

A scheduled meeting of the Zoning Board of Appeals of the Incorporated Village of Freeport was held on September 19, 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	Excused
Anthony Mineo	Member	Excused
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
Scott Braun	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.

Nine (9) individuals were present in the audience.

At 6:06 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:

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

At 6:40 P.M., motion was made by Member Hawkins, seconded by Member Jackson and carried to reconvene in Legislative Session.

The Clerk polled the Board as follows:

Deputy Chairperson Carey	Excused
Member Mineo	Excused
Member Jackson	In Favor
Member Hawkins	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.

Seventeen (17) individuals were present.

Motion was made by Member Jackson, seconded by Member Hawkins and carried to approve the August 15, 2024 minutes.

The Clerk polled the Board as follows:

Deputy Chairperson Carey	Excused
Member Mineo	Excused
Member Jackson	In Favor
Member Hawkins	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 #2024-9 – 147 Woodcleft Avenue, Marine Commerce – Section 62/ Block 177/ Lot 534 – Aaron Kadosh – Propose 1-story side addition (224 sq. ft.), 1-story addition (169 sq. ft.), 2nd story terrace (930 sq. ft.), roof over deck (424 sq. ft.), and wood shades/ pergola (240 sq. ft.). *Variances: Village Ordinance §210-6A, §210-40 Required yards, §210-172 (4) Required parking spaces.*

One (1) Affidavit of Mailing was entered into the record as board exhibits. Robert Ramirez, the Architect, presented the application along with Aaron Kadosh, the property owner.

Chairperson Rhoden suggests second calling the application after other applicants have presented.

Application #2024-12 – 66 Sagamore Street, Residence A – Section 55/ Block 376/ Lot 1242 – Rosina Codrington – Propose 162’ of 6’ high closed PVC fence. *Variances: Village Ordinance §210-6A, §210-171D (2) Fences and Enclosures.*

One (1) Affidavit of Mailing was entered into the record as board exhibits. Rosina Codrington, the homeowner presented the application.

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

The Clerk polled the Board as follows:

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

Application #2024-14 – 146 Westside Avenue, Residence A – Section 62/ Block 031/ Lot 24 – Sasha Villanueva – Propose 68’ of 5’ high PVC fence (4’ closed + 1’ mini lattice). *Variances: Village Ordinance §210-6A, §210-171D (2) Fences and Enclosures.*

One (1) Affidavit of Mailing was entered into the record as board exhibits. Sasha Villanueva, the homeowner presented the application.

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

The Clerk polled the Board as follows:

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

Application #2024-15 – 54 Morton Avenue, Residence A – Section 55/ Block 300/ Lot 205 – Desiree Boucher – Maintain privacy fence (26’ of 4’ high closed). *Variances: Village Ordinance §210-6A, §210-171D (1) Fences and Enclosures.*

One (1) Affidavit of Mailing was entered into the record as board exhibits. Desiree Boucher and Richard Gray, the homeowners presented the application.

Motion was made by Member Jackson, seconded by Member Hawkins carried to adjourn the public hearing at the Boards request, pending the homeowner’s decision on the final finish of the fence.

The Clerk polled the Board as follows:

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

Application #2024-13 – 20 Mayfair Court, Residence AA – Section 54/ Block B/ Lot 453 – Shana Ashwood – Rebuild garage 197 sq. ft. due to fire. *Variances: Village Ordinance §210-6A, §210-35C (2) & (3) Required yards.*

One (1) Affidavit of Mailing was entered into the record as board exhibits. Maria Miro, the architect presented the application along with Shana Ashwood and Rayginald Viala, the homeowners.

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

The Clerk polled the Board as follows:

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

At 8:06 P.M. motion was made by Member Jackson, seconded by Member Hawkins and carried to reconvene in Executive Session.

The Clerk polled the Board as follows:

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

At 8:11 P.M., motion was made by Member Jackson, seconded by Member Hawkins and carried to reconvene in Legislative Session.

The Clerk polled the Board as follows:

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

Application #2024-16 – 112 Archer Street, Residence A – Section 62/ Block 076/ Lot 51 – April Matthews – Maintain front deck (24' x 9'). *Variances: Village Ordinance §210-6A, §210-43A (1) Required yards.*

One (1) Affidavit of Mailing was entered into the record as board exhibits. April Matthews, the homeowner presented the application.

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

The Clerk polled the Board as follows:

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

Application #2024-9 – 147 Woodcleft Avenue, Marine Commerce – Section 62/ Block 177/ Lot 534 – Aaron Kadosh – Propose 1-story side addition (224 sq. ft.), 1-story addition (169 sq. ft.), 2nd story terrace (930 sq. ft.), roof over deck (424 sq. ft.), and wood shades/ pergola (240 sq. ft.). *Variances: Village Ordinance §210-6A, §210-40 Required yards, §210-172 (4) Required parking spaces.*

One (1) Affidavit of Mailing was entered into the record as board exhibits. Robert Ramirez, the Architect, presented the application along with Aaron Kadosh, the property owner.

Motion was made by Member Jackson, seconded by Member Hawkins and carried to adjourn the public hearing at the Boards request, pending the filing for a Zoning Application to amend the parking lot to conform, as well as a new lease agreement stating the proper section, block and lot.

The Clerk polled the Board as follows:

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

DECISIONS:

Application #2024-10 – 335 Miller Avenue, Residence A – Section 62/ Block 167/ Lot 183 – Hellen Duran – Maintain 50’ of 6’ high and 102’ of 5’ high solid white PVC fence. *Variances: Village Ordinance §210-6A, §210-171D (2) Fences and Enclosures.*

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

A public hearing was held on August 21, 2024 wherein the owner of the property, Helen Duran spoke on behalf of her application. She explained that she purchased the house in September 2022. There was a prior fence that went all around the property. She replaced the fence with a PVC fence and reduced the space enclosed by the fence. She explained that she wants to keep the fence because of her proximity to the nautical mile. She has a young child and young nephews, and she wants them to have a safe place to play, and does not feel that 4 feet permitted by the code is sufficient. She explained that with the parameters of the house, her fence does not interfere with vision for a stop sign, parking lots, or anything in the vicinity. Her neighbor’s driveway on Front Street does not abut her fence; it is on the other side of their property. Ms. Duran also credits the fence with helping decrease flooding of her property. She explained that moving the fence would be a financial hardship, plus, with cement in the ground, grass will not grow over the existing places where cement has been placed.

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 purpose of the new fence code is primarily for safety, protecting pedestrians and drivers alike from fences which block views, primarily fences that abut up against a driveway in a secondary front yard. The concern for driveways is not present in this case. The neighbor’s driveway is on the other side of the house.

- 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. With a corner lot, finding appropriate yard to fence in can be difficult.
 - 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 may be considered self-created, but this factor is not dispositive.
2. The Board, as lead agency has determined that this action is a Type II action and under SEQRA and no further review is required.

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 specific use proposed. If anything in this application is to change, the applicant must return to the Board for further review.
- 4. This variance is being granted primarily because there is no driveway abutting the fence on Front Street, in the secondary front yard. Should the owner of the adjacent property on Front Street ever move their driveway to abut the fence, this variance is null and void, and the property owner must return to zoning for further review.

Second by Member: Charles Hawkins

The Clerk polled the Board as follows:

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

Application #2024-11 – 253 Garfield Street, Residence A – Section 62/ Block 091/ Lot 426 – Jeannie Kelly – Construct second floor rear deck (438 sq. ft.). *Variances: Village Ordinance §210-6A, §210-43C (2) Required yards.*

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

A public hearing was held on August 21, 2024 wherein applicant Jeannie Kelly and architect Russell Jordan spoke on behalf of Ms. Kelly's application. Mr. Jordan explained that they are proposing a second level deck for a raised ranch house. All of the principal living area is on the second level. The house is at the end of the cul-de-sac on Garfield Street, so it is on a wedge-shaped lot. Due to the curvature of the property line, the corners of the deck encroach into the required 20 foot setback by 1.78 and 2.47 feet. Mr. Jordan explained that the primary concern for setbacks is neighbor views of the canal, but as the property is at the end of the cul-de-sac, no one is obstructing anyone's views. One of Ms. Kelly's neighbors wrote a letter of support, which Ms. Kelly read at the hearing and submitted into evidence.

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. As explained by Mr. Jordan, the small encroachment of the deck into the setback area will not impact the neighbors' water views.
 - 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. Building a deck with a curve to match the property line is not a reasonable option, and making the deck smaller would impact the usability of the deck.
 - 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 may be considered self-created, but this factor is not dispositive.
2. The Board, as lead agency has determined that this action is a Type II action and under SEQRA and no further review is required.

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 specific use proposed. If anything in this application is to change, the applicant must return to the Board for further review.

Second by Member: Ben Jackson

The Clerk polled the Board as follows:

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

At 8:38 P.M. motion was made my Member Jackson, seconded by Member Hawkins and carried to close the meeting.

The Clerk polled the Board as follows:

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



Remy M. Watts
Secretary to the Zoning Board of Appeals