ground level
15 and four floors of building above), adding an
16 additional 45 hotel rooms, while reducing the
17 capacity of the banquet hall from 300 to 175.
18 They are seeking a variance for providing
19 off-site parking. Parking demand has
20 increased by three parking spaces with the
21 reconfiguration of the project. The
22 applicant has entered into an agreement with
23 the village for 41 parking spaces along Sea
24 Breeze Park. The Village has also agreed to
25 allow parking either at the Recreation Center

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2 or the Front Street Substation, which may be
3 renovated into a new parking lot.

4 Ms. Dickson requested that the prior
5 public hearing records be incorporated into
6 this application, as it is an amendment to
7 the previous application, rather than a brand
8 new application. Overall, 262 parking spaces
9 will be provided, all valet, but for 12
10 handicapped spaces under the building. The
11 hotel is a Hilton hotel and is one of the few
12 waterfront hotels on the south shore of Long
13 Island. The property has 31 boat slips, not
14 for rental, but for the use of hotel guests
15 and guests of the banquet hall. The
16 applicant is willing to accept a condition
17 that the boats slips not be rented out.

18 Wayne Muller, the traffic engineer,
19 also spoke. He explained that in comparing
20 the parking and traffic studies from the
21 original and amended application, the
22 expected parking was similar. When
23 accounting for the synergy between the hotel
24 rooms and the ballroom, the expected weekday
25 parking is 160 vehicle and 184 on weekends.

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2 There will be a shuttle for employees from
3 the Recreation Center to the hotel.

4 Willy Zambrano spoke. He explained
5 there will be a drop off area for the valet.
6 He explained that the design flood elevation
7 is ten feet seven inches; this allows fire
8 trucks to go under the building if necessary.
9 Mr. Zambrano agreed to meet with the fire
10 department again to confirm that the building
11 will be accessible for fire trucks. The
12 height is 75 feet, the highest point of which
13 is the cigar bar and lounge taking up 12
14 percent of the rooftop.

15 Ms. Dickson said that parking
16 availability would always be maintained.
17 They have a license agreement and understand
18 that it has to be maintained. Base on the
19 testimony, 262 spaces are required, (145 for
20 hotel rooms, 33 for restaurant, 25 for
21 employees, and 59 for the banquet hall). 225
22 paces are provided (79 on-site, 105 from the
23 lots on Woodcleft and Miller, 41 at Sea
24 Breeze Park), leaving a deficit of 37 spaces
25 which will need to be accounted for in any

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parking agreement with the Village for parking at the Recreation Center or at the Front Street substation.

In the previous application, 259 spaces were required and the plan was to provide all of them. With the new application, 262 are required; again, the plan is to provide all of them with some off-site spaces. The building height will be 75 feet and a half inches to allow for a fourth floor of rooms in this elevated building.

All findings made by the Board in the previous decision from August 2020 are incorporated by reference.

As for the parking space size and height variances:

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

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

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 is insubstantial.

d. That the proposed variance 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 was not self-created.

Under 210-12K, the Board has the power to permit the parking spaces provided for by this chapter for nonresidential use to be located elsewhere than as required, provided that such other location is no more than 500 feet distance from the location as set forth in the chapter. This power

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2 specifically applies to the request to use
3 the lot adjacent to the subject property and
4 to the parking spaces located along Sea
5 Breeze Park. As such, the Board is required
6 to make the following findings of fact when
7 approving the use of these spaces.

8 2. This application, as conditioned,
9 will not substantially depreciate the value
10 of other properties.

11 This application, as conditioned,
12 will not appreciably alter the essential
13 character of the neighborhood.

14 4. This application, as conditioned,
15 will not because of noise, noxious odors, or
16 other undesirable attributes, create a
17 nuisance.

18 5. This application, as conditioned,
19 will secure public safety and welfare and
20 assure substantial justice.

21 6. This application, as conditioned,
22 will not create or tend to create a fire
23 hazard or endanger the structure or premises
24 wherein or whereon such use is sought.

25 7. This application, as conditioned,

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will fully comply with 87-20 and 87-21 of Chapter 87, Flood Damage Prevention of this Code.

The lots located at the Freeport Recreation Center or the Front Street Substation and on Miller Avenue are not within a 500 foot radius; however, in its general power to grant variances, the Board grants a variance for these required spaces, subject to the conditions of continually requiring leases be in effect for these spaces.

So, as to the requested parking variance:

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

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

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2 properties will not be created by the
3 granting of the area variance. The applicant
4 has gone to great lengths to provide for all
5 of the parking required under the code.

6 b. That the benefit sought by the
7 applicant cannot be achieved by some method,
8 feasible for the applicant to pursue, other
9 than an area variance. Because all of the
10 park is not on site, applicant is required to
11 get permission under 210-12K for the
12 Woodcleft and Sea Breeze spaces within 500
13 feet, and a variance for the remaining Miller
14 Avenue and Recreation Center or Front Street
15 Substation spaces outside of the 500 foot
16 radius. All of these spaces off-site,
17 however, will be valet parking.

18 c. That the requested area variance
19 is insubstantial. No additional burden is
20 being placed on the surrounding neighborhood
21 to provide these spaces; so, as such, this is
22 an insubstantial variance.

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

1 neighborhood or district; and

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3 e. That the alleged difficulty was
4 not self-created.

5 9. The Board, as lead agency,
6 previously determined that this action is an
7 unlisted action under SEQRA, found no
8 environmental impact under SEQRA, and issued
9 a negative declaration. Nothing has changed
10 under SEQRA by this amendment.

11 I further move that this application
12 be granted subject to the following
13 conditions from both the previous hearing and
14 this hearing:

15 1. Applicant/Owner must comply with
16 all the Rules and Regulations of the Village
17 of Freeport.

18 2. Applicant/Owner must obtain the
19 required permits from the Building Department
20 and any other local, state or federal
21 agencies.

22 3. Applicant/Owner must execute an
23 Affidavit of Compliance and return same to
24 the Office of the Village Clerk within 90
25 days of this approval as a prerequisite for

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2 issuance of any permit.

3 4. Applicant/Owner must, within 90
4 days of receiving its Building Permit, to the
5 extent not previously provided, provide the
6 Building Department and Village Attorney's
7 Office with copies of signed leases or
8 licenses for use of the parking lot on
9 Miller, Section 62, Block 183, Lot 410, for
10 the use of space adjacent to Sea Breeze Park
11 for the parking of 41 spaces, and for the use
12 of roughly 37 spaces at the Freeport
13 Recreation Center or Front Street Substation,
14 that when combined with the 79 on-site spaces
15 and parking spaces on Woodcleft, will equal
16 the 262 required parking spaces.

17 5. Applicant must maintain these
18 leases year-round. To ensure that the lease
19 is continuously valid during the height of
20 the season when parking is at its most
21 difficult, no later than May 1st of each
22 year, applicant must provide a signed
23 year-long lease or longer to the Building
24 Department. The Zoning Board strongly
25 recommends that the applicant sign multi-year

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2 leases/licenses because should they ever fail
3 to provide the full amount of parking
4 required, applicant must return to the Board
5 for further review.

6 6. Signage designating the parking
7 lots and spaces as in use by the hotel are
8 recommended, subject to approval by the
9 condominium and Village.

10 7. Valet parking to be required at
11 all times for all off-sight parking space and
12 those on-site spaces designated as valet
13 parking in the plans.

14 8. As parking on the Nautical Mile
15 is a challenge on the best of days, this
16 permission to use off-site spaces within 500
17 feet and the variance to provide another
18 additional spaces further off-site is
19 conditioned on continuously providing theses
20 spaces for parking. Should applicant fail
21 the lease spaces, continue to lease spaces,
22 or sell the adjacent parcel, this parking
23 space variance is automatically revoked. As
24 such, all operations must then cease
25 immediately, until the impact of the loss of

1 spaces can be considered by the Building
2 Department in terms of overall capacity to
3 continue operations. If needed, the
4 applicant will have to return to the Zoning
5 Board for further review.
6

7 9. Should the type of usage of this
8 business/property ever change, these
9 variances are revoked and applicant/owner
10 would have to return to this Board for
11 further review.

12 10. All deliveries must be made
13 before 10:00 a.m. to minimize disruption on
14 the Mile.

15 11. Applicant/Owner must meet with
16 the fire department to discuss any safety
17 concerns of the fire department as part of
18 the site plan process and ensure access to
19 the building by fire apparatus.

20 12. Any boat slips on the property
21 are not to be rented out. Those slips are to
22 be reserved solely for guests of the hotel,
23 restaurant or banquet hall.

24 13. A shuttle must be provided for
25 transportation between parking spaces at the

1
2 Recreation Center or the Front Street
3 Substation and the hotel, regardless of
4 whether those spaces are used for employees
5 or guests.

6 ALTERNATE MEMBER SCOPELITIS: Second.

7 THE SECRETARY: All in favor.

8 ALTERNATE MEMBER SCOPELITIS: Aye.

9 MEMBER JACKSON: Aye.

10 CHAIRPERSON RHODEN: Aye.

11 THE SECRETARY: Any opposed?

12 (No response was heard.)

13 CHAIRPERSON RHODEN: Can I please
14 have a motion to close the legislative
15 session.

16 MEMBER JACKSON: So moved.

17 ALTERNATE MEMBER SCOPELITIS: Second.

18 THE SECRETARY: All in favor.

19 ALTERNATE MEMBER SCOPELITIS: Aye.

20 MEMBER JACKSON: Aye.

21 CHAIRPERSON RHODEN: Aye.

22 (Time Ended: 9:12 p.m.)

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September 21, 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 30th day of September, 2023.

BETHANNE MENNONNA