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INCORPORATED VILLAGE OF FREEPORT
ZONING BOARD

MUNICIPAL BUILDING
46 North Ocean Avenue
Freeport, NY 11520

February 17, 2022
6:30 p.m.

M E M B E R S:

JENNIFER L. CAREY	DEPUTY CHAIR
BEN JACKSON	MEMBER
ANTHONY J. MINEO	MEMBER
CHARLES HAWKINS	MEMBER

* * *

ROBIN CANTELLI	SECRETARY
JENNIFER UNGAR	DEPUTY VILLAGE ATTORNEY
JONATHAN SMITH	BUILDING DEPARTMENT

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February 17, 2022

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DEPUTY CHAIR CAREY: Good evening, everyone. I'd like to welcome you again to the February 17, 2022 Zoning Board of Appeals meeting.

I'd like to ask my colleagues to make a motion to reconvene to enter into legislative session.

MEMBER JACKSON: So moved.

MEMBER HAWKINS: Second.

DEPUTY CHAIR CAREY: Please poll the Board.

THE SECRETARY: Member Mineo.

MEMBER MINEO: In Favor.

THE SECRETARY: Member Jackson.

MEMBER JACKSON: In Favor.

THE SECRETARY: In Favor.

MEMBER HAWKINS: Favor.

THE SECRETARY: Deputy Chair Carey.

DEPUTY CHAIR CAREY: In Favor.

At this time I'd also like one of our members to approve the minutes of the last meeting, please.

MEMBER JACKSON: So moved.

DEPUTY CHAIR CAREY: Sorry, we do the

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Pledge of Allegiance.

(WHEREUPON, the Pledge of Allegiance was recited.)

DEPUTY CHAIR CAREY: Now at this time I would like to ask for an approval of the minutes from the last meeting, December 9th, as we couldn't meet in January.

MEMBER MINEO: So moved.

MEMBER JACKSON: Second.

DEPUTY CHAIR CAREY: Please poll the Board.

THE SECRETARY: Member Mineo.

MEMBER MINEO: In Favor.

THE SECRETARY: Member Jackson.

MEMBER JACKSON: In Favor.

THE SECRETARY: Member Hawkins.

MEMBER HAWKINS: In Favor.

THE SECRETARY: Deputy Chair Carey.

DEPUTY CHAIR CAREY: In Favor.

Are there any Affidavits of Publication or Posting to be entered into the record as exhibits?

THE SECRETARY: I have two Affidavits of publication and two Affidavits of Posting

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to be entered into the record as Board's exhibits. Those will be Board's Exhibits 1 through 4.

(WHEREUPON, the above-referred to documents were marked as Board's Exhibits for identification, as of this date.)

DEPUTY CHAIR CAREY: Are there any requests for adjournment this evening?

THE SECRETARY: Not this evening.

DEPUTY CHAIR CAREY: We have slips in the back. If anyone is here to make a public comment, go get a slip in the very back of the table and write your comment down. Please bring it to the clerk to have your name called upon completion of the each presentation tonight and ask questions or make a comment. Just fill out that form in the back and bring it to the clerk, and we'll be able to call your name when that time comes. Thank you.

At this time we should call the first application.

THE SECRETARY: The first application is 2021-20, 131-135 Guy Lombardo Avenue,

1
2 Business AA, Section 62, Block 75, Lot 31,
3 32,33 - 135 Guy Lombardo, LLC. Construct a
4 new five story, 50,487 square foot multiple
5 dwelling. Variances: Village Ordinance
6 210-6A, 210-60 Building height, 210-48 Lot
7 area, apartment density, 210-49C Open space,
8 210-49D Recreation space, 210-172A(2)(A)
9 Parking required, 210-65 Plots abutting more
10 restrictive districts.

11 I have two Affidavits of Mailing and
12 one Nassau County Planning Commission
13 Recommendation to be entered into the record
14 as Board exhibits. These will be Board
15 Exhibits 1, 2 and 3 for this individual
16 public hearing.

17 (WHEREUPON, the above-referred to
18 documents were marked as Board's Exhibits,
19 for identification, as of this date.)

20 DEPUTY CHAIR CAREY: At this time,
21 are you ready to present?

22 MR. SOLOMON: Lawrence Michael
23 Solomon. 30 South Ocean Avenue, Freeport.

24 Good evening, Members of the Board.
25 This evening I have a traffic expert,

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architect to give you a brief overview of the project, a real estate expert, and Mr. Mulryan to give you a brief overview of the traffic impact, the parking impact of the project.

Brandon will come up and give a brief overview of the project for you.

B R A N D O N H A M C H U K,
having been first duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

COURT REPORTER: Please state your name and address for the record.

MR. HAMCHUK: Brandon Hamchuk. 783 Pat Drive, West Islip, New York 11795.

Proposed here on the exiting site we are adjoining two lots that front on Cottage and Guy Lombardo. There are two existing, two-story office buildings that are in disrepair. We are proposing to demolish and reconstruct a new five story 41 Unit apartment building. The site was developed in such a way to accommodate as much parking as possible, also trying to let the

1
2 neighboring properties breath from the size
3 of the building.

4 We are situated in zone that allows a
5 50 foot tall building, and I tried my best
6 the adhere to that. There is a ground level
7 that houses the lobby, elevator, one
8 superintendent dwelling unit and some storage
9 areas. It also serves as a circulation route
10 for the parking on the ground level. So, it
11 is an open air structure, essentially.

12 The next floors -- second, third,
13 fourth and fifth -- all have ten dwelling
14 units each on them ranging from 889 square
15 feet to 1,166. They're all handicap
16 accessible Type B units. This building will
17 also be fully sprinklered and fire alarm and
18 standpipe, based on New York State Building
19 codes.

20 Given the size of the building, we
21 are able to construct this out of wood. It's
22 going to be a combination of steel and wood,
23 being a one hour rated building. So, on top
24 of the fire sprinkler and all of the safety
25 mechanisms, it's also a one hour rated for

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both interior walls and exterior walls.

Because the ground level is parking, we have to separate that first floor from the parking with three hour fire rating construction. So, it will be a metal deck with concrete construction. So, again, this is a very fire approved building.

Esthetically, there are a few renderings of what it will look like from Guy Lombardo traveling north and south on Guy Lombardo. It's a gambrel style, shingle style building. I believe that should cover it for now.

Does the Board have any questions for me, or would you like to speak with anybody else?

MEMBER MINEO: At this point in time, have you discussed this particular project with the Freeport Fire Department have about fire access or safety concerns.

MR. HAMCHUK: Yes. I reached out to Ray Maguire. We filed this project in September of 2020. Things got lost in the interim. However, I did reach out to Ray

1
2 last week, and he has his guys looking at it.
3 I sent him everything. We will be setting up
4 a meeting shortly about that.

5 As far as that is concerned, on
6 Cottage and Smith Street, there are overhead
7 power lines. So, that is one of the things I
8 have to talk to PSEG about burying those
9 lines, in order for fire apparatus to
10 successfully enter our site. There are no
11 overhead structures on Guy Lombardo. So,
12 apparatus shouldn't have an issue with that.
13 Again, we'll discuss it with Mr. Maguire.

14 MEMBER JACKSON: You mentioned that
15 you tried to keep it 50 feet. It's actually
16 60 feet.

17 MR. HAMCHUK: Yes. So, we're trying
18 to make luxury apartments, minus the word.
19 We have a nine foot high clearcut ceiling on
20 each level. We're trying to get as much
21 volume to the occupant as possible. On top
22 of that, being as large of a building that it
23 is, I have a two foot floor cavity for
24 structure. Each of these dwelling units will
25 have their own heat, electric, water, cooling

1
2 and gas, if possible. So, that cavity
3 also -- that's 11 feet right there per floor,
4 to try to get all the utilities to each
5 dwelling. So, I did -- we're at 57.6 at the
6 top of this gambrel here. I'll show you the
7 larger version. 57 feet 8.5 inches that we
8 have is to the absolute peak of the gambrel.
9 The bulkheads are permitted construction, so
10 it doesn't count. From grade level too, if
11 you go to the top of the roof, it's 52.6 in
12 this condition.

13 So, again, being the building what it
14 is, I didn't want to try and flatten it.
15 Although, if the Board is inclined and we do
16 need to squish it a few feet, I can take a
17 few feet out. I can.

18 MEMBER JACKSON: My thought is why
19 not put one level less?

20 MR. HAMCHUK: The density permits 35
21 dwelling units. Again, I wanted to push it
22 as much as we could. So, again, parking
23 really dictated this site, in trying to
24 squeeze as many cars on the site. I know
25 that is a big issue with most villages and

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towns. So, the configuration of the building is kind of set based on that.

So, ten units per floor, 30 units in this building, where I could get 35, it wasn't -- I felt I should put the extra floor on it.

MEMBER JACKSON: With the extra floor you are also encroaching on the parking; correct?

MR. HAMCHUK: Correct.

MEMBER JACKSON: Okay. Thank you.

MEMBER HAWKINS: Was that ever a consideration at all, making the building one floor less?

MR. HAMCHUK: Again, I was trying to maximize the density. Being that we -- I did request 60 feet and we are only seven foot eight over, I was -- if I had to shrink it down, again, I would take a couple of inches out of each floor to minimize it, as opposed to removing an entire floor.

MEMBER HAWKINS: Then you would still have parking there, correct?

MR. HAMCHUK: Yes. Correct.

1
2 DEPUTY CHAIR CAREY: If you were to
3 shrink the size of the building, how would
4 you deal with the open space? There are
5 several variances that you triggered by the
6 size of the building. So, how would you
7 then, in shrinking somehow this building,
8 deal with the open space as a requirement.

9 MR. HAMCHUK: The open space is still
10 a requirement. I think I'm only shy by 2,400
11 square feet.

12 DEPUTY CHAIR CAREY: These will all
13 be working together, if you shrunk it down?

14 MR. HAMCHUK: Right. Each of these
15 dwellings are two-bedroom and they are fully
16 handicap accessible. So, the size of what I
17 need to comply with these laws. Again, that
18 kind of is in turn with parking, that kind of
19 set on how big each room, hallway, bathroom
20 and so forth is.

21 In order to comply with that open
22 space, to shrink it 2,400 square feet, it
23 would take some tweaking. Again, if need be,
24 I could do it. However, given the area, our
25 other experts can talk on that. I feel that

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it is appropriate.

DEPUTY CHAIR CAREY: Do you have another expert? I don't know if anyone has anymore questions right now for you. Is there anyone else that wants to come up from your team?

MR. SOLOMON: To address the surrounding areas and the design of the building, as well as how it fits, we have Barry Nelson, our real estate expert who has been doing this for over 30 years. He can explain some of the questions that the Board had earlier.

B A R R Y N E L S O N,
having been first duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

COURT REPORTER: State your name and address for the record.

MR. NELSON: Barry Nelson. 220 Pettit Avenue, Bellmore, New York 11710.

I do have a packet of photographs I'd like to submit to the Board. I'm sure the members of the Board is very familiar with

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the location and the surrounding uses.

MS. UNGAR: This will be Applicant's Exhibit A and this will be Applicant's Exhibit B.

(WHEREUPON, the above-referred to documents were marked as Applicant's Exhibits A and B, for identification, as of this date.)

MR. NELSON: So, what I handed in first would be photographs of the subject property and the surrounding uses in close proximity to the subject property. They have the date when I took them. There's 23 photographs. In my opinion, those photographs would depict what the Board may have viewed already or would view in that area, if they would go out in the future.

The subject property is one block south of Merrick Road, West Merrick Road at this point. The north side of Merrick Road would be the downtown business district, and it leads right up to the Long Island Railroad Station.

The subject property is an assemblage

1
2 of three parcels. 131 is two tax lots, two
3 buildings. And the southerly lot, I think --
4 I'm sorry. 135 would be a single lot. They
5 all have improvements with various uses on
6 the each parcel. They are known as
7 Section 62, Block 75, and it includes tax
8 Lots 31, 32, and 33. So now it's a lot
9 frontage from Cottage Court on the north side
10 to Smith Street on the south side, and it
11 does front Guy Lombardo Avenue, also known as
12 South Grove Street.

13 The uses in the area include
14 apartment buildings, it includes the
15 commercial corridor of Merrick Road business
16 district, convenience stores, shopping. The
17 majority of South Merrick Road would be on
18 the westerly side. Now it's the westerly
19 side of Guy Lombardo Avenue fronting to South
20 Ocean Avenue and further with apartment type
21 uses, co-ops, rentals. To the east you have
22 one- or two-family, you have nonconforming
23 parcels and smaller apartment buildings.
24 That would be similar to the southwest.

25 The second exhibit that I handed it

1 would be just a small section of the official
2 map of the Village, Zoning Map of the Village
3 of Freeport. What I just would like to
4 demonstrate is that the subject property is
5 currently zoned as a Business AA district,
6 and the properties to the east, on the south
7 of Cottage Court, north side of Smith Street,
8 is the apartment district. That would be
9 similar to the west, mid-block, between
10 Merrick Road and Smith Street, up to Ocean -
11 South Ocean and continuing west up to Long
12 Beach Road -- Long Beach Avenue, all
13 apartment district. The Business B district
14 would be typically found along the north and
15 south side of Merrick Road, and a good part
16 of the subject lot to the northeast and to
17 the east up to Church Street and further,
18 right up to Henry Street.

19
20 Again, as I mentioned, this is a
21 mixed use, mixed zoning. But the zoning
22 right next to the subject property would
23 support an apartment building. And I'm sure
24 if they put an assembly, they would get a
25 similar type of development as being proposed

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today.

The only single family residential would be the southeast corner, and that block runs from Smith Street down to Archer Street then going east. They have mixed uses, they have larger colonials and one- and two-family dwellings.

MEMBER JACKSON: Mr. Nelson, is that a Residence A or AA?

MR. NELSON: That, I believe -- I have it written down. I have my zoning map. I can't hand it in, it's hard to get.

So, that would be Residence A zone, not AA. Everything that is plain white is AA. That's Residence A. That's off the official map of the Village.

MEMBER JACKSON: Thank you.

MR. NELSON: So, I believe I described the area, the location. This area, residential, apartment district, is a -- could be considered and should be considered as a transit oriented development location: Close proximity to shopping, Merrick Road has its bus routes, it's walking distance to the

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Long Island Railroad on Sunrise Highway.

MEMBER JACKSON: I have a question about that. Is there a definitive criteria for being transit oriented development?

MR. NELSON: Typically, transit oriented development, I'm sure the traffic engineer will support this, is to build at a higher density in proximity to downtown business district and public transportation, which would include, as I mentioned, the Long Island Railroad and the bus route on Merrick Road.

MEMBER JACKSON: My question is, what specifically is proximity?

MR. NELSON: Oh, I think within walking distance. Within a mile.

MEMBER JACKSON: Okay. Thank you.

MR. NELSON: So, that said, as the architect stated, it's a proposal for two bedrooms, all two bedrooms, and five stories. Four stories above grade parking.

What the applicant -- the applicant, I believe, has just finished a recent development within the Village on Graffing

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2 Place. Nice development. They took some of
3 the architectural features of that building
4 and incorporated it into this proposal. In
5 fact, I might have a photograph, renderings
6 of something similar in the Village would be
7 the -- I'm talking about as far as five
8 stories, four stories above grade parking,
9 would be what was developed on Merrick Road,
10 and that would be the Moxey Rigby
11 development. I'm going to hand in. I have
12 more pictures.

13 That has, a majority of it is four
14 stories above grade parking, and there are
15 some locations where it's three stories. And
16 that building was also raised anywhere from
17 four to six feet above street grade. So,
18 talking about height, you can view that
19 building from Sunrise Highway and Merrick
20 road from a distance.

21 So that, compared to what the
22 applicant is proposing, the applicant is a
23 little higher end. What the applicant is
24 looking to achieve out of this development is
25 to get a higher quality tenant by providing

1
2 state of the art materials in the building:
3 Stainless steel, granite countertops, nine
4 foot ceiling, which is one of the reasons why
5 the height is being requested. It can be
6 lower down and it would be similar to the
7 buildings that are right there on Guy
8 Lombardo Avenue, as far as heights.

9 Those buildings, which I'm going to
10 get into very shortly, were built in the
11 1950's and the 1960's. It's the objective of
12 the applicant to secure the higher end. By
13 saying the higher end, they believe that the
14 majority of the tenants that will be
15 occupying/leasing space in this building are
16 move up tenants that already living within
17 the Village. They're going to pay a little
18 bit more, they know the location, they're
19 going to get a better quality than the 1950's
20 and the 1960's, '70's buildings.

21 That said, the interesting aspect of
22 this proposal, it does fit within the
23 character of this neighborhood, as far as
24 development along Guy Lombardo and Smith
25 Street. And if we took, starting from

1
2 Merrick Road going south on the westerly side
3 of Guy Lombardo Avenue, you have the first
4 building, which would be the superintendent.
5 The next building, I'm not sure what they
6 used to be. A utility building? It might
7 still be a utility building. That building
8 is equal to or greater in height than what is
9 being proposed in this building, in this
10 application. It's a 1950's, '60's solid,
11 concrete block building, no architectural
12 feature. Probably when it was constructed it
13 was a high end quality building, but it is
14 now 70, 80 plus years old.

15 The next building to the south would
16 be 128 Grove Street or Guy Lombardo that has
17 50 units, four stories on approximately .75
18 of an acre, 32,886 square feet.

19 All this information that I will
20 speak to today came off the Nassau County
21 Department of Assessment records and files
22 that I have available in my office.

23 That building has 50 units. It was
24 constructed in 1952 and it has approximately
25 the density of one unit for every 658 square

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feet. One of the variances, as far as the applicant is seeking, is density.

The next building to the south, I believe, is the corner building which would be the northwest corner of Smith Street and Guy Lombardo Avenue, known as 124 Smith Street. Their address is on Smith Street. They front as well onto Guy Lombardo Avenue. I just previously mention 128 and 124 would be opposite the subject property. That has 52 units. It is five stories. It does have grade level parking which dips down a little bit below the street. That has 52 units, built in 1960, approximately 36,500 square feet of land area. That's one unit for 701 square feet.

The next building would be the southwest corner of Guy Lombardo Avenue and Smith Street, known as 160 Guy Lombardo Avenue, built in 1963. 44 units on just under 30,000 square feet. 29,750 square feet of land area. It's one unit for every 676 square feet.

The development, as far as compared

1 to the subject property, the applicant is not
2 asking for a greater density than those
3 buildings right there. No greater than -- no
4 height greater than the building utility
5 building, and less than what is constructed
6 on Merrick Road. And the breakdown on
7 Merrick Road would be, I believe there's
8 approximately 101 units. They started
9 occupying and they are fully occupied as of
10 recently, as of last year. I think they
11 started occupying in 2019. They are a
12 different type of market. The applicant is
13 seeking its own market and believes that
14 most, if not all the new tenants, will be
15 from this area, in the Village of Freeport.
16

17 As far as the character of the
18 neighborhood detriment to the surrounding
19 properties, you would have one- and
20 two=family residences to the east. There is
21 a, I believe, a third building to the east, a
22 12 apartment, 12 unit apartment at 96 Smith
23 Street. I don't know whether it's vacant,
24 boarded up, occupied. It needs work. That's
25 12 units on 10,300 square feet, one unit for

1 every 850 square feet, it was built in 1924.

2 You have mixed uses on the block.

3 Again, it's a Resident and Apartment
4 District. So, what the applicant is
5 proposing, I believe, is a positive trend
6 with higher end, higher quality. I looked at
7 real estate taxes. And currently, those
8 assembled parcels pay a total of \$58,500 for
9 general, school and for the Village. The
10 village taxes are approximately \$14,500
11 currently. I estimate, if approved as
12 requested, the total real estate taxes for
13 the new development, that would include
14 school, general and the Village, of \$265,000
15 and approximately \$66,000 would be for the
16 Village.
17

18 So, there is a benefit to everybody.

19 There is a positive trend for the proposal.

20 The project all in, we're going to talk

21 yesterday's numbers, today's number, of

22 course material, quality of construction.

23 We're in at least \$300 a square foot. We're

24 talking a \$15 million project within the

25 Village. More revenue, better quality. Not

1
2 that there's anything, I'm saying, bad about
3 the area, but it does have a positive trend.

4 As far as some of the variances
5 sought, within close proximity to the
6 downtown business district, close proximity
7 to the waterfront community, which is on
8 Woodcleft canal, you have new construction,
9 new development, a positive trend. It will
10 have -- it's almost walking distance to the
11 Freeport Rec. So, those variances sought for
12 outdoor open area, I mean rec play areas.
13 It's a move-up type tenant that's going to be
14 here. I'm not sure that those are the
15 demands they would need for this facility.
16 It does have open area on the first floor,
17 but these people are going to use and
18 hopefully it leads to a Planet Fitness type
19 of use along Merrick Road or in the downtown
20 Business District and other positive uses. I
21 believe we just tore down a building on
22 Merrick Road, the old dialysis building. You
23 are going to lose some tax revenue out of
24 that, it being now vacant land. Hopefully
25 there will be a new use developed on that

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site.

This is a hands-on developer with approval of several ready to move ahead and develop. You have seen their quality construction on Graffing Place, fully occupied and a nice development.

As far as the -- I believe the Planning Commission almost left it for local determination, which is pretty good. They did say something about providing for a greater setback on the easterly side. The east, where it's adjacent to a residential district, is a more restrictive zoning. It's not truly more restrictive, it's an apartment district, which is the same zone as the subject property. But to build on that location, on the easterly side, it is setback at least 11 feet to the bump out and greater. It's only the grade level parking that will be in that setback area. As everybody knows, parking is premium. Providing parking on the site is important. And most, if not all developments, whether it's in this Village, throughout the town or the county, provide

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parking almost up to the property lines.
It's just the nature of the development.

I believe as the architect mentioned,
it will be a fully sprinklered building. It
does have conforming setbacks on the road,
main arterial roadways -- Guy Lombardo and
Smith Street -- as well as providing a
setback that conforms on Cottage Court, and
the building provides on the easterly side.
It's just the parking that's set back.

I'll remain here for any questions,
and we can finish up our testimony, then the
Board can ask us all questions at the same
time, if you don't mind.

MEMBER JACKSON: I'd like to point
out, if I'm not mistaken, our zoning code is
from 1956. There were quite a few buildings
mentioned that were built prior to our zoning
codes existed. So, I'd like to point that
out.

DEPUTY CHAIR CAREY: They were
probably put into place to prevent density
from happening like that.

I'd like to ask Mr. Nelson. So, if

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2 they were able to reduce it and reduce some
3 of the needs for these variances, reduce the
4 size and scope of the building, what would
5 the -- if it was reduced perhaps to 20
6 percent, the number of apartments would be
7 reduced, that would, therefore, reduce how
8 much in taxes, do you think? Just an
9 estimate: 20 percent? So, instead of the
10 Village getting \$58,000, the Village would
11 get a certain percentage less, if we were to
12 proceed with a smaller version?

13 MR. NELSON: Right. It will be 20
14 percent less in taxes as well. As far as --
15 there are some variances -- there's a reason
16 that they proposed it this way. I mean, you
17 get a little bit of rental, you're getting
18 more space, and you're getting -- it seems
19 like a lot of units, but I demonstrated that
20 everything in that area has more units than
21 what the applicant is proposing with greater
22 lot area as well.

23 Now, we can add open area, which I've
24 seen in many locations. I believe when I
25 worked on the proposal for the apartments on

1 Sunrise Highway where the Lexus dealer was.
2 There were questions and a request to put
3 rooftop open space. That can be easily
4 accommodated on this location as well. It's
5 not proposed. It's not part of the request
6 there, but open space could easily be put on
7 the rooftop, and it will be a state of the
8 art, high energy efficient building too.

9 Anymore questions?

10 DEPUTY CHAIR CAREY: I do. I just
11 want to know, 96 Smith Street, the photo that
12 you provided. I know you're not an expert in
13 all the properties around the area, but
14 you're pretty expert in your judgment. It
15 looks like the windows are boarded up. If we
16 were to give a variance to this piece of
17 property that you are here, wouldn't whoever
18 owns this building, Build 29, it looks like
19 it could use --

20 MR. NELSON: A haircut.

21 DEPUTY CHAIR CAREY: Yes. You see
22 where the domino effect would be where these
23 people would want a high building, then the
24 people next to them with normal size homes.
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I know it's the district and we're talking about different things. That's why the size --

MR. NELSON: That building now has 12 units in it.

DEPUTY CHAIR CAREY: It looks unoccupied. Did you do research on that or not?

MR. NELSON: Is it occupied?

DEPUTY CHAIR CAREY: 96 Smith Street.

MR. NELSON: I saw people coming and going there.

DEPUTY CHAIR CAREY: It looks like the windows are boarded up. I'm wondering if that building was on it's last legs, are they going to tear it down and decide to have the same size building, we're going to have --

MR. NELSON: Well, that has the same density as the applicant is proposing on that one parcel. As far as any application or any proposal for any other sites or assemblages, they are going to have to come before this Board.

DEPUTY CHAIR CAREY: Of course.

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2 MR. NELSON: I'm not stating we're
3 setting precedent. I'm saying the character
4 of the neighborhood. They would have to make
5 their own arguments.

6 Now the applicant purchased, I
7 believe, or had the first access for the
8 first parcel, which would have been 131,
9 which had been for sale for several years,
10 and then was able to acquire the next parcel.
11 I think 131 includes the northerly tax lot --
12 that was for sale for a while -- and it was
13 marketed for a high density apartment
14 building.

15 And then the next parcel, which
16 includes two buildings, that would be 135,
17 was able -- the applicant was able to acquire
18 that. The assemblage of that and the
19 acquiring of those parcels, which hasn't been
20 disclosed to me, I understood is a little bit
21 high; which is one of the reasons why they
22 are proposing the density that they are. And
23 by providing for that, they still could keep
24 the rent. The rent is going to be around
25 \$2,500, maybe little higher, depending on the

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corner unit, whatever. That's about the mid-range in the Village to higher range.

MEMBER JACKSON: Two bedrooms?

MR. NELSON: There are two bedroom.

MEMBER JACKSON: I have a question. Is this in a flood zone?

MR. NELSON: No.

MEMBER JACKSON: So why aren't we doing subgrade parking.

MR. NELSON: What is that?

MEMBER JACKSON: Subgrade. Underground.

MR. HAMCHUK: So, actually, the building on Graffing Place north of Sunrise, as one point -- we developed that in 2018 or 2019 -- we had done a soil pouring, and water was 15 feet below grade. That was in 201. When we started construction in 2018, water was eight feet below grade. With that, I didn't want chances of potential flooding because we're closer to the water, south of Sunrise now.

MEMBER JACKSON: But the water table doesn't have much to do with the bay, it's

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underground water. Has the test pouring been done on this site?

MR. HAMCHUK: It has not. The assumption is because this happened north of Sunrise. I'm able to accommodate enough parking, I feel.

MEMBER JACKSON: The size of this project, test pouring is not a tremendous expense.

MR. HAMCHUK: But again, it wouldn't yield me any different results of what is necessary.

MEMBER JACKSON: Well, the thought I'm having is they have subgrade parking you said across the street.

MR. NELSON: It's below street grade. I don't know if that has a flooding problem. I didn't inspect that.

MR. HAMCHUK: Is it completely underground?

MR. NELSON: No. If you notice what they did at the Moxey Rigby, they brought it up. I don't know if that's in a flood zone.

MEMBER JACKSON: I believe that's a

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flood zone. I'm almost positive that it is.

MR. NELSON: Better to be safe.

MS. UNGAR: It is.

MR. HAMCHUK: If I were to do subgrade parking, I would still have the same amount of cars and it would be more money for the developer. I don't feel it would benefit the project.

MEMBER JACKSON: It benefits as far as zoning height.

MR. HAMCHUK: But it would be the average -- okay. Understood.

MEMBER JACKSON: It's a thought. Thank you.

(WHEREUPON, the above-referred to documents were marked as Applicant's Exhibits C and D, for identification, as of this date.)

S E A N M U L R Y A N,
having been first duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

COURT REPORTER: State your name and address for the record.

1
2 THE WITNESS: Sean Mulryan. Mulryan
3 Engineering. 1225 Franklin Avenue, Garden
4 City, New York.

5 Good evening, Chairman, members of
6 the Board. Just to mention, I know that we
7 have been here tonight and discussed numerous
8 parts of this application. I did want to
9 mention that this application was originally
10 scheduled for the January 20th hearing and
11 was postponed because that meeting was
12 cancelled. Our report was submitted in
13 advance of that prior hearing. So, I believe
14 that has been circulated to the Board. I
15 have a copy of it tonight, if you need me to
16 submit it, but we did submit to the Village
17 via Email prior to the other hearing.

18 In any event, what we looked at in
19 this application was a number of factors
20 relating to the parking that is part of the
21 subject site. As we discussed, there are 41
22 units provided in the subject building, one
23 is for a superintendent, which is part of the
24 requirements of Village code, that's on the
25 first floor. The upper level of the building

1
2 has 40 apartment units. All units are two
3 bedroom units. So, that requires a total of
4 82 parking spaces, per Village code. The
5 site provides 66 parking spaces. So, we're
6 looking for a variance of the difference
7 between those two numbers.

8 We looked at various things, one of
9 which was the Institute of Transportation
10 Engineers Parking Generation Manual, which is
11 the industry standard model used in this
12 these applications. When we used that, the
13 data, the resulting analysis showed that
14 there will be ample parking on the subject
15 site. And the other issues that we looked
16 at, other factors that we looked at is the
17 United States Census Bureau for the Village
18 of Freeport. That information provided us
19 with information concerning rental apartment
20 units within the Village of Freeport. And
21 that data showed that the majority, 70
22 percent or more, have one or fewer vehicles
23 per household or per rental units within the
24 Village. And the IT data showed there would
25 be peak parking demand between 24 and 35

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vehicles.

The third thing we did, in terms of this application or in terms of applications like this, is we looked at six existing apartment units within the Village, located at 180 Guy Lombardo Avenue, 178 Pine Street, 125 South Bayview Avenue, 78 South Bergen Place, 88 South Bergen Place and 100 South Ocean Avenue.

So, the parking studies were done at each of these locations. The results of those studies are within our report. The analysis for the United States census bureau has also within our report. The ITE data is also provided in the report, which is a calculation based on that statistical data.

We also recently found out through pre-hearing talks with the applicant, they were involved with an application at 49-57 Graffing Place. That was also an apartment complex, which I believe was garden apartments, but it also did require a parking variance. That variance, according to the plans I reviewed, is Number 2-2017. That's

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the Zoning Board of Appeals decision number. And on that application, there was 40 spaces required and 35 provided. So, a similar variance was granted with that application. Again, as members of our team have testified, that is an existing property that is up and running and is fully occupied. We are looking for a similar parking variance, a similar variance for parking on the subject site.

Again, there is a substantial amount of information provided in the report, based one on ITE, which is similar to the information that I provided in the Graffing Report, which was submitted by R&S Engineering, which I also reviewed prior to tonight. We provided that information. Information from the Census Bureau relating to how many vehicles owned by renters of apartments in the village of Freeport, and also studies of various apartment buildings within the Village, and we found that statistically over those various pieces of information that the property provides enough

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parking to satisfy the number of apartments proposed at the subject site.

If there are any questions. Like I said, there is a brief summary. But any questions from the Board, I'll be happy to try to answer them.

MEMBER JACKSON: I'm sorry. What was the study on how many cars per apartment? I didn't catch that.

MR. MULRYAN: So what we looked at is the ITE, which provides a rate per unit, and we provided two different sets of analysis; one is per unit, which is a certain rate, and one is per bedroom, which is a different rate. Those two numbers are provided. The Census Bureau information, what it does is it goes through what you may have received recently in the last couple of months a set of information, which is several pages long, how many cars do you have in your family, how many members of your family live in your house. All of that information is then compiled and available online.

So, the information that we pulled

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2 from that data was rental units within the
3 Village, and it shows how many units -- how
4 many cars are owned per unit. So again, for
5 rental units, which is lower than units that
6 are owned, 70 percent have one or fewer
7 vehicles per household. Again, we have 41
8 units and 66 parking spaces. So, that leans
9 towards the thought that one parking space
10 per unit would satisfy most of them. And
11 having additional parking spaces, based on
12 our other studies and ITE shows that it will
13 also be sufficient.

14 MEMBER JACKSON: So, just to clarify,
15 it's own or lease? It wouldn't just be own,
16 it would be or lease a car. They have one
17 vehicle.

18 MR. MULRYAN: Correct. It's vehicle
19 ownership.

20 MEMBER JACKSON: But it also doesn't
21 have guests. How many people have guests.

22 MR. MULRYAN: Correct. Once again,
23 the rates that are provided by ITE - the
24 Institute of Transportation, the Census
25 Bureau -- the ITE includes guests. The

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2 Census Bureau is saying that a majority will
3 only have one car. But again, 41 units, if
4 each had one car, you would still have room
5 for guests. So, it does incorporate extra
6 parking, if you will, for guests. And again,
7 this is something that has been built in the
8 Village at Graffing Place, that same
9 applicant, and they had a parking -- I
10 wouldn't say a parking shortage, but a
11 parking variance requested, and that site has
12 been working fine, as they report back to me,
13 because they developed it and also manage it.

14 MEMBER JACKSON: Thank you.

15 MR. MULRYAN: Thank you.

16 MEMBER HAWKINS: Is that number 70
17 percent?

18 MR. MULRYAN: Yes, 70 percent of
19 rental home owners have one vehicle or less.
20 Some do not have a vehicle, others have one.

21 MEMBER HAWKINS: Where you're
22 proposing to have the entrance/exit of the
23 parking lot, is that on the northern side of
24 the building.

25 MR. MULRYAN: So, looking at the site

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2 plan, this Guy Lombardo, this is Smith. So,
3 the driveway, basically, in line with each
4 other coming across with no access on Guy
5 Lombardo. This dashed outline is the outline
6 of the building which would sit on top. The
7 middle of the parking lot, this white shaded
8 area is the lobby of the building. So, there
9 are parking spaces near the entrances. The
10 lobby area, obviously, has elevators and
11 stairways to get up to the upper levels.

12 MEMBER JACKSON: As the traffic
13 expert, I pass there everyday, five times a
14 day. I drive quite often. It's a very
15 narrow road with cars typically on either
16 side. Wouldn't that make it difficult for
17 people coming in and out of there, and also
18 for fire trucks coming in and out?

19 MR. MULRYAN: Again, as the architect
20 mentioned, the fire department has been
21 contacted and they are reviewing the
22 application. I agree with your assessment
23 that that is not the widest road. And also,
24 there are commercial properties on the corner
25 that sometimes have cars parked maybe where

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they shouldn't.

MEMBER JACKSON: I believe it's legal though. I believe it's legal parking.

MR. MULRYAN: Correct. There are some portions where it says, "No parking from here to corner." But they are basically there in front of that business.

Again, this is a residential property. As you know from your own homes, some will leave early in the morning, some will leave a half hour later. Residential developments generally don't have a very high trip generation associated with them. We do anticipate as a site located approximately a half mile from the train station that this will be attractive to people using transit. That is also one of the benefits of being in the downtown area: It's walkable, there are sidewalks. If you go out further into Suffolk County, for example, you'll find areas that don't have sidewalks, where the properties of each individual house is much bigger, so walking anywhere becomes extremely difficult. Here, it's very close to

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downtown, very close to Merrick, stores, restaurants, buses, trains.

MEMBER JACKSON: Thank you.

DEPUTY CHAIR CAREY: Any other questions?

MR. SOLOMON: I just want to wrap up for the Board. Obviously, the experts who testified relative to most of the issues surrounding it, in designing the building. The applicant sought to kind of move along the line from the entire county of Nassau and Suffolk along the train line of transit oriented housing, which the Long Island Regional Planning Board has encouraged as of late. I submitted an article from Newsday, as of late, encouraging people to use the downtown, less vehicle traffic, more use of downtown, more use of mass transportation, and more use of the surrounding recreational areas, including local parks, recreation centers and foster in the community.

Relative to your question, Madame Chairwoman, 96 Smith Street is a fire damaged building that's occupied. And there is a

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2 current application just for incoming repair,
3 fire repair damage for that building. There
4 is no crazy density involved in those
5 applications that are filed, other than
6 handicap accessible upgrades to that
7 building.

8 With regard to questions relative to
9 fire department access to the building. The
10 building, in accordance with the NFPA
11 standards and moving forward with fire
12 protection in buildings, we have seen
13 multiple dwellings lately be subject to fires
14 and death traps. This building will be a
15 fully standpipe building, full fire
16 department connection with a full sprinkler
17 system.

18 So, the fire document will be able to
19 avail themselves of a self-contained building
20 with a pump and functional standpipe system.
21 So, the need for a lot of apparatus and
22 things like that on this site is minimized,
23 other than the fire department connection
24 with a pumper to the scene. Obviously, and
25 aerial would stage for the Guy Lombardo side,

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2 with ground guys coming through, and then
3 fully supported fire exits on the stairwells
4 and fully contained stairwells on the way
5 out.

6 Moving forward, obviously, the fire
7 department is a great concern for all of us
8 in the county and going forward. We worked
9 with the fire marshal in designing of this
10 building all the way through. And Nassau, to
11 its credit, has worked has worked with fire
12 marshals and chiefs to provide the utmost in
13 fire safety, even in lightweight construction
14 and new buildings.

15 Part of the issue relative to the
16 ceiling heights and the height of the
17 building is that first floor. Having a
18 little bit of extra space on the first floor,
19 which is open, which is not being residential
20 used, but being able to receive fire
21 department and access from that area to the
22 standpipes to the facility, being able to get
23 ground access into that area is of the utmost
24 concern. And then the area in between to get
25 the height, to pipe in large enough are for

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the sprinkler type system. You do need the area in between the floors.

MEMBER JACKSON: You don't need two feet to have a sprinkler fire system.

MR. SOLOMON: I would suggest a little more, to have it fully fire stopped in between. As I guess we can agree to disagree on that.

Our final exhibit, just a little article from Newsday relative to workforce housing all the way down the main line of the Long Island Railroad and encouraging transit oriented workforce housing.

MS. UNGAR: We previously have two photos that were labeled C and D. I would ask that this be labeled E and the article handed over be marked as F.

(WHEREUPON, the above-referred to documents were marked as Applicant's Exhibits E and F, for identification, as of this date.)

MEMBER JACKSON: I don't know who it relates to. Whoever feels they have the answer, please step up. So, I still haven't

1
2 heard a reason why we need that five story
3 and not a four story. We already determined
4 that the tax rate would drop proportionately
5 with fewer units. That would also alleviate
6 the parking problem.

7 MEMBER MINEO: I think just to speak
8 to that point as well, is the owner or the
9 applicant, rather, demonstrating a financial
10 hardship, essentially, that's requiring him
11 to build such a unit, in order to financially
12 recover from the exorbitant amount of money
13 he or she is going to outlay as a result of
14 it?

15 MS. UNGAR: I was going to say,
16 that's not really part of the criteria, area
17 variances. That's more a use variances. But
18 I think you're asking for, looking for a
19 reasons.

20 MEMBER MINEO: Correct.

21 MR. NELSON: Again, we're asking area
22 variances. What I did was demonstrated that,
23 you know -- that fifth floor is really not a
24 fifth floor. It's four floors above grade
25 parking. If the applicant went lower level

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2 parking under grade, then the building would
3 be compliant, as far as the height. Density
4 is one thing. I also demonstrated that the
5 units to the acre or units to the square
6 footage and everything around there is less
7 than what the applicant is proposing.

8 So, area variances, it's not out of
9 character. Dollars and cents, it is a
10 substantial investment to the Village,
11 substantial acquisition prices. That parcel
12 on the north had been for sale. I look at it
13 personally for myself, it just didn't make
14 sense. And that was probably about four
15 years ago.

16 This project has been in the works
17 with the applicant probably for the last
18 three years. COVID just keeps driving up
19 cost for everybody and construction cost.
20 Probably when I started this in 2020, maybe
21 the cost would have been \$200 a square foot.
22 I gave you a cost of \$300 a square foot. The
23 applicant is hoping that they can get it in
24 at \$300. It's probably moving up to \$350 a
25 square foot to build it.

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2 That said, they also are looking at
3 keeping rents still reasonable and making a
4 reasonable return on the total adventure.

5 MEMBER JACKSON: If they made it
6 smaller, conceivably construction would be
7 that much less proportionately.

8 MR. NELSON: Dollars per square foot
9 remain the same. You know, again, I think
10 the density, I believe, would be as of right,
11 36 units -- 35 units. We're asking for six
12 units more. To get to 36, you would probably
13 be cutting the size of unit on the first
14 three floors smaller. Where you have the
15 extra floor, the extra units, you're
16 providing quality, decent size two bedroom
17 units.

18 Again, cut the floor off, get 35
19 units as of right, comply with the parking
20 and now you are going to provide smaller
21 units. That's not the market the applicant
22 is looking for, but that's the road they may
23 have to go with. I don't know if they're
24 going to go with that venture. That's
25 something that they have to do. That's a

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business decision they'll have to make.

Again, it's a move up, higher end development. It is a fully sprinkled height. If you're at three floors -- I understand the Board may be concerned. The fourth floor complies, if you lower the building, cutting the ceiling. Again, you're taking out the quality and the function and utility of each room. That other floor up top is not going to impact the surrounding community. It's still three floors, you're still higher than the residential, whether it's three or four floors.

An architectural feature of the building versus the flat roofs and straight parapets. So, that adds all of the height. As the architect mentioned, the roof itself is 52, approximately 52 feet. Cut off a few inches, you are down 50 to the roof, plain flat roof like the rest of the buildings. I'm not sure that what's the Village wants. Again, the Moxey Rigby development would demonstrate it. And you got greater heights there, over parking raised above the street.

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What negative impact has that created to the commercial or the residential? I don't believe any. So, we would look at that for the same.

MEMBER JACKSON: It's also a little different area. It's not apples to apples exactly. Do you know the height of the Moxey building?

MR. NELSON: The building itself is the same height. So, you have six feet above grade. Probably closer to over 60 feet at points on that building. I didn't have the exact numbers, but they're all substantially higher than what the applicant is. Again, it was raised up because of the flood zone and then it went up.

DEPUTY CHAIR CAREY: Do we have any other questions? Is there anyone here present who would like to speak for or against the application?

THE SECRETARY: Yes. Can Robert Quinn please come up.

R O B E R T Q U I N N,
having been first duly sworn by a Notary

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Public of the State of New York, was
examined and testified as follows:

COURT REPORTER: Please state your
name and address for the record.

MR. QUINN: My name is Robert Quinn.
Business-wise, 121 Guy Lombardo Avenue.

The biggest thing I'm thinking about
is the parking and the traffic. There's
really none of the neighbors on Cottage Court
are here, but one neighbor a couple of times
a year they have to take the sewer truck and
pump the manhole cover, and this lady
complains that there is sewage in her
basement. Cottage Court, the parking is
really not much to be desired. One side you
cannot park on, the other side it's a lot of
no parking zones, which I do get tickets from
code enforcement for parking my cars in my
business there.

I understand the applicant bought the
place, they're trying to make money. I hear
the Board saying to make it a little smaller.
Personally, I think I'm there for another two
to four years and then looking to sell that

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2 property. So, that's the only thing that I'm
3 thinking of. There is a lot of traffic. You
4 have Compare Food, you have the schools
5 coming out. So, there are things that have
6 to be taken into consideration.

7 Your question about 96 Smith Street.
8 That went on fire, so it's boarded up. I do
9 see men working in there. So, who knows on
10 that. And there's really nothing else that I
11 have to say. Whatever happens. If it goes,
12 it goes, I have no hard feelings. I'm just
13 thinking if it's a smaller thing with less
14 cars, the whole neighborhood will probably
15 not be that upset. You know what I mean?

16 DEPUTY CHAIR CAREY: Can I ask you a
17 question? Do you own the auto repair shop on
18 Cottage and Guy Lombardo?

19 MR. QUINN: Yes.

20 DEPUTY CHAIR CAREY: That's your shop
21 in the photograph?

22 MR. QUINN: That's my shop.

23 DEPUTY CHAIR CAREY: Anecdotally, you
24 mentioned something about the sewers. Is the
25 sewer system overloaded in that part of the

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Village? Is there a problem?

MR. QUINN: One of the neighbors who is a -- he worked for the Village. He's retired. He said he couldn't make it. He said, just mention to them that where I am and the next neighbors, that they got to look into the sewer. What he said was there is plenty of electric, there is plenty of water, but that's just something that has to be addressed. I fix cars. I don't do -- maybe I'll change a toilet seat. That's as far as I go with plumbing.

MEMBER JACKSON: I believe for the Building Department application, they have to have a sewer availability. The Village has to say there's enough capacity for this building. They have to be.

MR. QUINN: All right.

MEMBER HAWKINS: Excuse me sir. You said at 96 you see people doing work at that location?

MR. QUINN: That went on fire, like, last year.

MEMBER HAWKINS: Right.

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2 MR. QUINN: They boarded it up. Keep
3 in mind, I'm all over the neighborhood, and I
4 did notice there were guys going in there.
5 So, I'm sure. Either they are repairing it
6 or cleaning it out. I kind of figured maybe
7 if you're going to build something in that
8 area, go talk to the neighbors. Is this a
9 good place to build? See what they have to
10 say. Get a little bit of history.

11 I remember that place when it was a
12 doctor's office, 131. A doctor by the name
13 of Merlin Sloss who passed away, and then it
14 was a Word of Life building. Then Gotham
15 Builders bought it and Gotham Builders sold
16 it to probably the applicant. So, as far as
17 knowing the history in there, I spend more
18 time there than I do in my own home.

19 DEPUTY CHAIR CAREY: Thank you so
20 much.

21 MR. QUINN: Thank you.

22 DEPUTY CHAIR CAREY: Is there anyone
23 else for or against this application?

24 THE SECRETARY: No, nobody else.

25 DEPUTY CHAIR CAREY: At this time

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would someone make a motion to reserve
decision and close to further testimony.

MEMBER JACKSON: So moved.

MEMBER HAWKINS: Second.

DEPUTY CHAIR CAREY: Please poll the
Board.

THE SECRETARY: Member Mineo.

MEMBER MINEO: In Favor.

THE SECRETARY: Member Jackson.

MEMBER JACKSON: In Favor.

THE SECRETARY: Member Hawkins.

MEMBER HAWKINS: In Favor.

THE SECRETARY: Deputy Chair Carey.

DEPUTY CHAIR CAREY: In Favor.

Now can we make a motion to reserve
decision.

MEMBER HAWKINS: So moved.

MEMBER JACKSON: Second.

DEPUTY CHAIR CAREY: Please poll the
Board.

THE SECRETARY: Member Mineo.

MEMBER MINEO: In Favor.

THE SECRETARY: Member Jackson.

MEMBER JACKSON: In Favor.

1 THE SECRETARY: Member Hawkins.

2 MEMBER HAWKINS: In Favor.

3 THE SECRETARY: Deputy Chair Carey.

4 DEPUTY CHAIR CAREY: In Favor.

5 THE SECRETARY: The next application
6 is 2021-29, 115-117 South Main Street,
7 Business B, Section 62, Block 198, Lot 317
8 and 322. Ederi Hananya. Construct a new one
9 story, 925 square foot rear addition.
10 Variances: Village Ordinance 210-6A,
11 210-172A(12) Parking required. 210-88
12 Loading space required.

13 I have two Affidavits of Mailing and
14 one Nassau County Planning Commission
15 Recommendation to be entered into the record
16 as Board's Exhibits 1, 2 and 3.

17 (WHEREUPON, the above-referred to
18 documents were was marked as Board's Exhibits
19 1 through 3, for identification, as of this
20 date.)

21 R O B E R T B E N N E T T,
22 having been first duly sworn by a Notary
23 Public of the State of New York, was
24 examined and testified as follows:
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2 COURT REPORTER: Please state your
3 name and address for the record.

4 MR. BENNETT: Rob Bennett. Rabco
5 Engineering. 8 West Merrick Road, Freeport,
6 New York.

7 Good evening, ladies and gentlemen,
8 members of the Board. We are here today for
9 approval of the variance for two parking
10 spaces off-street, as well as a loading space
11 required for a new 925 square foot rear,
12 single story addition.

13 Mr. Hananya is here. He is one of
14 principals. We're proposing -- this is the
15 building, commercial building on Main Street.
16 It used to be a Tile Shop. Looking for more
17 space. There is an existing storage and
18 warehouse space in the back currently in use.
19 Just really renovating the place and giving a
20 little bit of additional storage and display.

21 There is another business in the
22 building, and that's accounted for in the
23 parking calculations. We have a total of two
24 businesses right now, about 1,900 square
25 feet. We're adding about 900 square feet.

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2 So, a total of 2,800 square feet. Two
3 parking spaces for each of the two businesses
4 and seven parking spaces for the one, each
5 400 square feet total. So, we're have a
6 total requirement of 11 parking spaces, we
7 are providing nine, and we're asking for
8 relief of two parking spaces.

9 The building is currently in use.
10 It's been operational. There are no issues.
11 We don't expect any greater increase in
12 demand or parking. It is a little bit of a
13 congested area. There is access, a
14 right-of-way off of Merrick Road. It's
15 behind C&C Appliance, off of Merrick Road.
16 They have been operating for some time now, I
17 think over a year, and, really, parking is no
18 issue. There is off-street parking. Even
19 though that's probably not accountable, there
20 is a parking lot where I actually park my car
21 behind VIM on Merrick Road. I believe I did
22 a traffic study on that. Aside from that,
23 there is also metered parking on Main Street
24 and South Main Street and Merrick Road as
25 well.

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2 The other issue is the access loading
3 space required. We do show a loading space
4 there. We did not delineate the parking
5 space or the area for that, but there is a
6 loading space for that garage door entry.
7 The other building also has loading spaces,
8 it's been fully in use, no issues there.
9 Actually, the parking, the way it is now,
10 they're improving it, actually, because it's
11 sort of random and we're going to be a little
12 bit more delineated.

13 Basically, it's pretty
14 straightforward. Single story, about 925
15 square feet. Really not even going to see it
16 from Merrick Road. It's sort of hidden in
17 between existing buildings. We do have to go
18 to site plan afterwards, which we
19 acknowledge, and just seek relief for those
20 conditions.

21 MEMBER JACKSON: So, this is an
22 expansion, expanding the existing building?

23 MR. BENNETT: Ground level. No
24 underground, single story, rear addition.

25 MEMBER JACKSON: How many square feet

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are you adding?

MR. BENNETT: 925.

MEMBER JACKSON: The new loading space, does that block parking spaces or is it accessible?

MR. BENNETT: It is. There is parking from -- we have some parking in the rear. It's rarely used for that, but it will be intermittent. We really don't need that loading space. We show it as a space for that building, but he already has a loading dock on his accessory building. So, that's primarily that's been in use for that. We do have that loading gate and we can delineate that space on the drawing when we resubmit it to the Building Department.

MEMBER JACKSON: What type of businesses are there, what types of businesses?

MR. BENNETT: MR. Hananya might be able to explain his business. It's a cleaning and sales products. And the other one, I believe, is travel.

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having been first duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

COURT REPORTER: Please state your name and address for the record.

MR. HANANYA: Ederi Hananya. 115 South Main Street, Freeport.

You got the question what we --

MEMBER JACKSON: What type of businesses there are?

MR. HANANYA: One business is a tax office that we renting, and the main office we use it we sell mattress covers for bed bugs, box springs for mattresses, duvet covers. Right now, this kind of stuff. We are looking for new items. We do online, like a website, Amazon, Ebay, perfume, that kind of stuff. And we do wholesale.

MEMBER JACKSON: Do you do your own trucking?

MR. HANANYA: No trucking. Delivery.

MEMBER JACKSON: Delivery?

MR. HANANYA: Yes.

MEMBER JACKSON: You have a delivery

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service?

MR. HANANYA: Yes, UPS, FedEx.

Private.

MEMBER JACKSON: What about when you get supplies in? Do you have a lot of trucks that come to deliver supplies or two trucks?

MR. HANANYA: We get delivery once every two months. It could be different states from America, it could be Pakistan or China. But they come for two, three hours, they empty it and leave.

MEMBER JACKSON: How often?

MR. HANANYA: Every few months.

MEMBER JACKSON: Once every few months?

MR. HANANYA: Every few months delivery. God willing, I hope to go up and do more. Right now, this is the situation.

MEMBER JACKSON: Of course.

MEMBER HAWKINS: That addition is just for storage purposes?

MR. HANANYA: This is only -- what we do is only storage.

MEMBER HAWKINS: In the front of the

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business, do you have customers that come in and buy stuff?

MR. HANANYA: No, it's office.

MEMBER HAWKINS: Just the office.

MR. HANANYA: Yes. No retail store.

MS. UNGAR: Do you expect this addition to increase the number of employees or people at your business?

MR. HANANYA: Right now we have five employees there.

DEPUTY CHAIR CAREY: Where do those employees park now?

MR. HANANYA: We have, like, six spots in the back, but none of them come with car. Some use subways.

DEPUTY CHAIR CAREY: Is your parking lot, those six spots in the back, the area to the east of C&C Appliances?

MR. BENNETT: It would be to the south of C&C Appliance. A little big configuration. An easement that circles around. So, he is south and east of C&C Appliance.

DEPUTY CHAIR CAREY: That's where you

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have containers come and drop off all the stuff that is going into storage?

MR. HANANYA: Yes.

MR. BENNETT: He's been operational there in the warehouse in the back. He really only uses the one access door. One is almost -- the one he is proposing is almost secondary. He's been operational. He gets along with the adjoining neighbors. Really, parking hasn't been an issue, despite the awkward type of arrangement.

MEMBER HAWKINS: What road did you use to access that loading dock? Which road do you come in from: Merrick?

MR. HANANYA: From Merrick. That's correct.

DEPUTY CHAIR CAREY: Mr. Bennett, this is only a one story unit. Is there little a step up?

MR. BENNETT: No, it's just the one story. He's stepping up. The other building is not quite arranged, so this is a step up.

DEPUTY CHAIR CAREY: Thank you.

Does anyone else have any questions?

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At this time, would anyone like to speak for or against the application?

THE SECRETARY: We do not this evening.

DEPUTY CHAIR CAREY: At this time, I'd like to ask for a motion to close to further testimony and evidence.

MEMBER JACKSON: So moved.

MEMBER MINEO: Second.

DEPUTY CHAIR CAREY: Please poll the Board.

THE SECRETARY: Member Mineo.

MEMBER MINEO: In Favor.

THE SECRETARY: Member Jackson.

MEMBER JACKSON: In Favor.

THE SECRETARY: Member Hawkins.

MEMBER HAWKINS: In Favor.

THE SECRETARY: Deputy Chair Carey.

DEPUTY CHAIR CAREY: In Favor.
Do we have a motion to reserve decision on this application?

MEMBER JACKSON: So moved.

MEMBER HAWKINS: Second.

DEPUTY CHAIR CAREY: Please poll the

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Board.

THE SECRETARY: Member Mineo.

MEMBER MINEO: In Favor.

THE SECRETARY: Member Jackson.

MEMBER JACKSON: In Favor.

THE SECRETARY: Member Hawkins.

MEMBER HAWKINS: In Favor.

THE SECRETARY: Deputy Chair Carey.

DEPUTY CHAIR CAREY: In Favor.

Thank you. Call the next application please.

THE SECRETARY: The next application is 2022-1 - 552 North Brookside Avenue, Residence AA, Section 36, Block K, Lot 148. Daniel Sosa. Maintain 20 foot by 13 foot shed, 21 foot by 19 foot pavilion, 19 foot by 44 foot raised terrace, replace driveway, four foot solid PVC fence in front yard, wood burning fireplace and a 34 inch CMU retaining wall. Variances: Village Ordinance 210-6A, 210-171(d)1 Fence heights, 210-35(A)2 rear yard depth, 210-35(A)3 side yard setback, 210-35(C)2 accessory structure rear yard setback, 210-171B enclosure materials.

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2 I have one Affidavit of Mailing and
3 one Nassau County Planning Commission
4 Recommendation to be entered into the record
5 as Board exhibits. These will be Board
6 Exhibits 1 and 2 for this individual public
7 hearing.

8 (WHEREUPON, the above-referred to
9 documents were marked as Board's Exhibits,
10 for identification, as of this date.)

11 J O H N T E U F E L,
12 having been first duly sworn by a Notary
13 Public of the State of New York, was
14 examined and testified as follows:

15 COURT REPORTER: Please state your
16 name and address for the record.

17 MR. TEUFEL: John Teufel. That's
18 T-E-U-F-E-L. Professional Engineer. 707
19 Route 110, Farmingdale, New York.

20 Good evening, Chairperson, members of
21 the Board. I'm here tonight with Daniel Sosa
22 and Delmy Castillo, owners of 552 North
23 Brookside Avenue, who are seeking relief to
24 maintain a rear yard 20 by 13 foot shed, rear
25 yard 21 by 19 foot pavilion, rear yard 19

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2 foot by 44 foot by two foot high raised
3 terrace, replace driveway, four foot solid
4 fence along the driveway in the front yard,
5 rear yard wood burning fireplace, and 34 inch
6 concrete block retaining wall.

7 The zone is Residence AA, where an
8 open four foot high fence is permitted in the
9 front yard. Where interested to maintain a
10 four foot high solid PVC fence on the north
11 side of the property. This fence replaced an
12 existing chain link fence which was in very
13 poor condition. It does not interfere with
14 the sight triangle clearance of the driver
15 pulling out of the driveway or pulling into
16 the driveway.

17 We're also requesting to maintain a
18 rear brick paver patio which is 23 inches
19 above grade and has a side yard setback of
20 zero feet, where ten feet is required. The
21 existing house in this area is only six feet
22 from the side property line. This patio also
23 has a rear yard setback of zero feet, where
24 20 feet is required. The zero foot rear yard
25 setback only exists for 16.4 feet of the

1 entire 93.18 foot length rear property line.
2 So, does not go along the whole backyard. We
3 would also like to note that this patio
4 replaced an existing patio that was there for
5 many years in very poor condition.
6

7 The 20 by 13 foot shed replaced an
8 existing shed which was also in very poor
9 condition, and that has a rear yard setback
10 of three feet, where five feet is required.

11 The pavilion was constructed about a
12 year ago, and it is in excellent condition.
13 Daniel and Delmy and his use it for family
14 get-togethers and to eat outdoors in the
15 warmer weather. A five foot rear yard
16 setback is required, but since the property
17 line jogs in, in this area, only a four foot
18 setback is provided again with that jog in
19 and irregular shape of the rear property
20 line.

21 For the same reason, the masonry wood
22 burning fireplace in this area has a zero
23 foot rear yard setback, where the same five
24 foot rear yard setback is required.

25 Finally, we are requesting to

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2 maintain a 34 inch high concrete block
3 retaining wall located at the head of the
4 driveway. This was built well in from the
5 property line at the head of the driveway.
6 This was built about two to three years ago
7 when the existing asphalt driveway was in bad
8 condition and was replaced by the current
9 concrete one.

10 Although Mr. Sosa and Ms. Castillo
11 weren't sure if these improvements required
12 building permits, since they weren't adding
13 on to the actual living space of the house,
14 they now realize they should have gotten
15 permits for this work and respectfully
16 request that the variances be granted so they
17 can legalize the structures.

18 That completes our case. If the
19 Board has any questions, we'd be happy to
20 answer them.

21 MEMBER JACKSON: I do have a question
22 about the fence in the front. You said it
23 does comply, but it needs to open, if I'm not
24 mistaken. It could be four foot high if the
25 fence is open and see through.

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MR. TEUFEL: The code says it should be open not see through.

MEMBER JACKSON: It's not.

MR. TEUFEL: It's not, but it's setback, I would say, at least six feet -- six to ten feet from the road. So, you can easily see. It doesn't really block the visibility pulling in and out of the driveway.

MEMBER JACKSON: Is there a driveway adjacent to the fence?

DEPUTY CHAIR CAREY: It looks to me like it's a very small distance between the street and the blocked fence, which kind of prevents people from -- children could be walking by.

MR. TEUFEL: I didn't measure the actual distance.

DEPUTY CHAIR CAREY: It doesn't look like more than three or four feet. One of the solutions to that problem I would think, if I'm not incorrect, would be to replace one of the panels of the fence and replace that footing, put some kind of slats. What people

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2 do is put slats in the first panel and the
3 rest is solid panel, so that your vision of
4 children walking when backing out of the
5 driveway you don't run someone over. That's
6 one of reason we have that rule, I believe,
7 in the zoning.

8 MR. TEUFEL: I understand, of course.
9 I mean, a six foot -- I'm not sure. I don't
10 know if it has six or eight foot sections.
11 It might be six foot. We have no problem
12 replacing the first six foot panel.

13 MEMBER JACKSON: The first panel.

14 MR. TEUFEL: I'm sure.

15 DEPUTY CHAIR CAREY: To help solve
16 that problem.

17 MEMBER JACKSON: I think also, I'm
18 not sure, that's a four foot fence on top of
19 a retaining wall.

20 MR. TEUFEL: Yeah, but it's only one
21 foot.

22 MEMBER JACKSON: But that's not a
23 four foot fence, that's a five foot fence.
24 That also changes it. But would the
25 applicant be opposed to making those first

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two sections comply? Changing the first two sections.

MR. TEUFEL: Actually lowering it?

MEMBER JACKSON: Yeah.

MR. TEUFEL: One section of six feet?

DEPUTY CHAIR CAREY: I'm not sure that --

MEMBER JACKSON: The front yard is 20 feet. So, it's not six feet now. I can see from the picture it's maybe two or three feet from the property line. So, that would be -- you still wouldn't comply with two sections, but I think that would be something a little more reasonable. Would that be something your client would be willing to do?

MR. TEUFEL: So, they're talking about the last two sections of the fence in the front to remove that one foot and bring it down even with the driveway.

D A N I E L S O S A,
having been first duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

COURT REPORTER: Please state your

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name and address for the record.

MR. SOSA: Daniel Sosa. 552 North
Brookside Avenue, Freeport, New York.

The reason because I build the
retaining wall is because the neighbor's
property is really high from my property.
That's why I put a couple of blocks, I sit
the fence on top of these blocks. Otherwise,
the PVC fence is going to go away.

MEMBER JACKSON: But do you need it
that high? Would you be willing to make it
lower, just those first two sections?

MR. SOSA: I can lower it. But I
don't see the reason why, because we have the
space from the street. They have cars
parking on the side, plus the grass, plus the
sidewalk, plus one feet away from the
sidewalk. We have a lot of space.

MEMBER JACKSON: By the rules of the
law, the property line is typically inside
your walk, which seems to be about a foot.
One of the concerns, I'll tell you why. Do
you have kids?

MR. SOSA: Yes.

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MEMBER JACKSON: If kids are on a bicycle and you're backing out, you can't see them. It does become a dangerous situation, which is why it's a zoning law. At least if it's lower or a bit more open, it provides safety, you know?

MR. SOSA: Yeah.

MEMBER JACKSON: That's the reason for it. No doubt about it. If you would consider that.

MR. SOSA: I can do that. That's not a problem. I was thinking just maybe one section is eight feet, whatever space we have is a lot of space. It's almost 20 feet from the --

MEMBER JACKSON: We'll discuss that.

DEPUTY CHAIR CAREY: I'm sure we'll figure out something that will rational to ameliorate the problem.

MR. SOSA: Thank you.

MR. TEUFEL: I think the point he was trying to make was the grade is higher in the neighbor's yard. So, if you take that little one foot wall away, you still have dirt

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there.

DEPUTY CHAIR CAREY: He doesn't have to take the wall away, jut put a slotted fence so there is visibility.

MR. TEUFEL: Make the fence a little shorter.

DEPUTY CHAIR CAREY: What they do is they drop it down.

MR. TEUFEL: You make the fence shorter.

DEPUTY CHAIR CAREY: You make that last part of the fence shorter.

MR. TEUFEL: Shorter. Okay. Right. We understand perfectly.

DEPUTY CHAIR CAREY: That's a way for you to have visibility of someone walking by.

MR. TEUFEL: Absolutely. It's a safety issue.

MEMBER HAWKINS: Where is the shed located on the property, is it behind the house, the shed?

MR. TEUFEL: Yeah, the shed we're talking about is kind of in the middle of the backyard. It should be on the site plan.

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MEMBER JACKSON: You can't see. It's behind the fence. It's this structure here.

DEPUTY CHAIR CAREY: The shed is already built?

MR. TEUFEL: Yes. There was an older shed. They built a new one, two years ago to replace the older one.

MEMBER JACKSON: Judging by the plans, this was all in place concrete, it's not a movable shed?

MR. TEUFEL: I think it's treated wood. The shed is wood.

MEMBER JACKSON: But the shed is sitting on top of concrete.

MR. SOSA: Yes.

MR. TEUFEL: Yes, concrete slab.

MEMBER HAWKINS: Directly behind the house, the shed is shed?

MR. TEUFEL: Yes. Actually, pretty much 90 percent of it is behind the house.

MR. SOSA: Yeah.

DEPUTY CHAIR CAREY: The problem with the shed is that you're too close to the fence.

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MR. TEUFEL: Yes. It's supposed to have five feet.

DEPUTY CHAIR CAREY: What is stored in the shed?

MR. SOSA: Just storage stuff for the house. Snowblower.

DEPUTY CHAIR CAREY: Lawn mowers, stuff like that?

MR. SOSA: Yeah.

DEPUTY CHAIR CAREY: Would you happen to know from the back of your fence where your shed is, anecdotally, how close your neighbor's house is to your fence?

MR. SOSA: From the fence to the neighbor's house is a lot more.

MR. TEUFEL: The neighbor back here.

MR. SOSA: It's like, maybe, 40 feet. More than that.

DEPUTY CHAIR CAREY: It looks like you could get a fire truck into your driveway, because if something catches on fire, like your lawnmower or something like that. That's one of the reasons why you have a setback, so you're not too close to your

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neighbor's property during a fire.

MEMBER HAWKINS: Where are you proposing to build the fireplace? Where is that going to be, the fireplace?

MR. TEUFEL: It's existing. It's going to be right behind the rear of the house. Actually, right where the property jog is. I think it's shown on the survey.

MEMBER JACKSON: It's existing? That's a maintain?

MR. TEUFEL: That's a maintain, yes.

MEMBER JACKSON: Okay.

MR. TEUFEL: It's a totally concrete wood -- I mean masonry.

MEMBER JACKSON: Do you use the wood burning fireplace? Do you use the fireplace?

MR. SOSA: Yeah.

MEMBER JACKSON: Have you had complaints from your neighbors?

MR. SOSA: No.

DEPUTY CHAIR CAREY: Does anyone have anymore questions?

(No response was heard.)

DEPUTY CHAIR CAREY: Is there anyone

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who would like to speak for or against this application tonight?

THE SECRETARY: Not this evening.

DEPUTY CHAIR CAREY: At this point I'd like someone to make a motion to close to further testimony and evidence please.

MEMBER JACKSON: So moved.

MEMBER HAWKINS: Second.

DEPUTY CHAIR CAREY: Please poll the Board.

THE SECRETARY: Member Mineo.

MEMBER MINEO: In Favor.

THE SECRETARY: Member Jackson.

MEMBER JACKSON: In Favor.

THE SECRETARY: Member Hawkins.

MEMBER HAWKINS: In Favor.

THE SECRETARY: Deputy Chair Carey.

DEPUTY CHAIR CAREY: In Favor.
Would you please make a motion to reserve decision.

MEMBER MINEO: So moved.

MEMBER JACKSON: Second.

DEPUTY CHAIR CAREY: Please poll the Board.

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THE SECRETARY: Member Mineo.

MEMBER MINEO: In Favor.

THE SECRETARY: Member Jackson.

MEMBER JACKSON: In Favor.

THE SECRETARY: Member Hawkins.

MEMBER HAWKINS: In Favor.

THE SECRETARY: Deputy Chair Carey.

DEPUTY CHAIR CAREY: In Favor.

Thank you very much.

At this time, call the next
application.

THE SECRETARY: The next application
is Application 2022-3, 280 Branch Avenue,
Residence A, Section 62, Block 187, Lot
646-650, Evan Sarafy. Construct a new 2067
square foot three-story house with 410 square
foot deck. Variances: Village Ordinance
210-6A, 210-43A(2) rear yard depth.

I have one Affidavit of Mailing to be
entered into the record as a Board Exhibit.
This will be Board's Exhibit Number 1 for
this individual public hearing.

(WHEREUPON, the above-referred to
document was marked as Board's Exhibit 1, for

1 identification, as of this date.)

2 R U S S E L L J O R D A N,

3 having been first duly sworn by a Notary

4 Public of the State of New York, was

5 examined and testified as follows:

6 COURT REPORTER: Please state your
7 name and address for the record.

8 MR. JORDAN: Russell Jordan. 44
9 Casino Street, Freeport, New York.

10 I'd like to start with just a brief
11 history of this property. It had been a
12 vacant lot for as long as I can remember from
13 when I moved into Freeport in 1986. Over the
14 years, the bulkhead totally disintegrated,
15 washed away, and the lot had been used at
16 various times for storage of broken boats,
17 construction materials, garbage, etcetera.

18 My client, Evan Sarafy, purchased
19 this almost five years ago and went through a
20 very lengthy negotiation with DEC, because
21 they, at that point, considered it wetlands.
22 It threatened the properties to the north and
23 south that were bulkheaded, because this one,
24 obviously, was open, being washed away.
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2 After his negotiations with the DEC, he
3 finally got permits last November, I believe
4 it was. There is a stamped drawing here that
5 was submitted as part of the package. It was
6 actually 10/16/ 2020. Excuse me. They gave
7 him the permit to install bulkheading along
8 with a significant amount of plantings, marsh
9 grasses and so on, which is also on the DEC
10 approved permit.

11 This lot is only 69.81 feet deep. We
12 maintain the front yard setback of 20 feet,
13 and to the rear property line we maintain 25
14 feet. But since the location of the bulkhead
15 and the plantings was totally dictated by
16 DEC, this had created a situation where we
17 don't have the 20 feet from the rear of the
18 house to the bulkhead; and if we conformed to
19 that, we would have been left with about 12
20 foot wide building area.

21 The bulkhead has been built. The
22 planting, they're waiting until it warms up a
23 little bit, since it's also dictated in the
24 DEC permit that any remains of concrete and
25 so on left over that had been washed out has

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2 to be removed by hand, which involves wading
3 in the water, and planting involves wading in
4 the water, which is a little bit cold right
5 now, and plants wouldn't survive.

6 So, as soon as things warm up a
7 little bit, they will do the final planting
8 and get their final sign off from the DEC.
9 In the meantime, the DEC has approved going
10 ahead with the layout that we're proposing
11 for the house, which is shown on my site
12 plan. We actually moved this a little
13 further, about four or five feet further from
14 the bulkhead than what DEC originally
15 authorized as upland construction, which is
16 what they call anything in that bulkhead.

17 I'd be willing to take any questions
18 that the Board has.

19 MEMBER JACKSON: So, I have a few,
20 just to clarify. This is only a rear yard
21 setback, correct?

22 MR. JORDAN: Yes.

23 MEMBER JACKSON: The average setback.

24 MR. JORDAN: I know the canal, so I
25 can tell you.

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MEMBER JACKSON: The average setback is of houses to the south of it, I believe.

MR. JORDAN: Yes. He's one or two lots from the end.

MEMBER JACKSON: The average setback would be -- the houses to the south would be further -- closer to the bulkhead than their house, right?

MR. JORDAN: Yes.

MEMBER JACKSON: I have no further questions.

DEPUTY CHAIR CAREY: I have no further questions. Anyone else?

MS. UNGAR: The DEC is not going to have a problem moving the house farther from the bulkhead, correct?

MR. JORDAN: I'm sorry?

MS. UNGAR: The DEC is not going to have a problem with you moving the house further from the bulkhead, is it?

MR. JORDAN: No. They'd love for us to move it 100 inland and be totally away.

MEMBER JACKSON: But if you were to do that, you would encroach in the front yard

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setback, correct?

MR. JORDAN: Yes.

MEMBER JACKSON: And the depth of the house?

MR. JORDAN: Is 24.75 feet.

MEMBER JACKSON: So it would limit having a decent house any less than 24 feet.

MR. JORDAN: Right. Right now we're about ten feet from the bulkhead. It jogs around a little bit, so we'd end up with a 12 foot wide house.

MEMBER JACKSON: When you say ten feet in from the bulkhead, that bulkhead is in further than what's to the south; is that correct?

MR. JORDAN: Yes, it is. But the location of bulkhead was totally dictated by DEC. If they had given it to us out of the property line, everything would be kosher. But we have a lot of grass to plant.

DEPUTY CHAIR CAREY: Any other questions? Is there anyone who would like to speak for or against this application?

THE SECRETARY: There is not.

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DEPUTY CHAIR CAREY: Would someone like to make a motion to close this application to further evidence and testimony?

MEMBER HAWKINS: So moved.

MEMBER JACKSON: Second.

DEPUTY CHAIR CAREY: Please poll the Board.

THE SECRETARY: Member Mineo.

MEMBER MINEO: In Favor.

THE SECRETARY: Member Jackson.

MEMBER JACKSON: In Favor.

THE SECRETARY: Member Hawkins.

MEMBER HAWKINS: In Favor.

THE SECRETARY: Deputy Chair Carey.

DEPUTY CHAIR CAREY: In Favor.

Would someone like to make a motion to reserve decision?

MEMBER JACKSON: So moved.

MEMBER MINEO: Second.

DEPUTY CHAIR CAREY: Please poll the Board.

THE SECRETARY: Member Mineo.

MEMBER MINEO: In Favor.

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THE SECRETARY: Member Jackson.

MEMBER JACKSON: In Favor.

THE SECRETARY: Member Hawkins.

MEMBER HAWKINS: In Favor.

THE SECRETARY: Deputy Chair Carey.

DEPUTY CHAIR CAREY: In Favor.

MR. JORDAN: Thank you very much.

DEPUTY CHAIR CAREY: Last but not least. You have been here before.

Please call the next application.

THE SECRETARY: Application 2022-4, 552 South Bayview Avenue, Residence A, Section 54, Block 325, Lot 34 and 35. Richard Rugolo. Construct a new 75 square foot open front porch. Variances; Village Ordinance 210-6A, 210-43(A)(1) Front yard setback.

I have one Affidavit of Mailing to be entered into the record as a Board Exhibit. This will be Board's Exhibit 1 for this individual public hearing.

(WHEREUPON, the above-referred to document was marked as Board's Exhibit 1, for identification, as of this date.)

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2 J O H N S T U M P F,
3 having been first duly sworn by a Notary
4 Public of the State of New York, was
5 examined and testified as follows:

6 COURT REPORTER: Please state your
7 name and address for the record.

8 MR. STUMPF: John Stumpf. 725
9 Franklin Avenue, Garden City.

10 Okay, guys. It's pretty
11 straightforward. Mr. Rugolo purchased the
12 house on Bayview about five, six years ago.
13 The existing house is existing nonconforming.
14 The current kitchen or the front of the house
15 is 20 feet back from Bayview. And what we'd
16 liked to do is literally align a roof and
17 open porch within that 20 foot setback.
18 There's many houses in that area that have
19 that setback. The reasons for the roof and
20 patio, there's no shelter when you come into
21 the house. So, this will provide, basically,
22 a front foyer, open, and then it will also
23 give my client the ability to sit on the deck
24 and enjoy the views of whatever he is viewing
25 at that point in time. I feel that there's

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no negative impact to the neighborhood. It's in the front of the house and it's in line with the existing setback that is currently there.

I'd be happy to take questions. There is no intension to enclose it. It is going to be an open porch.

MEMBER JACKSON: The houses in the area, average front yard setback?

MR. STUMPF: The average front yard setback, from what I can tell, is between 20 and 22 feet on Bayview.

MEMBER JACKSON: This front porch will extend beyond that 20 feet.

MR. STUMPF: No, it will be 20 foot back from the street. It will not encroach any further than the existing kitchen that is currently there.

MS. UNGAR: The Building Department says the average setback is 25 feet. Although the front of the house is 20 feet, by squaring it off and bringing it inline with the rest of it, it's a further encroachment onto that. But it will still be

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nothing closer than 20 feet.

MR. STUMPF: That's right. We will not pass the current setback that's established.

MEMBER JACKSON: Right. The north side is already at that setback. Is that the point?

MR. STUMPF: Exactly.

DEPUTY CHAIR CAREY: You're squaring, filling in that L shape.

MR. STUMPF: We're filling it in, but it's going to be still open, not enclosed.

DEPUTY CHAIR CAREY: Got it. I have not further questions.

MR. STUMPF: Sorry, I don't have any parking issues.

MEMBER JACKSON: Can you come back?

DEPUTY CHAIR CAREY: Would anyone like to speak for or against this application.

THE SECRETARY: We do not have anyone.

DEPUTY CHAIR CAREY: Can we make a motion to close this application to further

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evidence and testimony?

MEMBER JACKSON: So moved.

MEMBER HAWKINS: Second.

DEPUTY CHAIR CAREY: Please poll the Board.

THE SECRETARY: Member Mineo.

MEMBER MINEO: In Favor.

THE SECRETARY: Member Jackson.

MEMBER JACKSON: In Favor.

THE SECRETARY: Member Hawkins.

MEMBER HAWKINS: In Favor.

THE SECRETARY: Deputy Chair Carey.

DEPUTY CHAIR CAREY: In Favor.

Can we please make a motion to reserve decision.

MEMBER MINEO: So moved.

MEMBER JACKSON: Second.

DEPUTY CHAIR CAREY: Please poll the Board.

THE SECRETARY: Member Mineo.

MEMBER MINEO: In Favor.

THE SECRETARY: Member Jackson.

MEMBER JACKSON: In Favor.

THE SECRETARY: Member Hawkins.

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MEMBER HAWKINS: In Favor.

THE SECRETARY: Deputy Chair Carey.

DEPUTY CHAIR CAREY: In Favor.

DEPUTY CHAIR CAREY: Can someone make a motion to go into executive session. We'll be right back.

MEMBER JACKSON: So moved.

MEMBER HAWKINS: Second.

DEPUTY CHAIR CAREY: Please poll the Board.

THE SECRETARY: Member Mineo.

MEMBER MINEO: In Favor.

THE SECRETARY: Member Jackson.

MEMBER JACKSON: In Favor.

THE SECRETARY: Member Hawkins.

MEMBER HAWKINS: In Favor.

THE SECRETARY: Deputy Chair Carey.

DEPUTY CHAIR CAREY: In Favor.

(WHEREUPON, a recess was taken from 8:25 p.m. to 9:02 p.m., after which the following transpired:)

DEPUTY CHAIR CAREY: Make a motion to go back into legislation session.

MEMBER JACKSON: So moved.

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MEMBER HAWKINS: Second.

THE SECRETARY: The first decision is 2021-27, 891 South Long Beach Avenue, Residence A, Section 62, Block 186, Lot 428 and 429.

MEMBER HAWKINS: Madame Chairperson, regarding Application 2021-27 for the premises located at 891 South Long Beach Avenue, Freeport, the Applicant comes before this Board seeking a variance from Village Ordinances 210-6A, 210-40, 210-43A(2), 210-39A seeking approval for a new 1,944 square foot single family dwelling.

I, Charles Hawkins, move that this Board make the following findings of fact:

A public hearing was held on November 18, 2021, wherein applicant was represented by architect John Novello. He explained that the applicant is seeking to demolish an unlivable house that was substantially damaged during Superstorm Sandy and rebuild a FEMA compliant house. He explained that they meet almost all of the zoning requirements, lot coverage, front and

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2 side yard setbacks. Of the three variances
3 needed, the first is for having a lot area
4 and frontage of 4,000 square feet and 40 feet
5 respectively, as opposed to the required
6 5,000 square feet and 50 feet. The second
7 variance is for rear yard setback. 20 feet
8 are required from the house to the bulkhead,
9 and only 12.8 feet are provided. The final
10 variance required is for penetration of the
11 sky exposure plane, which Mr. Novello
12 referenced to the testimony earlier in the
13 evening by Russell Jordan that the vast
14 majority of houses that are elevated will
15 require a variance from this code section,
16 perhaps 75 percent or more.

17 A height of 35 feet from grade is
18 permitted as of right under the code, and
19 applicant is proposing 34 feet, six inches.
20 Front and side yard setbacks are met. Side
21 yard setbacks totaling 13 feet are more than
22 25 percent or ten feet that would be required
23 for this 40 foot wide lot. And the Board
24 notes the setbacks would be sufficient if the
25 lot was 50 foot wide. Mr. Novello explained

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2 that they would meet the rear setback if not
3 for the fact that 20 feet of the property is
4 in the water. He explained that the proposed
5 house is 27 feet wide and 36 feet deep,
6 although is larger than the bungalow that is
7 currently there. The owners of the property
8 are building the home for their personal use,
9 and propose three bedrooms. Mr. Murphy, one
10 of the owners of the property, explained that
11 he and his wife purchased the property with
12 the intention of downsizing from their larger
13 home and enjoying this home in Freeport for
14 their retirement. Their children are out of
15 the house, but his mother-in-law will be
16 living with them as well. He explained that
17 he is a union carpenter and has plans to
18 build a beautiful house to replace the
19 current house that was damaged during
20 Superstorm Sandy.

21 A neighbor across the canal spoke
22 against the application. She said that a
23 certified appraiser said that there would be
24 a substantial harm to the value of her
25 property. No proof of this appraisal was

1 provided; however, the neighbor did give this
2 testimony under oath. She was against the
3 house because it was too big and too tall for
4 the lot. She said the house should be
5 permitted to be a two story house. She is
6 not opposed to them elevating the current
7 house within guidelines with no height or
8 width increase that would impact her view.
9 She explained that much of her sunset view
10 has already been compromised due to the
11 elevation of 895 and 897 South Long Beach.
12 She read a letter in opposition to the
13 project from a next door neighbor who could
14 not attend. Another complaint was that of
15 the design of the roof. She said that
16 neighbors have a roof that slopes in the
17 front and back. Those roofs appear to be hip
18 roofs. This owner is proposing a roof which
19 slopes down from side to side. This will
20 minimize the sky exposure plane issue for
21 next door neighbors. The Board sympathizes
22 with the concerns about the changing
23 neighborhood, but as this is a flood zone,
24 applicant is required to elevate. Applicant
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2 is not proposing elevation higher than what
3 is permitted by code, and unfortunately, most
4 of the complaints seem primarily addressed
5 towards the height, which is not before the
6 Board for review. The other next door
7 neighbor also spoke against the application.
8 She agreed that the current home is unlivable
9 and a blight to the community. However, she
10 explained that her house was also destroyed
11 in Superstorm Sandy and she did not need any
12 variances, not for height, setbacks,
13 etcetera. She mentioned meeting the rear
14 yard setback requirement in her own
15 elevation. She said that a decreased setback
16 from the bulkhead will destroy her views up
17 the canal. The side yard setback meets the
18 code requirements. The 15 foot requirement
19 mentioned applies to the separations between
20 an accessory building on one lot and a
21 dwelling on another lot, not separation
22 between two dwellings.

23 Mr. Novello countered some of these
24 concerns pointing out that the height maximum
25 is not breached. The side yards are

1 compliant. There actually is 33 feet of rear
2 yard to the property line, although,
3 obviously, only 12.8 feet to the bulkhead.
4 He did mention that in the immediate
5 aftermath of Superstorm Sandy, the
6 superintendent had the discretion to waive
7 some codes, including sky exposure plane
8 issues, which he imagined the next door
9 neighbor would have similar or worse sky
10 exposure plane issues as the applicant. He
11 expressed skepticism about the blockage of
12 the sunset views. The blockage of sunset
13 views are a valid concern; however, even with
14 a conforming rear setback, the sunset views
15 would be impacted in a similar way. The only
16 way to retain sunset views would be by
17 allowing only a one story elevated house,
18 which is less than what is permitted by right
19 and goes outside the scope of the Board's
20 authority. When questioned if the house
21 could be made smaller, the architect noted
22 that the house was not large, only three
23 bedrooms upstairs. He said it might be
24 possible to move the house forward on the lot
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2 and provide only a 20 foot front setback, but
3 that would be out of line then with the rest
4 of the houses on the block. As the next door
5 neighbor explained, that is no an acceptable
6 solution because it would put the house out
7 of line with all others on the block.

8 The neighbor across the canal said
9 that she doesn't want to lose her view, and
10 that she is entitled to maintain what she has
11 there. However, that is not quite right.
12 The variances being sought by the applicant
13 do not impact her view. Her view is impacted
14 by the height, which applicant is permitted
15 as of right.

16 The home owner and the architect both
17 mentioned a similar house at 873 South Long
18 Beach that was approved by zoning and site
19 plan. That property is also 40 feet by 100,
20 but does not have the canal cut into the
21 backyard. That property had 19 feet to the
22 property line out in the water (as contrasted
23 to 33 feet here). They only provided 11 feet
24 eight inches from the house to the bulkhead
25 (as contrasted to 12 feet eight inches here),

1 and they did not have the cut out of land on
2 their property. As such, that property
3 previously approved will be even closer to
4 the water than the house currently proposed.
5 The neighbor is misinformed, when he says
6 that decks and porches don't count toward
7 rear setbacks. They do count towards rear
8 setback as any deck over 18 inches is
9 considered to be part of the principle
10 dwelling. Houses that were activity being
11 elevated were not sent to the zoning board
12 for review of sky exposure plane issues, as
13 it was within the Superintendent of Buildings
14 discretion to waive that issue in mitigation
15 projects; however, constructing a new FEMA
16 compliant house could also be considered a
17 mitigation project in this Board's opinion.

18
19 As such, with regard to the variances
20 requested for lot area, required yards, and
21 sky exposure plane, this Board finds:

22 1. On balance, the benefit to the
23 applicant by the granting of this variance is
24 not outweighed by the detriment to the
25 health, safety and welfare of the

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2 neighborhood or community if such variance
3 were to be granted. The Board has
4 determined:

5 a. that an undesirable change will
6 not be produced in the character of the
7 neighborhood and a detriment to nearby
8 properties will not be created by the
9 granting of the area variance. There are
10 other pre-existing lots in the neighborhood
11 that are 40 by 100 feet, and as a
12 pre-existing lot, this lot could be rendered
13 non-buildable if this variance were denied.
14 The rear yard setback issue is one the Board
15 is sympathetic too, but in balancing the
16 needs of the home owner with that of the
17 neighbors, and considering variances
18 previously granted, the balance is in favor
19 of the home owners. Regarding the sky
20 exposure plane issue, the Board believes this
21 variance should not have even come before
22 this Board as it is a mitigation project and
23 virtually all homes that are elevated will
24 violate the sky exposure plane rules.

25 b. the benefit sought by the

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2 applicant cannot be achieved by some method,
3 feasible for the applicant to pursue, other
4 than an area variance. Applicant has
5 proposed a house that is modest in size by
6 today's standards that is the minimum size
7 necessary to meet their needs, including an
8 elderly mother living with them.

9 c. that the requested area variance
10 is insubstantial. The lot area issue is
11 minimal, the rear setback is not terrible,
12 when looked at in conjunction with
13 surrounding houses, and as mentioned numerous
14 times, elevated houses will almost always
15 penetrate the sky exposure plane.

16 d. that the proposed variance will
17 not have an adverse effect or impact on the
18 physical or environmental conditions in the
19 neighborhood or district; and

20 e. that the alleged difficulty was
21 not self-created. As this is a pre-existing,
22 undersized lot located in the flood zone,
23 Applicant did not create these difficulties.

24 2. The Board, as lead agency, has
25 determined that this action is a Type II

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action 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. While the Board is not to require this as a condition, as it was not discussed in the hearing, the Board recommends that the applicant consider changing the roof to a hip roof, in order to decrease the sky exposure plane issue in the front and rear of the house, and to bring the roof into conformity with that of many of the neighboring houses.

MEMBER MINEO: Second.

DEPUTY CHAIR CAREY: Please Poll the Board.

THE SECRETARY: Member Mineo.

MEMBER MINEO: In Favor.

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THE SECRETARY: Member Jackson.

MEMBER JACKSON: Abstain.

THE SECRETARY: Member Hawkins.

MEMBER HAWKINS: In Favor.

THE SECRETARY: Deputy Chair Carey.

DEPUTY CHAIR CAREY: In Favor.

THE SECRETARY: The next application is 2021-25, 212 South Ocean Avenue, Residence AA, Section 62, Block 116, Lot 1. Deeper Life Fellowship.

MEMBER MINEO: Madame Chair, regarding Application 2021-25 for the premises located at 212 South Ocean Avenue, Freeport, the Applicant comes before this Board seeking a variance from Village Ordinances 210-6A, 210-33 Lot Coverage and 210-172(A)3 seeking approval to construct a new one story sanctuary with breezeway.

I, Anthony Mineo, move that this Board make the following findings of fact:

A public hearing was held on November 18, 2021, wherein applicant, Deeper Life Fellowship, was represented by attorney Michael Solomon. He explained that the

1 applicant is proposing a building totaling
2 6,751 square feet, 31 percent lot coverage
3 where only 25 percent is permitted.
4

5 Additionally, with the existing house,
6 sanctuary, and fellowship hall, 78 parking
7 spaces would be required. He explained that
8 the existing building was a house, most
9 recently used as a daycare. He explained
10 that the house will continue to be used as
11 office space for the church, including for a
12 food pantry and clothing ministry. It is
13 used Tuesday and Thursday from 11:00 a.m. to
14 4:00 p.m. Religious services are Sundays
15 only from 11:00 a.m. to 2:00 p.m. The
16 fellowship hall will never be used
17 simultaneously with the sanctuary. The size
18 of the sanctuary was determined by how many
19 people the pastor wants to seat, including
20 room to maneuver wheelchairs. Mr. Solomon
21 explained that a church is subject to the
22 Religious Land Use and Institutionalized
23 Persons Act or RLUIPA, which in effect means
24 that many zoning requirements end up getting
25 relaxed in order to permit the presence of

1 churches in communities.

2 Sean Mulryan presented a parking
3 study to the Board. He explained that the
4 church will generate vehicles primarily on
5 Sunday mornings between 11:00 a.m. and
6 2:00 p.m. For the sanctuary, with 120 seats,
7 40 spaces are required under the code;
8 however, based on the current configuration
9 of the church, he expects 20 to 25 vehicles.
10 In the parking study conducted, there are
11 about 154 spaces in the vicinity of the
12 subject site on a Sunday morning. This
13 church is in close proximity to two other
14 religious uses on South Ocean Avenue. One of
15 the other churches has parking, but the other
16 does not. The applicant did attempt to find
17 spaces to lease, but was unable to find
18 anything to accommodate them. The parking
19 situation on Tuesdays and Thursdays was not
20 evaluated as they only expect up to five
21 church employees or volunteers to be there at
22 one time plus people coming and going
23 sporadically from the food pantry.

24 Pastor Regina Johnson spoke on behalf
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1 of her congregation and church. She
2 explained that her church has been in
3 Freeport for 23 years and previously was in
4 the basement of one of the other two churches
5 in the neighborhood, but had to move out due
6 to mold. They operated Hi-Hello Daycare for
7 five years as part of its ministry, trying to
8 keep daycare prices as low as possible to
9 accommodate the community. They also have a
10 food pantry that serves neighborhood families
11 who primarily come on foot. They also have a
12 clothing ministry. They are hoping in the
13 future to offer tutoring to a couple of
14 families if needed. She explained that there
15 are currently 57 members. She explained that
16 a wedding at the church would be unlikely
17 because most members are already married, and
18 these days, most weddings are held at
19 catering halls anyway. In regular
20 attendance, there are 33 members that come,
21 which would involve about 16 cars. If the
22 full membership came, maybe 50 people or so,
23 about 25 cars would be used. Right now,
24 church is over Zoom, and they do plan to keep
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2 offering services over Zoom because it works
3 well for older people and people who work on
4 Sundays and can attend Zoom church services
5 on their lunch breaks.

6 Members of the public had a chance to
7 comment. One question was regarding the
8 sanctuary being used as a halfway home, which
9 it will not be. Other neighbors commented
10 about already having enough food pantries in
11 Freeport. There were complaints about
12 garbage. There were complaints about more
13 non-profits like the church not paying taxes.
14 None of these questions and complaints are
15 relevant to the zoning question at hand.
16 There were many comments about the parking
17 situation, as neighbors explained that it is
18 very difficult to park in the area on
19 weekends, describing the situation as being
20 horrendous and chaotic. Members of the
21 congregation spoke in defense against some of
22 the complaints made by the neighbors.

23 Zoning Boards must make their best
24 effort to accommodate religious uses, while
25 making every effort to mitigate possible

1 adverse effects on the surrounding community.
2 The Board recognizes that this is a church
3 under state and federal law. Under prior
4 New York State Court decisions and RLUIPA, 42
5 U.S.C. 2000CC, the Village is required to be
6 flexible in order to allow the religious
7 organization to use property for religious
8 purposes, while minimizing impact on the
9 surrounding neighborhood. Therefore, for the
10 purposes of following prior Court precedents,
11 the requirements of RLUIPA, and for the
12 purposes of this application only, this Board
13 will seek to accommodate this use.
14

15 The Board, as lead agency, has
16 determined that this action is an unlisted
17 action under SEQRA. A short environmental
18 assessment form has been completed by the
19 applicant and this Board. The Board finds no
20 environmental impact under SEQRA, issues a
21 negative declaration, and no further review
22 is required.

23 The lot coverage variance required is
24 minimal, and when considering the precedent
25 in New York State Court decisions, this

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2 variance will be granted.

3 "While religious institutions are not
4 exempt from local zoning laws, greater
5 flexibility is required in evaluating an
6 application for a religious use than an
7 application for another use and every effort
8 to accommodate the religious use must be
9 made." Genesis Assembly of God versus
10 Davies, 208 A.D.2d 627 (Appellate Division 2d
11 department 1994.) The parking variance
12 requested here is the primary variance at
13 issue here. As a starting point, given that
14 the office space, sanctuary and fellowship
15 hall will not be used simultaneously, the
16 starting point for maximum occupancy is 120
17 persons, the proposed seating in the
18 sanctuary. The pastor testified that the
19 congregation currently has 57 members who
20 attend services regularly. Therefore, at the
21 present time, in order to meet the current
22 needs of the church (with room for growth in
23 the future), the Board is going to approve a
24 maximum occupancy of 90 people; meaning, that
25 30 parking spaces and a 30 parking space

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2 variance are required.

3 Therefore, this Board grants a
4 parking variance for 30 parking spaces to the
5 extent that the variance is in effect only at
6 those times testified to during the public
7 hearing: Tuesday and Thursdays from
8 11:00 a.m. to 4:00 p.m., and Sunday mornings
9 from 11:00 a.m. to 2:00 p.m. There is to be
10 no sub-letting, rentals, non-religious uses,
11 etcetera. The Board has serious concerns
12 about parking issues; however, this Board is
13 mindful of its affirmative duty to suggest
14 measures to be taken by applicant to mitigate
15 the adverse impact on the surrounding
16 neighborhood while permitting the religious
17 use.

18 However, the caveat to this is that
19 in the event there is a wedding or funeral,
20 the church could be permitted to have a
21 capacity up to the full 120 seats in the
22 sanctuary (40 spaces required, with a
23 variance of 40 spaces required). However,
24 the Board will not approve this capacity for
25 routine weekly use at this time, as it is not

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needed to meet the church's current needs.

Therefore, I further move that the Board grant the 30 parking space variance required for this application, subject to the specific limitations and conditions as follows:

1. The pastor mentioned current membership of 57 people who regularly attend church to allow for future growth, the Board adopts a maximum occupancy of 90 people as a condition of approval. At no time may there be occupancy of more than 90 people in the building, except for the rare event of a wedding or funeral where the full sanctuary capacity of 120 would be permitted.

2. Applicant mentioned use of the office space on Tuesdays and Thursdays from 11:00 a.m. to 4:00 p.m. for the food pantry and clothing ministry, with the possibility of a small tutoring ministry in the future serving two or three families in the community. The Board adopts this as a condition to approval of the variance, specifically limiting the variance to the

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2 days/times above, as described during the
3 public hearing.

4 3. The Board strongly recommends
5 that the church encourage carpooling and
6 consider purchasing a church van in the event
7 parking becomes a problem.

8 4. The architect suggested that
9 three cars could be parked in the loading
10 zone in tandem. The Board requires use of
11 this space for parking as a condition for
12 approval of the variance.

13 5. While the Board cannot tell the
14 church how to develop its new sanctuary, the
15 Board is very concerned about the parking
16 situation in the area. Were this application
17 not a church, subject to the prior court
18 precedents, this application would surely
19 have been denied. The Board suggests the
20 applicant give additional consideration to
21 possible site development if the current
22 building were to be demolished and rebuilt
23 from the beginning. Would such a plan allow
24 for on-site parking? If it would, this
25 should be considered, given the testimony

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regarding the severe parking shortage in the area.

6. Applicant/Owner must comply with all the Rules and Regulations of the Village of Freeport.

7. Applicant must obtain the required permits from the Building Department. These conditions accommodate the religious uses outlined by the applicant during the public hearing, while mitigating the adverse effects on the surrounding community. These conditions are consistent with those that the Second Department Appellate Division has suggested are enforceable. In *Harrison Orthodox Minyan, Inc. versus Town Board of Harrison*, the Court said:

"By way of example, we observe that the accommodation of the religious use and maintenance of the public's safety, health and welfare could have been achieved by limiting the number of persons who could attend services or meetings at any given time, and by posting 'no parking' signs along

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2 the street to prevent hazardous road
3 conditions, and by limiting the hours during
4 which meetings or instruction could be held,
5 in conformity with the petitioner's religious
6 practice."

7 159 A.D.2d 572, 573 Appellate
8 Division Second Department 1990, the Court
9 further said:

10 "Thus, we have modified the language
11 of the judgement to recite that the Town
12 Board is directed to issue the permit upon
13 such reasonable conditions as will allow the
14 petitioner to establish its house of worship,
15 while mitigating any detrimental or adverse
16 effects on the surrounding community."

17 Id. at 573.

18 Some later examples of appropriate
19 conditions can be found in *Tabernacle of
20 Victory Pentecostal Church versus Weiss*,
21 where the petitioner had proposed:

22 "Only 105 people would be allowed to
23 enter the sanctuary, and that two church vans
24 would transport half of the petitioner's
25 approximately 60 members to the site,

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2 resulting in the need for off-site parking
3 for, at most, eight to ten vehicles during
4 its peak hours of operation."

5 101 A.D.3d 738, 739 (Appellate
6 Division, Second Department 2012, the Court
7 reversed the denial by the Board stating,
8 "Despite the conditions proposed by the
9 petitioner, the Board denied the petitioner's
10 applications in their entirety, even though
11 the proposed religious use could have been
12 substantially accommodated." Id. at 740. In
13 Genesis Assembly of God versus Davies, the
14 Court said that, "The record indicates that
15 the proposed religious use could have been
16 accommodated by granting the variance subject
17 to conditions limiting, inter alia, the
18 number of persons attending services and the
19 number of services or meetings per week."

20 208 A.D.2d 627, 628 (Appellate Division
21 Second Department 1994). In Gospel Faith
22 Mission International, Inc. versus Weiss:

23 "The petitioner proposed that only 90
24 people would be allowed to enter the
25 sanctuary, and that two church vans would

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2 transport 32 of the petitioner's
3 approximately 75 members to the site,
4 resulting in the need for, at most, seven to
5 ten vehicles during its peak hours of
6 operation."

7 112 A.D.3d 824, 825 (Appellate
8 Division Second Department 2013). In
9 overturning the denial by the Board, the
10 Court found that:

11 "Petitioner suggested conditions for
12 the limitation of its use in order to
13 mitigate the impact on the surrounding
14 community. However, despite the conditions
15 proposed by the petitioner, the Board denied
16 the petitioner's applications in their
17 entirety, even though the proposed religious
18 use could have been substantially
19 accommodated. Further, the Board failed to
20 fulfill its obligation to suggest such
21 measures (internal citations omitted).

22 Id at 826.

23 This Board is granting this
24 application for 30 parking space variance
25 subject to the conditions that will allow the

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full religious use required by the church while mitigating adverse impact on the surrounding community. These conditions are consistent with prior Court decisions.

MEMBER JACKSON: I second.

DEPUTY CHAIR CAREY: Please poll the Board.

THE SECRETARY: Member Mineo.

MEMBER MINEO: In Favor.

THE SECRETARY: Member Jackson.

MEMBER JACKSON: In Favor.

THE SECRETARY: Member Hawkins.

MEMBER HAWKINS: In Favor.

THE SECRETARY: Deputy Chair Carey.

DEPUTY CHAIR CAREY: In Favor.

Can we read the next decision.

THE SECRETARY: The next decisions is Application 2021-24, 119-123 South Main Street, a/k/a 121 South Main Street, Business B, Section 62, Block 198, Lot 633, Ulises Campos.

MEMBER JACKSON: Madame Chair, regarding Application 2021-24 for the premises located at 119-123 South Main

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2 Street, Freeport, the Applicant comes before
3 this Board seeking a variance from Village
4 Ordinances 210-6A, 210-172A seeking approval
5 for the construction of a new 1,544 square
6 foot second floor commercial addition.

7 I, Ben Jackson, move that this Board
8 make the following findings of fact:

9 A public hearing was held on
10 November 18, 2021 wherein applicant was
11 represented by attorney Dennis Kelly. He
12 explained that the applicant is businessman
13 who lives in Freeport whose office is
14 currently located in Baldwin where he rents
15 space. He acquired the subject property
16 about a year and a half ago. It is three
17 storefronts. One is vacant but used to be a
18 furniture store, and before that a 99 cent
19 store. The second storefront is a shoe store
20 that primarily does its business online. The
21 third is a hair salon with six chairs. The
22 applicant proposing to add a second story
23 onto the currently vacant space, to be used
24 as executive office space for his business.
25 He runs a commercial cleaning business. The

1 storefront will be used as a reception area
2 in the front and the store supplies in the
3 back. He plans for two employees working
4 on-site, himself, plus an executive
5 assistant. He is hoping to grow to four
6 employees on-site. There are no other
7 employees on-site, as the business model is
8 that employees go straight from their homes
9 to the cleaning sites. Five supervisors have
10 vans that will occasionally need to re
11 restocked with cleaning supplies
12 approximately once a week or once every other
13 week. The supervisors take the vans home
14 with them. The business hours are 9:00 to
15 5:00, Monday through Friday.

17 There are also six apartments on
18 site. As such, the proposed combined parking
19 requirement under the Village Code is 24
20 parking spaces with seven spaces provided on
21 site. 20 spaces are required without the
22 proposed addition. Mr. Kelly opined that the
23 proposed use of this storefront is probably
24 one of the better proposals for use of the
25 space, given the location and off-street

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parking requirements.

A representative from VHB Engineering spoke about the parking situation. He explained that there was considerable parking available on South Main Street, as well as the municipal lot across the street. (Note: The Board does not consider municipal parking availability due to the New York State Constitution's prohibition against the gift of public funds). The residential tenants tend to use the spaces on evenings and weekends, with the spaces available for retail customers during the day, including use by the applicant and his employees.

Mr. Campos, the applicant, also spoke on his own behalf. He reiterated much of what had been said before, that besides the two, maybe four in the future, on-site employees, employees only come to the site to pick up materials occasionally or for interviews or to fill out paperwork.

The Board notes that much of the need for the extra parking demand is ameliorated specifically by the proposed use of the third

1 storefront and proposed expansion. Applicant
2 proposes a storefront and executive office to
3 be used by one business, and more
4 importantly, one business does not have a
5 retail component associated with it. The
6 current parking demand is 20 spaces for the
7 property, with the expansion of 24 spaces;
8 however, this increase in space will not
9 increase physical traffic to the location.
10 As such, the variance will be granted
11 conditional on the use of the space as
12 proposed; example, without an on-site retail
13 component associated with it. Applicant
14 provided sufficient testimony that the
15 increase in space with the proposed two, and
16 possibly four, employees will not increase
17 the parking demand beyond the current parking
18 demand. However, the same cannot be said of
19 what this expansion mean to parking demand in
20 the context of a traditional retail space.

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22 On balance, the benefit to the
23 applicant by the granting of this variance is
24 not outweighed by the detriment to the
25 health, safety and welfare of the

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2 neighborhood or community, if such variance
3 were to be granted. The Board has
4 determined:

5 a. that an undesirable change will
6 not be produced in the character of the
7 neighborhood, and a detriment to nearby
8 properties will not be created by the
9 granting of the area variance;

10 b. that the benefit sought by the
11 applicant cannot be achieved by some method,
12 feasible for the applicant to pursue, other
13 than an area variance. As this property is
14 pre-existing with limited parking, options
15 are limited;

16 c. that the requested area variance
17 is insubstantial;

18 d. That the proposed variance will
19 not have an adverse effect or impact on the
20 physical or environmental conditions in the
21 neighborhood or district; and

22 e. that the alleged difficulty was
23 not self-created. This is a pre-existing lot
24 without parking. Applicant, obviously, knew
25 of this when he purchased the property, but

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the intended use and proposed expansion keeps this parking demand in check.

2. The Board, as lead agency, has determined that this action is an unlisted action under SEQRA. A short environmental assessment form has been completed by the applicant and this Board. The Board finds no environmental impact under SEQRA, issues a negative declaration, as not 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. The applicant must obtain the required permits from the Building Department.

3. This approval is conditioned on the specific use of the property proposed in the application, specifically, a non-retail use of this storefront and upstairs addition. The testimony shows that the storefront and

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2 addition as proposed will not increase the
3 parking demand beyond that which would be
4 required for this storefront without the
5 addition. However, should this storefront
6 and addition ever return to a more
7 traditional retail use, the standards for the
8 variance have not been met and applicant will
9 need to return to the Board for further
10 review of the parking situation.

11 MEMBER MINEO: Second.

12 DEPUTY CHAIR CAREY: Please poll the
13 Board.

14 THE SECRETARY: Member Mineo.

15 MEMBER MINEO: In Favor.

16 THE SECRETARY: Member Jackson.

17 MEMBER JACKSON: In Favor.

18 THE SECRETARY: Member Hawkins.

19 MEMBER HAWKINS: In Favor.

20 THE SECRETARY: Deputy Chair Carey.

21 DEPUTY CHAIR CAREY: In Favor.

22 Read the next decision.

23 THE SECRETARY: The next decision is
24 Application 2022-3, 280 Branch Avenue,
25 Residence A, Section 62, Block 187, Lot 646,

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650. Evan Sarafty.

DEPUTY CHAIR CAREY: Regarding Application 2022-3 for the premises located at 280 Branch Avenue, Freeport, the Applicant comes before this Board seeking a variance from Village Ordinances 210-6A, 210-43A(2), seeking approval for a 2,067 square foot two story house with a 410 square foot deck.

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

Architect Russell Jordan spoke on behalf of the applicant. He explained the lot has been vacant for a long time. There were lengthy negotiations with New York State DEC to put in a bulkhead and build a house. The house has been moved forward as much as possible to provide a rear yard setback as large as possible.

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

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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 benefits 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.

Board also, as lead agency, has determined that this action is a Type II action and under SEQRA no further review is required.

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

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conditions:

The Applicant/Owner must comply with all the Rules and Regulations of the Village of Freeport.

Applicant must obtain the required permits from the Building Department.

MEMBER HAWKINS: Second.

DEPUTY CHAIR CAREY: Please poll the Board.

THE SECRETARY: Member Mineo.

MEMBER MINEO: In Favor.

THE SECRETARY: Member Jackson.

MEMBER JACKSON: In Favor.

THE SECRETARY: Member Hawkins.

MEMBER HAWKINS: In Favor.

THE SECRETARY: Deputy Chair Carey.

DEPUTY CHAIR CAREY: In Favor.

THE SECRETARY: The next decision is Application 2022-4, 552 South Bayview Avenue, Residence A, Section 54, Block 325, Lot 34 and 35. Richard Rugolo.

MEMBER MINEO: Madame Chair, regarding Application 2022-4 for the premises located at 552 South Bayview Avenue,

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Freeport, the Applicant comes before this board seeking a variance from Village Ordinances 210-6A and 210-43(A)(1) seeking approval for a new 75 square foot open front porch.

I, Anthony Mineo, move that this Board make the following findings of fact:

The architect, John Stumpf, explained that they are building an open front porch to act as an open foyer and provide protection from the weather. They are squaring off the front of the house, so the front yard setback will remain at 20 feet across the whole house.

1. On balance, the benefit of 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

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2 properties will not be created by the
3 granting of the area variance;

4 b. that the benefit sought by the
5 applicant cannot be achieved by some method,
6 feasible for the applicant to pursue, other
7 than an area variance;

8 c. that the requested area variance
9 is insubstantial;

10 d. that the proposed variance will
11 not have an adverse effector impact on the
12 physical or environmental conditions in the
13 neighborhood or district; and

14 e. that the alleged difficulty was
15 not self-created.

16 The Board, as lead agency, has
17 determined that this action is a Type II
18 action under SEQRA and no further review is
19 required.

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

23 1. Applicant/Owner must comply with
24 all the Rules and Regulations of the Village
25 of Freeport.

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2 2. Applicant must obtain the
3 required permits from the Building
4 Department.

5 MEMBER HAWKINS: Second.

6 DEPUTY CHAIR CAREY: Please poll the
7 Board.

8 THE SECRETARY: Member Mineo.

9 MEMBER MINEO: In Favor.

10 THE SECRETARY: Member Jackson.

11 MEMBER JACKSON: In Favor.

12 THE SECRETARY: Member Hawkins.

13 MEMBER HAWKINS: In Favor.

14 THE SECRETARY: Deputy Chair Carey.

15 DEPUTY CHAIR CAREY: In Favor.

16 I believe we can ask for a motion to
17 adjourn.

18 MEMBER JACKSON: So moved.

19 MEMBER HAWKINS: Second.

20 DEPUTY CHAIR CAREY: Please poll the
21 Board.

22 THE SECRETARY: Member Mineo.

23 MEMBER MINEO: In Favor.

24 THE SECRETARY: Member Jackson.

25 MEMBER JACKSON: In Favor.

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February 17, 2022

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THE SECRETARY: Member Hawkins.

MEMBER HAWKINS: In Favor.

THE SECRETARY: Deputy Chair Carey.

DEPUTY CHAIR CAREY: In Favor.

(WHEREUPON, this hearing was
concluded at 9:43 p.m.)

* * *

C E R T I F I C A T E

I, BETHANNE MENNONNA, a Notary Public within and for the State of New York do hereby certify that the foregoing is a true and accurate transcript of the proceedings, as taken stenographically by myself to the best of my ability, at the time and place aforementioned.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of February, 2022.



BETHANNE MENNONNA