

A scheduled meeting of the Zoning Board of Appeals of the Incorporated Village of Freeport was held on February 15, 2024 in the Municipal Building, Main Conference Room, 46 North Ocean Avenue, Freeport, NY at 6:00 P.M. with the following present:

Rosa Rhoden	Chairperson	Excused
Jennifer Carey	Deputy Chairperson	
Charles Hawkins	Member	
Ben Jackson	Member	
Anthony J. Mineo	Member	
Drew Scopelitis	Alternate Member	Excused

The meeting was also attended by:

Jennifer Ungar	Deputy Village Attorney
Lisa DeBourg	Deputy Village Clerk
Remy Watts	Secretary
Scott Braun	Building Department representative

At 6:04 P.M. the Board convened in the Main Conference Room and Deputy Chairperson Carey led in the pledge of Allegiance.

Seven individuals were present in the audience.

At 6:05 P.M. motion was made by Member Jackson, seconded by Member Hawkins and carried to adjourn this portion of the Legislative Session to enter in Executive Session to consult with counsel.

The Clerk polled the Board as follows:

Member Hawkins	In Favor
Member Jackson	In Favor
Member Mineo	Not present
Drew Scopelitis	Excused
Deputy Chairperson Carey	In Favor
Chairperson Rhoden	Excused

At 6:51 P.M. motion was made by Member Mineo, seconded by Member Hawkins and carried to reconvene in Legislative Session.

The Clerk polled the Board as follows:

Member Hawkins	In Favor
Member Jackson	In Favor
Member Mineo	In Favor
Drew Scopelitis	Excused
Deputy Chairperson Carey	In Favor
Chairperson Rhoden	Excused

Seven individuals were present in the audience.

At 6:54 P. M. Deputy Chairperson Carey led in the pledge of Allegiance in the Main Conference Room and called the Public Hearing to order for which a full stenographic record was taken.

There were seven individuals in the audience.

Motion was made by Member Hawkins, seconded by Member Mineo and carried to approve the January 18, 2024 minutes.

The Clerk polled the Board as follows:

Member Hawkins	In Favor
Member Jackson	In Favor
Member Mineo	In Favor
Drew Scopelitis	Excused
Deputy Chairperson Carey	In Favor
Chairperson Rhoden	Excused

One (1) Affidavit of Publication and one (1) Affidavit of Posting, were marked into evidence as Board Exhibits.

**Application #2024-1 – 261 S. Long Beach Avenue, Residence AA - Section 62/Block 122/Lot 13 – Jiereh Bowen** – Legalize existing 12’ X 24’ in-ground pool and 8’ X 8’ hot tub. Variances: *Village Ordinance §210-6A Conformity Required, §210-35C (2) (3). Required yards.* One Affidavit of Mailing was marked into evidence as a Board Exhibit. Jiereh Bowen was present for this application. Due to an error in the denial letter, Mr. Bowen was given the option of presenting at this hearing or at a later date. He chose the latter.

Motion was made by Member Jackson, seconded by Member Hawkins and carried at the Board’s request, to adjourn the public hearing pending a revised denial letter.

The Clerk polled the Board as follows:

Member Hawkins	In Favor
Member Jackson	In Favor
Member Mineo	In Favor
Drew Scopelitis	Excused
Deputy Chairperson Carey	In Favor
Chairperson Rhoden	Excused

**Application #2024-2 – 159 Hanse Avenue, Industrial B - Section 62/Block 230/Lot 65 – Oscar Molatti** – Proposed roof raised (match existing height 19.42’), new 15 loading docks, walkway 308 SF and rebuild 2 retaining walls. Variances: *Village Ordinance §210-6A, §210-172A (10). Required parking spaces.* One Affidavit of Mailing was marked into evidence as a Board Exhibit. Mark A. Munisterri, the architect and Brian Cardoso presented this application to the Board.

Motion was made by Member Jackson, seconded by Member Hawkins and carried to close the public hearing to further evidence and testimony and reserve decision.

The Clerk polled the Board as follows:

Member Hawkins	In Favor
Member Jackson	In Favor
Member Mineo	In Favor
Drew Scopelitis	Excused
Deputy Chairperson Carey	In Favor
Chairperson Rhoden	Excused

## DECISIONS:

**Application #2023-32 – 66 Independence Avenue** Residence A - Section 55/Block 364/Lot 142 – Nelson Vintimilla – Maintain reconstruction of 19' X 19' garage due to fire damage. Variances: *Village Ordinance §210-6 (A), §210-43 (C) 2 – Required yards.*

Anthony Mineo moved that the Board make the following findings of fact:

A public hearing was held on January 18, 2024 wherein applicant Nelson Vintimilla spoke on his own behalf. He explained that there was not a sufficient side and rear yard setback for the garage he built. He paid an architect. This was a reconstruction of a garage that was damaged in a fire about two years prior. Mr. Vintimilla explained that he needed new plans drawn, and built the new garage on the same slab as the original garage. The Board notes that there was a previous garage approved in 2013 for a 18' by 19' garage, whereas the new one proposed is 19' by 19'. The Board suspects that the original garage may have been built larger than what was approved, so when the applicant sought to build on the same slab, it was larger than what was originally approved. Thus, applicant had to appear before the Board.

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:
  - 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. By applicant's testimony, the garage built is in the same footprint as the original garage, with need of a rear and side yard setback variance, due to the slightly larger size than the garage approved in 2013.
  - 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. Applicant reconstructed the garage on the existing slab.

- 2. The Board, as lead agency has determined that this action is a Type II action under SEQRA and no further review is required.

It was further moved that the application be granted subject to the following conditions:

- 1. Applicant/Owner must comply with all the Rules and Regulations of the Village of Freeport.
- 2. Applicant must obtain the required permits from the Building Department.
- 3. This application for variance(s) is being granted on the basis of the specific use proposed. If anything in this application is to change, the applicant must return to the Board for further review.

Seconded by Ben Jackson

The Clerk polled the Board as follows:

Member Hawkins	In Favor
Member Jackson	In Favor
Member Mineo	In Favor
Drew Scopelitis	Excused
Deputy Chairperson Carey	In Favor
Chairperson Rhoden	Excused

**Application #2023-29 – 300 Archer Street** Residence AA - Section 62/Block 129/Lot 15 – Walter Ellis – Maintain cabana with chimney 18’ X 20’ sq. ft. Variances: *Village Ordinance §210-6(A), §210-35C (1 and 2) – Required yards.*

Ben Jackson moved that the Board make the following findings of fact:

A public hearing was held on December 21, 2023 wherein applicant Walter Ellis represented himself. The Board explained that the variance required for a secondary front yard setback had been omitted from the denial letter, so the case would have to be adjourned. However, applicant made his presentation that night, with the plan to answer any further questions the next month if any questions were to arise. Mr. Ellis explained that the cabana was built a couple of years ago. They did not have 5 feet from the fence to the chimney. There is 3 feet 7 inches from the structure to the rear fence. He submitted a letter from his neighbor in support of the application. Additionally, the cabana was built in the secondary front yard. A 20-foot secondary front yard is required and the cabana is 9.1 feet from the sidewalk.

The hearing was adjourned to the January 19, 2024 zoning meeting to allow for the publication of the additional variance. At that meeting, there were no further questions from the Board or any public comment.

- 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:

- 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. The structure has been in existence for 2 years and the application has the support of the neighbor next door to the cabana.
  - 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, however, this factor is not dispositive.
2. The Board, as lead agency, has determined that this action is a Type II action under SEQRA and no further review is required.

It was further moved that the application be granted subject to the following conditions:

- 1. Applicant/Owner must comply with all the Rules and Regulations of the Village of Freeport.
- 2. Applicant must obtain the required permits from the Building Department.
- 3. This application for variance(s) is being granted on the basis of the specific use proposed. If anything in this application is to change, the applicant must return to the Board for further review.

Seconded by Charles Hawkins

The Clerk polled the Board as follows:

Member Hawkins	In Favor
Member Jackson	In Favor
Member Mineo	In Favor
Drew Scopelitis	Excused
Deputy Chairperson Carey	In Favor
Chairperson Rhoden	Excused

**Application #2023-30 – 428 Roosevelt Avenue** Residence A - Section 62/Block 156/Lot 756 – Harry Ramdas – Construct rear deck after removal of south porch, reconstruct existing upper level rear deck in mid portion and rebuild rear deck at grade. Maintain existing 200.1 sq. ft. 2<sup>nd</sup> story addition. *Variances: Village Ordinance §210-6(A), §210-43A (2) & C (2). Required Yards, §210-41- Lot coverage; floor area and ratio.*

Charles Hawkins moved that the Board make the following findings of fact:

A public hearing was held on January 18, 2024 wherein applicant was represented by Robert Bennett, of RABCO Engineering. He explained that the lot coverage and setbacks remain as were previously existing. Applicant had to remove portions of the decks in order to reconstruct the bulkhead. Once the bulkhead was complete, applicant sought to reconstruct what had been temporarily removed. However, variances had never been granted for the deviations from the code. The total lot coverage is 38.2% and 30% is allowed. There is 57.9% floor area ratio and 50% is allowed.

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:
  - 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. This is a reconstruction of what previously existed. Nothing new is being created.
  - 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. Applicant had to remove the deck to reconstruct the bulkhead and wish to rebuild what was existing.
2. The Board, as lead agency, has determined that this action is a Type II action under SEQRA and no further review is required.

It was further moved that the application be granted subject to the following conditions:

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

Seconded by Anthony Mineo

The Clerk polled the Board as follows:

Member Hawkins	In Favor
Member Jackson	Recused
Member Mineo	In Favor
Drew Scopelitis	Excused
Deputy Chairperson Carey	In Favor
Chairperson Rhoden	Excused

**Application #2023-31 – 11 Mayfair Court** Residence AA - Section 54/Block B/Lot 555 – Olga Weiss – Proposed rear addition 1<sup>st</sup> and 2<sup>nd</sup> floor (1,505 sq. ft.) and finished cellar (613 sq. ft.)  
 Variances: *Village Ordinance §210-6(A), §210-31(A)(B)1 & 2- Building height; sky exposure plane, §210-35(A)(3)-Required yards., §210-41- Lot coverage; floor area and ratio.*

Anthony Mineo moved that the Board make the following findings of fact:

A public hearing was held on December 21, 2023 wherein applicant was represented by Salvatore Coscia of Permits R Us. He explained that the owner Olga Weiss is proposing a two story addition which does not comply with the sky exposure plane. The side yard setback is 9.1 feet to the dwelling and 6.3 feet to the cellar entry, where 10 feet is required. The side yard aggregate to the house is 28.3 feet and 25.5 feet to the cellar entrance when 32.25 feet is required. The lot is irregularly shaped and at the end of a cul-de-sac. Because of the property shape, any addition would require a variance.

The Board understands that due to the shape of the lot, any variance requested will trigger the need for an area variance, however, the Board has concerns about the location of the cellar egress adding to the burden already being placed on the property. The Board will grant the variance subject to the relocation of the cellar entrance from the side of the property to the rear of the property. Without this change, the Board will not approve this variance.

With the cellar entrance relocated from the side of the property to the rear, so as not to increase the side yard variance needed, the Board finds

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:
  - 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. With a side yard of 9.1 feet, the variance required is minimal, and should not disturb the character of the neighborhood. The impact of the sky exposure plane penetration is also not likely to cause a negative change to the neighborhood.
  - 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. Applicant does not need to build an extension that goes the full length of the house. Applicant

could have chosen a partial rear extension, however, in order to achieve a full house rear extension, a variance for a side yard setback is required. However, as above, the Board is not going to approve an additional variance for that cellar exit, given that the exit could be located elsewhere. Were the applicant to insist on locating the cellar entrance in the side of the property, the variance would not be granted.

- c. that the requested area variance is insubstantial. A 9.1 foot side yard setback versus 10 and 28.3 versus 32.25 aggregate side yard setback 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. Applicant is choosing the extension, however, the irregular shape of the lot is not a self-created difficulty.
2. The Board, as lead agency has determined that this action is a Type II action under SEQRA and no further review is required.

It was further moved that the application be granted subject to the following conditions:

- 1. Applicant/Owner must comply with all the Rules and Regulations of the Village of Freeport.
- 2. Applicant must obtain the required permits from the Building Department.
- 3. This application for variance(s) is being granted on the basis of the specific use proposed. If anything in this application is to change, the applicant must return to the Board for further review.
- 4. This application is being granted on the basis of a modification to the application, specifically relocating the cellar entrance to the rear of the property where it will not increase the side yard setback variance needed. As applicant has no right to build the addition itself without a variance, applicant is not going to create a greater burden on the property by building the cellar entrance in the side yard setback. Applicant must submit amended plans to the Building Department before the permit can be approved.

Seconded by Ben Jackson

The Clerk polled the Board as follows:

Member Hawkins	In Favor
Member Jackson	In Favor
Member Mineo	In Favor
Drew Scopelitis	Excused
Deputy Chairperson Carey	In Favor
Chairperson Rhoden	Excused

At 7:38 P.M Motion was made by Member Hawkins, seconded by Member Jackson and carried to adjourn this portion of the public hearing and enter in Executive Session to consult with counsel.

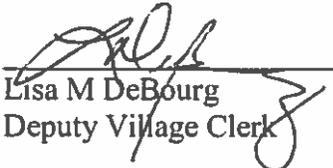
The Clerk polled the Board as follows:

Member Hawkins	In Favor
Member Jackson	In Favor
Member Mineo	In Favor
Drew Scopelitis	Excused
Deputy Chairperson Carey	In Favor
Chairperson Rhoden	Excused

At 8:10 P.M motion was made by Member Mineo, seconded by Member Hawkins and carried to close the meeting.

The Clerk polled the Board as follows:

Member Hawkins	In Favor
Member Jackson	In Favor
Member Mineo	In Favor
Drew Scopelitis	Excused
Deputy Chairperson Carey	In Favor
Chairperson Rhoden	Excused

  
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Lisa M DeBourg  
Deputy Village Clerk