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INCORPORATED VILLAGE OF FREEPORT
ZONING BOARD

MUNICIPAL BUILDING
46 North Ocean Avenue
Freeport, NY 11520

October 20, 2022
6:00 p.m.

M E M B E R S :

ROSA RHODEN	CHAIRPERSON
JENNIFER L. CAREY	DEPUTY CHAIR
CHARLES HAWKINS	MEMBER
DREW SCOPELITIS	ALTERNATE MEMBER
DIEGO PINZON	ALTERNATE MEMBER

* * *

ROBIN CANTELLI	SECRETARY
JENNIFER UNGAR	DEPUTY VILLAGE ATTORNEY

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* * *

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* * *

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* * *

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* * *

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October 20, 2022

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CHAIRPERSON RHODEN: Good evening, everyone. If everyone could please join me for the Pledge of Allegiance.

(WHEREUPON, the Pledge of Allegiance was recited.)

CHAIRPERSON RHODEN: This is the October 20th Zoning Board of Appeals meeting. Can I have a motion to go into executive session?

MEMBER HAWKINS: So moved.

MEMBER SCOPELITIS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER PINZON: Aye.

MEMBER SCOPELITIS: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

CHAIRPERSON RHODEN: We'll be right back. Thank you.

(WHEREUPON, the Board entered into executive session from 6:11 p.m. to 6:35 p.m., after which the following

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transpired:)

CHAIRPERSON RHODEN: Good evening, everyone. I'd like to open up the Zoning Board of Appeals meeting for October 20th. If everyone could please join me once again for the Pledge of Allegiance.

(WHEREUPON, the Pledge of Allegiance was recited.)

CHAIRPERSON RHODEN: We have a member tonight absent, so I designate Diego Pinzon to serve as an alternate member of this Board to substitute our absentee member.

Can I have a motion to please approve the minutes of the September 22nd meeting?

MEMBER HAWKINS: So moved.

MEMBER SCOPELITIS: Second.

CHAIRPERSON RHODEN: I'm sorry. We also have two members absent tonight. So, I'd like to designate Drew Scopelitis -- I always mispronounce his last name. I apologize -- as an alternate member to replace the absent member tonight.

As such, can I please have approval of the minutes of the September 22nd Board

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meeting.

MEMBER HAWKINS: So moved.

MEMBER SCOPELITIS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER PINZON: Aye.

MEMBER SCOPELITIS: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

CHAIRPERSON RHODEN: Do we have any Affidavits of Publication or Posting to be entered into the record as exhibits this evening?

THE SECRETARY: Yes. I have one Affidavit of Publication and one Affidavit of Posting to be entered into the record as Board exhibits. These will be Board Exhibits 1 and 2.

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

CHAIRPERSON RHODEN: Do we have any

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requests for adjournment?

THE SECRETARY: No, no adjournments.

CHAIRPERSON RHODEN: At this time, can you please call the first application on tonight's calendar.

THE SECRETARY: The first application, 2022-33, 131 South Main Street AKA 129-133 South Main Street, Manufacturing, Section 62, Block 198, Lot 318, Rosa Galdamez. Interior alterations for Bar/Restaurant. Variances: Village Ordinance Section 210-6A, 210-172A(4) required parking spaces.

This application is withdrawn by the applicant.

CHAIRPERSON RHODEN: Would you call the next application on tonight's calendar.

THE SECRETARY: The next application this evening is Application 2022-30, 179 North Main Street, Service District, Section 55, Block 262, Lot 9. Greenwood and Sons Inc. Divide structure to create four separate stores. Variances: Village Ordinance 210-6A, 210-172A(12) required

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parking spaces.

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

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

H U G H G R E E N W O O D,
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.

Hugh Greenwood. 179 North Main, Freeport, New York 11520.

Just start?

MEMBER HAWKINS: Yes.

MR. GREENWOOD: When we last left off, the issue was about the parking situation. So, that was resolved. I said I was in the process. I wanted to show proof I was in the process of rectifying that.

We retained an agreement with the

1
2 supermarket Gala Fresh that would allow us
3 to -- that will allow the store to let their
4 patrons park in the -- I can submit it. I
5 brought one for each -- six of them. If I
6 can pass it down. They're going to give us
7 the ability --

8 CHAIRPERSON RHODEN: Is this
9 (indicating) the document or is there an
10 updated one. Is this the one that's dated?

11 MR. GREENWOOD: Yeah, it's the same
12 one. I didn't -- I just wanted to make sure
13 everyone had a copy of it. It's basically an
14 agreement with Gala Fresh giving us
15 permission to allow us to utilize their
16 parking, their parking lot for temporary
17 parking for customers that plan on utilizing
18 the stores as well. We feel, at this moment,
19 that's the best way to kind of alleviate the
20 parking situation.

21 We're also in talks with the mayor,
22 and I'm not too sure whether it's been
23 initiated already, the hourly parking on that
24 side of Grand Avenue is supposed to start as
25 well. So, hourly meters will be placed in,

1
2 so there won't be long-term parking initiated
3 by anyone on that side of the street. So,
4 all the stores will have temporary parking
5 for their customers that are allotted a
6 certain amount of time and move along.
7 Anyone that needs more time than that, these
8 stores will put up a sign saying that they
9 are allowed to park in Gala Fresh parking lot
10 as mediation for finding parking.

11 CHAIRPERSON RHODEN: Yes, we did
12 receive the letter. However, I think the
13 Board's concern regarding the letter is that
14 it doesn't specify how many parking spots are
15 available to you at Gala Fresh parking.

16 MR. GREENWOOD: As many as they need.

17 CHAIRPERSON RHODEN: But it doesn't
18 specify. This agreement doesn't state that
19 you have 10, 15, 29, which is, I believe,
20 what you need, right? 29 parking spots
21 spaces you're short. So, it's just not clear
22 on what parking spots are really available to
23 you.

24 MR. GREENWOOD: Okay. The reality
25 is, I didn't realize, because it's such a

1 large lot. We're not specifically
2 being mandatory taking any spot. They're
3 just allowing as many cars as needed to park.
4 They're giving us carte blanche, saying
5 you're allowed to park in their parking lot
6 without any type of issues.
7

8 CHAIRPERSON RHODEN: Yeah. I just
9 think they need to be aware you are seeking
10 29, relief of 29 parking spaces. It doesn't
11 clearly state that on your agreement. Do you
12 understand what I'm saying? It's very vague
13 for us to say, you know, whether they gave
14 you carte blanche or if they said, "Sure, you
15 can park five cars here." We don't know
16 that.

17 MS. UNGAR: Sir, if I could also add
18 one more thing. One concern is, obviously,
19 if you have 29 patrons there who are parked
20 in their lot, does Gala still have enough for
21 what their requirement is under the code?
22 That is a math calculation that should be
23 made to make sure they have sufficient
24 parking.

25 The other thing that is also listed

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2 here in the agreement is Gala Supermarket is
3 under no contractual obligation and they can
4 terminate this agreement at their leisure.

5 Now, in the past, when the Board has
6 authorized parking variances on the basis of
7 leases being provided, it's, for example,
8 that every year you must submit a valid lease
9 good for a term of at least a year to ensure
10 that there is parking. This agreement says
11 tomorrow Gala could say, "Great, you got your
12 variance, now you're not allowed to use our
13 parking ever."

14 MR. GREENWOOD: Okay.

15 MS. UNGAR: So, it definitely gives
16 Gala an out that is not wonderful for
17 long-term sustainability to ensure you have
18 that parking available for your business's
19 use.

20 MR. GREENWOOD: Okay. I see where
21 it's going. I'll definitely speak to Gala.
22 The reason I was turned away was just to give
23 them the ability not to -- so, there's no
24 payments being transferred. So, it's just
25 like I was trying to leave it in a way that

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2 was very more in their favor, so they would
3 understand that they're not liability for
4 anything. But I can have them rectify and
5 state how many parking spots they're supposed
6 to have, as well as how many parking spots
7 they are allowing us to have, and then put it
8 in a term of one year term without payment
9 renewable each year. Would that be fine?

10 MS. UNGAR: The payment issue is
11 between you and Gala. It's just the Board
12 needs to have something. Usually, like I
13 said, if there's an approval, the Board will
14 also put in a condition to the effect of
15 every year by May 1st of each year you have
16 to provide a valid lease for a period of no
17 less than one year, with some stability.
18 Otherwise, there is nothing to stop you or
19 Gala from the day after you get the approval
20 saying we're done, we're finished.

21 MR. GREENWOOD: Got it.

22 MS. UNGAR: Then we're stuck.

23 MR. GREENWOOD: I'm sure that won't
24 be an issue. I'll have that done with no
25 problem.

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CHAIRPERSON RHODEN: We'll adjourn for you to present that to us.

MR. GREENWOOD: Okay. Any other concerns? Anyone?

CHAIRPERSON RHODEN: I don't have anything.

MEMBER HAWKINS: No, that's it.

MR. GREENWOOD: Thanks a lot.

CHAIRPERSON RHODEN: Thank you so much.

At this time, can I have a motion to adjourn for further evidence?

MS. UNGAR: Actually, Madam Chair, we have some public comments.

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

THE SECRETARY: Lavette Hooks.

L A V E T T E H O O K S,
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.

1
2 MS. HOOKS: Lavette Hooks. Lena
3 Avenue, Freeport.

4 Good evening. I'm back again. I'm
5 not really sure about the process. The last
6 time I was here I submitted for evidence the
7 issues concerning parking on one side of the
8 street. Do I need to resubmit that or it's
9 just for the record and it's already in
10 there?

11 DEPUTY CHAIR CAREY: It's a four page
12 document, correct?

13 MR. GREENWOOD: Yes.

14 DEPUTY CHAIR CAREY: We were just
15 looking at it before.

16 MR. GREENWOOD: Okay. My next issue
17 is the conversation concerning Gala and, I
18 guess, a temporary contractual agreement.
19 That doesn't really sit well, because after a
20 year or two Gala could say we no longer want
21 you to park here, then we have 29 cars that
22 are again being pushed into the neighborhood.

23 We oppose the parking variance on the
24 following grounds:

- 25 1. For safety;

2. For nuisance;

3. For quality of life issues; and

4. Property value impact, all of which will negatively impact and adversely affect the surrounding neighborhoods.

There is limited availability of parking on the surrounding blocks, within a one block radius of this business. Gala is two blocks away. Realistically, I don't know too many people that's going to go to a business on one block and walk two blocks to park. That's unrealistic. And parking is limited as it is.

Safety issues encompass increased traffic, traffic congestion, double parked cars, impeding normal traffic flow, and driveways being blocked, all of which currently exists and will only be exasperated.

Then we have nuisance issues to contend with. Not having adequate street parking for the residents, for guests, delivery or medical visits, not being able to pull in or out of your driveway because it's

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2 being blocked, having strangers park in your
3 driveway, damage to vehicles that are on the
4 street because cars trying to squeeze through
5 when cars are double parked. And then we
6 have parking wars and we have residential
7 traffic cones now where residents are trying
8 to reserve parking spaces in front of their
9 residence.

10 Then according to the letter of
11 denial that was submitted, one of the issues
12 that was brought up was the buffer zone for
13 this property, which I thought was kind of
14 strange, because the subject property has
15 existing variances on record that was granted
16 in June of '61 which addressed the creation
17 of the 15 foot buffer zone because it borders
18 residential plots. Buffer zones were
19 implemented to prevent uses from encroaching
20 or creating negative impacts on the use of
21 others. And the variance for parking in a
22 buffer zone negates the attention and the
23 purpose of a buffer zone.

24 Our property is parallel to -- our
25 backyard is parallel to this property. And

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2 because this property is so close, it will
3 directly impact safety and welfare of the
4 surrounding residential properties, it will
5 negatively impact air quality, add noxious
6 fumes, increase noise, and will directly
7 impact property values.

8 We have been home owners at this
9 location for 25 years. The business that
10 submitted this application opened at this
11 location within the last year. It seems to
12 me that the home owner should be given
13 priority consideration where variances for
14 commercial properties can adversely effect
15 property values, safety, welfare, nuisance,
16 and quality of live issues.

17 Although they are proposing parking
18 two blocks away, realistically I'm not
19 confident in that. So, ultimately parking
20 can't be enforced. So, once they receive the
21 variance, people can pull up anywhere. So
22 ultimately, the decision is going to lie with
23 the Board which will directly impact and
24 affect the home owners and the residents in
25 the surrounding neighborhoods.

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2 A parking variance would create an
3 undue burden, hardship, and exacerbate
4 safety, nuisance and quality of life issues.
5 The surrounding blocks already have limited
6 one of the street parking, which is already
7 congested and crowded.

8 I want to submit some additional
9 paperwork for evidence. I have -- I stated
10 previously that there is mixed use properties
11 on that block of Main Street which house
12 apartment buildings upstairs. There are a
13 total of 14 apartments, none of which have
14 parking.

15 There was a listing recently of
16 apartment for rent at 159 North Main Street,
17 which is the block in question, and it states
18 on this listing that parking is off-street
19 parking. So, I just want more proof that
20 we're contending with additional people
21 parking on the block, not just the residents,
22 but we have the apartments now and whatever
23 traffic that the businesses pushes in that
24 direction.

25 I'd also like to submit a picture of

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2 the property with the cones where the home
3 owners are trying to reserve parking spaces.
4 And then I also want to submit a picture of
5 the buffer zone surrounding the property and
6 how close it is to the residential areas.

7 That will be it for this one. Thank
8 you.

9 (WHEREUPON, the above-referred to
10 documents were was marked as Witness's
11 Exhibits B & C for identification, as of this
12 date.)

13 MEMBER HAWKINS: You said you have
14 been there for 25 years.

15 MS. HOOKS: Correct.

16 MEMBER HAWKINS: Were you there when
17 the furniture store was opened?

18 MS. HOOKS: Yes, we were.

19 MEMBER HAWKINS: What was the parking
20 situation then?

21 MS. HOOKS: We didn't have issues
22 with parking. They basically were a moving
23 and storage company. So, whatever traffic
24 they had was either on that side and it was
25 limited to that side. I know they sold used

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furniture out front. So, I guess customers might have come periodically, but there were no parking issues. Definitely nothing like it is today.

MEMBER HAWKINS: Do you remember where the customers parked during those times?

MS. HOOKS: I'm assuming on Main Street. That's an assumption for me. But now it's a whole different ball game.

DEPUTY CHAIR CAREY: When did the furniture store go out of business, do you recall the year?

MS. HOOKS: It was between -- I think 2018.

DEPUTY CHAIR CAREY: 2018?

MS. HOOKS: Yeah. 2018, 2019, somewhere around there.

DEPUTY CHAIR CAREY: So it sat vacant for three years until recently?

MS. HOOKS: Yes.

CHAIRPERSON RHODEN: The changes are in more population, more heavier population, because it's always been a commercial

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building, right?

MS. HOOKS: Yes.

CHAIRPERSON RHODEN: That area also has mixed use. I just want to make sure we're clear.

MS. HOOKS: Yes.

CHAIRPERSON RHODEN: It has always existed. We're not changing anything.

MS. HOOKS: Yeah. But the type of business, I don't think it produced that much foot traffic.

CHAIRPERSON RHODEN: Right. We're also talking about the population change --

MS. HOOKS: Yes.

CHAIRPERSON RHODEN: -- in our neighborhood.

MS. HOOKS: Personally, in our neighborhood, our kids have grown up, so all the kids have cars now. So, that goes down the block. It's just parking is horrendous.

CHAIRPERSON RHODEN: I agree. We know. Thank you.

MEMBER HAWKINS: Thank you.

CHAIRPERSON RHODEN: Thank you very

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much.

THE SECRETARY: The next person that would like to speak is Zachary Hooks.

Z A C H A R Y H O O K S,
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. HOOKS: Zachary Hooks. Lena Avenue, Freeport, New York.

Good evening, everybody. My name is Zachary Hooks. You just met my wife. I just have a few things to add on to what she said.

Basically, I'm going to stick to the buffer zone area. It was brought to my attention that that was going to be an application also. In retrospect, we're talking about the building, and now we're talking about the buffer zone.

Like we said, we live right behind the Middendorf building. I was down at the Village on the 20th of September, spoke to the inspectors about the conditions there

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2 concerning the buffer zone. They're
3 considering -- on June 22, 1961 the variance
4 was put in place to have that building put up
5 but with stipulations: Nothing in the buffer
6 zone, no spotlights on the building.
7 Actually, it should be ground level, not
8 concrete. But all of that has been done.

9 So, when I went to the Village and
10 spoke to them, they went. Actually, like I
11 said, I can see right out the backyard. I
12 saw the inspectors go talk to Mr. Greenwood.
13 But nothing is -- the trucks are still there,
14 personal cars are still there. You walk out
15 my back door, I could look and see cars, big
16 trucks. If I'm having a function in my yard,
17 it's really disheartening to see a big U-Haul
18 backing in. It literally looks like it's
19 going to back into my backyard.

20 So, prior to that, the Middendorf
21 building before the buffer zone, it was all
22 greenery. So, I have pictures and documents
23 in here that you can see it was all greenery
24 all the way around the building. So, there
25 was really no problem about the buffer zone.

1
2 Trees. You know, you have wild animals.
3 That was the main concern. Now, it seems
4 like it's -- the reason they implemented
5 those in 1961 was to prevent what's happening
6 right now. You have a spotlight on all night
7 long. I can see it. I know the neighbor
8 next door, it's really shining bright in
9 there. Those are the things. Like I said,
10 the application is being submitted, I want
11 that to be taken into consideration also,
12 along with the other things.

13 Getting onto the Gala situation.

14 Like I said, I frequently go to Gala. It's
15 to the point I don't even want to drive my
16 car over because the parking is full. So,
17 the idea of them offering up 29 parking
18 spots, I don't know where they get that
19 number. Like I said, they could say, "All
20 right, we'll give you some space." But I
21 walk out, I go to the corner of Lena Avenue
22 any day, you can look over to Gala parking
23 lot. It's a big parking lot, but there is
24 only parking in the front and some on the
25 side. The rest of that building, there's no

1
2 parking behind it. So, it looks like you
3 have parking spots for days, but it's not.
4 You have two or three rows in the front and
5 some rows around along the fence. That's it.
6 So, the idea of having all that extra leeway
7 in parking, I don't know how that's going to
8 work.

9 And then, like I said, to cross Main
10 Street and walk all the way down. If I have
11 packages, I wouldn't do that. I would go
12 somewhere else before I would lug my packages
13 and walk all the way down.

14 That was it. I'll offer these so you
15 can see all the pictures of the trucks that
16 are parked in the parking lot, the spot
17 lights and you can put that into your
18 evidence.

19 DEPUTY CHAIR CAREY: Before you go, I
20 have a question to our village attorney.
21 You're quoting variances that were put in.
22 Those were stipulations that were put in to a
23 variance in 1961 that you found in the
24 village.

25 MR. HOOKS: I have it right here.

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DEPUTY CHAIR CAREY: Does that mean he's -- right now it's a personal agreement, whatever this agreement was. Who has the spotlight that should not be there.

MR. HOOKS: It's on the building right now.

DEPUTY CHAIR CAREY: Shining in your yard?

MR. HOOKS: It's on the building. You can see it from my house. It shines into the house next door, the adjoining house. It's in there. Then you have the trucks that are parked in there.

Like I said, the inspector, Inspector Sergio Mauras and Robert went there on the 20th of September. He did move one truck. The spotlight is still there. There's a regular, personal vehicle. All the pictures are right there.

DEPUTY CHAIR CAREY: Another question.

The buffer zone looks like it's still greenery, in the picture that's color. Is there greenery?

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MR. HOOKS: It's concrete now. He tore up everything and made concrete.

DEPUTY CHAIR CAREY: Was that recently, last year?

MR. HOOKS: Yeah. It's all concrete.

DEPUTY CHAIR CAREY: Is the buffer zone supposed to remain green, if it's a buffer zone?

MS. UNGAR: Yes.

MR. HOOKS: There's supposed to be a fence along also in there. There's no fence. You can see all of that in the pictures.

MS. UNGAR: It depends specifically on the language in the variance. In other areas of the Village Code, buffer zones are required to be a green space.

CHAIRPERSON RHODEN: Thank you. Mr. Greenwood, please address the Board with your answers to anything.

MR. GREENWOOD: In listening to some of the comments that were just made, without being argumentative, I just want to address certain factors.

One of the main factors is, yes, it

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2 was green prior to. As of recent, when I
3 first took over the building, I was visited
4 by the town on more than one occasion to
5 discuss how the building was falling apart,
6 or the greenery area was unkempt, and trees
7 leaning over onto other peoples properties
8 that could possibly damage their property if
9 there is the slightest wind or whatever.

10 So, what I have done is what I
11 thought was improve an eyesore. It was wild,
12 you know, grass and whatever. It was just
13 overgrown. Insects, bugs, as we were told,
14 and animals lived back there. It became a
15 haven for people to illegally dump. We would
16 go back there and find tires, carpeting,
17 household products that were -- obviously
18 didn't walk from the front, it came over the
19 back. You know, the only entrances are
20 through his backyard or from the side,
21 whatever. So, all the things that kept
22 dumping in, I'm not sure where they were
23 coming from, but it was one of those things
24 that there were things being dumped back
25 there.

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2 So, I took it upon myself to make
3 sure that I can't have these overgrown
4 shrubs. When I first moved in, I hired
5 landscapers to come in. We sprayed the DEET
6 to kill off the weeds and overgrown things.
7 That didn't work. It's been so long, so much
8 debris, so many contaminates that were in the
9 area, that this was the only solution. Trees
10 were falling over.

11 He's absolutely right, it was
12 greenery. So much so, when we started to
13 move the soil a little bit, we actually had a
14 tree branch fall and knock down a shed in his
15 backyard. It was a plastic shed. We
16 repaired it, there no issue. But that's how
17 dangerous it was.

18 The fencing. There is a fence that
19 separates. We would go higher with the
20 fencing, if that would be necessary, but the
21 only problem is, the variance also says we
22 can only go six feet on fencing. So,
23 whatever the variance was in 1961, clearly
24 the variance has changed.

25 The spotlight issue. The spotlight

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2 shines down. It is bright. We understand
3 it's a side block. It's a business that has
4 the entrance door right there, which we have
5 to protect, because if it's in the dark, we
6 all know someone could easily break through
7 the door in the dark and enter in. So, we
8 put a spotlight which shines down. I am so
9 sorry that it offends my neighbor. If I was
10 told, maybe I can try to find a way to
11 rectify it, bring the light down, or find a
12 dimmer. In today's time, these lights are
13 all LED set for reasons to very bright and
14 whatever.

15 But some of the issues that I'm
16 hearing -- this is not 1961, this is not 25
17 years ago. This is not even 2018 when a
18 failing business that didn't have any
19 customers didn't have the parking, had ample
20 spots for a failing business. What I'm
21 trying to do, simply trying to do, is to
22 rectify a warehouse before another developer
23 comes in and tries to put it into an
24 apartment building that would definitely
25 increase a whole lot more traffic.

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2 It is a simple business, and that's
3 all I'm trying to do. I'm trying to operate
4 as a person. I'm trying to bring in a few
5 businesses to help circumvent a mortgage and
6 other things that need to be done. Clearly,
7 in order for a business to deal with a 2022
8 mortgage, it would cause a whole lot more
9 noise than what I'm trying to do by creating
10 different variances.

11 With that being an account, I wanted
12 everyone to be aware that, you know, I'm
13 trying to find a simple solution and keep
14 certain things certain ways. But it's not a
15 simple solution for a business to operate in
16 the capacity it needs to operate with the
17 pricing of certain things. So, these things
18 have to be taken into account.

19 I'm well aware it's a buffer zone
20 now. I'm finding a way to kind of appease my
21 neighbors, as well as being an industrial
22 area. You know, it's a balance. I get it.
23 But is it an industrial area. The only
24 reason I came in was because it was on Main
25 Street, and I assumed a main street was more

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2 business. I didn't think that we were -- you
3 know what, I'll address it, because right now
4 I think I'm becoming a little too passionate
5 for my own conversation. So, I'll leave it
6 at that. I think I addressed some of the
7 conversations I heard today, and I'll address
8 future points, based on what I see here.

9 CHAIRPERSON RHODEN: Thank you so
10 much.

11 MS. UNGAR: Sir, just one more
12 question. Did you want to officially enter
13 the Gala agreement in as an exhibit in the
14 record?

15 MR. GREENWOOD: No. If we can, I
16 will rectify it and re-enter it. I'll have
17 it done and have it submitted for the next
18 hearing.

19 MS. UNGAR: Then it will not be an
20 official exhibit at this point in time.

21 MR. GREENWOOD: Right.

22 MS. UNGAR: Okay.

23 CHAIRPERSON RHODEN: Thank you. Do
24 we have anyone else who would like to speak
25 today?

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THE SECRETARY: We do not.

CHAIRPERSON RHODEN: At this time, can I please have a motion to adjourn for additional information.

MEMBER SCOPELITIS: So moved.

MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER PINZON: Aye.

MEMBER SCOPELITIS: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

CHAIRPERSON RHODEN: Call the next application.

THE SECRETARY: Next application is Application 2022-35, 170 North Main Street, Service Business, Section 55, Block 258, Lots 149-150. Luis G. Ramirez. Increase internal seating capacity to 16 seats. Variances: Village Ordinance 210-6A, 210-172(A)4 parking required.

I have one Affidavit of Mailing to be

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

5 (WHEREUPON, the above-referred to
6 document was marked as Board's Exhibit 3, for
7 identification, as of this date.)

8 M A R I A M I R O,
9 having been first duly sworn by a Notary
10 Public of the State of New York, was
11 examined and testified as follows:

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

14 MS. MIRO: Marie J. Miro, M-I-R-O.
15 From Maria J. Miro Design and Drafting,
16 located at 1002 Merrick Avenue, North
17 Merrick, New York 11566.

18 Last time I had an issue with my
19 voice echoing. So, I'll try not to make
20 anything echo.

21 I was here at the last meeting and I
22 presented a parking study for this property
23 at 170 North Main Street. I'm here tonight
24 with Luis Ramirez; he's the owner of the
25 building. And I'm also here with Ed Peralta,

1
2 who is the owner of the business, North Main
3 Food.

4 Basically, when I was here last time,
5 there is a Lot 153 that Luis Ramirez does
6 allow parking for employees. But during my
7 presentation -- and I was there today. A
8 majority of the people that go to this deli
9 are people from the neighborhood. The four
10 people that were in the business today
11 getting their sandwiches -- I actually had to
12 grab something from my car -- I saw them walk
13 down the street to their house. The
14 employees of Eddie Peralta, most of them are
15 walker, they do not have vehicles. Eddie has
16 his car and one other person, and I believe
17 they have different shifts.

18 So, what I'd like to submit to the
19 Board tonight is an affidavit from Luis
20 Ramirez stating that we're allowed to use
21 that parking lot. They requested that the
22 last time I was here before the Board.

23 Also, I want to bring to the Board's
24 attention, and maybe I didn't make it clear
25 the last time, these seats are existing, and

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2 store condition. So, it's been existing.
3 Especially during COVID, people want to
4 spread out; they don't want to sit next to
5 the each other. So the extra tables will
6 alleviate that.

7 MS. UNGAR: These will be Applicant's
8 B and C.

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

12 DEPUTY CHAIR CAREY: My question to
13 you, before you begin, you mentioned
14 something. You said the restaurant was
15 already approved for ten. When you went to
16 the renew business license, it was for ten?

17 MS. MIRO: Yes.

18 DEPUTY CHAIR CAREY: Now you are
19 seeking six additional or 16 additional, just
20 to clarify.

21 MS. MIRO: No, 16 total. 16 total.
22 It's four booths, because the booths come in
23 four. So, if you look there. Usually with
24 these businesses, they would allow 12 without
25 any relief from the Board, because that

1 usually constitutes -- if you will, that
2 constitutes a deli use and you would be
3 allowed to have 12 seats in there. Because
4 they're connected and people come in, they
5 eat their sandwich and they leave. They do
6 service the Social Security building down the
7 block. People do come to this deli. It's
8 very clean, good food.

9
10 MS. UNGAR: If you have it for 12
11 seats, there's no parking variance required.
12 Once you go over that, you're subject to the
13 rule of one parking space for every three
14 seats. Hence the calculation of six parking
15 spaces are needed for 16 seats.

16 MS. MIRO: And then with the new New
17 York State code, we do what's called an
18 occupancy plan. So, that makes it seems like
19 there's more people in the store when there
20 actually isn't, it's counter space. Every, I
21 believe, seven square feet you have a person
22 standing. Everything is different. The
23 kitchen is 200 square feet. That was on the
24 last sheet of my plan. So, you'll see that.

25 MEMBER HAWKINS: I see you have four

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booths here. You're not looking to add additional seating, no?

MS. MIRO: No. This has been existing for 14 years.

DEPUTY CHAIR CAREY: You're adding one more booth?

MS. MIRO: One booth. He wasn't asking -- I apologize. I think it got a little confusing at the last hearing that maybe we were coming in by changing the use. We were trying to keep everything that's there. We hopefully don't have to take away any seating.

MS. UNGAR: One of the additional things that I want to note is that I believe Lot 153 is zoned residential. I don't believe it's a commercially zoned lot.

MS. MIRO: Okay. I'll have to check that.

MS. UNGAR: As such, an open air parking lot wouldn't be a permitted use for Lot 153.

MS. MIRO: Can you say that again? I'm sorry.

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MS. UNGAR: Open air parking lots aren't allowed in the Village, in general. We allow parking in connection with a business. I believe Lot 153 may be zoned residential. In which case, business parking would not be permissible. I think that should be confirmed, but I believe it may be residential.

MS. MIRO: He said he has the deed here. It is vacant land, commercial.

MS. UNGAR: I want to check with the Village of Freeport how they have it classified. It is possible that the county might have it classified differently.

MS. MIRO: Can I submit this anyway, so when you go to check?

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

MS. MIRO: I've seen different lot numbers with Freeport too sometimes.

CHAIRPERSON RHODEN: I think some of the members want to clarify. The business, when it was purchased, you originally had 16

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or 12?

MS. MIRO: We were approved for ten. This is when I went into the Building Department records. When Eddie Peralta purchased the business, 16 booths were existing.

DEPUTY CHAIR CAREY: So, you didn't add anymore, you're just getting a variance. You're not adding anything, they're already there?

MS. MIRO no.

CHAIRPERSON RHODEN: That's why I think we're confused. We thought you were trying to add one, because the way you made it seem was you had ten seats, seating for ten.

MS. MIRO: Correct. Not to add to the confusion, but in the code you're allowed 12 seats for a deli. You are allowed the 12 seats without going for a variance. Once you're over 12 --

CHAIRPERSON RHODEN: That's why you're here. I just want to make sure we're clear.

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DEPUTY CHAIR CAREY: I have no further questions.

MEMBER HAWKINS: I have one question. There is an agreement, the affidavit that we have here -- this came up with the other applicant -- do you know when this is in effect from and until?

MS. MIRO: I'm not sure, but I have Mr. Ramierz here tonight. He's the owner of the lot.

How long is that lease for, for the parking?

DEPUTY CHAIR CAREY: We need to have him sworn in.

L U I S R A M I R E Z,
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. RAMIREZ: Luis Ramirez. 151 Rose Street, Freeport.

What is the question?

MEMBER HAWKINS: Hi. I just want to

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know how long is this in effect for, as far as allowing them to park?

MR. RAMIREZ: Well, the previous lease was ten years. We want the new lease now, hopefully.

MEMBER HAWKINS: It will be in effect --

MR. RAMIREZ: Correct, for another ten years.

DEPUTY CHAIR CAREY: This affidavit is not a lease. You're going to have a separate lease agreement with him?

MR. RAMIREZ: Yeah. Two different things.

DEPUTY CHAIR CAREY: We would like a copy of that lease agreement as part of the record just to clarify everything. As well as right now we're trying to find out the status of that site, if it's residential versus commercial. It may be difficult. We may have to postpone this.

MR. RAMIREZ: It could be residential. But because the property is attached to the building, it's being used for

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the same purpose the whole time. I mean, I don't know how you want to look at it.

CHAIRPERSON RHODEN: I think we're waiting. The attorney is looking to confirm that.

DEPUTY CHAIR CAREY: The question being whether the county has the property listed as the same designation as the Village. That could be an issue. You may need to come back.

MR. RAMIREZ: That's correct.

MS. MIRO: This will be the third time we have to come back then.

MS. UNGAR: I don't have access to the Freeport records here. I can say that the county does have it listed as commercial. I'm pretty sure Freeport has it listed as a residential lot. There may be -- I believe it's being assessed as such, as an empty residential lot. If it were to be used for commercial purposes, there may be more steps taken to make that useable in the Village. Right now, I do not believe it is. So, I want to check on that when I have access to

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the Freeport zoning maps and information.

MS. MIRO: Okay.

CHAIRPERSON RHODEN: Also, we want to have the letter provided to reflect this will be in effect with the lease. With the lease agreement.

MS. MIRO: Yes.

CHAIRPERSON RHODEN: The terms of the lease.

MS. MIRO: We should come back, right?

MS. UNGAR: I think that would be best, just to make sure that everyone has all the information available when the Board is going to make a decision.

MS. MIRO: We'll come back with a lease.

CHAIRPERSON RHODEN: Yes, you can have this.

MS. MIRO: I do have one question for the Board now. If this is residential, does this become part of our variance to convert it to commercial?

MS. UNGAR: It might have to be added

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2 to the application, because it wasn't part of
3 the original application. So, it may have to
4 be added and re-noticed with an additional
5 variance.

6 MS. MIRO: With the Building
7 inspector, in other words, right?

8 MS. UNGAR: Excuse me?

9 MS. MIRO: With the Building
10 inspector or your department?

11 MS. UNGAR: No, the Building
12 Department is the one who issues denial
13 letters. You'll get an updated denial letter
14 of how it's being proposed. First I want to
15 find out if it is indeed -- how Freeport
16 zones it and assesses it, and then go from
17 there. I'm assuming that your contact
18 information is within the zoning file. I'll
19 let you know in a day or two.

20 MS. MIRO: That's fine. Thank you.

21 CHAIRPERSON RHODEN: Thank you very
22 much.

23 Do we have anyone who would like to
24 speak for or against this application this
25 evening?

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THE SECRETARY: Yes, Lavette Hooks.

MS. HOOKS: Good evening, again.

This property is exactly directly across the street from 179. All of the issues that we're concerned with 179 are also issues with 170. But now I'm hearing there is a potential parking lot. What is the address of that parking lot?

CHAIRPERSON RHODEN: Three Washburn Avenue, I believe -- sorry, no. Three Washburn Avenue.

MS. HOOKS: Is that the location where they saw the landscaping trucks?

CHAIRPERSON RHODEN: I'm sorry, you can direct any questions to the Board.

MS. HOOKS: I'm sorry. Is that the location where they currently store the landscaping trucks?

CHAIRPERSON RHODEN: I could not answer that question for you. We would have to verify that with the applicant here today.

DEPUTY CHAIR CAREY: He can speak following you.

MS. HOOKS: Yeah, because that's not

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paved or anything. So, I'm wondering how would that be used as patron parking?

CHAIRPERSON RHODEN: That's not for a permitted use. I don't know if you were here at the last meeting.

MS. HOOKS: No, I wasn't.

CHAIRPERSON RHODEN: I don't recall seeing you here, but it wasn't for parking for patrons, it was parking for employee parking.

MS. HOOKS: Right. But the variance today is for patron parking, correct?

CHAIRPERSON RHODEN: No.

MS. HOOKS: No?

MS. UNGAR: The variance for a sit down use is calculated on the basis of seats.

MS. HOOKS: So, according to what I'm reading, they are short six parking spaces, correct?

MS. UNGAR: Yes.

CHAIRPERSON RHODEN: Yes.

MS. HOOKS: That parking is for the patrons or for the employees?

MS. UNGAR: The calculation

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calculates on the basis of seats.

MS. HOOKS: Just six.

MS. UNGAR: It does not break it down in that way.

MS. HOOKS: You just need to be able to park six cars.

MS. UNGAR: Correct.

MS. HOOKS: Okay. So whether the lot is paved or not doesn't have any bearing. Does that make it a true parking lot, if there is no pavement?

MS. UNGAR: That is another factor that could go into part of the determination of whether that lot could be used in what way.

MS. HOOKS: That was part of my question. If it's the lot that I'm thinking it is that sits right next to the Chinese restaurant, that's where the landscaping trucks are storing and it's not paved. And that's one of the blocks that has the traffic cones. So, all of the issues -- I don't think it's necessary for me to restate that. I'm not sure because this is a different

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case. But the safety issues, the nuisance issues, all of that takes into account for this location also, because they're right across the street from the previous business.

CHAIRPERSON RHODEN: Understood.

MS. HOOKS: Thank you.

CHAIRPERSON RHODEN: Thank you very much. Do we have anyone else who would like to speak for or against this application this evening?

THE SECRETARY: We do not.

CHAIRPERSON RHODEN: At this time, can I have a motion to adjourn for additional information?

MEMBER SCOPELITIS: So moved.

MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER PINZON: Aye.

MEMBER SCOPELITIS: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

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

THE SECRETARY: Yes. The next application is 2022-37, 635 Nassau Avenue, Residence A, Section 62, Block 186, Lot 127. Joseph Micculli. Construct a new 407 square foot deck. Variances: Village Ordinance 210-6A, 210-43 required yards.

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 identification, as of this date.)

J O S E P H M I C C U L L I, 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. MICCULLI: Joseph Micculli. 635 Nassau Avenue, Freeport, New York 11520.

CHAIRPERSON RHODEN: I'm sorry.

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MR. MICCULLI: I'm here for approval of a second story deck, southern elevation of our home.

CHAIRPERSON RHODEN: Okay.

MR. MICCULLI: I had applied and there was a letter of denial.

CHAIRPERSON RHODEN: Tell us a little bit about your need for this deck, what you're trying to do.

MR. MICCULLI: Well, we're just trying to utilize the yard to its fullest capacity and looking to have a second story deck put on the house so we can utilize the view over the waterfront.

CHAIRPERSON RHODEN: You currently have a deck already?

MR. MICCULLI: No, no. That's not what I'm saying. It's not a second deck, a second story deck.

CHAIRPERSON RHODEN: That's why I was hesitant. I just want to make sure.

MEMBER HAWKINS: Excuse me. The deck will be on the side where you have your air conditioning unit. It that where you're

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looking to put it?

MR. MICCULLI: Yes. That air conditioner is coming out.

MEMBER HAWKINS: Are you putting an opening to have access from your house?

MR. MICCULLI: Yes. There's going to be a sliding door up there.

MEMBER HAWKINS: Was your house raised.

MR. MICCULLI: No, it was not.

MEMBER HAWKINS: That deck will be coming out of a bedroom, I assume.

MR. MICCULLI: Right now it's the living room/dining room area.

DEPUTY CHAIR CAREY: You'll have stairs that go down into your yard?

MR. MICCULLI: Yes.

MEMBER HAWKINS: I'm looking at the picture now. There is not much of a backyard there. You have more of a side yard than you do backyard?

MR. MICCULLI: There's more side yard than backyard. It's a cul-de-sac. It's set back.

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MEMBER HAWKINS: Right. Right.

DEPUTY CHAIR CAREY: When you look out the deck, I see on the south elevation, the site plan shows it. What are you going to be looking at; your neighbor's yard, the bay? Are you on the water there?

MR. MICCULLI: Pretty much side yard of my neighbor over to the bay. It's right by Sea Breeze Park. So, it takes a view from the east and the south. And the neighbor's house, because it's a cul-de-sac, is in line with the front of the house. His side line is in the front of the house. We will not be looking into his house.

DEPUTY CHAIR CAREY: You won't be looking into his bedroom or anything?

MR. MICCULLI: No. No.

DEPUTY CHAIR CAREY: I didn't know because of how that orientation was.

MEMBER HAWKINS: Are your neighbors aware of what you want to do?

MR. MICCULLI: Yes.

MEMBER HAWKINS: They have no issues with that?

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MR. MICCULLI: No.

MS. UNGAR: So, the way the description reads, it appears -- it makes it appear like your front yard deck is only going to be six feet with the addition of this deck. This deck will be in line with the rest of the front of your house, correct?

MR. MICCULLI: Yes.

MS. UNGAR: It's not jutting out more towards the front of your house. It's six feet because of the cul-de-sac and the fact the property juts in, not that you're building out more into the front of the house.

MR. MICCULLI: Right. Actually, the front of the house has about a -- I'm just guessing -- a 28, 32 inch overhang eave, and we're going to start behind that. So, it's not even with the very front of the house.

CHAIRPERSON RHODEN: Okay.

MR. MICCULLI: So, I believe the situation was denied because it was too close to the street or the sidewalk.

MS. UNGAR: The front yard setback is

1
2 supposed to be 20 feet. I don't know what
3 the rest of your house is. But because of
4 the cul-de-sac pulling out the corner of your
5 property, although it's in line with the
6 front of the house, the very edge is most
7 close to the cul-de-sac, it's six feet from
8 the front of property.

9 MR. MICCULLI: Right. Now I don't
10 know. I thought we submitted drawings
11 earlier. The actual front of the deck is
12 going to run approximately ten feet and then
13 angle to coincide with the cul-de-sac.

14 DEPUTY CHAIR CAREY: From the site
15 plan, it looks like there's a substantial
16 distance between the southern end of your
17 deck. Really where the cul-de-sac curves is
18 where you get close to the sidewalk.

19 MR. MICCULLI: Right. Where it
20 begins to curve, yes.

21 DEPUTY CHAIR CAREY: I see you
22 actually ameliorated that. I don't have any
23 more questions.

24 CHAIRPERSON RHODEN: I don't have any
25 additional questions. Does anyone have any

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questions?

(No response was heard.)

CHAIRPERSON RHODEN: We have no questions, sir.

MR. MICCULLI: Okay.

CHAIRPERSON RHODEN: Thank you very much.

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

MR. MICCULLI: I'd like to speak for.

THE SECRETARY: We do not.

CHAIRPERSON RHODEN: You just did. Thank you.

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.

DEPUTY CHAIR CAREY: Aye.

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CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

CHAIRPERSON RHODEN: Next application on tonight's calendar.

THE SECRETARY: The next application is 2022-38. 87-89 South Main Street, Business B, Section 55, Block 205, Lot 127. Meridian Lights, Inc. Construct a new four-story mixed use building, first story to be used as retail, second story, third story and fourth story to be used as residential apartments. Variances: Village Ordinance 210-6A, 210-80A, all uses permitted in Residence AA, Residence A, Business AA, and Business A Districts (except residential), 210-172A2a, required parking; 210-172A12, require parking; 210-49C, open space; 210-49D, recreation space.

I have one Affidavit of Mailing and one Nassau County Planning Commission recommendation to be entered into the record as Board's Exhibits. These will be Board exhibits 1 and 2 for this individual hearing.

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(WHEREUPON, the above-referred to documents were marked as Board's Exhibits 1 and 2, for identification, as of this date.)

MR. BROWNE: Good evening, Board and Chair. Christian Browne. McLaughlin and Stern 1122 Franklin Avenue, Garden City for the applicant. I have Mr. Wayne Muller here, as well, our traffic engineer.

87-89 South Main Street. The Board is probably familiar with this matter, it's been before you a number of times, and the history of the application is laid out for you in the zoning denial letter. I will just give a brief overview, so as not to belabor the record.

This building is already under construction. It was approved by this Board primarily for parking relief. It was approved as a one-story ground floor retail with two stores and then two stories of apartments above. The building permit was issued and construction is underway. What is before you tonight is a request to add one more story, a fourth floor, to add a total of

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four additional apartments: Three one-bedrooms and one two-bedroom apartment.

Just briefly, again. The original building that was proposed and approved here for the retail with the two stories of apartments above was eight units. That unit mix was six two-bedrooms and two one-bedroom apartments. That was the original plan that was put before this Board. That application required 29 parking spots where three were provided, and the Board granted that variance of a 26 car parking variance.

At the time that the applicant went to construct the building, there were certain logistical issues, code compliance issues, with the way the building had to sit on the lot and the need to have certain distances for windows to other neighboring buildings. So, the plans were amended to accommodate those building code issues. Because the building had to shrink to a degree, the unit mix changed. So, instead of six two-bedrooms and two one-bedrooms, what was and has been constructed is six one-bedrooms and two

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2 two-bedrooms with the retail. Under that
3 configuration, that configuration requires 27
4 parking spots. So, two fewer than the
5 original. Again, three are provided. So,
6 that equates to a 24 car variance, if the
7 building were left as it is today, instead of
8 a 26 car variance which you originally
9 granted, the building as constructed will
10 only require a 24 car variance.

11 Now, what's proposed before you now
12 is this addition of one floor. So, that
13 brings us to adding the four apartments I
14 mentioned: Three one-bedrooms and one
15 two-bedroom unit is proposed, a total of 12
16 units in the building, where originally we
17 had eight. And the parking calculation comes
18 out to 34 spots required for everything:
19 Retail and all the apartments. Again, three
20 are provided, coming to a 31 car parking
21 variance, which is five more than you
22 originally approved way back when in the
23 first configuration.

24 So, the original approval was 26.
25 What we're asking for today with this unit

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2 mix which is presently under construction and
3 what's requested comes out to 31. So, we're
4 asking for an additional variance of five
5 cars. If that's clear.

6 I went over these numbers with
7 Ms. Ungar and the Building Department earlier
8 today to make sure we were all on the same
9 page, and I think we are.

10 MS. UNGAR: Yes.

11 MR. BROWNE: With that said, other
12 than the parking, everything else in the
13 building remains the same. It does not
14 violate the height requirement, it doesn't
15 violate any other zoning regulations, with
16 the exception of the open space and
17 recreation space which is exactly the same as
18 it was before, utilizing the rear portion of
19 the property for the open space backyard,
20 which you approved back on the original
21 design.

22 So, the additional height itself
23 doesn't violate any other provision of the
24 code. It does increase our need for parking
25 by the five spots. Mr. Muller will give some

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2 brief testimony now that we will continue to
3 utilize the nearby municipal lot, which his
4 previous study showed it would be able to
5 accommodate, we are argue is a
6 non-substantial increase over what you had
7 previously granted.

8 I understand you may be saying why
9 are you back here again? I guess I would
10 just tell you two reasons:

11 One, the economics of the project
12 have changed for two reasons:

13 One, we had to reconfigure the unit
14 mix. So, it was originally going to be the
15 two two-bedrooms, now it comes out to a
16 building with only three two-bedrooms. So,
17 half of what had been proposed before, which
18 makes the changes, the calculation on the
19 rents a little bit.

20 And just the economic condition we
21 find ourselves in over the course of, as you
22 know, the last year, 18 months, the cost of
23 doing construction has skyrocketed. I spoke
24 to my client today. Some of the materials
25 that they need to purchase, basic building

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2 materials, the price has more than doubled,
3 and the overall construction price of the
4 project is probably going to be about twice
5 what it was originally projected to be.

6 I know you're not here to make money
7 for the applicant, but there is, obviously, a
8 lot of economic pressure and it's increasing
9 on development right now. Having additional
10 units would help offset some of that
11 additional cost that they're occurring for
12 construction.

13 Given that the building is under
14 construction now, if we're going to do this,
15 now would be the time where they have the
16 ability to add the extra floor, if the Board
17 grants it. Again, it's a swing of five cars.
18 Three of the apartments are one bedrooms
19 which would generate, at the most, one car,
20 and one additional two-bedroom.

21 I would add, before I turn it over to
22 Mr. Muller and your questions, that if the
23 Board were to consider allowing the
24 additional story and thought that a different
25 unit mix would be appropriate, say more

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2 one-bedrooms, the applicant would be amenable
3 to a condition of that kind, because that
4 would perhaps reduce the -- could reduce the
5 requirement from five to, say, three. So, we
6 are open to that. The applicant's goal is to
7 try to get a few more units in here for the
8 reasons I mentioned, and we would be flexible
9 in terms of the proposed unit mix overall.

10 With that, unless you have questions
11 for me, Mr. Muller will give a little
12 testimony.

13 MEMBER HAWKINS: I have a question.
14 I know you said it doesn't violate a height
15 requirement, but are there any other
16 four-story buildings on that block at all?

17 MR. BROWNE: I haven't been there
18 since the last application, but I think
19 across the street there's a four-story
20 building.

21 MEMBER HAWKINS: Four story?

22 MR. BROWNE: I think it might be. I
23 think it's a church directly across the
24 street.

25 MEMBER HAWKINS: I'm not sure about a

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church.

DEPUTY CHAIR CAREY: Latter Day Saints?

MR. BROWNE: I think it is. It's a pretty tall building. I do think there are other buildings on that stretch that are of comparable heights. We don't go over the height limit, but I think the building right across the street, which I believe is a Latter Day Saints church, is higher. But I'm going from my memory of the previous case. I didn't go back. When we first made the application, I submitted photos and so forth looking at the height. That's my recollection.

MEMBER PINZON: I just want to confirm. Is building is the one that is located right next to Burger King?

MR. BROWNE: It is.

MEMBER HAWKINS: No, I believe there is a building in between the Burger King.

MR. BROWNE: It's nearby the Burger King. There may be -- I don't know if there's one building.

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MEMBER HAWKINS: There's one building between, a yellow siding building between.

MR. BROWNE: I think it's one.

CHAIRPERSON RHODEN: Is that another restaurant?

MR. BROWNE: Yes, it is. This is one north of that restaurant.

Do you want to hear Mr. Muller briefly, unless you have further questions for me.

CHAIRPERSON RHODEN: I don't have any further questions.

MR. BROWNE: Thank you.

W A Y N E M U L L E R,
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. MULLER: Wayne Muller from Robinson and Muller Engineering. Our offices are at 15 Elm Street, Huntington, New York. I testified before this Board on the previous application.

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2 Just for the record, I'd like to
3 submit copies of the analysis that I prepared
4 previously in regard to the subject
5 application. I have copies for everyone.

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

9 MR. MULLER: I'll briefly discuss the
10 contents of my report and the information
11 that was brought up by Mr. Browne. As
12 indicated by Mr. Browne, we are looking to
13 construct a fourth story. Technically, it's
14 an existing three-story building. The
15 parking requirement, as it relates to the
16 addition of the fourth floor, will increase
17 the parking requirement by a total of five
18 parking spaces from the 27 that was -- from
19 the 29 that was previously required to 34
20 that's currently required. The property
21 provides three parking spaces, and there will
22 be an increase to five required parking
23 spaces as a result of the construction, if we
24 were to gain approval tonight.

25 As indicated in the report that I

1 testified previously for this application,
2 based on the times that we observed the
3 parking area, there was more than enough
4 parking to accommodate other demands by the
5 previously approved project. The data
6 contained within our report indicates that
7 there will be more than ample available spots
8 within that area to accommodate the
9 additional five vehicles.
10

11 I would also like to point the Board
12 to their copy of their decision on the prior
13 approval. I guess that would be to the
14 letter dated October 25, 2019 by Ms. -- I
15 don't know how to pronounce it
16 Gellis-Gianaca. Is that good?

17 MS. UNGAR: Mandi.

18 MR. MULLER: Mandi, yes. The
19 approval is dated October 24, 2019 and it
20 summarizes my testimony from the previous
21 application, and it indicates that the
22 parking study looked at municipal and
23 on-street parking, and the on-street parking
24 is sufficient to meet the demands of that
25 project. And I believe the addition of five

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2 additional vehicles will not substantially
3 change the conditions in the area, if the
4 Board were to seek to grant this application
5 that's before the Board tonight.

6 That's my testimony. If there are
7 any questions, I'll be more than happy to
8 answer.

9 One thing I did do on this report, my
10 assistant happened to staple the approval
11 notice on the back. That was not submitted
12 as part of the record in the prior hearing.

13 MEMBER HAWKINS: I believe this is
14 the second time you testifying before the
15 Board. I know when we spoke to couple other
16 engineers, we ask them if they could submit
17 their studies prior to our meeting, that way
18 we have a chance to look at it. There's a
19 lot of numbers here to look at while
20 listening to you. So, in the future.

21 MR. MULLER: Sure. I'm sorry, this
22 was a study prepared previously.
23 Theoretically, it was made part of the record
24 on the prior approval.

25 CHAIRPERSON RHODEN: It wasn't

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updated?

MR. MULLER: It wasn't updated.

CHAIRPERSON RHODEN: It's from the original submission?

MR. MULLER: Absolutely. In the future, yes, I will submit our reports in advance of the public hearing, in order to allow the Board the proper time to review the information contained therein and, therefore, come up with pertinent questions on the stuff that's being presented to the Board. I apologize for that.

MEMBER HAWKINS: That's okay. Thank you.

MR. BROWNE: Mr. Muller, I want to ask you. In the previous findings there was about 20 percent available parking spots. I think that was the finding.

MR. MULLER: Correct. As indicated in the approval, we found that essentially on the date that we collected the actual findings, there were 20 percent available spaces. That's why we don't believe the addition of five additional required cars

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will create a significant impact to that area.

MR. BROWNE: Based your experience and the Institute of Traffic Engineers data, three one-bedroom and one two-bedroom, in reality, what's your sense of how many additional cars?

MR. MULLER: It's probably around four vehicles, with three one-bedrooms and one two -- bedroom. Between four and five. The total of five is sufficient. When we start talking about vehicles.

The one thing we didn't include in our analysis, I believe, is the proximity to the railroad. And when most people start to come back to work, it tends to decrease the amount of cars per unit, because people will tend to not have a vehicle, get on the train, go to their place of employment and then come back and save some money because they don't need to have a car.

In other places that I performed studies and analysis, similar to the Town of Brookhaven, right by the Ronkonkoma Railroad

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2 Station is a development called The
3 Ronkonkoma Hub. It's a transit oriented
4 development. Essentially, in that area of
5 Long Island, they're trying to construct what
6 you have here in Freeport, which is downtown
7 that's by the rail. They're trying to build
8 it. It's been fairly successful. It's got
9 multiple stages. Essentially, in some of the
10 western most towns on Long Island, transit
11 oriented development is a way of life. A lot
12 of people live in areas that are in close
13 proximity to the rail to take advantage of
14 that, so they don't need two cars, maybe they
15 only need one for the family. People walk to
16 the railroad stations.

17 That's all I have to say.

18 DEPUTY CHAIR CAREY: Have you ever,
19 as a traffic consultant, come before a Zoning
20 Board after you have already been approved
21 for a project to submit for a larger project
22 like this?

23 MR. MULLER: Yes, all the time.
24 Essentially, yes, I have testified numerous
25 times. Mainly more like retail shopping

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2 centers where there would be a change in
3 tenancy that would then have a different
4 requirement to parking, then we go back and
5 ask for modifications to the project. It's
6 not necessarily unusual for that to happen.
7 But I think in this circumstance the change
8 in the unit mix is propagating a lot of this
9 discussion here tonight. A certain number of
10 two-bedrooms verses one-bedroom, the unit mix
11 changed, and now the applicant is requesting
12 additional relief in order to offset some of
13 the damage that they believe occurred to
14 them. It's not anyone's fault here tonight.
15 They are just trying to see if the Board will
16 accommodate that. That's my opinion. I
17 don't think it's unaccountable.

18 CHAIRPERSON RHODEN: Thank you.

19 DEPUTY CHAIR CAREY: I have the same
20 question for you, sir, as an attorney. Have
21 you read the Planning Commission's response
22 to the Zoning Board?

23 MR. BROWNE: I looked at it when it
24 came in.

25 DEPUTY CHAIR CAREY: It did say

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2 something along the lines that this is a
3 precedent setting situation for applicants to
4 resubmit applications for larger scale
5 projects after the Village approved the
6 project.

7 I was wondering. This is the first
8 time for any of us. I was interested in what
9 you thought about that.

10 MR. BROWNE: Well, I'll try and be
11 judicious in what I say about the Planning
12 Commission. One of the issues that comes up
13 repeatedly with the Planning Commission is,
14 unlike a zoning board which, of course, here
15 is our application, here is what's really
16 going on, so-to-speak, we give some context,
17 we make an argument to you.

18 The Planning Commission doesn't hear
19 from anybody. They're in a room looking at
20 papers. So, they tend to make a lot of
21 factual assumptions about what's going on
22 that aren't accurate or they don't have any
23 context to do it.

24 So, I don't see this case as
25 precedent setting or some wild departure from

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2 what was permitted before. Before, the
3 original idea was eight units, now it's 12.
4 It was a different mix of bedrooms. It's not
5 a tremendous difference in parking, in
6 reality. It's an increase, like Mr. Muller
7 said. Probably a reality it will account in
8 four to five cars, which is right in line
9 with the code.

10 DEPUTY CHAIR CAREY: Which is about a
11 20 percent increase, right, 25?

12 MR. BROWNE: Roughly. The five spots
13 over what was originally granted. Like I
14 said, with respect to the Planning
15 Commission, again, they have historically
16 over the years encouraged these mixed uses in
17 downtown developments in proximity to the
18 train. That's been something that Nassau
19 County and the Nassau County Planning
20 Commission has spoke out in favor of. I
21 think it's overstating it, in a case like
22 this, to say it's a precedent setting. I
23 could understand more if it was a massive
24 expansion or we were asking to go way above
25 the height requirement. It remains the same

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project. It's a mixed use development with two retail stores.

Because the height allows for it and because of the economic circumstances and the change in the unit mix as we said, and because construction is at a point where it can still accommodate this extra story, we're asking. We think, overall, the benefit to the applicant outweighs the detriment that would be created by the need to accommodate a couple of more cars in the Village parking lot.

CHAIRPERSON RHODEN: Will this be a building that will be out of character with the surrounding? I mean, it's going to be way bigger than any of the other buildings.

MR. BROWNE: It will be taller than some.

CHAIRPERSON RHODEN: You would say it not out of character with the neighborhood?

MR. BROWNE: Not in terms of use. There's a lot of mixed use buildings.

CHAIRPERSON RHODEN: I'm talking about visual height.

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2 MR. BROWNE: Right. But the height
3 is permitted. I would think it's a benefit
4 to helping revitalize that stretch of Main
5 Street.

6 CHAIRPERSON RHODEN: I just want to
7 make sure we're talking about the character
8 of the neighborhood, whether it will be out
9 of character for that area to have a building
10 of that size. It will be bigger than any of
11 the other buildings in that area.

12 MR. BROWNE: That may be the case.
13 But I would just submit it does fit within
14 the zoning parameters of what's allowed.
15 It's a parking issue that's before you.

16 DEPUTY CHAIR CAREY: My question is
17 the parking. When you have a zoning
18 application that's been denied and the
19 applicant asks for a zoning approval of a
20 variance, there is a hardship that you
21 created. You're talking the person -- I
22 don't know who the developer is, an
23 individual or a company, whatever. At the
24 same time, the cost of construction has gone
25 up -- I'm in the construction industry -- I

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2 know that has gone up. But rent has also
3 gone up and is a historical high. The
4 financial hardship question is really kind
5 of -- doesn't really sway. But I do think,
6 in a way -- remind me again how many spots we
7 allowed over the variance the last time?

8 MR. BROWNE: Originally you allowed
9 26. 26 over the variance. The variance was
10 for 26 spots.

11 DEPUTY CHAIR CAREY: It was quite
12 generous. It's kind of like asking for an
13 inch and taking a mile. I don't know if
14 anyone else agrees, but it feels like that a
15 little bit. You are already under
16 construction, and you come now to make it
17 bigger.

18 MR. BROWNE: I understand where
19 you're coming from. I think it's a very
20 legitimate point. My suggestion, I guess,
21 would be looking at it in full context. The
22 zoning test always boils down to benefit to
23 the applicant versus detriment to the area,
24 which outweighs the other. Is it here? Is
25 it more detrimental to the neighborhood to

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2 have the extra story with the extra need for
3 parking, or is the benefit to the applicant
4 outweighed by that? That's the way I think
5 is the proper legal way to look at it, and I
6 would submit it for your consideration. But
7 I understand that it does look a little
8 strange to a Board to have somebody come back
9 and ask for a little bit more after getting
10 that far down the road. It's not typical.

11 DEPUTY CHAIR CAREY: They haven't
12 started construction of the fourth floor
13 without an approval?

14 MR. BROWNE: No, they have not.
15 Whichever way you go, if you could decide,
16 because they want to know whether they're
17 going to close it up or move forward with the
18 extra story.

19 Again, I understand what the Planning
20 Commission is saying, I understand the
21 trepidation where there is a little
22 reluctance. What I'm suggesting is that in
23 reality, it does fit within the code. The
24 increase of cars is not -- it's not going to
25 make a substantial difference. So, the

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benefit outweighs the detriment.

CHAIRPERSON RHODEN: We also have businesses in that area. We also have other applicant's that can come and do the same. So, we have to look at that as well. It's a very heavily populated area already. So, those are other considerations that will go into effect as well.

MR. BROWNE: Sure. My last point is, again -- I won't make a further offer, but if the Board were to come back and say, all right you can do but only have X number units, or eliminate the two-bedroom, the applicant would accept those types of conditions.

DEPUTY CHAIR CAREY: But he would still want to build the fourth story?

MR. BROWNE: We would build a fourth story with a lesser parking requirement.

DEPUTY CHAIR CAREY: Maybe it would be set it back and not so monolithic and cast a shadow around it.

MR. BROWNE: I don't know.

DEPUTY CHAIR CAREY: You know with

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cakes, they get smaller at the top.

MR. BROWNE: That I'm not sure whether that's possible.

DEPUTY CHAIR CAREY: I'm curious ow they would make this building.

MR. BROWNE: What I'm suggesting is, instead of having the two-bedrooms, for example, it could become a one-bedroom, which will reduce the parking requirement, if that made the project more palatable to the Board.

DEPUTY CHAIR CAREY: Thank you.

MEMBER PINZON: That's reducing two parking spots, is that correct, mathematically speaking?

MR. BROWNE: Basically, two parking spots, yes.

MEMBER PINZON: I'm sorry that I wasn't here, but I have a question. The parking itself is suggested to be on the south side of the building?

MEMBER HAWKINS: The east side.

MR. BROWNE: It's behind it.

MEMBER HAWKINS: It's the east side, right.

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MR. BROWNE: Yeah, the east side.

DEPUTY CHAIR CAREY: That's a study that was done?

MR. BROWNE: Those are approved spots that will be there regardless.

MEMBER PINZON: Thank you.

MR. BROWNE: Unless you have anything else, we'll rest.

CHAIRPERSON RHODEN: I have nothing more at this time.

MR. BROWNE: 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.

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

MEMBER SCOPELITIS: So moved.

DEPUTY CHAIR CAREY: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER PINZON: Aye.

MEMBER SCOPELITIS: Aye.

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DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

CHAIRPERSON RHODEN: Thank you very much.

Please call the next application on tonight's calendar.

THE SECRETARY: Yes. The next application is 2022-39, 68 Hampton Place, Marine Industrial, Section 54, Block 319, Lot 234. Vishon Ganesh. Maintain pergola in rear yard. Variances: Village Ordinance 210-6A, 210-43A(2) required yards.

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 identification, as of this date.)

V I S H O N G A N E S H,
having been first duly sworn by a Notary Public of the State of New York, was

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examined and testified as follows:

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

MR. GANESH: Vishon Ganesh. 68 Hampton Place, Freeport.

Good evening. My application is to maintain a pergola in my rear yard. This is just for sunshade in the summer. I live around an industrial area. I visibility all the way around. My neighbor, he does wiring for cars, he has a container up to my fence; I don't have a problem with that. My other neighbor in the back has boats and trailers parked; I don't have a problem with that.

My pergola is just for sunshade. I have one of those materials that rain passes through so there's no weight on it, and I take it off in the winter.

MEMBER HAWKINS: A canvas top is on it?

MR. GANESH: Yes, a canvas. It's the one where water goes through.

MEMBER HAWKINS: What is the size?

MR. GANESH: It's about, I think, 20

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by 30, the canvas.

CHAIRPERSON RHODEN: It was just built?

MR. GANESH: It was built last year.

DEPUTY CHAIR CAREY: You have a concrete base that's built into the soil, so it's solid?

MR. GANESH: Yeah. The whole backyard is paved.

MEMBER HAWKINS: What did you say about your neighbor and the container?

MR. GANESH: He's my neighbor. He has his commercial business there and there's a container right up to my fence. I don't have a problem. It's been there since I moved in.

MEMBER HAWKINS: That green container?

MR. GANESH: Yes.

DEPUTY CHAIR CAREY: Just to clarify, your pergola is 3.5 feet from the edge of your property line?

MR. GANESH: From the bulkhead in the back.

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DEPUTY CHAIR CAREY: From the bulkhead.

MR. GANESH: There's two boats from the back.

MEMBER HAWKINS: How far is it from the neighbor, the one that has the container?

MR. GANESH: So, when -- the fence was there before I moved in I think somewhere on the property on the other side. I think it's about, maybe, five feet. But how it runs -- I guess the pergola runs through the fence, the property. There's like a triangle.

MEMBER HAWKINS: The post of the pergola is right up against the fence?

MR. GANESH: Yes. Maybe about two feet from the fence. Property line is more out from the fence.

CHAIRPERSON RHODEN: Because it curves, angles slightly?

MR. GANESH: Yes. There was an older fence there and we built another fence inside.

DEPUTY CHAIR CAREY: The wood arbor

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above the brick pavers is what is listed? -

MR. GANESH: Yes.

DEPUTY CHAIR CAREY: It's all open, right? All open air?

MR. GANESH: Yes.

DEPUTY CHAIR CAREY: The pergola is open air, except for the canvas on top for the rain?

MR. GANESH: In the summer, yes. Not for rain, for the shade.

CHAIRPERSON RHODEN: Is it for the shade?

MR. GANESH: Yes.

DEPUTY CHAIR CAREY: You're saying that right to the west of there is the green dumpster?

MR. GANESH: Yeah, container.

DEPUTY CHAIR CAREY: Right next to you. You are using that to ameliorate seeing that thing?

MR. GANESH: Yeah. He's using it for storage.

DEPUTY CHAIR CAREY: Your house is less than 20 feet from the bulkhead, correct?

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MR. GANESH: No, the house is more than 20 feet. It should be more.

DEPUTY CHAIR CAREY: You're right.

CHAIRPERSON RHODEN: I don't have anymore questions.

MR. GANESH: 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.

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

MEMBER SCOPELITIS: So moved.

DEPUTY CHAIR CAREY: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER PINZON: Aye.

MEMBER SCOPELITIS: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

CHAIRPERSON RHODEN: Thank you. We

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will be in touch.

Please call the next application on tonight's calendar.

THE SECRETARY: The next application is 2022-40, 25 East Avenue, Residential A, Section 62, Block 76, Lot 10. Sharon Hosein-Chitaman. Maintain a 22 by 24 foot detached garage. Variances: Village Ordinance 210-6A, 210-39 building height, 210-41 lot coverage, floor area ratio.

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 identification, as of this date.)

D Y L A N G R E C 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. GRECO: Dylan Greco. 2001 Capri

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Place, North Bellmore.

Okay. So, we are here to legalize an existing detached garage. I have the client, Ms. Chitaman, here with me. If there are any questions that need to be asked in her regard, she is here.

So, tonight we are approaching in regards to both a variance in height and in the maximum garage area. I do have one picture from 2006. This is the Nassau County website that has this. I would like to submit that as an exhibit.

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

MR. GRECO: So, the exhibit shows that prior to this project being done this year, the detached garage has not changed since 2006 or prior to 2006. So, at least 16 years. The building area or the footprint of the detached garage has not changed, same with the height.

I will start with the maximum area in that case, or should I give you a moment to

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look at the picture?

MEMBER HAWKINS: Okay.

MR. GRECO: The current area of the detached garage is 530 square feet. That is 30 square feet over your permitted 500. This was a mistake that was done in the past and our client was ignorant to it, which is not an excuse, but to rectify it now would be very costly, since the detached garage has already been done.

That's it regarding the area. Any questions regarding the area, or can I continue to height?

CHAIRPERSON RHODEN: Continue with your presentation. I think we should hear it.

MR. GRECO: And then the height. The height has not changed. The ridge elevation is the same as what it was. However, the -- and the new construction to restore and -- it was a dilapidated garage. So, in restoring this, the contract and the client had added a rear dormer to the garage, which did not change the original elevation but did trigger

1
2 the stipulation that any pitch below a six
3 would have a 15 foot maximum allowable
4 height. The main pitch of the garage is a
5 ten pitch. Where it was 20 feet before, now
6 it's 15 feet because of the dormer. The
7 current existing height is at 20 feet 11
8 inches. Sorry.

9 MS. UNGAR: Just a quick question.
10 There was a dilapidated garage existing, and
11 your client made the decision to redo the
12 garage --

13 MR. GRECO: Yes.

14 MS. UNGAR: -- but didn't realize a
15 permit was required and they began the work
16 and did the work, and then --

17 MR. GRECO: They added a rear dormer
18 for more storage space in that garage.
19 However, that also created one more issue.

20 MS. UNGAR: And that then triggered
21 filing an application and send it to zoning?

22 MR. GRECO: Correct.

23 MEMBER SCOPELITIS: I see on here you
24 have removed one section.

25 MR. GRECO: Yes. So what that is,

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they currently have a one-story temporary storage. Anything they had to move out of the garage was thrown in there. That will be removed.

MEMBER SCOPELITIS: It's just temporary.

MR. GRECO: It's just temporary, yes.

MEMBER SCOPELITIS: That's still there, correct?

MR. GRECO: In the photos, yes, it's still there. When the project is finished, it will be gone.

CHAIRPERSON RHODEN: It will be?

MR. GRECO: It will. No, there's a temporary storage that's one-story that will be removed. It says it on the plot plan, just so you can see it.

CHAIRPERSON RHODEN: There's no new.

DEPUTY CHAIR CAREY: Has this been sitting like this since February, still in this condition? It's been weathering, exposed to the elements?

S H I R O O N H O S E I N C H I T M A 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.

MS. CHITAMAN: Shiroon
Hosein-Chitaman 25 East Avenue, Freeport.

DEPUTY CHAIR CAREY: I was just
wondering. The picture is dated
February 25th. Have you not worked on this?
Do you have a picture that is more recent?
This has been -- you left this the same,
while you're waiting for the hearing from the
Board --

MS. CHITAMAN: Yeah.

DEPUTY CHAIR CAREY: -- applying for
an application. Why did you leave it like
this? You were in the middle of changing it.

MS. CHITAMAN: Yeah, because I don't
understand.

DEPUTY CHAIR CAREY: This photo says
February 25, 2022. I was wondering. It
still remains the same. No work has been
done. You did stop?

MS. CHITAMAN: Yeah. But I don't

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think -- can I see it, so I can see what you mean?

MEMBER PINZON: (Handing a document to the applicant.)

DEPUTY CHAIR CAREY: That's your garage, correct?

MS. CHITAMAN: Oh, yes.

MEMBER PINZON: Do you see the date on the bottom?

MS. CHITAMAN: I saw the date. Actually, this says last year.

DEPUTY CHAIR CAREY: It's the same. You left it the same?

MS. CHITAMAN: Yeah.

DEPUTY CHAIR CAREY: I just wanted to see what the status was.

MS. CHITAMAN: Yeah. I'm sorry, it was from October last year that we stopped.

DEPUTY CHAIR CAREY: I'm sorry. I'm trying to understand. You're changing the pitch back to what it was or you're leave it? That's the architect's question. Thank you so much.

MR. GRECO: So, what is happening is

1
2 there was a ten pitch existing on both sides.
3 The contractor and the client have
4 constructed a rear dormer with a three and a
5 quarter pitch in the back. There is a new
6 pitch on this section.

7 DEPUTY CHAIR CAREY: So, it's
8 shrinking the pitch. The ten percent total
9 area, that's not going to change?

10 MR. GRECO: That has not changed.
11 The area has not changed.

12 DEPUTY CHAIR CAREY: But the pitch
13 has changed?

14 MR. GRECO: Yes. So, I believe it
15 was ruled, when we submitted this, that the
16 height restriction would be taken by the
17 dormer as opposed to the main gable, which
18 that stipulates the garage could only have a
19 15 foot height. 15 feet in height.

20 DEPUTY CHAIR CAREY: What are you at,
21 22?

22 MR. GRECO: Basically, 22. I think
23 it's 20 feet 11 inches. Basically, 21. And
24 that has been so since at least 2006, as per
25 the exhibit.

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2 DEPUTY CHAIR CAREY: This question
3 might be for the owner again. This is far
4 back on your property. Are you overshadowing
5 anyone behind you, your neighbor and the
6 fence behind you?

7 MS. CHITAMAN: I don't think so. I
8 mean, it was built back on original
9 foundation. The old one was broken down, you
10 know. Okay. The roof was caving in. So,
11 the back of the garage was like how the front
12 is, when you see in the photo. So, instead
13 of making those two dormers, we took it down
14 and made it straight down. It's in the same
15 place. We just move a few windows.

16 MEMBER HAWKINS: You had two dormers
17 on the rear of that garage?

18 MS. CHITAMAN: Yeah. Just how the
19 front was, that is how the back was. But
20 instead of putting back dormer to the back,
21 we just made it straight.

22 DEPUTY CHAIR CAREY: That was the
23 original, the one that was before.

24 MS. CHITAMAN: The original had two
25 dormers in the back. The new one we took out

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the dormer and made it straight.

MEMBER HAWKINS: What is the second floor being used for?

MS. CHITAMAN: It's storage.

MEMBER HAWKINS: Are there stairs leading up to the second floor?

MS. CHITAMAN: It's a kind of temporary stair.

MEMBER HAWKINS: When you say temporary stairs --

MS. CHITAMAN: They are temporary stair. We have to put stairs. That's how we put it. So, they have like a little stair. We have to probably put a stair, yes. There will be a stair. We have to get upstairs.

MR. GRECO: Do you know if the staircase will remain or you will have pull downstairs in the future?

MR. CHITAMAN: No, remain.

MR. GRECO: I guess the stair will remain.

MS. CHITAMAN: Yes.

MEMBER HAWKINS: What was the answer, the stairs will remain?

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MR. GRECO: The stairs will remain.

MS. CHITAMAN: They can pull down.

MEMBER SCOPELITIS: Your details.

This all shows it as it's constructed today,
not with the section removed?

MR. GRECO: Correct. It has the rear
dormer. This is how it looks today.

MEMBER HAWKINS: There is no plumbing
in there, right?

MR. GRECO: No. It will also be
unfinished storage.

CHAIRPERSON RHODEN: It will also be
what?

MR. GRECO: Unfinished storage. I
assume that's what you were looking at.

MEMBER PINZON: Is this being
converted from a two car garage to a one car
garage?

MS. CHITAMAN: No, no. So, we took
off one of the garage door and put it in
temporary part, because it's broken and it
never opened properly. That's why you see
one piece. And then we kind of board up the
other side and put one door inside. It's

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going to be, when finished, have two garage door.

MEMBER PINZON: In the interior space is still a two car garage?

MS. CHITAMAN: Two car.

MEMBER PINZON: With one entrance?

MR. GRECO: It will have two entrances.

MS. CHITAMAN: Just one put in temporary and then we block off there outside and just have a little door to go in.

MR. GRECO: She will have both garage doors.

CHAIRPERSON RHODEN: I don't have any further questions.

DEPUTY CHAIR CAREY: Thank you.

MR. GRECO: No more questions?

CHAIRPERSON RHODEN: Thank you.

MR. GRECO: Thank you so much. Have a great night.

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

THE SECRETARY: We do not.

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

DEPUTY CHAIR CAREY: So moved.

MEMBER SCOPELITIS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER PINZON: Aye.

MEMBER SCOPELITIS: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

CHAIRPERSON RHODEN: Can you call the next application on tonight's calendar, please?

THE SECRETARY: Application 2022-41, 67 South Main Street, Business B, Section 55, Block 205, Lot 19. 67 South Jara, LLC. Commercial alterations. Two retail spaces on first floor, two bedroom apartment on second floor, and no change in basement. Variances: Village Ordinance 210-6A, 210-80A permitted uses, 210-172A2a required parking spaces,

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210-172A12 require parking.

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 identification, as of this date.)

MR. CURCIO: Madame Chairman, Zoning Board of Appeals. Anthony Curcio of Curcio Law, PLLC, 200 Broadhollow Road, Suit 207, Melville, New York 11747 for the applicant 67 South Jara, LLC for the property located at 67 South Main Street, Freeport, New York 11520. Currently Section 55, Block 205, Lot 19, Zoned B Business. We're here today for relief from Village Ordinances 210-6A, 210-80A, 210-172A2a and 210-172A12.

Currently, the property is a two-story commercial building. On the first floor is retail, the second floor is office space and storage. As stated before, the basement is going to be unfinished and is going to remain that way.

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2 Proposed changes to the building on
3 the first floor we're looking to take the
4 existing commercial space and split it two:
5 One commercial space in front, one commercial
6 space in the back. The commercial space in
7 the back is going to be 1,185 square feet,
8 the front will be 1,378 square feet; a slight
9 increase of approximately 300 square feet
10 from what was exiting.

11 The second floor we're looking to do
12 a two-bedroom apartment. We're looking to
13 also expand the back of the second floor to
14 the line with the rear of the building. When
15 all is said and done, it's going to be about
16 1,445 square feet. In addition, the front
17 facade is going to be slightly renovated.
18 The architecture is a little funky in the
19 front, so we're going to clean it up and do
20 kind of a brick facade.

21 Parking is slightly less, even though
22 all that work is being done. Right now it's
23 about 14 required. We're offering zero.
24 With the variances required, it's going to be
25 about 12 spots.

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If the Board has any other questions, I'm happy to answer them. I also have the expeditors here as well to answer any questions for you.

DEPUTY CHAIR CAREY: I have a question on the parking. You have been hearing a lot about the parking on Main Street.

MR. CURCIO: Yes.

DEPUTY CHAIR CAREY: So, are you going to have -- are you on the -- I'm sorry.

MR. CURCIO: We're on the north side of South main.

DEPUTY CHAIR CAREY: Where are you going to have people do off-street parking; right in front of the building, around the back?

MR. CURCIO: We have off-street parking in the front. There is also a municipal lot in the back, which is substantial and which is being utilized now and will be utilized after the fact.

DEPUTY CHAIR CAREY: Is the building in use now or is it vacant?

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MR. CURCIO: It's vacant.

DEPUTY CHAIR CAREY: Do you know what it was before?

MR. CURCIO: Beauty Supply on the first floor and offices up top for the beauty supply.

DEPUTY CHAIR CAREY: Now you're doing retail on the bottom and apartments above?

MR. CURCIO: Correct. And the owner is going to occupy the back retail space. She owns a cleaning service.

MEMBER HAWKINS: What kind of service?

MR. CURCIO: Maid/cleaning service.

MEMBER HAWKINS: I'm sorry. Are you looking to expand the back?

MR. CURCIO: Currently, the second floor it goes -- I'm sorry.

B E A T R I C E F I R B 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.

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2 MS. FIRBO: Beatrice Firbo. My
3 address is 125 Cortland Street in Copiague.

4 The first floor is no change, no
5 addition. Only the second floor. The second
6 floor this building, they only want in the
7 back a little. We are around four feet on
8 the back.

9 MR. CURCIO: Currently, there is
10 1,136 square feet on the second floor. We're
11 looking to expand it.

12 MS. UNGAR: It looks like it says
13 expand to the back so it's in line with 69
14 South Main Street, the second floor.

15 MR. CURCIO: Expand it to the back
16 wall of the building, correct, the existing
17 back wall. As it exists right now, it
18 doesn't go all the way back.

19 MS. UNGAR: It's not going all the
20 way back, according to the plans.

21 MR. CURCIO: I think it's called out.
22 It's lined up with the back.

23 MS. UNGAR: It lines up to the back
24 of 69 South Main Street is what the plans
25 say.

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MR. CURCIO: You're correct.

DEPUTY CHAIR CAREY: To clarify, sir, if you can do it for her. The flat roof is in the back. The top second floor, the top half of the building, you're going to expand it in line to the end of the building. It's going to be the whole building now two stories instead of one and a half?

MR. CURCIO: Correct. Sorry about that.

DEPUTY CHAIR CAREY: On Drawing A108. I think my question was answered incorrectly. You're not going to the very back of the building.

MR. CURCIO: No.

DEPUTY CHAIR CAREY: You're going nine feet from where it currently is now?

MS. FIRBO: Maybe the photograph.

DEPUTY CHAIR CAREY: It's okay. We understand. Thank you.

MR. CURCIO: Sorry to confuse the Board.

DEPUTY CHAIR CAREY: We're really not here for that. It's more for changing the

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zoning from commercial to residential; am I correct?

MR. CURCIO: It's a change of use, not a zone.

MS. UNGAR: They're here for a use variance and area variances for the parking.

CHAIRPERSON RHODEN: So, I know that you're here for the parking variance. Did you get an opportunity to provide us with some parking study that shows us where the parking is available in that area?

MR. CURCIO: I haven't yet. I was just retained for this. I haven't been able to provide anything.

CHAIRPERSON RHODEN: The Board is very interested in seeing, because the area that you're looking to convert, we also need to make sure that we take a look at what the parking looks like --

MR. CURCIO: Understood.

CHAIRPERSON RHODEN: -- in that area at different times of the day. So, we would need to have that type of information to really make a decision.

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MR. CURCIO: Absolutely.

CHAIRPERSON RHODEN: That's one of the things that I would definitely like. If anyone else has any questions.

DEPUTY CHAIR CAREY: I asked the village attorney if I'm allowed to say this, but honestly, I'm not sure it's going to be helpful to you, and I didn't want to be misadvised and I want to stay neutral.

As you heard the people previous to you from 87 South Main Street had a parking study that was part of their package that was quite extensive and would, in many cases, pertain to your situation as well. So that leads to a question, the other thing that is more important is, what about land variances and changing it from a commercial to a residential zone.

Do you have any arguments why we should allow that variance to commence where parking is a little more gelled out and we do have other evidence with the area parking situation. In light of the fact we also want to try to make the Village more

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transportation friendly, which is part of what we're trying to do.

Why are they having to seek this? Why don't they keep it commercial use? Why do they have to go to a residential use in an area that clearly is designated for commercial purposes?

MR. CURCIO: I think you nailed it on the head with transit oriented development is throughout Long Island. They're looking to do the same here. The building, face it, needs to be cleaned up and renovated a little bit. I think this is -- the owner thinks it would be better use of the building than it was currently sitting here.

DEPUTY CHAIR CAREY: How long ago did they purchase the property?

MR. CURCIO: About a year ago.

DEPUTY CHAIR CAREY: How long has it been vacant before that? Was it vacant or was it occupied? -

MR. CURCIO: No, it was occupied by a beauty supply business.

DEPUTY CHAIR CAREY: It was vacant

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for the year since they bought it or had a business there recently? It looks like the pictures we have now it's currently unoccupied.

MR. CURCIO: It is currently unoccupied. I apologize. Scratch what I said before. It was vacant for about a year before she purchased the property. It's vacant now. She's trying to attract tenants, at this point.

DEPUTY CHAIR CAREY: Has she been unsuccessful in trying to attract commercial tenants to the area?

MR. CURCIO: I'm not sure. I haven't spoken to her.

DEPUTY CHAIR CAREY: I know COVID has been a problem.

MR. CURCIO: She hasn't rented it out. So, I assuming she has been.

DEPUTY CHAIR CAREY: One of the things you have to show to get a variance approved is certain conditions, which you are probably aware of.

CHAIRPERSON RHODEN: She will be

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running her business out of this building?

MR. CURCIO: Correct. Out of the back retail space.

DEPUTY CHAIR CAREY: Did she buy it to run the cleaning business? Do you know?

MR. CURCIO: I'm not sure. I'm sure it was a consideration when they purchased it.

DEPUTY CHAIR CAREY: Thank you.

MEMBER PINZON: Just to confirm, it is one retail space currently and she wants to make it two retail spaces?

MR. CURCIO: Currently, it's one.

MEMBER PINZON: Plus a two-bedroom apartment upstairs.

MR. CURCIO: Right.

DEPUTY CHAIR CAREY: Do you know of any other properties located around this one have already been able to achieve this kind of mixed use status or not?

MR. CURCIO: I haven't been able to do the proper due diligence prior to this hearing, because of the short time period of being retained and everything. What I have

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been told, there has been. I just have to confirm it.

MEMBER HAWKINS: You said she plans on living on the second floor?

MR. CURCIO: I don't know if they are. They're going to rent it out. They are just running the business on the first floor.

CHAIRPERSON RHODEN: I think as Jennifer mentioned earlier, you heard the parking. I guess I would call it a deficit that we have in our town right now. So, we really would just kind of ask you to make sure you provide us with some idea of where in that area. I know you said there is municipal parking in the back. We can't take that into account, but we would like for you to show us what available spots are available.

MR. CURCIO: For purposes of this hearing, that's what I know. But I'll get a traffic expert and we'll get a parking study done and have it in writing to make your decision a little easier.

CHAIRPERSON RHODEN: Any other

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questions?

DEPUTY CHAIR CAREY: No further questions.

CHAIRPERSON RHODEN: I don't have any other questions right now.

MR. CURCIO: Okay. Is this going to be adjourned to another date?

CHAIRPERSON RHODEN: Yeah. We'll adjourn it for additional information.

MR. CURCIO: You'll let me know when the next one is?

DEPUTY CHAIR CAREY: You'll get back to us with some parking situation and perhaps some other properties --

MR. CURCIO: Yeah. I'm going to do my research, absolutely. Whatever can make your decision easier, I'll be more than happy to do it.

CHAIRPERSON RHODEN: You'll be notified.

MR. CURCIO: Thank you.

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

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THE SECRETARY: We do not, Madame
Chair.

CHAIRPERSON RHODEN: Can I please
have a motion to adjourn for additional
information.

MEMBER SCOPELITIS: So moved.

MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER PINZON: Aye.

MEMBER SCOPELITIS: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

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

MEMBER HAWKINS: So moved.

DEPUTY CHAIR CAREY: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER PINZON: Aye.

MEMBER SCOPELITIS: Aye.

DEPUTY CHAIR CAREY: Aye.

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CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(WHEREUPON, the Board entered into executive session from 8:51 p.m. to 9:43 p.m., after which the following transpired:)

CHAIRPERSON RHODEN: Do we have any decisions that need to be read in tonight's calendar.

THE SECRETARY: Yes. The first decision is Application 2022-18. 39-43A Woodcleft Avenue, Marine Commerce, Section 62, Block 173, Lot 23. Rudy Liriano. Maintain a 1,170 square foot deck.

DEPUTY CHAIR CAREY: Madame Chair, regarding Application 2022-18 for the premises located at 39-43A Woodcleft Avenue, Freeport, the Applicant comes before this Board seeking a variance from Village Ordinances 2010-6A, 210-172(A)4 seeking approval to maintain a 1,170 square foot deck.

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

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2 A public hearing was held on
3 August 18, 2222, wherein applicant was
4 represented by Maurice Fedida, on behalf of
5 the Law Office of Michael Solomon. He
6 explained that he was representing Puerto
7 Plata Seafood on the Water Corp. He
8 explained that the property had a variance
9 back in 2007 which required that 18 parking
10 spaces be provided. In 2013, after Super
11 Storm Sandy, an outdoor deck was constructed,
12 which had an occupancy of 162 people,
13 requiring 54 spaces. Six of the 18 spaces
14 originally provided were used up in the
15 construction of this deck, so a variance for
16 60 spaces was needed. In 2013 this variance
17 was approved with the condition that it be
18 re-visited in two years, once some of the
19 short-term impacts of Sandy had businesses
20 back on their feet. This never occurred.
21 Nothing changed in the use of the deck. The
22 only new factor now is that COVID came along
23 and made the option of outdoor dining even
24 more necessary. So now applicant is back
25 requesting a variance for 60 parking spaces,

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2 exactly what they have been operating under
3 for the last nine years.

4 Mr. Fedida submitted two leases for
5 the Board's review. Each lease provided 18
6 parking spaces. He explained that valet
7 parking is to be used. So, when compared to
8 the application nine years ago, nothing has
9 changed from the use over the last nine
10 years, but applicant is providing an
11 additional 36 parking spaces. There are also
12 seven boat slips on the property, which can
13 allow for customers to come by boat instead
14 of car. The Board is inclined to count these
15 seven spaces towards the required spaces
16 needed, provided that applicant keeps those
17 spaces open for customer use and does not
18 lease them out to other entities. Thus,
19 applicant is providing 43 of the 6 spaces
20 required, needing a variance of 17 spaces.

21 Sean Mulryan submitted a parking
22 study. He found 36 parking spaces provided
23 would generally provide for the needs of the
24 site.

25 The owner of the property, Rudy

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Liriano, explained that he has three valet workers with walkie-talkies who can communicate with each other to help keep the traffic flowing appropriately.

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

a. That an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the area variance. Applicant's restaurant has been operating for nine years without the benefit of the 36 extra parking spaces proposed in this application.

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. As applicant explained, on the canal, much of the property

1
2 is under water which limits space available
3 for parking. With COVID still being an
4 issue, it is important to provide outdoor
5 seating for customers.

6 c. That the requested area variance
7 is insubstantial. Applicant needs 60 spaces.
8 36 spaces plus seven boat slips are being
9 provided. However, prior to this
10 application, applicant was not providing
11 those 36 spaces at all. So, in comparison to
12 what was previously provided, this variance
13 is insubstantial.

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

18 e. That the alleged difficulty was
19 not self-created. The physical makeup of the
20 property, plus the COVID pandemic creating a
21 demand for outdoor dining are not
22 self-created difficulties.

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

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

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

1. The 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. The application for variances is being granted on the basis of the specific use proposed. If anything in this application is to change, the applicant must return to the Board for further review.

4. Applicant must maintain a lease year-round for no less than 36 parking spaces in the parking lots described in the application (or another location within 750 feet of the premises). To ensure that the

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2 lease is continuously valid during the height
3 of the season when parking is at its most
4 difficult, no later than May 1st of each
5 year, applicant must provide a signed
6 year-long lease to the Building Department
7 and the Village Attorney's Office
8 specifically covering the time period from
9 May 15th through October 15th (i.e. the
10 renewal time for the lease may not occur
11 between May 15th and October 15th unless
12 applicant is providing both the old lease and
13 the new lease at the same time. The Village
14 is not going to permit outdoor operations at
15 all during the height of the season without
16 proof of a lease covering the entire busy
17 season).

18 5. Along with the lease, applicant
19 must provide a map of the parking with the
20 spaces allocated for Puerto Plata
21 specifically marked out.

22 6. Leased parking spaces must be
23 designated for Puerto Plata through signage
24 or painted labels in parking spaces,
25 etcetera.

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7. As parking on the Nautical Mile is a challenge, this variance of 17 spaces is conditioned on continuously providing 36 additional leased spaces within a close proximity to the business, plus keeping the seven boat slips available for customers. Should applicant fail to lease spaces, this 17 parking space variance is automatically revoked. As such, all outdoor deck use must then cease immediately, because applicant will no longer have the required 54 spaces for the outdoor operation, plus the extra six spaces in the original 2007 variance. To continue operations under the covered deck, applicant would have to completely move deck over the six parking spaces and return the parking lot to the original configuration of 18 parking spaces.

8. Applicant must use valet parking when the outdoor deck is in use.

9. Should the type of usage of this business/property ever change, the variance is revoked and applicant/owner would have to return to this Board for further review.

10. Applicant/Owner must execute an Affidavit of Compliance and return same to the Office of the Village Clerk within sixty days of this approval as a prerequisite for issuance of any permit.

MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER PINZON: Aye.

MEMBER SCOPELITIS: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

THE SECRETARY: Next decision is Application 2022-29. 134 South Ocean Avenue, Resident Apartment, Section 62, Block 114, Lot 110. Look North Together, Inc. Construct a new 24 unit three-story 19,966 square foot multiple dwelling with underground parking and rooftop terrace.

2022-29.

MEMBER SCOPELITIS: Sorry.

Building Department Application

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2 20211963. Chairman, regarding Application
3 2022-29 for the premises located at 134 South
4 Ocean Avenue, Freeport, the applicant comes
5 before this Board seeking a variance from
6 Village Ordinances 210-6A, 210-48, 210-47A,
7 210-51A, 210-172A(2)(A), and 210-49C seeking
8 approval for a new 24 unit three-story 19,96
9 square foot multiple dwelling with
10 underground parking and rooftop terrace.

11 I, Drew Scopelitis, move that this
12 Board make the following findings of fact:

13 A public hearing ws held on
14 August 18, 2022 wherein applicant was
15 represented by attorney Christian Browne. He
16 explained that he was the back on a project
17 that the Board weighed in on about one year
18 earlier. The prior application proposed 18
19 units when 17 were permitted, and 15 parking
20 spaces were provided. The Board denied it in
21 large part due to the parking deficiency.
22 The new application seeks to provide more
23 parking underground so that 24 parking spaces
24 are provided for the 24 units proposed.
25 Additionally, all of the two-bedroom units

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have been eliminated and the building will consist entirely of one-bedroom units and studios.

The first variance is a density variance where 17 units are permitted and 24 are proposed. The second is for building height where two and a half stories and 32 feet are permitted, where three stories and 39 feet three inches is proposed. Mr. Browne explains that the building itself is only 32 feet and the extra height comes from a pergola on the roof. The roof is being used as the open green space for recreation. The pergola adds to the attractiveness of that space, but can be removed if the Board objected to that height. The building does not comply with front yard setback due to the average setback, which is 62 feet, whereas normally only 25 feet is required. Applicant meets the 25 foot setback. 24 parking spaces are provided, where 32 are required, but one space is provided per unit. Almost 10,000 square feet is required of open space, but just over 9,000 is provided.

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2 Kennan Cody, the traffic engineer,
3 also presented on behalf of the applicant.
4 He explained that as compared with the prior
5 application, the percentage variance is now
6 lower. The site is considered a transit
7 oriented development. Typically, those
8 tenants don't necessarily use a vehicle in
9 day-to-day life and may not have a car. The
10 conducted a parking study and observed
11 limited street parking during the hours under
12 observation. However, based on the ITE
13 information, the estimated parking demand for
14 a 24 unit building is 15 vehicles during the
15 week and 17 on the weekend. So, the 24
16 parking spaces provided are sufficient.

17 The Board's main objection when the
18 application was last heard was inadequate
19 parking. The Board has suggested that the
20 applicant come back with a project that
21 better meets the parking demand. This
22 project achieves those goals. The other
23 variances of density, front setback, building
24 height, open space are insubstantial when
25 viewed in connection with the entire project.

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2 1. On balance, the benefit to the
3 applicant by the granting of this variance is
4 not outweighed by the detriment to the
5 health, safety and welfare of the
6 neighborhood or community if such variance
7 were to be granted. The Board has
8 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 of impact on the
22 physical or environmental conditions in the
23 neighborhood or district; and

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

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2 2. The Board, as lead agency, has
3 determined that this action is an unlisted
4 action under SEQRA. A short environmental
5 assessment form has been completed by the
6 applicant and this Board. The Board finds no
7 environmental impact under SEQRA, issues a
8 negative declaration, and no further review
9 is required.

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

13 1. Applicant/Owner must comply with
14 all the Rules and Regulations of the Village
15 of Freeport.

16 2. Applicant must obtain the
17 required permits from the Building
18 Department.

19 3. The application for variances is
20 being granted on the basis of the specific
21 use proposed. If anything in this
22 application is to change, the applicant must
23 return to the Board for further review.

24 4. Green space on the roof must be
25 maintained as open recreation space. Should

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2 this space stop being available to use by
3 residents, these variance are revoked and
4 applicant must return to the zoning board for
5 further review in order to continue use as an
6 apartment building.

7 MEMBER HAWKINS: Second.

8 THE SECRETARY: All in favor.

9 MEMBER HAWKINS: Aye.

10 MEMBER PINZON: Aye.

11 MEMBER SCOPELITIS: Aye.

12 DEPUTY CHAIR CAREY: Aye.

13 CHAIRPERSON RHODEN: Aye.

14 THE SECRETARY: Any opposed?

15 (No response was heard.).

16 THE SECRETARY: The next decision is
17 Application 2022-37. 635 Nassau Avenue,
18 Residence A, Section 62, Block 186, Lot 127.
19 Joseph Micculli. Construct a new 407 square
20 foot deck.

21 MEMBER HAWKINS: Madame Chairperson,
22 regarding Application 2022-37 for the
23 premises located a 635 Nassau Avenue,
24 Freeport, the applicant comes before this
25 Board seeking a variance from Village

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2 Ordinances 210-6A, 210-43 seeking approval to
3 construct a new 407 square foot deck.

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

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

13 a. That an undesirable change will
14 not be produced in the character of the
15 neighborhood and a detriment to nearby
16 properties will not be created by the
17 granting of the area variance. The shortfall
18 in the front yard setback is due primarily to
19 the property being located at the edge of a
20 cul-de-sac wherein the property is partly cut
21 off by the street. The deck will be in line
22 with the rest of the house and set back from
23 the overhang of the house.

24 b. That the benefit sought by the
25 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 a Type II 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. This application for variances is

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2 being granted on the basis of the specific
3 use proposed. If anything in this
4 application is to change, the applicant must
5 return to the Board for further review.

6 MEMBER SCOPELITIS: Second.

7 THE SECRETARY: All in favor.

8 MEMBER HAWKINS: Aye.

9 MEMBER PINZON: Aye.

10 MEMBER SCOPELITIS: Aye.

11 DEPUTY CHAIR CAREY: Aye.

12 CHAIRPERSON RHODEN: Aye.

13 THE SECRETARY: Any opposed?

14 (No response was heard.)

15 THE SECRETARY: The next decision is
16 Application 2022-39. 68 Hampton Place,
17 Marine Industrial, Section 54, Block 319, Lot
18 234. Vishon Ganesh. Maintain pergola in
19 rear yard.

20 MEMBER PINZON: Madame Chair,
21 regarding Application 2022-39 for the
22 premises located at 68 Hampton place in
23 Freeport, the applicant comes before this
24 Board seeking a variance from Village
25 Ordinances 210-6A, 210-43A(2) seeking

1 approval to maintain a pergola in rear yard.

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3 I, Diego Pinzon, move that this Board
4 make the followings findings of fact:

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

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

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

21 c. That the requested area variance
22 is insubstantial;

23 d. That the proposed variance will
24 not have an adverse effect or impact on the
25 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 a Type II 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. This application for variances is being granted on the basis of the specific use proposed. If anything in this application is to change, the applicant must return to the Board for further review.

MEMBER SCOPELITIS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

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MEMBER PINZON: Aye.

MEMBER SCOPELITIS: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

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

MEMBER SCOPELITIS: So moved.

MEMBER PINZON: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER PINZON: Aye.

MEMBER SCOPELITIS: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(WHEREUPON, this hearing was
concluded at 10:02 p.m.)

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October 20, 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 29th day of October, 2022.



BETHANNE MENNONNA