

A scheduled meeting of the Zoning Board of Appeals of the Incorporated Village of Freeport was held on May 16, 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	
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
Remy Watts	Secretary to the Zoning Board of Appeals

At 6:05 P.M. the Board convened in the Main Conference Room and Chairperson Rhoden led in the pledge of Allegiance.

One individual was present in the audience.

At 6:06 P.M. motion was made by Member Jackson, seconded by Deputy Chairperson Carey 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:

Alternate Member Scopelitis	Excused
Member Jackson	In Favor
Member Hawkins	In Favor
Member Mineo	Not Present
Deputy Chairperson Carey	In Favor
Chairperson Rhoden	In Favor

At 6:15 P.M. Member Mineo entered Executive Session.

At 6:38 P.M. Member Jackson asked to be excused from the remainder of the meeting.

At 6:39 P.M., motion was made by Member Hawkins, seconded by Member Mineo and carried to reconvene in Legislative Session.

The Clerk polled the Board as follows:

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

At 6:42 P.M. Chairperson Rhoden convened in the Main Conference Room and led in the pledge of Allegiance. The Public Hearing was called to order for which a full stenographic record was taken.

Two individuals were present.

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

The Clerk polled the Board as follows:

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

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

There was one request for adjournment.

Application #2024-7 – 16 Archer Street, Residence A – Section 62/ Block 048/ Lot 4 – Jose Gutierrez – Proposed new 4,020 Sq. Ft 2-Story 2-Family residence to existing vacant lot. *VariANCES: Village Ordinance §210-6A, §210-37 Permitted uses, §210-31 Building height; Sky exposure plane.*

Motion was made by Deputy Chairperson Carey, seconded by Member Hawkins and carried to adjourn the public hearing at the request of the applicant.

The Clerk polled the Board as follows:

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

DECISIONS:

Application #2024-4 – 368 Wallace St, Residence AA- Section 55/ Block 396/ Lot 363 – Maria Gonzalez – Legalize existing 80.5’ x 5’ high and 50’ x 6’ high closed fence *VariANCES: Village Ordinance §210-6A, §210-171. Fences and Enclosures.*

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

A public hearing was held on April 18, 2024 wherein applicant’s husband, Luis Perez presented much of the application. Mr. Perez explained that he put up a six foot fence without a permit. He said someone in the building department said it couldn’t be more than five feet, so he made the fence five feet. Based on the documents provided, the fence is five feet high going across the front of the property, but other parts of the fence in the front yard are six feet high. The code only permits a 4 foot open fence in a front yard. Mr. Perez explained that they made the fence six and five feet to give privacy to their grandchildren because with a corner lot, there is no backyard for privacy. He does not believe the five foot closed fence should be a problem

1. On balance, the benefit to the applicant by the granting of this variance is far 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 be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. A four foot open fence in a front yard is required for safety reasons. With a five and six foot fence right at the front property line, the applicant blocks sightlines to both their driveway and that of the neighbor to the south. This creates almost no visibility for a car backing out of either of those driveways to observe a pedestrian or child on a bicycle.
 - b. that the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance. Applicant can put in a conforming four foot open fence. It may not provide the same privacy as a five and six foot closed fence, but the safety concerns outweigh the privacy concern.
 - c. that the requested area variance is substantial.
 - d. that the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - e. that the alleged difficulty was self-created. Applicant built the fence without benefit of a permit prior to the fence’s construction.

It was further moved that this application be **DENIED** based upon the foregoing findings.

Second by Member: Anthony Mineo

The Clerk polled the Board as follows:

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

Application #2024-5 – 106 Broadway, Apartment/Golden Age - Section 55/Block 232/Lot 201 – 106 Associates – New Family multi residence 80 apartment building (21,545 SF)

with onsite parking. Variances: *Village Ordinance §210-6A, §210-280 Building Area, §210-281 Front Yards, §210-282 Side Yard, §210-290 Parking and Garage Facilities, §210-291 Population Density.*

Deputy Chairperson Jennifer Carey moved that this Board make the following findings of fact:

A public hearing was held on April 18, 2024 whereon applicant was represented by attorney Christian Browne. He explained that the proposed building is an age-restricted Golden Age residence consisting of 80 units. The property is currently a single parcel owned by the Refuge Apostolic Church. The proposed development area was rezoned to Golden Age by the Board of Trustees. The area to be improved is just a little bit over 30,000 square feet. It is a vacant area behind the church. They are proposing to subdivide the parcel, leaving the church on a parcel that is approximately 12,000 square feet. The church would have the right to reserve 10 of the apartment building's spaces at any time it wishes, and use any excess parking on Sundays. They are proposing 94 spaces when 100 are required. The church currently has no formal parking, so this proposal would give the church some proper off-street spaces. The Golden Age housing proposed is geared toward residents who may not drive and mostly stay on-site. They live independently, but are also given assistance and amenities which makes life easier. There are income levels, so there is an affordability component to it.

Regarding the parking, 94 spaces are proposed but 84 will be available to the residents. About half of residents of senior buildings are not drivers. When a comparison was made to a similar building with 125 units, max parking used was 77. Scaling those numbers to this project, it is expected that only about 40 spaces will be needed. On Sundays, they anticipate that the church will generate about 25 cars.

Regarding building height, Mr. Browne confirmed that this variance was to be removed from the application. 50 feet heights are permitted, and the building is 50 feet in height. The superintendent of buildings had confirmed that variance was no longer required.

Moving on to lot coverage, Mr. Browne explained that 40% coverage is permitted and 71.1% is proposed. He explained that they are trying to use as much of the property as possible in order to permit the church to continue. They need enough units to make it economically viable for the developer.

Peter Florey, the principle of D&F Development Group, explained that they are developers, builders and managers of workforce housing on Long Island. The project was envisioned by Bishop Ronald H. Carter of the Refuge Apostolic Church. The company specializes in proving housing at lower cost. This is accomplished through tax credits and lower interest loans, as well as conventional financing. The income range being targeted is between \$35,000 and \$75,000 per year with rents ranging from \$1,300 to about \$1,650 per month. Ten units will be set aside for people with special needs, ten units will be set aside for people with physical handicaps, and four units will be for those with vision and hearing impairments.

Mr. Florey and Mr. Browne explained the delicate balance of getting enough density to make the project work while also making the project work in the proposed location. They are using the land to its maximum capacity without completely going over height or parking requirements. The lot setbacks and density are higher than permitted by zoning to try to keep that balance of economic viability and suitability in the community.

Salvatore Coco of BHC Architects also spoke. He explained while the lot coverage is 71.1%, the middle courtyard on the second floor, is over the parking, but provides outdoor garden space. If it were at grade, the lot coverage would not be 71.1%.

Tanya Carter, Bishop Carter's daughter spoke. She spoke about her father's vision for this project.

There is no more height variance required, so that is not before the Board for consideration. Regarding the remaining variances for lot coverage, front yard setback, side yard setback, on-site parking requirements, and population density, the Board finds:

2. 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 variances;
 - b. that the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than area variances;
 - c. that the requested area variances are overall insubstantial;
 - d. that the proposed variances 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 might be considered self-created, but this factor is not dispositive.
3. The Board of Trustees previously made a SEQRA determination for the project as part of the re-zone, so no further review is required by the Zoning Board.

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

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

- 3. This application for variance(s) is being granted on the basis of the specifics proposed. If anything in this application is to change, the applicant must return to the Board for further review.

Second by member: Anthony Mineo

The Clerk polled the Board as follows:

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

Application #2024-6 – 49 Madison Avenue, Residence A – Section 54/ Block 084/ Lot 1 – Jonathan Guardado – New 234’ x 6’ PVC fence. Full privacy on rear of property. 5’ Solid, 1’ lattice on side and front of home. Variances: *Village Ordinance §210-6A, §210-171. Fences and Enclosures*

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

A public hearing was held on April 18, 2024 wherein applicant, Jonathan Guardado represented himself. He explained that he filed his fence permit application shortly after the change in code went into effect. The code requires the fence to be 4 feet open at half of the distance from the dwelling to the sidewalk. He explained that he has 27 feet so 13.5 feet is required. He said he felt that other people might only have 10 feet, so would only be required to have 5 feet of open fence. He also commented that it would be permissible to put 6 foot shrubbery on the corner of the property line, while a fence is not permitted.

A neighbor spoke about the fence. He was concerned about the impact both on the subject property’s driveway, and the adjacent property’s driveway. Being set back 2 feet is not sufficient to provide visibility for drivers backing out of a driveway. He also thinks half the distance isn’t quite right either. He said he has walked to and from the train station for years, and 4 or 5 foot setback from the property would be sufficient to allow for a sightline.

Another neighbor also spoke. He said that the corner has many accidents, including his wife. People don’t respect the stop sign at the corner. He thinks the lack of a stop sign is a problem.

Finally, a husband and wife neighbor spoke. They also said there were many car accidents at that corner. Cars coming from Sunrise Highway, going through the stop sign. He said that on the Lexington side, he does not think the fence should go past the back of the house because it would obstruct the view. On the Madison side, he does not think the fence should go past the front of the house due to the view obstruction. She said that there are too many accidents at that corner.

1. On balance, the benefit to the applicant by the granting of this variance is far 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 be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. This code change was for safety reasons, and neighbors corroborated the issues at the corner.
 - b. that the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance. Applicant can put a 4 foot open fence in the portion of the property within 13.5 feet from the sidewalk.
 - c. that the requested area variance is substantial.
 - d. that the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - e. that the alleged difficulty was self-created.

It was further moved that this application be **DENIED** based upon the foregoing findings.

Second by Member: Charles Hawkins

The Clerk polled the Board as follows:

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

At 6:58 P.M motion was made by Deputy Chairperson Carey, seconded by Member Mineo and carried to close the meeting.

The Clerk polled the Board as follows:

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



Remy M. Watts
Secretary to the Zoning Board of Appeals