

A scheduled meeting of the Zoning Board of Appeals of the Incorporated Village of Freeport was held on May 15, 2025 in the Municipal Building, Main Conference Room, 46 North Ocean Avenue, Freeport, New York, 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	Excused
Luis Rodriguez	Alternate Member	Excused
Lisa M DeBourg	Deputy Village Clerk	
Darren Merims	Secretary to the Zoning Board of Appeals	
Jennifer Ungar	Deputy Village Attorney	
Scott Braun	Building Department Representative	

At 6:10 P.M. the Board convened in the Main Conference Room and Deputy Chairperson Carey led in the Pledge of Allegiance.

Seven members of the public were present.

Motion was made by Ben Jackson, seconded by Charles Hawkins and carried to enter in Executive Session to consult with counsel.

The Clerk polled the Board as follows:

Deputy Chairperson Carey	In Favor
Member Mineo	Excused
Member Jackson	In Favor
Member Hawkins	In Favor
Luis Rodriguez	Excused
Chairperson Rhoden	Not present

At 6:13 P.M. Chairperson Rhoden entered.

Motion was made by Charles Hawkins seconded by Ben Jackson and carried to reconvene in Legislative Session in the Main Conference room.

The Clerk polled the Board as follows:

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

At 6:46 P.M., Chairperson Rhoden led in the Pledge of Allegiance and called the Public Hearing to order, for which a full stenographic record was taken.

Nine members of the public were present.

Motion was made by Ben Jackson seconded by Charles Hawkins and carried to approve the minutes from April 17, 2025.

The Clerk polled the Board as follows:

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

The Deputy Village Clerk presented one Affidavit of Publication and one Affidavit of Posting which were marked into evidence as Board Exhibits.

**Application #2025-4 – 66 S. Bay Avenue, Residence A – Section 62/ Block 154/ Lot 520 – Alyssa Narine** – Maintain 266’ of 6’ high closed PVC fence and 180’ of 4’ high open. *Variances: Village Ordinance §210-6A, §210-171D(2) Fences and Enclosures.*

One Affidavit of Mailing and one Nassau County Planning Commission recommendation were marked into evidence as Board Exhibits for this application.

Alyssa Narine, the owner, presented this application.

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

The Clerk polled the Board as follows:

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

**Application #2025-5 – 3 Ray Street, Residence A – Section 62/ Block 52/ Lot 500 – Ansel Wallace** – Maintain 86’ of 6’ high closed PVC fence. *Variances: Village Ordinance §210-6A, §210-171D(2) Fences and Enclosures.*

One Affidavit of Mailing and one Nassau County Planning Commission Recommendation were marked into evidence as Board Exhibits for this application.

Ansel Wallace, the owner, presented this application. He offered photographs which were entered into the record as Applicant's exhibit #1.

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

The Clerk polled the Board as follows:

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

**Application #2025-6 – 411 Guy Lombardo Avenue, Residence A – Section 62/ Block 88/ Lot 50 – Nusrat Shova** – Proposed 6' high by 40' wide brick/ aluminum fence plus 3 aluminum gates. *Variances: Village Ordinance §210-6A, §210-171D(1) Fences and Enclosures.*

One Affidavit of Mailing and one Nassau County Planning Commission recommendation were marked into evidence as Board Exhibits for this application.

Marcello Kohan, the architect, presented this application.

Motion was made by Ben Jackson, seconded by Charles Hawkins and carried to adjourn the public hearing pending submission of an alternate design for the fence.

The Clerk polled the Board as follows:

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

## **Decision:**

**Application #2024-23 – 691 S. Bayview Avenue, Residence A – Section 62/ Block 187/ Lot 13 – David Riemer** – Construct new (3,743 SF) 3-story house with attached garage, 1 rear deck (180 SF), 1 rear balcony (52.5 SF), and maintain hot tub. *Variances: Village Ordinance §210-6A, §210-39A Building height; sky exposure plane, §210-40 Lot area; street frontage; lot width, §210-41 Lot coverage; floor area ratio, §210-43A (1&2), C (2) required yards.*

Board Member Jackson recused himself from this application.

**APPROVAL in part, DENIAL/MODIFICATION in part**

Building Department Permit Application #20243871

Chairman, regarding Application #2024-23 for the premises located at 691 South Bayview Avenue, Freeport, the Applicant comes before this Board seeking a variance from Village Ordinances §210-6A, 210-39A, 210-40, 210-41, and 210-43A(1), (2) and C(2) seeking approval to construct a new 3,743 square foot 3-story house with attached garage, 1 rear deck, 180 square feet, 1 rear balcony, 52.5 square feet, and maintain hot tub.

I, Jennifer Carey move that this Board make the following findings of fact:

A public hearing was held on December 12, 2024 wherein applicant David Riemer was represented by architect Steven Christiansen. The original application called for a 4,829.71 square foot house with 2 front balconies of 42.6 square feet each, plus 2 rear decks of 188.94 and 189.09 square feet, creating a higher lot coverage, floor area ratio, and smaller setbacks that those ultimately before the Board. Mr. Christiansen explained that Mr. Riemer is looking to build a house for his future family. He explained that pretty much everything was compliant, and other people in the neighborhood have maxed out their lots more than Mr. Riemer. When asked about 12 foot ceiling height in the garage, Mr. Christiansen explained that he wants everything stored off the ground. There will be breakaway walls. Mr. Riemer is currently living in the 683 square foot residence on the property. When asked about the hot tub on the property, Mr. Christiansen said it is 11 inches from the bulkhead. Mr. Riemer said it had been there since he moved in 2014.

The attorney for the Board asked for examples of similar properties that are seeking variances for as many items as the applicant is. A couple of examples were provided which were not quite comparable to the applicant's proposal. Mr. Christiansen asked for an adjournment to come back with examples of similarly situated properties in the neighborhood which required similar variances in terms of number and magnitude.

During the adjournment, the plans for the proposed house were amended to what is being approved in this decision. The size of the house was reduced significantly, decreasing lot coverage and floor area ratio. Setbacks were increased as well.

The hearing resumed on April 17, 2025 wherein attorney William Chimeri represented applicant. He had pre-marked 21 exhibits to submit as a package, most of which were Nassau County land records for the surrounding properties. Mr. Chimeri explained that Mr. Riemer had lived at the property since 2014 and plans to continue living there if the variances are granted. The property is an irregularly shaped parcel. He explained that after the December meeting, the applicant went back to the drawing board, and submitted new plans with smaller variances to keep in line with the character of the neighborhood.

Mr. Chimeri counts 17 waterfront homes on South Bayview Avenue in Freeport, and looked at the county records for all properties, and found that all 17 are substandard in one or more ways with respect to the Village code. He presented issues with lot size, floor area ratio, lot coverage, sky exposure plane, lot depth, front yard setbacks, side yard setbacks, and rear yard setbacks. He

explained that seven of the properties have a floor area ratio that exceeds the code, and five of those have a higher percentage than the applicant is seeking. He explains that many houses don't meet the 50 foot width requirement, and many of those houses were built in the early 2000s.

Additionally, regarding floor area ratio, Mr. Chimeri explained that they disagree with how the floor area ratio is calculated in the code. His position is that the first floor should not count, although it is counted under the code. He explained that the space is not conditioned, and technically, walls are not required at all. The property must be elevated, but it could be on columns. Mr. Chimeri opined that it is nicer aesthetics for the neighborhood to have walls, but that if those walls will act to be a stumbling block with the Board in regard to floor area ratio, then they can be removed.

Regarding a method other than a variance to achieve the applicant's goals, Mr. Chimeri explained that it is impossible to build a new house on the lot without some variances; the neighboring houses show this. He explained that it was downsized to meet the Board's request, and now fits in with the neighborhood.

In terms of the substantial nature of the variance, Mr. Chimeri explained that it is not just numbers, but circumstances in the neighborhood as a whole which should be considered. Given that all houses have some variances, Mr. Chimeri posits that the variances requested are not substantial. The floor area ratio, without including the first floor is 57% when 50% is permitted. The street frontage is 43 feet where 50 is required.

Mr. Chimeri explained that the proposed structure will meet all safety and environmental codes and regulations and will be more green friendly. He also provided the negative SEQRA declaration from the building department.

Finally, regarding a self-created difficulty, Mr. Chimeri argues that the difficulty is not self-created because the property is what it is, the lot size can't be increased. It can't be extended, and it is in conformity with 16 other properties on the block.

So on balance, Mr. Chimeri concluded that when weighing the five factors for variances, the variances should be granted.

Mr. Christiansen explained that the project was made smaller by bringing in all of the sides of the house. The house is now technically only a 2,400 square foot two bedroom house. The third floor does not cover the entire second floor. The balconies in the front of the house were removed as well.

Mr. Chimeri explained how he made his calculations as to floor area ratio, setbacks, etc.

Regarding all variances requested except for that for the rear yard setback for the hot tub, the Board has determined:

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;
  - 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.
2. Regarding the rear yard setback required to keep the hot tub, the Board has determined that that there could be an undesirable change in the character of the neighborhood should the hot tub be able to remain in its current location. As a waterfront property, the code limits structures close to the bulkhead in part to preserve sight views. The hot tub may be moved to a space farther from the bulkhead. The requested variance is substantial and self-created. Therefore, the request for a variance in its current location is DENIED. Should Mr. Riemer wish to move the hot tub, the Board would grant a lesser variance which could perhaps meet his needs, and would approve a MODIFIED variance of a 14-foot rear setback to accommodate the hot tub and balance the need to preserve the views on the canal.
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.

I further move 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. As the hot tub is a semi-portable structure, any variance given for the hot tub only applies to the hot tub, and would not apply to other accessory structures such as sheds, gazebos, etc.

Second by: Charles Hawkins

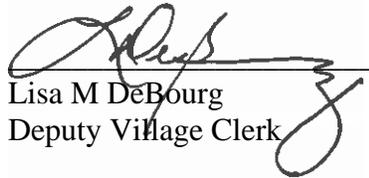
The Clerk polled the Board as follows:

Deputy Chairperson Carey	In Favor
Member Mineo	Excused
Member Jackson	Recused
Member Hawkins	In Favor
Luis Rodriguez	Excused
Chairperson Rhoden	In Favor

At 8:00 P.M., motion was made by Charles Hawkins, seconded by Jennifer Carey and carried to close the meeting.

The Clerk polled the Board as follows:

Deputy Chairperson Carey	In Favor
Member Mineo	Excused
Member Jackson	Not present
Member Hawkins	In Favor
Luis Rodriguez	Excused
Chairperson Rhoden	In Favor



Lisa M DeBourg  
Deputy Village Clerk