

A scheduled meeting of the Zoning Board of Appeals of the Incorporated Village of Freeport was held on July 18, 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	
Anthony Mineo	Member	
Ben Jackson	Member	
Charles Hawkins	Member	
Drew Scopelitis	Alternate Member	Absent

The meeting was also attended by:

Jennifer Ungar	Deputy Village Attorney
Remy Watts	Secretary to the Zoning Board of Appeals
Daniela Hernandez	Building Department Representative

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

Two individuals were present in the audience.

At 6:06 P.M. motion was made by Member Mineo, 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:

Member Mineo	In Favor
Member Jackson	In Favor
Member Hawkins	In Favor
Deputy Chairperson Carey	In Favor
Chairperson Rhoden	In Favor

At 6:35 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 Mineo	In Favor
Member Jackson	In Favor
Member Hawkins	In Favor
Deputy Chairperson Carey	In Favor
Chairperson Rhoden	In Favor

At 6:40 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.

Five individuals were present.

Motion was made by Member Jackson, seconded by Deputy Chairperson Carey and carried to approve the June 20, 2024 minutes.

The Clerk polled the Board as follows:

Member Mineo	In Favor
Member Jackson	In Favor
Member Hawkins	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 no request for adjournment.

Application #2024-8 – 73 Smith Street, Residence A – Section 62/ Block 076/ Lot 27 – Andre Reviero – Maintain 550 Sq. ft. Garage, 126 Sq. ft. Gazebo, 388 Sq. ft. Deck, Cellar entrance and framed overhangs on east side of the property. Propose 105 Sq. ft. addition on west side and repair fire damage. *Variances: Village Ordinance §210-6A, §210-43 required yards, §210-41 lot coverage; floor area ratio, §210-21 permissible extension of use.*

One Affidavit of Mailing was entered into the record as board exhibits. Christina Bravin of Morano Expediting presented the application.

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

The Clerk polled the Board as follows:

Member Mineo	In Favor
Member Jackson	In Favor
Member Hawkins	In Favor
Deputy Chairperson Carey	In Favor
Chairperson Rhoden	In Favor

DECISIONS:

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.*

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

A public hearing was held on June 20, 2024 wherein Luis Rodriguez presented on behalf of the applicant. He explained that the house at 16 Archer was previously a legal five-family

house, which has now been demolished. The proposal is to build a legal two-family home. Mr. Rodriguez presented an exhibit which showed other legal two family houses in the neighborhood. He explained that 52 N Bergen and 97 Raynor were both approved by the zoning board and the others were pre-existing non-conforming. 97 Raynor was approved by the Board in 2012, but 52 N Bergen is a 4 family apartment building in an apartment district, which would not have needed approval from zoning. Mr. Rodriguez explained that the property goes through from Archer Street to Franklin Square. One driveway is proposed. The Board asked if the applicant had considered splitting the lot front and back and building two single family houses. Mr. Rodriguez said they had not because there is not enough square footage. He explained the lot is 8,226 square feet. Mr. Rodriguez said that the purchaser did not know a variance would be needed when they purchased it, and that it was marketed as a five family house. Once they began the demolition, they realized they would need a permit to build a two family home. In response to a question from the Board, Mr. Rodriguez explained that the basement would be used for storage, not habitable space. Mr. Rodriguez explained that the property was bought for \$424,000 cash, and there will be no mortgage. Mr. Rodriguez said there is no financial hardship in building the house, but that there would be no benefit in building a one family house. There were no public comments on the application.

Regarding the use variance to build a two family house when not permitted in the code, the Board finds:

1. Applicant has NOT demonstrated that applicable zoning regulations and restrictions have caused unnecessary hardship. Applicant has NOT demonstrated to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:
 - a. the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence. Applicant gave no numbers to show that a reasonable return could not be realized.
 - b. that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood. The property is not unique. The surrounding area is zoned primarily Residential A. There are a mix of two family and one family houses. Applicant's property is not unique.
 - c. that the requested use variance, if granted, will not alter the essential character of the neighborhood. Regarding this factor, applicant made a reasonable case that there are other two family homes in the neighborhood. However, to obtain a use variance, applicant must meet all of the factors. This is the only factor that applicant can meet the criteria for.
 - d. that the alleged hardship has not been self-created. The hardship was self-created. Applicant bought a property without doing proper due diligence in the Village. Had the applicant done more research, he would have learned that two family houses are not permitted in the Village.

The Board does not need to make a finding as to sky exposure plane, given that the use is not being granted.

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:

Deputy Carey	In Favor
Member Mineo	In Favor
Member Jackson	In Favor
Member Hawkins	In Favor
Chairperson Rhoden	In Favor

At 7:00 P.M. motion was made by Member Mineo, seconded by Member Jackson and carried to reconvene in Executive Session.

The Clerk polled the Board as follows:

Member Mineo	In Favor
Member Jackson	In Favor
Member Hawkins	In Favor
Deputy Chairperson Carey	In Favor
Chairperson Rhoden	In Favor

At 7:05 P.M. motion was made by Member Mineo, seconded by Member Jackson and carried to close the meeting.

The Clerk polled the Board as follows:

Member Mineo	In Favor
Member Jackson	In Favor
Member Hawkins	In Favor
Deputy Chairperson Carey	In Favor
Chairperson Rhoden	In Favor



Remy M. Watts
Secretary to the Zoning Board of Appeals