

A scheduled meeting of the Zoning Board of Appeals of the Incorporated Village of Freeport was held on November 21, 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	
Ben Jackson	Member	Excused
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 6:15 P.M. the Board convened in the Main Conference Room and Chairperson Rhoden led in the pledge of Allegiance.

Seven (7) individuals were present in the audience.

At 6:16 P.M. motion was made by Member Hawkins, seconded by Member Mineo 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	In Favor
Member Jackson	Excused
Member Hawkins	In Favor
Chairperson Rhoden	In Favor

At 6:48 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:

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

At 6:52 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.

Fourteen (14) individuals were present.

Motion was made by Member Hawkins, seconded by Member Mineo and carried to approve the October 17, 2024 minutes.

The Clerk polled the Board as follows:

Deputy Chairperson Carey	Excused
Member Mineo	In Favor
Member Jackson	Excused
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 were no requests 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. Aaron Kadosh, the property owner, presented the application.

Motion was made by Member Hawkins, seconded by Member Mineo and carried to adjourn the public hearing at the Boards request, pending new building plans showing the removal of the 2nd story terrace.

The Clerk polled the Board as follows:

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

Application #2024-17 – 101 Albany Avenue, Manufacturing – Section 62/ Block E/ Lot 111-115 – Salvatore Ferrara – Legalize 2nd Floor Offices. *Variances: Village Ordinance §210-6A, §210-172A (9) Required parking spaces.*

Two (2) Affidavits of Mailing were entered into the record as board exhibits. Albert D’agostino, the attorney, along with Ethan Schukoske, the traffic engineer presented the application.

Motion was made by Member Hawkins, seconded by Member Mineo 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	In Favor
Member Jackson	Excused
Member Hawkins	In Favor
Chairperson Rhoden	In Favor

Application #2024-18 – 38 Morton Avenue, Residence A – Section 54/ Block 300/ Lot 198 – Herrol Jean-Philippe – Maintain 56’ of 4’ high closed PVC fence. *Variances: Village Ordinance §210-6A, §210-171D (1) Fences and Enclosures.*

One (1) Affidavit of Mailing was entered into the record as board exhibits. Herrol and Aline Jean-Philippe, the homeowners presented the application.

Motion was made by Member Mineo, 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	In Favor
Member Jackson	Excused
Member Hawkins	In Favor
Chairperson Rhoden	In Favor

Application #2024-21 – 98 Martha Street, Residence A – Section 62/ Block 095/ Lot 148 – John Cummins – Propose 62’ 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. John Cummins, the homeowner presented the application.

Motion was made by Member Hawkins, seconded by Member Mineo 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	In Favor
Member Jackson	Excused
Member Hawkins	In Favor
Chairperson Rhoden	In Favor

Application #2024-19 – 435 Pennsylvania Avenue, Residence AA – Section 36/ Block 323/ Lot 9 – Sam Calhoun – Proposed Gazebo (16’ x 28’). *Variances: Village Ordinance §210-6A, §210-35C (3) Required yards.*

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

Motion was made by Member Mineo, 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	In Favor
Member Jackson	Excused
Member Hawkins	In Favor
Chairperson Rhoden	In Favor

Application #2024-22 – 41-49 N. Bergen Place, Residence Apartment – Section 55/ Block 270/ Lots 4, 5 – Domenico Ancona – Construct 4-story, 32 unit apartment building (23,638.30 sq. ft.). *Variances: Village Ordinance §210-6A, §210-49D Lot Coverage.*

One (1) Affidavit of Mailing and one (1) Nassau County Planning Commission Recommendation were entered into the record as board exhibits. Christopher Gomoka of the Law Office of Michael Solomon presented the application.

Motion was made by Member Mineo, 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	In Favor
Member Jackson	Excused
Member Hawkins	In Favor
Chairperson Rhoden	In Favor

At 8:02 P.M. motion was made my Member Hawkins, seconded by Member Mineo 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	In Favor
Member Jackson	In Favor
Member Hawkins	In Favor
Chairperson Rhoden	Excused

At 8:28 P.M., motion was made by Member Mineo, seconded by Member Hawkins and carried to reconvene in Legislative Session to place decision on the record.

The Clerk polled the Board as follows:

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

Chairperson Rhoden

In Favor

DECISIONS:

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.*

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

A public hearing was held on September 19, 2024 wherein applicant Rosina Codrington spoke on behalf of her application. She explained that she wanted an enclosed 98 foot 6 foot high fence around the side of her property. She currently has a wooden fence that is partially falling apart. She wants to enclose the entire side of the yard.

The side of her property where she wants to put the 6 foot fence bounds a neighbor's driveway. There are safety concerns with a fence which bounds a driveway. There was discussion (based on the denial letter) that where the applicant wishes to put the fence is a secondary front yard. However, this is not a secondary front yard. This is the applicant's front yard. Her address is 66 Sagamore. Her front door exists on Sagamore. The code section that the denial should have been issued under was for fences in a front yard. Fences in a front yard must be no taller than 4 feet and must be open. A six foot closed fence is only permitted from the front of the house back, which means that a 6 foot fence is only permitted from her house back, meaning 20.22 feet from the street.

This fence is before the Board for an improper variance standard that is less restrictive than what should have been listed for the specific circumstances. The Board is denying this fence in this application under the section it was denied under, however, should applicant alter the plans and reapply, the application will be assessed under the proper code section which allows only for 4 foot open fences in front yards.

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.
 - 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 may put a six foot closed fence at the line of her house, or she may put a 4 foot open fence in her front yard.

- 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. A six foot closed fence bordering a driveway would create a dangerous condition.
- e. that the alleged difficulty was self-created. Applicant currently had a compliant fence, 4 foot open in the front yard. A desire for something different is a self-created difficulty.

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	Excused
Member Mineo	In Favor
Member Jackson	Excused
Member Hawkins	In Favor
Alternate Scopelitis	Absent
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.*

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

A public hearing was held on September 19, 2024 wherein applicant was represented by Maria J. Miro of Miro J. Design and Drafting. Applicant, Shana Ashwood and Reginald Viala, owners of 20 Mayfair were present. Ms. Miro requested the ability to reconstruct a garage that was damaged due to a fire. The proposed new garage would match the existing footprint, and be located at the same place, using the same foundation as the previous garage, with a 1.7 foot rear setback, when 5 is required, and a side yard setback of 1.1 feet when 10 feet is required.

Ms. Miro provided a letter from the abutting property owner supporting the reconstruction of the garage at the same location. The same property owners also spoke in person in support.

- 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 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.
3. 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: Charles Hawkins

The Clerk polled the Board:

Deputy Carey	Excused
Member Mineo	In Favor
Member Jackson	Excused
Member Hawkins	In Favor
Alternate Scopelitis	Absent
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.

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

A public hearing was held on September 19, 2024 whereon applicant Sasha Villanueva spoke on behalf of her application. She explained that she moved to Freeport a year and a half ago, and lives on a corner property. She wants to put in a 4 foot solid PVC fence with one foot of lattice. She has had issues with people throwing things into her yard, and wants privacy. She has a lot behind her where a new house is in the process of being built. When shown what the code allows, with half of the distance from the sidewalk, she objected, saying that she is cutting her yard

in half. She said she would want four feet of solid. She agreed to remove the 1 foot of lattice and just have a four foot solid fence.

With the modification to only a four foot solid fence, with no lattice, the Board finds:

4. 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.
 - 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 may be considered self-created, but this factor is not dispositive.
5. 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:

4. Applicant/Owner must comply with all the Rules and Regulations of the Village of Freeport.
5. Applicant must obtain the required permits from the Building Department.
6. 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.
7. This variance is being approved as modified. Applicant is to submit a modified fence application to the building department reflecting 68 feet of closed foot PVC fence with no lattice. Fence permit may not be issued until amended application is filed.

Second by: Anthony Mineo

The Clerk polled the Board:

Deputy Carey	Excused
Member Mineo	In Favor

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Member Jackson	Excused
Member Hawkins	In Favor
Alternate Scopelitis	Absent
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.*

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

A public hearing was held on September 19, 2024 wherein April Matthews, the applicant, spoke on behalf of her application. She explained that her stairs were completely dilapidated. Every time it rained, the bricks would sink into the bricks. The concrete broke and was cracked. She explained that previously, where the deck is now, there were fig trees, which caused bees and other things to fly into their house. So they ripped out the fig trees, and constructed a deck across the front of their house, spanning where the trees used to be. She is required to have a 20 foot front setback, but with the deck it is only 17, however, the deck is in line with where the prior landing/smaller deck was for the steps.

6. 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;
 - 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.
7. The Board, as lead agency has determined that this action is a Type II action and under SEQRA and no further review is required.

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

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

10. 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: Anthony Mineo

The Clerk polled the Board:

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

At 8:45 P.M. motion was made by member Hawkins, seconded by Member Mineo and carried to close the meeting.

The Clerk polled the Board:

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



Remy M. Watts
Secretary to the Zoning Board of Appeals