

INCORPORATED VILLAGE OF FREEPORT  
ZONING BOARD

MUNICIPAL BUILDING  
46 North Ocean Avenue  
Freeport, NY 11520

May 16, 2024  
6:00 p.m.

M E M B E R S:

- |                   |              |
|-------------------|--------------|
| ROSA RHODEN       | CHAIRPERSON  |
| JENNIFER L. CAREY | DEPUTY CHAIR |
| BEN JACKSON       | MEMBER       |
| ANTHONY J. MINEO  | MEMBER       |
| CHARLES HAWKINS   | MEMBER       |

\* \* \*

- |                |                         |
|----------------|-------------------------|
| REMY WATTS     | SECRETARY               |
| JENNIFER UNGAR | DEPUTY VILLAGE ATTORNEY |

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

May 16, 2024

2

-----EXHIBITS-----

<u>BOARD'S FOR I.D.</u>	<u>PAGE</u>
1 Affidavit of Publication	5
2 Affidavit of Posting	5

\* \* \* \*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

May 16, 2024

3

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

APPLICATION#	ADDRESS	PAGE
2024-7	16 Archer Street	6

1  
2 CHAIRPERSON RHODEN: Good evening  
3 everyone. I'd like to open up the Zoning  
4 Board of Appeals meeting. Please join me for  
5 the Pledge of Allegiance.

6 (Pledge of Allegiance recited.)

7 CHAIRPERSON RHODEN: Can I have a  
8 motion to enter into executive session to  
9 consult with counsel?

10 MEMBER JACKSON: So moved.

11 DEPUTY CHAIR CAREY: Second.

12 THE SECRETARY: All in favor.

13 MEMBER JACKSON: Aye.

14 DEPUTY CHAIR CAREY: Aye.

15 CHAIRPERSON RHODEN: Aye.

16 THE SECRETARY: Any opposed?

17 (No response was heard.)

18 (WHEREUPON, the Board entered into  
19 executive session from 6:06 p.m. to  
20 6:41 p.m., after which the following  
21 transpired:)

22 CHAIRPERSON RHODEN: Good evening  
23 everyone. Could everyone please join me in  
24 the Pledge of allegiance.

25 (Pledge of Allegiance recited.)

1  
2 CHAIRPERSON RHODEN: Can I please  
3 have a motion to approve the minutes from the  
4 previous meeting.

5 MEMBER HAWKINS: So moved.

6 MEMBER MINEO: Second.

7 THE SECRETARY: All in favor.

8 MEMBER HAWKINS: Aye.

9 MEMBER MINEO: Aye.

10 DEPUTY CHAIR CAREY: Aye.

11 CHAIRPERSON RHODEN: Aye.

12 THE SECRETARY: Any opposed?

13 (No response was heard.)

14 CHAIRPERSON RHODEN: Do we have an  
15 Affidavits of Publication or Posting to be  
16 entered into the record as exhibits?

17 THE SECRETARY: We have one Affidavit  
18 of Publication and one Affidavit of Posting  
19 to be entered into the record for this public  
20 hearing.

21 (WHEREUPON, the above-referred to  
22 documents were marked as Board's Exhibits 1 &  
23 2, for identification, as of this date.)

24 CHAIRPERSON RHODEN: Do we have any  
25 request for adjournment this evening?

May 16, 2024

6

1  
2 THE SECRETARY: Yes. We have one  
3 request for adjournment this evening,  
4 Application 2024-7, 16 Archer Street.

5 MS. UNGAR: Madam Chair, we need a  
6 motion to approve the adjournment.

7 CHAIRPERSON RHODEN: Can I have a  
8 motion.

9 DEPUTY CHAIR CAREY: So moved.

10 MEMBER HAWKINS: Second.

11 THE SECRETARY: All in favor.

12 MEMBER HAWKINS: Aye.

13 MEMBER MINEO: Aye.

14 DEPUTY CHAIR CAREY: Aye.

15 CHAIRPERSON RHODEN: Aye.

16 THE SECRETARY: Any opposed?

17 (No response was heard.)

18 CHAIRPERSON RHODEN: Do we have any  
19 applications that need to be read into  
20 tonight's calendar? Let me correct that.  
21 Decisions for applications that need to be  
22 read into the calendar?

23 THE SECRETARY: Application 2024-4,  
24 368 Wallace Street, Residence AA, Section 55,  
25 Block 396, Lot 363 Maria Gonzalez.

1  
2 MEMBER HAWKINS: Madam Chairperson,  
3 regarding Application Number 2024-4 for the  
4 premises located at 368 Wallace Street, the  
5 Applicant comes before this Board seeking a  
6 variance from Village Ordinances 210-6A,  
7 210-171D1 seeking approval to legalize  
8 existing 80.5 by 5 foot high and 50 feet by  
9 60 feet high closed fence.

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

12 A public hearing was held on  
13 April 18, 2024 wherein applicant's husband,  
14 Luis Perez, presented much of the  
15 application. Mr. Perez explained that he put  
16 up a six foot fence without a permit. He  
17 said someone in the Building Department said  
18 it couldn't be more than five feet, so he  
19 made the fence five feet. Based on the  
20 documents provided, the fence is five feet  
21 high going across the front of the property,  
22 but other parts of the fence the front yard  
23 are six feet high. The code only permits a  
24 four foot fence in the front yard. Mr. Perez  
25 explained that they made the fence six and

1  
2 five feet high to provide privacy to the  
3 grandchildren, because with a corner lot  
4 there is no back yard for privacy. He does  
5 not believe the five foot closed fence should  
6 be a problem.

7 1. On balance, the benefit to the  
8 applicant by the granting of this variance is  
9 far outweighed by the detriment to the  
10 health, safety and welfare of the  
11 neighborhood or community if such variance  
12 were to be granted. The Board has  
13 determined:

14 a. That an undesirable change will  
15 be produced in the character of the  
16 neighborhood or a detriment to nearby  
17 properties will be created by the granting of  
18 the area variance. A four foot open fence in  
19 a front yard is required for safety reasons.  
20 With a five and six foot fence right at the  
21 front property line, the applicant blocks  
22 sight lines to both their driveway and that  
23 of the neighbor to the south. This creates  
24 almost no visibility for a car backing out of  
25 either of those driveways to observe a

1  
2 pedestrian or child on a bicycle.

3 b. That the benefit by the applicant  
4 can be achieved by some method, feasible for  
5 the applicant to pursue, other than an area  
6 variance. Applicant can put in a conforming  
7 four foot open fence. It may not provide the  
8 same privacy as a five and six foot closed  
9 fence, but the safety concerns outweigh the  
10 privacy concern.

11 c. That the requested area variance  
12 is air substantial.

13 d. That the proposed variance will  
14 have an adverse effect or impact on the  
15 physical or environmental conditions in the  
16 neighborhood or district; and

17 e. That the alleged difficulty was  
18 self-created. Applicant put up the fence  
19 without benefit of a permit prior to the  
20 fence's construction.

21 I further move that this application  
22 be denied based upon the foregoing findings.

23 MEMBER MINEO: Second.

24 THE SECRETARY: All in favor.

25 MEMBER HAWKINS: Aye.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MEMBER MINEO: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

THE SECRETARY: Application 2024-5,  
106 Broadway, Apartment/Golden Age, Section  
55, Block 232, Lot 201. 106 Associates.

DEPUTY CHAIR CAREY: Madam Chair,  
regarding Application 2024-5 for the premises  
located at 106 Broadway, Freeport, the  
Applicant comes before this Board seeking a  
variance from Village Ordinances 210-6A,  
210-279, 210-280, 210-281, 210-282, 210-290  
and 210-291 seeking approval for a new 80  
unit multi-family residence apartment  
building with on-site parking.

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

A public hearing was held on  
April 18, 2024 wherein applicant was  
represented by attorney Christian Browne. He  
explained that the proposed building is an  
age-restricted Golden Age residence

1  
2 consisting of 80 units. The property is  
3 currently a single parcel owned by the Refuge  
4 Apostolic Church. The proposed development  
5 area was rezoned to Golden Age by the Board  
6 of Trustees. The area to be improved is just  
7 a little over 30,000 square feet. It is a  
8 vacant area behind the church. They are  
9 proposing to subdivide the parcel, leaving  
10 the church on a parcel that is approximately  
11 12,000 square feet. The church would have  
12 the right to reserve ten of the apartment  
13 building's spaces at any time it wishes, and  
14 use any excess parking on Sundays. They are  
15 proposing 94 spaces when 100 are required.  
16 The church currently has no formal parking,  
17 so this proposal would give the church some  
18 proper off-street spaces. The Golden Age  
19 housing proposed is geared toward residents  
20 who may not drive and mostly stay on site.  
21 They live independently, but are also given  
22 assistance and amenities which makes life  
23 easier. There are income levels, so there is  
24 an affordability component to it.

25 Regarding the parking, 94 spaces are

1  
2 proposed but 84 will be available to the  
3 residents. About half of the residents of  
4 senior buildings are not drivers. When a  
5 comparison was made to a similar building  
6 with 125 units, maximum parking used was 77.  
7 Scaling those numbers to this project, it is  
8 expected that only about 40 spaces will be  
9 needed. On Sundays, they anticipate that the  
10 church will generate about 25 cars.

11           Regarding building height, Mr. Browne  
12 confirmed that this variance was to be  
13 removed from the application. 50 feet  
14 heights are permitted, and the building is 50  
15 feet in height. The superintendent of  
16 buildings had confirmed that a variance was  
17 no longer required.

18           Moving on to lot coverage, Mr. Browne  
19 explained that 40 percent coverage is  
20 permitted and 71.1 percent is proposed. He  
21 explained that they are trying to use as much  
22 of the property as possible in order to  
23 permit the church to continue. They need  
24 enough units to make it economically viable  
25 for the developer.

1  
2 Peter Florey, the principle of D&F  
3 Development Group, explained that they are  
4 developers, builders and managers of  
5 workforce housing on Long Island. The  
6 project was envisioned by Bishop Ronald H.  
7 Carter of the Refuge Apostolic Church. The  
8 company specializes in providing housing at  
9 lower costs. This is accomplished through  
10 tax credits and lower interest loans, as well  
11 as conventional financing. The income range  
12 being targeted is between \$35,000 and \$75,000  
13 a year with rents ranging from \$1,300 to  
14 \$1,650 per month. Ten units will be set  
15 aside for people with special needs, ten  
16 units will be side aside for people with  
17 physical handicaps, and four units will be  
18 for those with vision and hearing  
19 impairments.

20 Mr. Florey and Mr. Browne explained  
21 the delicate balance of getting enough  
22 density to make the project work while also  
23 making the project work in the proposed  
24 location. They are using the land to its  
25 maximum capacity without completely going

1  
2 over height or parking requirements. The lot  
3 setbacks and density are higher than  
4 permitted by zoning to try to keep that  
5 balance of economic viability and suitability  
6 in the community.

7 Salvatore Coco of BHC Architects also  
8 spoke. He explained that while the lot  
9 coverage is 71.1 percent, the middle  
10 courtyard on the second floor is over the  
11 parking but provides outdoor garden space.  
12 If it were at grade, the lot coverage would  
13 not be 71.1 percent.

14 Tanya Carter, Bishop Carter's  
15 daughter, spoke. She spoke about her  
16 father's vision for the project.

17 There is no more height variance  
18 required, so that is not before the Board for  
19 consideration. Regarding the remaining  
20 variances for lot coverage, front yard  
21 setback, side yard setback, on-site parking  
22 requirements, and population density, the  
23 Board finds:

24 1. On balance, the benefit to the  
25 applicant by the granting of this variance is

1  
2 not outweighed by the detriment to the  
3 health, safety and welfare of the  
4 neighborhood or community if such variance  
5 were to be granted. The Board has  
6 determined:

7 a. That an undesirable change will  
8 not be produced in the character of the  
9 neighborhood and a detriment to nearby  
10 properties will not be created by the  
11 granting of the area variances.

12 b. That the benefit sought by the  
13 applicant cannot be achieved by some method,  
14 feasible for the applicant to pursue, other  
15 than area variances.

16 c. That the requested area variances  
17 are overall insubstantial.

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

22 e. That the alleged difficulty might  
23 be considered self-created, but this factor  
24 is not dispositive.

25 2. The Board of Trustees previously

1  
2 made a SEQRA determination for the project as  
3 part of the re-zone, so no further review is  
4 required by the Zoning Board.

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

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

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

14 3. This application for variances is  
15 being granted on the basis of the specifics  
16 proposed. If anything in this application is  
17 to change, the applicant must return to the  
18 Board for further review.

19 MEMBER MINEO: Second.

20 THE SECRETARY: All in favor.

21 MEMBER HAWKINS: Aye.

22 MEMBER MINEO: Aye.

23 DEPUTY CHAIR CAREY: Aye.

24 CHAIRPERSON RHODEN: Aye.

25 THE SECRETARY: Any opposed?

(No response was heard.)

THE SECRETARY: Application 2024-6,  
49 Madison Avenue, Residence A, Section 54,  
Block 84, Lot 1. Jonathan Guardado.

MEMBER MINEO: Madam Chair, regarding  
Application 2024-6 for the premises located  
at 49 Madison Avenue, Freeport, the applicant  
comes before this Board seeking a variance  
from Village Ordinances 210-6A, 210-171D2  
seeking approval for a 234 foot by 6 foot PVC  
fence consisting of full privacy fence on  
rear of property and a new PVC six foot (five  
foot solid, one foot lattice) on the side and  
front of home.

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

A public hearing was held on  
April 18, 2024 wherein applicant, Jonathan  
Guardado, represented himself. He explained  
that he filed his fence permit application  
shortly after the change in code went into  
effect. The code requires the fence to be  
four feet open at half the distance from  
dwelling to the sidewalk. He explained that

1  
2 he has 27 feet, so 13.5 feet is required. He  
3 said he felt that other people might only  
4 have ten feet, so would only be required to  
5 have five feet of open fence. He also  
6 commented that it would be permissible to put  
7 six foot shrubbery on the corner of the  
8 property line, while a fence is not  
9 permitted.

10 A neighbor spoke about the fence. He  
11 was concerned about the impact both on the  
12 subject property's driveway and the adjacent  
13 property's driveway. Being set back two feet  
14 is not sufficient to provide visibility for  
15 drivers backing out of a driveway. He also  
16 thinks half the distance isn't quite right  
17 either. He said he has walked to and from  
18 the train station for years, and a four for  
19 five foot setback from the property would be  
20 sufficient to allow for a sight line.

21 Another neighbor also spoke. He said  
22 that the corner has many accidents, including  
23 his wife. People don't respect the stop sign  
24 at the corner. He thinks the lack of a stop  
25 sign is a problem.

1  
2 Finally, a husband and wife neighbor  
3 spoke. They also said there were many car  
4 accidents at that corner with cars coming  
5 from Sunrise Highway, going through the stop  
6 sign. He said that on the Lexington side he  
7 does not think the fence should go past the  
8 back of the house because it would obstruct  
9 the view. On the Madison side, he does not  
10 think the fence should go past the front of  
11 the house due to the view obstruction. She  
12 said that there are too many accidents at  
13 that corner.

14 1. On balance, the benefit to the  
15 applicant by the granting of this variance is  
16 far outweighed by the detriment to the  
17 health, safety and welfare of the  
18 neighborhood or community if such variance  
19 were to be granted. The Board has  
20 determined:

21 a. That an undesirable change will  
22 be produced in the character of the  
23 neighborhood or a detriment to nearby  
24 properties will be created by the granting of  
25 the area variance. This code change was for

1  
2 safety reasons, and neighbors corroborated  
3 the issues at the corner.

4 b. That the benefit sought by the  
5 applicant can be achieved by some method,  
6 feasible for the applicant to pursue, other  
7 than an area variance. Applicant can put a  
8 four foot open fence in the portion of the  
9 property within 13.5 feet from the sidewalk.

10 c. That the requested area variance  
11 is substantial.

12 d. That the proposed variance will  
13 have an adverse effect or impact on the  
14 physical or environmental conditions in the  
15 neighborhood or district; and

16 e. That the alleged difficulty was  
17 self-created.

18 I further move that this application  
19 be denied based upon the foregoing findings.

20 MEMBER HAWKINS: Second.

21 THE SECRETARY: All in favor.

22 MEMBER HAWKINS: Aye.

23 MEMBER MINEO: Aye.

24 DEPUTY CHAIR CAREY: Aye.

25 CHAIRPERSON RHODEN: Aye.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

THE SECRETARY: Any opposed?  
(No response was heard.)

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

DEPUTY CHAIR CAREY: So moved.

MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER MINEO: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

(Time Ended: 6:57 p.m.)

\* \* \*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

May 16, 2024

22

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 24th day of May, 2024.

  
BETHANNE MENNONNA