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INCORPORATED VILLAGE OF FREEPORT
ZONING BOARD

MUNICIPAL BUILDING
46 North Ocean Avenue
Freeport, NY 11520

June 16, 2022
6:00 p.m.

M E M B E R S:

- | | |
|-----------------|-------------|
| ROSA RHODEN | CHAIRPERSON |
| CHARLES HAWKINS | MEMBER |
| DREW SCOPELITIS | MEMBER |
| DIEGO PINZON | MEMBER |

* * *

- | | |
|----------------|-------------------------|
| ROBIN CANTELLI | SECRETARY |
| JENNIFER UNGAR | DEPUTY VILLAGE ATTORNEY |

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CLERK'S OFFICE
VILLAGE OF FREEPORT, NY

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June 16, 2022

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-----EXHIBITS-----

BOARD'S FOR I.D. PAGE

1 Affidavit of Publication 6

2 Affidavit of Publication 6

3 Affidavit of Posting 6

4 Affidavit of Posting 6

APPLICATION 2022-19

BOARD'S FOR I.D. PAGE

2 Affidavit of Mailing 7

* * * *

APPLICATION 2022-24

1 Affidavit of Mailing 14

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APPLICATION 2022-26

1 Affidavit of Mailing 30

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APPLICATION 2022-27

1 Affidavit of Mailing 40

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June 16, 2022

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-----I N D E X-----

APPLICATION#	ADDRESS	PAGE
2022-19	25 Pearsall Avenue	7 - 13
2022-24	438 Nassau Avenue	13 - 29
2022-26	130 Dehnoff Avenue	29 - 39
2022-27	435 Woodcleft Avenue	39 - 55

1
2 CHAIRPERSON RHODEN: Good evening,
3 everyone. I'd like to open up to the Zoning
4 Board of Appeals of June 16th. If everyone
5 could please join me for the Pledge of
6 Allegiance.

7 (WHEREUPON, the Pledge of Allegiance
8 was recited.)

9 CHAIRPERSON RHODEN: Can I have
10 please have a motion to enter into executive
11 session to consult with counsel, please.

12 MEMBER HAWKINS: So moved.

13 MEMBER PINZON: I second.

14 THE SECRETARY: All in favor.

15 MEMBER HAWKINS: Aye.

16 MEMBER PINZON: Aye.

17 MEMBER SCOPELITIS: Aye.

18 CHAIRPERSON RHODEN: Aye.

19 THE SECRETARY: Any opposed?

20 CHAIRPERSON RHODEN: We'll be right
21 back.

22 (WHEREUPON, the Board entered into
23 executive session from 6:12 p.m. to
24 6:35 p.m., after which the following
25 transpired:)

1
2 CHAIRPERSON RHODEN: Good evening
3 everyone. If everyone could please join me
4 for the Pledge of Allegiance.

5 (WHEREUPON, the Pledge of Allegiance
6 was recited.)

7 CHAIRPERSON RHODEN: Thank you. We
8 have some members absent tonight. So, as
9 such, I'm designating Drew Scopelitis and
10 Diego Pinzon to serve as members tonight,
11 Board members.

12 Can I have please have a motion to
13 accept the minutes of May 19, 2022.

14 MEMBER HAWKINS: So moved.

15 MEMBER SCOPELITIS: Second.

16 THE SECRETARY: All in favor.

17 MEMBER HAWKINS: Aye.

18 MEMBER PINZON: Aye.

19 MEMBER SCOPELITIS: Aye.

20 CHAIRPERSON RHODEN: Aye.

21 THE SECRETARY: Any opposed?

22 (No response was heard.)

23 CHAIRPERSON RHODEN: Do we have any
24 Affidavits of Publication that need to be
25 entered into the record as exhibits this

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evening.

THE SECRETARY: We have two Affidavits of Publication and two Affidavits of Posting to be entered into the record as Board exhibits. These will be Board Exhibits 1 through 4 for this public hearing.

(WHEREUPON, the above-referred to documents were marked as Board's Exhibits 1 through 4, for identification, as of this date.)

CHAIRPERSON RHODEN: Do we have any for adjournment this evening.

THE SECRETARY: Madame Chair, we do not.

CHAIRPERSON RHODEN: Before we call the first application on tonight's calendar, if anyone here is speaking for or against an application this evening after the applicant goes up, please make sure you complete a form that's all the way in the back on that table and then hand it to the clerk, okay. Thank you.

Can we call the first application on tonight's calendar.

1
2 THE SECRETARY: Application 2022-19,
3 25 Pearsall Avenue, Residence A, Section 54,
4 Block 69, Lot 216. Fermin Nunez. Maintain a
5 576 square foot roof over patio, a 346 square
6 foot rear deck and a 120 square foot rear
7 sauna addition. Variances: Village
8 Ordinance 210-6A, 210-41 lot coverage.

9 I have one Affidavit of Mailing to be
10 entered into the record as a Board exhibit.
11 This bill be Board Exhibit Number 2 for this
12 individual public hearing.

13 (WHEREUPON, the above-referred to
14 document was marked as Board's Exhibit 2, for
15 identification, as of this date.)

16 M I G U E L R A M I R E Z,
17 having been first duly sworn by a Notary
18 Public of the State of New York, was
19 examined and testified as follows:

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

22 MR. RAMIREZ: My name is Miguel
23 Ramirez. I am the architect for the project.
24 I live in West Babylon. 33 Lamont Place,
25 11704.

1
2 F E R M I N N U N E Z,

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. NUNEZ: Fermin Nunez. I live at
9 25 Pearsall Avenue, Freeport, New York.

10 MR. RAMIREZ: He is the property
11 owner. So, the project, the project scope,
12 as the variance specified, is to maintain an
13 existing rear yard 576 feet square foot
14 pressure treated wood deck with a treated
15 pergola, like a kind of wood thing, and then
16 maintain over deck attached 125 square
17 foot -- 120 square foot vinyl sliding and
18 sauna and steam room. Also is to maintain
19 roof over patio with the square footage of
20 576. It's 24 by 24.

21 That's the ground -- the ground of
22 the application.

23 CHAIRPERSON RHODEN: So, this was
24 already built?

25 MR. RAMIREZ: Yes. It's to maintain.

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Everything is done.

MEMBER HAWKINS: The gazebo that is built back there, how far is that from your property line, your neighbor, do you know?

MR. RAMIREZ: I'm sorry, say that again.

MEMBER HAWKINS: The gazebo with the solid roof, how far is that from your property line?

MR. RAMIREZ: Talking about how the --

MEMBER HAWKINS: From the fence. How far is that from the fence?

MR. RAMIREZ: The gazebo?

MEMBER HAWKINS: Yes.

MR. RAMIREZ: Okay, let me see the side yard. Let me see, because the side one doesn't show. Hold on a second. Actually, one of the side, to one side -- this is the west side.

By the west side we got, like, 15 foot. This is the same. We got 15 -- no. The west side is 12 foot and the east side is around 15 foot. That's the side yard.

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MEMBER HAWKINS: 12.1, you said?

MR. RAMIREZ: I'm sorry?

MEMBER HAWKINS: 12 feet, one inch?

MR. RAMIREZ: The east side of the property, that side yard is like 12 feet, more or less. On the other side is like 15 feet.

CHAIRPERSON RHODEN: You were the architect for this, right?

MR. RAMIREZ: Yes. I'm sorry, because I didn't bring a copy of the property survey, and then we are not showing here the setbacks, the side yard setbacks. So, if you can give me a copy of the survey, I can tell you exactly those side yards with regard to the gazebo, because the existing one to the property, the side yard, one of the side yard is five feet. The other one which we're talking about like ten feet -- 12 feet.

CHAIRPERSON RHODEN: I think you're referring to the deck, more over, like, the patio with the roof cover, not the gazebo that Mr. Hawkins was referring to, because the gazebo looks like it's more centered to

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the property.

MR. RAMIREZ: It's almost right in the center of the property. The property is 50 feet wide by 162.3.

CHAIRPERSON RHODEN: I think for us, I was a little more concerned about why would you build this without coming to the Zoning first. If you were going to build a 576 square foot structure, knowing it's only for 500 feet.

MR. RAMIREZ: Actually, the owner decided to do so, because he didn't know about any consequence because this is open. It's a gazebo. He is using it for, like, family outdoor activities, outdoor barbecuing, you know.

MEMBER HAWKINS: As the architect, you don't advise him?

MR. RAMIREZ: I'm sorry?

MEMBER HAWKINS: As the architect --

MR. RAMIREZ: I was not there when they started the construction. We went there when the Village appeared there and placed a stop work order. But they have almost

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everything done.

MEMBER HAWKINS: You didn't design this?

MR. RAMIREZ: No. No.

MEMBER HAWKINS: You did not?

MR. RAMIREZ: No. He got a friend that gave the drawings and stuff like that. Actually, the work is pretty much good. It's very good, and everything, the structure is very sound. Everything is done according with the code or better than the code required.

CHAIRPERSON RHODEN: Okay. Thank you. Please keep in mind that if you're going to represent anyone else, you should be aware of the code for Freeport moving forward with any projects you take. They shouldn't have built this without coming to zoning first, okay? Thank you. We'll be in touch.

Do we have anyone who would like to speak for against application this evening?

THE SECRETARY: We do not. Madame Chair, we do not.

CHAIRPERSON RHODEN: Can I please

1
2 have a motion to close to further evidence
3 and testimony and also to reserve decision.

4 MEMBER SCOPELITIS: So moved.

5 MEMBER HAWKINS: Second.

6 THE SECRETARY: All in favor.

7 MEMBER HAWKINS: Aye.

8 MEMBER PINZON: Aye.

9 MEMBER SCOPELITIS: Aye.

10 CHAIRPERSON RHODEN: Aye.

11 THE SECRETARY: Any opposed?

12 (No response was heard.)

13 CHAIRPERSON RHODEN: Thank you.

14 MR. RAMIREZ: Thank you.

15 CHAIRPERSON RHODEN: Can we call the
16 next application on tonight's calendar.

17 THE SECRETARY: 2022-24, 438 Nassau
18 Avenue, Residence A, Section 62, Block 186,
19 Lot 1. 438 Nassau LLC. Construct a new
20 three-story 2,515 square foot single family
21 dwelling with a 246 square foot porch and a
22 82.5 square foot deck. Variances: Village
23 Ordinance 210-6A, 210-43A(1) front yard
24 depth. 210-43A(2) rear yard depth,
25 210-43A(3) side yard width, 210-39A sky

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exposure plane.

I have one Affidavit of Mailing to be entered into the record as a Board exhibit. This will be Board Exhibit Number 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.)

MR. GOMOKA: Christopher Gomoka from the Law Office of Michael Solomon, P.C. 30 South Ocean Avenue, Suite 202, Freeport. I have with me the principal of 438 Nassau LLC, Mr. Cacciatore.

This property is known as 438 Nassau Avenue. It's a vacant lot on the southwest corner of Nassau Avenue and Suffolk Street in the Incorporated Village of Freeport. The property is currently a vacant lot. And the current owner proposed a two-story dwelling. In the Village, it consist of a three-story due to the new floodplain exposure on the first floor, requiring almost 9.1 foot finished elevation on the first floor of the property, which is obviously a requirement in

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2 the last eight years that is required in the
3 floodplain. The existing corner lot actually
4 creates somewhat of a unique situation that
5 it has two front yards; one on Nassau and one
6 on Suffolk Street side of the property.

7 With more research, the original home
8 at the site was constructed prior to 1938.
9 It was single story dwelling, approximately
10 1,000 feet in an approved construction with
11 some additions that we're sure, based on the
12 age, that appear for the first time in 1938,
13 and also includes a 14 by 18 foot detached
14 garage with some minor enlargements to that
15 as well, which we don't believe were legal at
16 the time.

17 The current application that stands
18 today is the lot become vacant, that
19 structure was demolished and the lot has been
20 vacant for some years. So, the current
21 application before the Board, as the Village
22 considers a three-story dwelling, what would
23 be a two-story habitable floor space and only
24 comes to three stories with the federal
25 mandates that require 9.1 first floor

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2 finished elevation. It can also incorporate
3 the prior structure, approved prior 1938 for
4 detached garage approved can all be
5 incorporated into the one structure with the
6 parking on premises, under the building,
7 included in that with no accessory structure.

8 So, that first floor will not be able
9 to be used as habitable floor space at all.
10 The first floor is 9.1 first finished
11 elevation. All the permits to the home are
12 one bathroom, kitchen, open area living space
13 on that first floor.

14 The first variance is Section 210-6A
15 of the Freeport Code would be obviated by the
16 federal requirements. Obviously, the federal
17 FEMA requirements required all of the
18 finished floor elevations to be raised to
19 create, across the south shore of Long
20 Island, New York certain obstacles to
21 building. This is one of the properties
22 included in there.

23 The second reason for the required
24 setbacks, which is 20 feet for the front
25 yard. We have two front yards, based on the

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2 unique configuration of this property. So,
3 we have chosen, after meetings with the
4 Building Department, to maintain the front
5 door on Nassau Road where it was originally
6 constructed at the 1938 census, where that
7 property card was established with the Nassau
8 County Department Assessment to use that as
9 the front of house, if you will.

10 However, the side streets of the
11 house are also considered by Freeport Village
12 to be a front yard. That side is 100 percent
13 compliant with a 20 foot setback. The
14 setback creates somewhat of an issue is the
15 front of the building, which is only 17.2
16 feet, which is very similar to the original
17 footprint of the building. And what requires
18 the variance, actually, will be most of the
19 similarly situated buildings on the canal
20 side of the street along the canal to the
21 south of this property, which is most
22 effected by a 17.2 foot front yard setback.
23 So, we would actually be -- we need 20 foot
24 to the building line, only 15 foot to the
25 porch to create solely that entrance to the

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2 property. Obviously, it's not a hardship
3 created, but due to the fact the first floor
4 elevation has to be 9.1 feet does create the
5 stairs that are created to get to the first
6 floor. That, in the past, would not have
7 been a requirement on the part of the
8 applicant at all, and he could build a much
9 lower elevation on the first floor. So, to
10 grant that variance is an extreme (inaudible)
11 in nature.

12 The only thing that puts that
13 variance into question is approximately
14 almost 200 foot to the north of the property
15 with 37.2 foot front yard setback which
16 actually changes the average of the whole
17 street. So, it's one property based upon
18 that, it's 37.2 feet. To the south, we have
19 two properties that are 16.8 or 17.8 on the
20 same side of the street. So, that would be
21 di minimus to maintain the original 1938
22 character street frontage and continuity of
23 the south side of the street along the canal.

24 The third variance is a rear yard
25 variance, which is kind of unique, in the

1
2 southern west portion of the property. It's
3 60 by 100 irregular parcel. So, it's 60 by
4 100 in the front and 54 in the rear. It's
5 approximately six foot ten feet encroachment
6 from the canal in the rear of the property,
7 which creates the variances in the rear.

8 There is a 3 foot encroachment for
9 the rear stairs on that rear of the property,
10 which would be a staircase to come down and
11 access the canal. That's only for the first
12 six feet, and it applies basically for the
13 rear stairs. The remainder of the rear
14 property is 54 foot property line that
15 actually complies fully. Even with the three
16 foot encroachment of the rear staircase, it
17 maintains a full 25 foot rear setback from
18 the irregular six foot portion all the way to
19 the Suffolk Street side building line of the
20 house. It's actually 25 foot rear yard
21 throughout, which is in excess of that. It's
22 only because of the cutout from the canal and
23 that small southwest portion requires a
24 variance for the stairs. And obviously,
25 placing the stairs towards the street is

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2 accountable to the front of the property.
3 The beauty part of the property is the canal
4 in the rear of the property.

5 The fourth variance is the side yard
6 setback which applies to the southerly
7 portion of the property. That's only really
8 a two story deck, which makes the property
9 extremely aesthetically pleasing. Obviously,
10 it faces the canal for a view of the canal.

11 To that south property line, the
12 owner has a converted garage space also into
13 the side yard setback with no windows or
14 doors on that side of the building. So,
15 there's no effect on light and ingress/egress
16 which is no fire department, which is also
17 one of the later variances for the sky
18 exposure. It's light access and fresh air.
19 So, none of that would be an encroachment on
20 that side of the property, which is really
21 the only side yard of the property to the
22 south.

23 The final variance is the sky plane
24 exposure, which would not be a variance at
25 all. The property would probably be built as

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2 a matter of right, other than for the new
3 increased sky plane exposure and finished
4 first floor elevations that are required to
5 maintain based upon FEMA.

6 The abutting owner on the south,
7 again, there's no light condoned or anything
8 facing the property. And to maintain the
9 original 1938 front of the property and 60
10 foot side, which is common bill of practice,
11 rather than 100 foot side of the property
12 would speak to, obviously, the necessity to
13 have that front door on Nassau, creating the
14 sky plane exposure variance into the side
15 yard. And I said no sunlight, because there
16 are no windows or doors on the side of the
17 property. No fire department access issue on
18 that side of the property, and it's a good
19 source of air access and light.

20 The rear penetration to the side is
21 so di minimus. It's approximately one foot
22 overhang to the west side, which would be the
23 rear sky plane that has the penetration into
24 the is an adjoining property similarly
25 situated, built prior to the sky plane

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2 exposure requirements. It's similar in
3 height with only two small windows on that
4 side. Again, to maintain the 25 foot rear
5 yard for that side, the air light and
6 sunlight access to that side is not effected
7 at all, based upon the distance from the rear
8 building line of the house to the property
9 line which would create that. And it's
10 approximately five foot side yard on their
11 side, and that would create no impact.

12 Obviously, the application is a good
13 application, because the things that consider
14 factor into New York State Village law is
15 whether or not there would be an undesirable
16 change to the character of the neighborhood
17 or a detriment to the nearby properties in
18 granted the variance. The answer is clearly
19 no. It's a blighted lot, the current
20 applicant cleaned the lot up. The current
21 applicant applied to the DEC in a timely
22 fashion, did some dredging of the whole canal
23 early on during reconstruction of the
24 bulkhead. There was a full reconstruction of
25 the bulkhead, that's why it's a matter of

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2 right and does not require variances. In
3 preparation for the site construction, my
4 client invested money doing that. In fact,
5 on the south side, the neighbor on the south
6 side, they moved a little further to assist
7 that property to clean up the rear of the
8 property and canal for good open water access
9 from that area. So, it helps the neighbors
10 on that side.

11 The second factor to consider whether
12 or not the benefits sought by the applicant
13 could be sought by some other means. The
14 answer is no, not at this time. They could
15 backfill the property and make a fully
16 compliant rear yard, which would be of no
17 benefit for anybody other than to impede the
18 canal and the process of the DEC and FEMA.

19 They actually benefitted the neighbor
20 by fixing the bulkhead. It was in disrepair
21 for quite some time and making that area of
22 the canal much more accessible to other uses
23 of the canal which, obviously, the waterfront
24 community is one of the benefits of being on
25 the canal and neighbors working with

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2 neighbors to create accessible waterways and
3 work with one another.

4 The third factor is whether or not
5 the area variances are substantial. They're
6 actually minimus in nature. The side yard is
7 actually mostly open deck and porch areas
8 that are full open air, that give to the
9 benefit and beauty of being waterfront
10 property and has no negative impact on the
11 neighbors on that side. Part of the reason
12 we situated there, when we met with the
13 Building Department was because there was no
14 windows or doors on that side of the property
15 line.

16 The fourth factor is whether or not
17 the variance will have an adverse effect on
18 the physical or environmental conditions of
19 the neighborhood. In fact, we were approved
20 of the environmental conditions already with
21 the dredging process that we went through to
22 construct the bulkhead and cleaning up the
23 blighted lot. Hopefully it will be a
24 beautiful home, obviously, the neighbors
25 would want to see.

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2 And the final factor is any
3 difficulty in the application is
4 self-created. It's not. The applicant
5 sought input from everyone around. We have
6 done our (inaudible) no one has contacted us
7 with any opposition to date on the
8 application, the notifications were done. We
9 received nothing in writing or any phone
10 calls and nothing in person, other than at
11 the site the other day, myself and
12 Mr. Cacciatore were there, people are looking
13 forward to that lot being cleaned up and not
14 attract a nuisance. The neighborhood youth
15 would hang out in the area and the access to
16 the canal, quite frankly.

17 MEMBER HAWKINS: Thank you. Just a
18 quick question on the front yard setback.
19 What was it originally on the original house?
20 You said it was 17 feet now you said, right?

21 MR. GOMOKA: Now it's 15 to the
22 porch, it's 20 the building line. The porch
23 is a decorative item. We're going to keep
24 that on the front side of the house. It's
25 actually 17 feet. We estimate the original

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2 one was consistent 16.1 to the adjoining home
3 to the south. The best we can determine,
4 there were some structures that we covered as
5 part of a diagram from the Nassau County
6 Assessment records, and they were closer than
7 that. But we don't believe those were legal
8 in nature. They were porches with
9 encroachments in the front that were probably
10 built a long time, probably going back to
11 1938. The legal, original setback that we
12 can ascertain was 16 foot range.

13 MEMBER HAWKINS: You said the first
14 floor. Is that going to be garage space
15 also?

16 MR. GOMOKA: It's going to be a
17 garage space underneath, but it can't be used
18 for anything like habitable space or anything
19 like that. Obviously, it's for in the event
20 of floor, decorative slats to allow flow and
21 things like that and all the requisite flood
22 vents that are required, unfortunately, due
23 to nature.

24 MEMBER HAWKINS: I'm trying to see
25 what side was the entrance for that garage.

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2 MR. GOMOKA: The Suffolk side of the
3 street. Part of the design of this property
4 was we tried to keep it in conformity with
5 the age of the property and not offend
6 people. The front door was on Nassau. We
7 tried to keep the front door on Nassau. The
8 garage door was on the Suffolk side, the curb
9 cuts are on Suffolk, the existing curb cuts
10 are on the Suffolk side. We tried to keep it
11 to what the original property was used for.
12 It's just that the garage, in the original
13 application, was detached and added on to
14 over time. It will be the curb cut in the
15 same location that was used.

16 MEMBER HAWKINS: That's what I was
17 asking. The curb cut is on the Suffolk side.

18 MR. GOMOKA: It will remain exactly
19 the same. That's why we designed the
20 property that way.

21 CHAIRPERSON RHODEN: You would say
22 that most of the front yard setbacks are
23 roughly average on that block?

24 MR. GOMOKA: I actually can't tell
25 you exactly what they are. It's 16.8 to the

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2 immediate south, with some encroachments to
3 the building lot. There are some permanent
4 encroachments of 14, 15 with the steps and
5 whatever comes out. To the building line,
6 it's 16.8, 19 and 17 on that side. The thing
7 that throw it off is, obviously, the code was
8 written, the 200 foot radius. There are two
9 properties well to the north, almost at the
10 200 foot, that are in the 20's and 30's that
11 throws off the average setback.

12 CHAIRPERSON RHODEN: I have no
13 further questions. Thank you. I know, just
14 to make sure and put it on the record, the
15 elevation is a requirement of FEMA for this
16 property.

17 MR. GOMOKA: That's why there is such
18 a significance in height, nine foot. Prior
19 to that, this application, under the old
20 rules, would probably not require any of
21 those variances.

22 CHAIRPERSON RHODEN: Do we have
23 anyone who would like to speak for or against
24 this application this evening?

25 THE SECRETARY: Madame Chair, we do

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not.

CHAIRPERSON RHODEN: Can I please have a motion to close to further evidence and testimony and to reserve decision.

MEMBER SCOPELITIS: So moved.

MEMBER PINZON: I second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER PINZON: Aye.

MEMBER SCOPELITIS: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

CHAIRPERSON RHODEN: We will be in touch. Thank you very much.

Can we call the next application on tonight's calendar.

THE SECRETARY: Application 2022-26, 130 Dehnoff Avenue, Residence A, Section 55, Block 245, Lot 35. Mary Bryant. Maintain a 625 square foot detached garage. Variances: Village Ordinance 210-6A, 210-41 lot coverage, 210-43(C)(3) required yards, rear yard depth.

I have one Affidavit of Mailing to be

1
2 entered into the record as a Board exhibit.
3 This will be Board Exhibit Number 1 for this
4 individual public hearing.

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

8 MR. ZAPSON: Good evening. My name
9 is Michael Zapson. I'm an attorney with the
10 firm of Certilman, Balin, Adler & Hyman. 90
11 Merrick Avenue, East Meadow, New York 11554.
12 I represent the applicant here tonight.

13 The Bryant family has always lived in
14 this house for over 50 years. In about 2019,
15 the existing garage, they decided to make it
16 a little bit larger, in order to park their
17 car in it. They made the garage little
18 larger. They did not get permits. They now
19 know, of course, they need to get permits
20 before doing any work. The Village came down
21 and gave a violation for working without the
22 permits, which she then retained an architect
23 and put an application in.

24 The resulting garage, while it was
25 built in the side yard about three and a half

1
2 feet into the setback -- two feet to the side
3 yard setback, three and a half feet to the
4 rear yard setback.

5 Where it was built into the side yard
6 setback, it basically had existed previously,
7 where the contractor had put the garage where
8 it had been and made it wider into the
9 existing yard in the back of the house. That
10 resulted in the need here for a variance
11 tonight for the side yard setback and rear
12 yard setback and total square footage of the
13 garage. Basically, the addition of the side
14 and the rear, exceeds what is allowed loud.
15 625 feet is what it is, 462 is what is
16 allowed. It's 163 feet too big.

17 There has been a garage in this
18 location since at least 1949. That was the
19 earliest survey I was able to find. And even
20 then, it exceeded into the side yard setback,
21 which leads me to believe the problem was in
22 existence before there was a building code.

23 The applicant filed plans to build a
24 legal structure, and during the course of
25 doing that it was decided that the expense

1
2 and the involvement of having to build that
3 structure, to take what was there and to take
4 the three feet off the rear and two feet off
5 the side would exceed \$20,000, making it much
6 more beneficial to come here to seek a
7 variance tonight.

8 The benefit to the applicant is that
9 by having this larger garage they will be
10 able to park inside, where they couldn't in
11 the old one. There is no detriment to the
12 neighbors or to anybody else. In fact, you
13 can hardly even see the garage from the
14 street.

15 The balance and the equity between
16 the benefit to the applicant and the
17 neighbors, there's no detriment to anybody,
18 but there's an advantage to the applicant.

19 I believe that the application should
20 be granted. If there are any questions, I'll
21 be glad to answer them. Kathy Bryant is here
22 as well, and she can answer questions as
23 well.

24 CHAIRPERSON RHODEN: So, is this
25 supposed to be a two car garage or one car?

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2 It's big enough for a two car garage, but on
3 your drawing it seems like it's going to be
4 used for one car.

5 MR. ZAPSON: It's a one car garage.
6 The opening is not large enough for two cars
7 to fit, it wouldn't even come close, but it's
8 larger than what had been there previously,
9 as they were scraping and had difficulty
10 getting out of the car previously, as it's
11 very narrow.

12 CHAIRPERSON RHODEN: I understand.
13 Well, the rest of the space will be used for
14 storage, I gather?

15 MR. ZAPSON: Storage, bicycles.
16 There's no heating, there's no plumbing in
17 there, there's nothing like that
18 contemplated.

19 CHAIRPERSON RHODEN: Because the
20 house seems like it's -- what is the square
21 footage of the house? It's pretty small,
22 right?

23 MR. ZAPSON: I don't know.

24 MEMBER HAWKINS: The way that the
25 garage is situated now, it looks like it's

1
2 right on the property line, is that correct,
3 in the back, the rear neighbor?

4 MR. ZAPSON: So, with regard to the
5 rear of it, it's not on the property line.
6 There is a setback there of about two feet.
7 On the side, there's a setback there of about
8 three feet where there previously had been
9 four feet.

10 MEMBER HAWKINS: I'm sorry, what did
11 you say the setback was originally?

12 MR. ZAPSON: On the side, it had been
13 about four feet, and now it's about three
14 feet. And the rear five feet are required
15 and now it's three and a half feet.

16 MEMBER HAWKINS: You said five feet
17 is required?

18 MR. ZAPSON: Correct.

19 MEMBER HAWKINS: What was it
20 originally, do you know?

21 MR. ZAPSON I don't think the survey
22 says it. It says 4.41, but I think that was
23 the side.

24 CHAIRPERSON RHODEN: The garage, it's
25 not -- there's no other structure on the

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other property near that garage, right?

MR. ZAPSON: Correct.

CHAIRPERSON RHODEN: I just want to make sure that there's no other garage near that garage.

MR. ZAPSON: No.

MEMBER HAWKINS: I was wondering, because I can see it from the street. It's a really large structure. When you look at it from the street, when you pull up, it looks almost as large as the house. It's a really big structure.

MR. ZAPSON: It is a modest house. I went by there myself and I didn't see it that way. Ms. Bryant did speak to her neighbors and told them what was going on and they were invited to come down if they wanted to speak, and the ones she spoke to were all fine.

MEMBER HAWKINS: Does she have an SUV, a large vehicle.

MS. BRYANT: She has a Lexus.

CHAIRPERSON RHODEN: You have to be sworn in.

ZAPSON: She has a Lexus, Mary

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Bryant.

T A M M Y B R Y A N T,
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.

MS. BRYANT: Tammy Bryant. 130
Dehnoff Avenue.

The question was my mother is 80
years old and she has a car. Unfortunately,
she got in a couple of accidents, so we
wanted to make sure she has access to her
garage so she can park the car. She doesn't
go out that much. She has a Lexus. It's
pretty big. It wouldn't go into her original
garage, so that's what led us to wanting her
to change the garage structure to allow her
to park her car. And then she has not a lot
of access to the street. So, it's easier for
her to park her car in the garage.

MEMBER HAWKINS: Is that an SUV?

MS. BRYANT: It's a Lexus.

MEMBER HAWKINS: Sedan or --

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MS. BRYANT: No, it's -- what is it?

MR. ZAPSON: Is it like an SUV or regular.

MS. BRYANT: Regular. A van. I'm sorry.

MEMBER SCOPELITIS: You mentioned rear yard setback was what?

MR. ZAPSON: The rear yard setback that's required is five feet.

MEMBER HAWKINS: It's two feet. I think you said two feet.

CHAIRPERSON RHODEN: It's 1.25.

MR. ZAPSON: The garage as it is there now was built three and a half feet into the rear yard setback. So, that would leave about a foot and a half.

CHAIRPERSON RHODEN: So, it is on the drawings. It says 1.25. I think they were -- on the drawing it's 1.25.

MEMBER HAWKINS: When you originally decided to have it built, did you consult with anyone, as far as the size?

MS. BRYANT: Well, the contractor I had. I don't know too much about

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construction, so I trusted the contractor to do the right thing.

MEMBER HAWKINS: Right. Thank you.

CHAIRPERSON RHODEN: This you started back in 2019?

MS. BRYANT: Correct.

MR. ZAPSON: Right now, if you saw the garage, there is no door on it and there's no floor in there. So, it hasn't really been used for anything.

CHAIRPERSON RHODEN: You haven't completed it.

MR. ZAPSON: Correct. The Village said not to and we stopped; although, structurally it's done. And so, that's basically where it is.

CHAIRPERSON RHODEN: I have no further questions. Thank you.

MR. ZAPSON: Thank you.

MEMBER HAWKINS: Thank you.

CHAIRPERSON RHODEN: Do we have anyone who would like to speak for or against this application this evening?

THE SECRETARY: We do not, Madame

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Chair.

CHAIRPERSON RHODEN: Can I please have a motion to close to further evidence and testimony and reserve decision.

MEMBER SCOPELITIS: So moved.

MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER PINZON: Aye.

MEMBER SCOPELITIS: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

MR. ZAPSON: Thank you.

CHAIRPERSON RHODEN: Thank you.

Can we call the next application, please?

THE SECRETARY: 2022-27, 435 Woodcleft Avenue, Marine Commerce, Section 62 Block 177, Lots 334, 520, 540, 541 and 542. NBD Holdings, Inc. Proposed new 100 room hotel with amendment for a total height of 52 feet 5.5 inches above the floodplain. Village Ordinance 210-6A, 210-239 building

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2 height; sky exposure plane.

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

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

10 MS. DICKSON: Hi. My name is
11 Kathleen Deegan Dickson with Forchelli,
12 Deegan and Terrana at 333 Earl Ovington
13 Boulevard, Uniondale here on behalf of NBD
14 Holdings, Inc., which is the developer of the
15 Freeport Hotel Hilton Garden to be built at
16 435 Woodcleft Avenue in Freeport.

17 You last saw us here a little over
18 two years ago, or maybe under two years.
19 Just about two years ago, when you granted
20 variances to allow off-street parking to be
21 provided off-site, and also to grant a height
22 variance for the hotel that is proposed, to
23 allow 47 foot 9 inch building instead of a 40
24 foot building.

25 At the time, that was what we

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2 expected to need, and that's how the hotel
3 was designed. We since, after that time,
4 received site plan approval, went through the
5 entire village review process. And as the
6 design teams were getting ready to apply for
7 the building permits, they discovered that
8 there was a discrepancy in the height of the
9 building, in order to provide the clear space
10 between floors to adequately provide for the
11 utilities and mechanicals that need to be in
12 the building.

13 The structural elements and
14 components have become larger in the actual
15 design process, based on a number of factors,
16 including the need to have enough clear story
17 and width to allow emergency vehicles under
18 the building to prevent fires and to access
19 for emergencies, and that ended up causing
20 the beams to be a little larger and the
21 columns to be spread a little further apart,
22 which, to a lawyer like me, that doesn't make
23 a lot of difference. But to structural
24 engineers, design engineers, and architects,
25 it's a really big deal.

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2 What the result was, it put the
3 architect's finished floor heights into
4 conflict with the structural floor
5 components, and it made it impossible. Right
6 now for this project to comply with the
7 Hilton Hotels design standards for ceiling
8 heights and also in some cases some code
9 requirements and the Village requirements to
10 allow this clear height underneath the
11 building for emergency access.

12 The design professionals did reduce
13 the ceiling heights, or tried to reduce the
14 ceiling height where they could throughout
15 the building. What the result was, was
16 pretty unsatisfactory, I think, on a lot of
17 levels. Certainly from Hilton's standards,
18 where they -- for a hotel such a this, which
19 is designed to be a real first class
20 waterfront hotel where people will want to
21 have their weddings and banquets, some of the
22 ceiling heights, in order to comply, would
23 have to come down as low as eight feet, and
24 that's something that Hilton would not permit
25 and, I think also from just a general appeal

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2 standard, would make the hotel feel cramped
3 and less desirable than the way it was
4 originally designed.

5 The mechanical engineers did what
6 they could to flatten the duct work and to
7 relocate things where they could. But with
8 the necessity for electrical conduit for
9 plumbing, for duct work, sprinklers within
10 their, and then with bottlenecks created by
11 different utilities and mechanicals coming in
12 and having to go under beams, it really was
13 what caused the need for this ask.

14 We're seeking a variance of 4.8 feet
15 over what was originally approved by this
16 Board. Unfortunately, it's not for an
17 addition floor or additional amenities, it's
18 for the infrastructure of the building. We
19 would rather not be back here asking for
20 this, we would have much rather be pulling
21 the building permits, but it really has
22 become a necessity.

23 I would like to introduce the
24 architect, Willy Zambrano, and he can give
25 you a little more clarity on what our ask is.

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2 Then if you have additional questions, we
3 have our entire structural and mechanical
4 engineering team here as well and they can
5 answer questions if you have any more
6 specific questions as to why this is needed.

7 I do want to point out that the area
8 affected is really just a penthouse what we
9 call the cigar bar/penthouse bar up there.
10 That's something I think, as part of the
11 review process/approval process, everybody
12 found was a really exciting and attractive
13 part of this project.

14 The other stories where the hotel
15 rooms are, are compliant, certainly with the
16 former prior variances that was granted. So,
17 it's only going to affect this small part of
18 the building, which is the penthouse. Is the
19 footprint is set back from the edge of the
20 building, much of it is not even visible as
21 you stand on Woodcleft Avenue. Actually,
22 none of it is visible as you stand on
23 Woodcleft. And the total square footage of
24 that is about 3,000 square feet compared to
25 the 10,000 overall footprint square footage.

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So, it really does affect a minimal part of the building. And the visual impact will be negligible, if anything at all, because of the lack of visibility from nearby roadways.

So, with that turn, I'll turn it over to Mr. Zambrano. If you have any questions, I'll be happy to answer them.

W I L L Y Z A M B R A N O,
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. ZAMBRANO: Willy Zambrano.
Principal of Zambrano Architectural Design, LLC here in Freeport, 40 Atlantic Avenue.

I think Ms. Dickson said it all. I'd say she did a good job explaining architecturally what I was going to say. But just to reiterate some of the things she may have touched upon.

As we were actually coordinating the project with the design team, that is the structural engineer, the mechanical engineer

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2 and everybody else that is involved in this
3 process, we tried each and every way to
4 actually make certain conflicts work without
5 really clashing with each other. The
6 infrastructure on this hotel is such that you
7 have to bring in lines of duct work all over
8 the place, especially in larger areas, the
9 meeting rooms, the lounge areas, the cafe,
10 the bar lounge that we have on the first
11 floor for the guests that will be coming into
12 the hotel, as well as the banquet hall that
13 we have in the back. All of those conditions
14 actually create some sort of a conflict, when
15 you have duct work running all over the place
16 and you try to accommodate. We did our best
17 to actually not that conflict it and make
18 sure that we can hide those spaces wherever
19 we can, in terms of soffits and more or less
20 fit it to the ambiance of the hotel, but in
21 some of those cases we cannot.

22 The duct work at this moment is
23 coming down to almost eight feet. And you
24 can just imagine this room, for example. A
25 banquet hall or a meeting space, just to say

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2 the least, an eight foot. When you have a
3 centralized space and an eight foot ceiling,
4 it kind of brings it down, and that's what
5 we're getting at. Some of the bar lounge
6 areas are coming why too low for such a --
7 not prestigious, but at least a hotel you can
8 be on the waterfront.

9 So, the height that we're requesting
10 are spread in between the floors so we can
11 accommodate this conflict. So, we need at
12 least two feet on the first floor where we
13 have the meeting rooms, cafe bar lounge
14 areas. We have some amenities within the
15 space, the lobby area, for one. And then you
16 have the second floor, which is where we have
17 the executive suites that need at least a
18 foot. And then we have the nice amenity,
19 which is the cigar bar lounge, which is all
20 the way on top.

21 I just want to say that the footprint
22 of that building is almost, I'd say, 15
23 percent of the entire floor plan. We're only
24 talking about 3,000 square feet versus 18,000
25 square feet total. As you can see from this

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2 map drawing, you basically have the cigar bar
3 lounge bar on the top. If you can just look
4 at this shed roof they were designed to
5 create a dorm portion of the top not to come
6 up too much. And if the last floor which is
7 at this level, the floor that is the cigar
8 bar and lounge is about a foot and a half
9 over the four feet. So, it's really a
10 portion of that last floor that's actually
11 popping up and we need the extra foot. We
12 can accommodate all the other spaces, all the
13 heights that we're asking for within the
14 floors on the lower floors.

15 As Ms. Dickson mentioned, we have the
16 structural engineer here, we have the
17 mechanical engineers. On the structure for
18 one, we have beams that are actually dropping
19 our ducts and we have to go down and up, down
20 and up. And all those areas that we have
21 going down are really lowering our ceiling
22 heights to almost eight feet, and those are,
23 where those are actually in those special
24 areas that we're trying to accommodate.

25 Ms. Dickson also mentioned, she

1 touched a little bit on the drive thru. So,
2 we elevated the first floor up to 15 feet,
3 but we have such a deep structure, about two
4 feet, that we could get underneath the
5 platform with trucks for deliveries and
6 emergency trucks, if we actually maintain the
7 certain feet. But just imagine we also have
8 above that floor some guests rooms, and in
9 that we have plumbing that has to come down.
10 Those plumbing pipes have traps, we have
11 sprinkler lines that have to be protected,
12 the garage underneath, as well as other
13 electrical conduits. All of that is actually
14 bringing the spaces down. If we don't
15 actually do this, if we don't raise the
16 floor, then we're not going to be actually
17 getting trucks delivering whatever they have
18 to deliver into the back. That's the reason
19 why we're asking for extra.
20

21 MEMBER HAWKINS: What was the
22 original height under the parking? 15 feet,
23 you said?

24 MR. ZAMBRANO: 13 feet.

25 MEMBER HAWKINS: 13 feet. You want

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2 to raise it 15 fee, you're saying?

3 MR. ZAMBRANO: We have to raise the
4 first floor 15 feet and we have two feet of
5 structure with beams and drops and stuff like
6 that. So, that brings it down to 13 feet.
7 We need about another foot, just to be able
8 to accommodate all the plumbing and
9 sprinklers.

10 MEMBER HAWKINS: With that new height
11 for the rooms, you said you want to increase
12 the height of the rooms, a guest room?

13 MR. ZAMBRANO: The guest rooms -- on
14 the first floor, we have all the spaces that
15 are kind of front of house type of areas,
16 which are your reception areas. In that
17 floor, the rooms are okay. But the area that
18 we are getting impacted is that -- we have a
19 dining area, for example, in that floor, and
20 we need the height in that space. In that
21 one floor, it's not the rooms, per se, it's
22 the other front of the house areas that we
23 need to actually increase. Those are
24 dropping to eight feet and we need 10 to 11
25 feet in some areas. 11 feet for 0meeting

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2 rooms, because these are for corporate
3 individuals that may want to stay in this
4 area.

5 MEMBER HAWKINS: Right.

6 MR. ZAMBRANO: And that's why we are
7 actually here.

8 MS. DICKSON: I just wanted to
9 clarify also that we're not looking to raise
10 the ceiling heights. What we're looking to
11 do is to maintain the ceiling heights that
12 have always been part of the project. This
13 is really just because of the space between
14 floors. So, everything that you have seen up
15 until now is what we what to maintain. The
16 11 foot ceiling in the reception area, that
17 was always -- I may be getting the numbers
18 wrong. The ceiling height in the reception
19 area of hotels room has always been the same.
20 The problem is we have to bring them down, in
21 order to accommodate this mechanical space,
22 and that would impair the viability and
23 attractiveness and the functionality of the
24 space.

25 MEMBER HAWKINS: The cigar room that

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2 you're talking about increasing, that would
3 be on the canal side?

4 MR. ZAMBRANO: That's actually you're
5 going to see it from the canal side and also
6 from the front, as well as it has a deck
7 looking onto the bay. If you were to
8 actually walk down to the end of the Mile by
9 the gazebo that ou have at the end, you
10 wouldn't see it as you walk. You will not
11 see it.

12 MEMBER HAWKINS: You will not?

13 MR. ZAMBRANO: No. You would
14 actually maybe see the top of the roof
15 jetting out. And we have some -- I don't
16 know if you have the renderings.

17 CHAIRPERSON RHODEN: Yes.

18 MR. ZAMBRANO: The renderings shows
19 that some shed roof that actually are
20 horizontal coming across the length of the
21 hotel, and then on the top it peaks out at
22 the top. It's very minimal. And we did that
23 purposely, so this way it doesn't look like
24 it's really popping out. You can see it from
25 the elevations also on some of the pages.

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So, page A200.

MEMBER HAWKINS: Which page?

MR. ZAMBRANO: 200. If you look at the middle elevation and you go to this area here, that's actually the penthouse or the cigar bar lounge. I wouldn't call it a penthouse, it's a space for an amenity.

As you can see, we're trying to keep inline with the shed roof and not to make it, you know, come up drastically. And the space there is only about 3,000 square feet.

MEMBER PINZON: I have a question, if I may. If you're standing on Woodcleft looking east, you're saying you can or cannot see it?

MR. ZAMBRANO: You can just a bit. You will. You can see the eaves of the roof coming out, but it's almost part of that shed roof that spans across the entire facade of the hotel, because we have some windows in there.

MEMBER HAWKINS: Windows?

MR. ZAMBRANO: Yeah. So, as the shed hits the wall, we just cut out those windows,

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so you can get view and also natural lighting
in the space.

CHAIRPERSON RHODEN: Thank you very
much.

MR. ZAMBRANO: Thank you. Have a
good night.

CHAIRPERSON RHODEN: Do we have
anyone who would like to speak for or against
this application this evening?

THE SECRETARY: Madame Chair, we do
not.

CHAIRPERSON RHODEN: Can I please
have a motion to close to further evidence
and reserve decision please.

MEMBER SCOPELITIS: So moved.

MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER PINZON: Aye.

MEMBER SCOPELITIS: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

MS. DICKSON: Thank you very much.

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CHAIRPERSON RHODEN: Thank you. Have a good evening.

MS. DICKSON: You too.

CHAIRPERSON RHODEN: Can I please have a motion to enter into executive session.

MS. UNGAR: We have to do public first.

CHAIRPERSON RHODEN: Do we have anyone who would like to speak for or against this application this evening?

THE SECRETARY: Madame Chair, we do not.

MEMBER SCOPELITIS: So moved.

MEMBER PINZON: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER PINZON: Aye.

MEMBER SCOPELITIS: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

CHAIRPERSON RHODEN: Can I have a motion to enter into executive session.

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MEMBER HAWKINS: So moved.

MEMBER SCOPELITIS: Second.

THE SECRETARY: To go into exec I have Drew as making the motion and then Diego seconded.

(WHEREUPON, the Board entered into executive session from 7:43 p.m. to 8:05 p.m., after which the following transpired:)

CHAIRPERSON RHODEN: Do we have any decisions for tonight.

THE SECRETARY: Yes. The first decision is Application 2022-14, 70 Guy Lombardo Avenue, Business B, Section 55, Block 331, Lot 9 Alfred Basal. Convert existing second floor from commercial to two residential apartments.

MEMBER HAWKINS: Madame Chairperson, regarding Application Number 2022-14 for the premises located at 70 Guy Lombardo Avenue, Freeport, the Applicant comes before this Board seeking a variance from Village Ordinances 210-6A, 210-81C and 210-172A seeking approval to convert an existing

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2 second floor from commercial use to two
3 residential apartments.

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

6 Public hearings were held on
7 April 21, 2022 and May 19, 2022 wherein
8 applicant was represented by architect
9 Michael Kaye and himself respectively. They
10 explained that there was a fire at the
11 premises and now they are rebuilding. They
12 are seeking to convert two commercial spaces
13 in to two residential spaces. They require a
14 use variance and a parking variance to do so.

15 On April 21, 2022, architect Michael
16 Kaye presented the application. He explained
17 that prior to a fire, the second floor was
18 previously used as eight office suites, and
19 applicant wants to convert it to residential.
20 There was no parking available for daytime
21 use when it was office space, and applicant
22 wanted to reduce the parking demand by
23 converting to residential use.

24 On may 19, 2022 applicant, Alfred
25 Basal, returned to present a parking plan,

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2 making use of an easement that grants him
3 access to the rear of the building. The
4 architect's drawings noted that with the
5 proper planning and coordination, the rear of
6 the property could accommodate all four cars
7 used for the apartments. The spaces would be
8 designated for the apartment tenants.

9 As to the use variance to convert the
10 second floor from commercial space to two
11 residential apartments:

12 1. Applicant has demonstrated that
13 applicable zoning regulations and
14 restrictions have caused unnecessary
15 hardship. Applicant has demonstrated to the
16 Board of Appeals that for each and every
17 permitted use under the zoning regulations
18 for the particular district where the
19 property is located:

20 a. The applicant cannot realize
21 reasonable return, provided that lack of
22 return is substantial as demonstrated by
23 competent financial evidence.

24 b. That the alleged hardship
25 relating to the property in question is

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unique and does not apply to a substantial portion of the district or neighborhood.

c. That the requested use variance, if granted, will not alter the essential character of the neighborhood.

d. That the alleged hardship has not been self-created.

As to the parking variance:

2. On balance, the benefit to the applicant by the granting of this variance is not outweighed by the detriment to the health, safety and welfare of the neighborhood or community if such variance were to be granted. The Board has determined:

a. That an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the area variance. By switching from a commercial use to a residential use, applicant is decreasing the parking demand required from that space. Additionally, by having the apartment versus commercial space,

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2 it is more likely that there will be less
3 parking demand during the day while the
4 residential apartment dwellers are at work.

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

9 c. That the requested area variance
10 is insubstantial. Compared to what was
11 previously existing, the new demand is a
12 decreased parking demand.

13 d. That the proposed variance will
14 not have an adverse effect or impact on the
15 physical or environmental conditions in the
16 neighborhood or district; and

17 e. That the alleged difficulty was
18 not self-created. Had the fire not occurred,
19 it is unlikely that the applicant would be
20 considering a change in use at this time.

21 3. The Board, as lead agency, has
22 determined that this action is an unlisted
23 action under SEQRA. A short environmental
24 assessment form has been completed by the
25 applicant and the Board. The Board finds no

1
2 environmental impact under SEQRA, issues a
3 negative declaration and no further review is
4 required.

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

8 1. Applicant/Owner must comply with
9 all the Rules and Regulations of the Village
10 of Freeport.

11 2. Applicant/Owner must obtain the
12 required permits from the Building
13 Department.

14 3. Applicant must use the rear yard
15 for two parking spaces as in the submitted
16 plans. If applicant runs into problems with
17 the easement, applicant must return to the
18 Zoning Board for further review.

19 MEMBER PINZON: Second.

20 THE SECRETARY: All in favor.

21 MEMBER HAWKINS: Aye.

22 MEMBER PINZON: Aye.

23 MEMBER SCOPELITIS: Aye.

24 CHAIRPERSON RHODEN: Aye.

25 THE SECRETARY: Any opposed?

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(No response was heard.)

THE SECRETARY: The second decision is Application 2022-22, 14-16 Brooklyn Avenue, Service Business, Section 55, Block 264, Lot 19, Oak Street Health. Renovate building to be used as a senior medical facility.

MEMBER PINZON: Madame Chair, regarding Application Number 2022-22 for the premises located at 14-16 Brooklyn Avenue, Freeport, the Applicant comes before this Board seeking a variance from Village Ordinances 210-6A, 210-172A(12) seeking approval to renovate building to be used as a senior medical facility.

I, Diego Pinzon, move that this Board make the following findings of fact:

A public hearing was held on May 19, 2022 wherein applicant was represented by attorney Howard Avrutine. He explained the size and location of the property. The building has a footprint covering almost 90 percent of the property and has no on-site parking. For the proposed use, 29 parking

1 space are required. The plan purposes
2 medical use on the first floor and storage on
3 the second floor and basement. The
4 applicant, Oak Street Health, provides
5 primary care focused on Medicare
6 beneficiaries. The hours are Monday through
7 Friday, 8:00 a.m. to 6:00 p.m. There will be
8 about 12 staff members at any given time, and
9 14-19 patients would be accommodated per day.
10 Oak Street Health provides a van to give
11 transportation to any of the patients who
12 needs transportation. When the facility is
13 closed, the van would park legally either in
14 the Village or at another location. They are
15 opening a facility in Hempstead, which has
16 adequate parking and they may Park the vans
17 there. Oak Street Health has locations in
18 other states and in the city, but the
19 Hempstead and Freeport locations would be the
20 first on Long Island.

22 In response to a question about how
23 many of the patients use the van for
24 transportation, Brandon Holler, on behalf of
25 the applicant village, said that currently

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2 about 60 to 80 percent of patients use the
3 van. The van is a point-to-point service for
4 a single patient at a time.

5 Sean Mulryan, a traffic engineer,
6 presented a parking study. The parking study
7 showed 800 spaces in the nearby vicinity, 379
8 municipal lot spaces, 255 commuter permit
9 spaces, and 158 on-street parking spaces.
10 His parking study showed that approximately
11 90 on-street spaces were available during the
12 hours when the office would be open. He said
13 he does not agree with the Village's
14 interpretation as to opinion 88-1 of the
15 Office of the New York State Comptroller;
16 however, he asked the Board to consider the
17 public parking spaces surrounding the site.
18 He opined that the employees could purchase
19 commuter parking permits and park in the
20 commuter parking lots. This property cannot
21 be occupied without a parking variance.

22 The Nassau County Planning Commission
23 recommended that valet parking be provided.
24 Mr. Avurtine explained that nothing about the
25 van service was provided to the Planning

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2 Commission. He opinion that with the van
3 being provided, valet should not be mandated.
4 People with difficulties ambulating from a
5 parking space would have the option to use
6 the van at no cost to themselves.

7 The Board has concerns about the lack
8 of on-site parking at this location, but
9 recognizes that there is no way to
10 accommodate on-site parking. However, the
11 Board believes that there is sufficient
12 on-street parking available to accommodate
13 the 29 spaces required, especially in light
14 of the applicant's testimony about 12 staff
15 members plus 14-19 patients per day.

16 1. On balance, the benefit to the
17 applicant by the granting of this variance is
18 not outweighed by the detriment to the
19 health, safety and welfare of the
20 neighborhood or community, if such variance
21 were to be granted. The Board has
22 determined:

23 a. That an undesirable change will
24 not be produced in the character of the
25 neighborhood and a detriment to nearby

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properties will not be created by the granting of the area variance.

b. That the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance. This property is designed with off-street parking. Without a variance, no business may be run from the property.

c. That the requested area variance may be considered substantial, but no one factor is dispositive. Applicant has demonstrated availability of on-street parking.

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. This is a pre-existing building with no parking.

2. The Board, as lead agency, has determined that this action is an unlisted action under SEQRA. A short environmental

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2 assessment form has been completed by the
3 applicant and this Board. The Board finds no
4 environmental impact under SEQRA, issues a
5 negative declaration, and no further review
6 is required.

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

10 1. Applicant/Owner must comply with
11 all the Rules and Regulations of the Village
12 of Freeport.

13 2. Applicant must obtain the
14 required permits from the Building
15 Department.

16 3. As the Board has concerns about
17 the sufficiency of the parking, the basement
18 and second floor must be used for storage
19 only, not for medical purposes, as proposed
20 in the hearing. Should this ever change,
21 applicant must return to the Board for
22 further review.

23 4. Applicant must purchase commuter
24 parking permits for all employees of the
25 facility. This will help alleviate the

1
2 on-street parking situation.

3 MEMBER SCOPELITIS: Second.

4 THE SECRETARY: All in favor.

5 MEMBER HAWKINS: Aye.

6 MEMBER PINZON: Aye.

7 MEMBER SCOPELITIS: Aye.

8 CHAIRPERSON RHODEN: Aye.

9 THE SECRETARY: Any opposed?

10 (No response was heard.)

11 THE SECRETARY: The next decision is
12 Application 2022-24, 438 Nassau Avenue,
13 Residence A, Section 62, Block 186, Lot 1,
14 438 Nassau, LLC. Construct a new three story
15 2,515 square foot single family dwelling with
16 a 246 square foot porch and 82.5 square foot
17 deck.

18 MEMBER SCOPELITIS: Madame Chair,
19 regarding Application 2022-24 for the
20 premises located at 438 Nassau Avenue,
21 Freeport, the Applicant comes before this
22 Board seeking a variance from Village
23 Ordinances 210-6A, 210-43A(1), 210-43A(2),
24 210-43A(3) and 210-39A seeking approval for a
25 new three story 2,515 square foot single

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2 family dwelling with a 246 square foot porch
3 and a 82.5 square foot deck.

4 I, Drew Scopelitis, move that this
5 Board make the following findings of fact:

6 A public hearing was held on June 16,
7 2022 wherein applicant was represented by
8 Attorney Christopher Gomoka, as counsel to
9 the law office of Michael Soloman. He
10 explained that the front yard setback
11 deficiency is caused by a desire to stay
12 within a similar footprint as to the original
13 structure. One house within 200 feet has a
14 200 foot radius and a 37 foot setback. Two
15 neighboring houses have setbacks of 16 and 17
16 feet. The property is also a corner lot,
17 necessitating two front yards. The rear
18 setback issue comes from a six foot wide
19 section at the rear where the canal
20 encroaches. The other 54 feet is compliant.
21 The side yard has a deck to add to the
22 aesthetics and there is a garage at the
23 adjoining property with no windows or doors
24 on that side. The sky exposure plane comes
25 from the requirement that the house be

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2 elevated.

3 1. On balance, the benefit to the
4 applicant by the granting of this variance is
5 not outweighed by the detriment to the
6 health, safety and welfare of the
7 neighborhood or community such variance were
8 to be granted. The Board has determined:

9 a. That an undesirable change will
10 not be produced in the character of the
11 neighborhood and a detriment to nearby
12 properties will not be created by the
13 granting of the area variance;

14 b. That the benefit sought by the
15 applicant cannot be achieved by some method,
16 feasible for the applicant to pursue, other
17 than an area variance;

18 c. That the requested area variance
19 is insubstantial;

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

24 d. That the alleged difficulty was
25 not self-created.

2 2. The Board, as lead agency, has
3 determined that this action is a Type II
4 action under SEQRA and no further review is
5 required.

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

9 1. Applicant/Owner must comply with
10 all the Rules and Regulations of the Village
11 of Freeport.

12 2. Applicant must obtain the
13 required permits from the Building
14 Department.

15 MEMBER HAWKINS: Second.

16 THE SECRETARY: All in favor.

17 MEMBER HAWKINS: Aye.

18 MEMBER PINZON: Aye.

19 MEMBER SCOPELITIS: Aye.

20 CHAIRPERSON RHODEN: Aye.

21 THE SECRETARY: Any opposed?

22 (No response was heard.)

23 THE SECRETARY: The next decisions is
24 Application 2022-27, 435 Woodcleft Avenue,
25 Marine Commerce, Section 62, Block 177, Lots

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334, 520, 540, 541 and 542. NBD Holdings, Inc. Proposed new 100 room hotel with a total height of 52 feet, 5.5 inches above the floodplain.

MEMBER HAWKINS: Madame Chair, regarding Application Number 2022-27 for the premises located at 435 Woodcleft Avenue, Freeport, the Applicant comes before this Board seeking a variance from Village Ordinances 210-6A, 210-239 seeking approval for a proposed new 100 room hotel with amendment for a total height of 52 feet, 5.5 inches above the floodplain.

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

The Board notes that this application was previously heard on August 20, 2022, wherein the Board granted multiple requests for variances, including a previous height variance request for a building height of 47 feet, 9.5 inches above the floodplain.

A public hearing was held on June 16, 2022 wherein the applicant was represented by attorney Kathleen Dickson of the law firm of

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2 Forchelli Deegan Terrana. She explained
3 that, among other things, more height was
4 needed under the building for emergency
5 access. This changed beam widths, column
6 distance, etcetera, which caused design
7 changes. Although they tried to increase
8 ceiling heights, change duct work, etcetera,
9 they end up needing an extra four feet eight
10 inches to accommodate the infrastructure of
11 the building. The height of the building at
12 the penthouse level will not be visible from
13 the street side and about 3,000 square feet
14 as compared to the entire footprint of 18,000
15 square feet.

16 Architect Willy Zambrano further
17 explained that the designed architectural
18 reasons for this increase in height. Both
19 Ms. Dickson and Mr. Zambrano come to the care
20 to minimize the impact on the height.

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

were to be granted. The Board has determined:

a. That an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the area variance.

b. That the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance.

c. That the requested area variance is insubstantial.

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

e. That the alleged difficulty was not self-created.

2. 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

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2 negative declaration, and no further review
3 is required.

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

7 1. Applicant/Owner must comply with
8 all the Rules and Regulations of the Village
9 of Freeport.

10 2. Applicant must obtain the
11 required permits from the Building
12 Department.

13 3. All the conditions contained in
14 the August 20, 2020 decision are still in
15 full force and effect, and applicant is still
16 bound by the Affidavit of Compliance dated
17 September 30, 2020.

18 4. The Board takes notice that the
19 Nassau County Planning Commission has not yet
20 issued a recommendation for this project, and
21 thus issues this conditional approval.

22 However, the Board reserves the right to
23 re-open this hearing solely for the purpose
24 to adopt the findings of the Nassau County
25 Planning Commission if received 30 days from

1 submission and modify this resolution to
2 comply with said determination, if necessary.
3 If said Nassau County Planning Commission is
4 not received within 30 days from submission,
5 this decision is final.
6

7 MEMBER PINZON: Second.

8 THE SECRETARY: All in favor.

9 MEMBER HAWKINS: Aye.

10 MEMBER PINZON: Aye.

11 MEMBER SCOPELITIS: Aye.

12 CHAIRPERSON RHODEN: Aye.

13 THE SECRETARY: Any opposed?

14 (No response was heard.)

15 CHAIRPERSON RHODEN: Can I have a
16 motion to close the legislative session.

17 MEMBER HAWKINS: So moved.

18 MEMBER PINZON: Second.

19 THE SECRETARY: All in favor.

20 MEMBER HAWKINS: Aye.

21 MEMBER PINZON: Aye.

22 MEMBER SCOPELITIS: Aye.

23 CHAIRPERSON RHODEN: Aye.

24 THE SECRETARY: Any opposed?

25 (Hearing hearing concluded 8:26 p.m.)

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June 16, 2022

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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 6th day of July, 2022.


BETHANNE MENNONNA