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INCORPORATED VILLAGE OF FREEPORT
ZONING BOARD

MUNICIPAL BUILDING
46 North Ocean Avenue
Freeport, NY 11520

July 18, 2024
6:30 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 |

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July 18, 2024

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-----EXHIBITS-----

BOARD'S FOR I.D. PAGE

1 Affidavit of Publication 5

2 Affidavit of Posting 5

APPLICATION 2024-8

BOARD'S FOR I.D. PAGE

1 Affidavit of Mailing 6

APPLICANT'S FOR I.D.

A Letter of authorization 7

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July 18, 2024

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

APPLICATION#	ADDRESS	PAGE
2024-8	73 Smith Street	

1
2 CHAIRPERSON RHODEN: Welcome to the
3 July 18, 2024 Zoning Board of Appeals
4 meeting. Can you please stand for the Pledge
5 of Allegiance.

6 (Pledge of Allegiance recited.)

7 CHAIRPERSON RHODEN: Can I please
8 have motion to accept the minutes from the
9 last meeting.

10 MEMBER JACKSON: So moved.

11 DEPUTY CHAIR CAREY: Second.

12 THE SECRETARY: All in favor.

13 MEMBER HAWKINS: Aye.

14 MEMBER MINEO: Aye.

15 MEMBER JACKSON: Aye.

16 DEPUTY CHAIR CAREY: Aye.

17 CHAIRPERSON RHODEN: Aye.

18 THE SECRETARY: Any opposed?

19 (No response was heard.)

20 CHAIRPERSON RHODEN: Do we have any
21 Affidavits of Publication and Posting to be
22 entered into the record as exhibits this
23 evening?

24 THE SECRETARY: I have one Affidavit
25 of Publication and one Affidavit of Posting

1
2 to be entered into the record Board exhibits
3 for this public hearing.

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

7 CHAIRPERSON RHODEN: Do we have any
8 requests for adjournment?

9 THE SECRETARY: Madam Chair, we have
10 no requests for adjournment this evening.

11 CHAIRPERSON RHODEN: Can you please
12 call the first application on tonight's
13 calendar.

14 THE SECRETARY: Application 2024-8,
15 73 Smith Street, Residence A, Section 62,
16 Block 76, Lot 27. Andre Reviero. Maintain
17 550 square foot garage, 126 square foot
18 gazebo, 388 square foot deck, cellar entrance
19 and framed overhangs on east side of the
20 property. Propose 105 square foot addition
21 of the west side and repair fire damage.
22 Variances: Village Ordinance 210-6A, 210-43
23 required yards, 210-41 lot coverage, floor
24 area ratio, 210-21 permissible extension of
25 use.

1
2 I have one Affidavit of Mailing to be
3 entered into the record as an exhibit for
4 this individual application.

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

8 CHAIRPERSON RHODEN: Good evening.
9 Anyone here that is going to speak for or
10 against this application this evening, you
11 need to fill out a form that's in the back of
12 the room and hand it to the clerk please,
13 okay.

14 C H R I S T I N A B R A V I N,
15 having been first duly sworn by a Notary
16 Public of the State of New York, was
17 examined and testified as follows:

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

20 MS. BRAVIN: Christina Bravin,
21 B-R-A-V-I-N. Morano Expediting. 2938
22 Hempstead Turnpike, Levittown, New York,
23 agent for the home owner.

24 I have a letter of authorization here
25 to speak on their behalf.

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

5 MS. BRAVIN: Good evening, Madam
6 Chairwoman, Member of the Board. This
7 evening we're asking permission to maintain a
8 550 square foot detached garage holding a
9 side yard setback of 1.8 feet instead of the
10 required five feet. We are also requesting
11 permission to maintain a 126 square foot
12 gazebo, holding a side yard setback of 3.3
13 feet instead of the required five feet, and
14 maintain a 105 square foot one-story addition
15 on a nonconforming home.

16 Mr. Reviero purchased the home in
17 April of 2018, and at the time of purchase
18 the detached garage, as well as the one-story
19 addition on the west side of the home was
20 already existing. According to county
21 records, it appears the garage was built for
22 the home prior to 1938, and the addition was
23 added on in 1984 by a former owner. So, up
24 until November of 2023 when there was an
25 electrical fire, they were in the home.

1
2 Unbeknownst to them, there were these
3 additions, and the garage existed in
4 violation. It wasn't until the fire when
5 they approached the Building Department to
6 find out to file a permit to have this
7 remediated. Shortly thereafter, a code
8 enforcer came to the site and issued 31
9 violations, most of which have been mitigated
10 and taken care of, and some are before you
11 this evening.

12 So, the proposed addition is due to
13 nonconformity of the original dwelling. The
14 house itself holds 2.8 feet and the addition
15 holds 4.8 feet; so, we're not encroaching any
16 further than the house does, we have two feet
17 further setback.

18 In regards to the gazebo, this was
19 the only structure that the home owner
20 purchased and installed and that was in 2020.
21 Of course during that time we were in the
22 height of COVID and he was unaware any
23 permits were needed for something of that
24 nature. It was hard to get in touch with the
25 Building Department at that time, lots of

1
2 places were shutdown. The structure is open
3 and used seasonally. It's located in the
4 rear, directly across from the garage and
5 it's screened from the neighbors. I have
6 photographs. If you hadn't had a chance to
7 visit the site, you can see that it's
8 completely screened from the neighbors. If
9 you'd like, I can submit the photos or you
10 have photos that are sufficient?

11 MEMBER JACKSON: Those were
12 submitted.

13 MS. BRAVIN: Perfect. If you have
14 any questions, I have plans here, and I'll be
15 happy to answer any questions.

16 MEMBER JACKSON: Would the owner
17 consider removing the gazebo to the required
18 setbacks?

19 MS. BRAVIN: He would be open to
20 that, if it was definitely necessary. I know
21 we're only talking about 14 inches or so;
22 that's the impact. It would be costly, but
23 they would do it, if it's definitely
24 necessary.

25 MEMBER JACKSON: You say -- I'm

1
2 sorry, I missed what you said about the
3 garage. The garage was there when you bought
4 the house, correct?

5 MS. BRAVIN: They already bought the
6 house. The county records, I have a property
7 card here showing that it was in existence in
8 1938. The house was built prior to that, so
9 it's been there. I can submit that as well.

10 MEMBER JACKSON: It's been existence,
11 as it sits now or extended?

12 MS. BRAVIN: Exact same size. They
13 haven't done anything to that garage.

14 MS. UNGAR: So, this was just an
15 issue that came up in the aftermath of the
16 fire, looking through everything on the
17 property and realizing there was no permit on
18 file for the garage with the Village Building
19 Department?

20 MS. BRAVIN: That is correct.

21 DEPUTY CHAIR CAREY: The garage was
22 built before the house?

23 MS. BRAVIN: No, it was built before
24 the records. The records state 1938 as the
25 time it's been recorded. We know the house

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was built just before that.

MEMBER HAWKINS: Is the garage used for storage? You have a garage door there, and it looks like you have sliders also.

MS. BRAVIN: Right. When he purchased the home in 2018, there was an existing apartment in there. Again, unbeknownst to him, that was illegal. But that has been removed. We're happy to have -- I believe code enforcement was already out there, in fact. Yes, they did conduct an inspection, I believe, and they can, of course, conduct another inspection prior to issuing a CO. Everything was removed.

MEMBER HAWKINS: Your client doesn't reside there now?

MS. BRAVIN: No, oh, no. It's storage now.

MEMBER HAWKINS: I'm saying in the house itself.

MS. BRAVIN: Does he reside in the main home? Yes.

MEMBER HAWKINS: He does?

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MS. BRAVIN: Yes.

MEMBER HAWKINS: He had no idea there was anyone in the garage?

MS. BRAVIN: No, the apartment was there when he purchased it in 2018, but he did not know that was illegal, along with the garage structure itself and the addition. He purchased the home in 2018 with everything there except for the gazebo.

DEPUTY CHAIR CAREY: You are going to be filling in the stairs to the basement; that's what I read. Is that what I understand, because the basement -- maybe if you had a car in the garage, which was illegal. Is that why there was a staircase to the basement, or was that filled by the current owner?

MS. BRAVIN: No, the staircase was there prior to him purchasing the home.

MS. UNGAR: That is being removed.

MS. BRAVIN: To the basement? That I actually -- I do not -- let me double check.

MS. UNGAR: It's a little bit contradictory, because the application looks

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2 like -- the application to the zoning doesn't
3 talk about that. The environmental
4 assessment form that was filled out says,
5 "Remove finished basement and basement
6 entrance."

7 MS. BRAVIN: Okay, right. It's not
8 before the Board this evening, so I don't
9 have information regarding changes to the
10 steps. But if that's part of the
11 environmental assessment, that would be taken
12 up with the Building Department. Again, no
13 CO will be issued unless the site inspection
14 was completed and everything was approved.

15 MS. UNGAR: I was looking at the
16 Building Department application which also
17 says remove finished basement entrance.

18 Yes, you are absolutely correct,
19 that's not before the zoning board tonight,
20 especially in the context of a removal.

21 DEPUTY CHAIR CAREY: Besides the
22 gazebo being installed more recently,
23 everything else is nonconforming because of
24 the age and because of the year it was built,
25 compliance with the five foot setback and all

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of that?

MS. BRAVIN: Yes, correct.

MS. UNGAR: If I may, the building would have predated the current Village Code with its current setbacks anyway.

DEPUTY CHAIR CAREY: Right. Jennifer, could you please explain the permissible extension of use, if it's a two-family home right now.

MS. UNGAR: No, no, no. What that is saying is that's explaining the side addition to the house.

DEPUTY CHAIR CAREY: Got it.

MS. UNGAR: That addition was never permitted and it is technically an extension of the non-permitted use. The already had 2.8 feet, and this now is 4.8 feet. So, as it was explained, it's not going as far as the already worst part of the encroachment.

DEPUTY CHAIR CAREY: Thanks for clarifying that.

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

MS. BRAVIN: Thank you.

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

5 (No response was heard.)

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

9 MEMBER JACKSON: So moved.

10 DEPUTY CHAIR CAREY: Second.

11 THE SECRETARY: All in favor.

12 MEMBER HAWKINS: Aye.

13 MEMBER MINEO: Aye.

14 MEMBER JACKSON: Aye.

15 DEPUTY CHAIR CAREY: Aye.

16 CHAIRPERSON RHODEN: Aye.

17 THE SECRETARY: Any opposed?

18 (No response was heard.)

19 CHAIRPERSON RHODEN: Can we please
20 close the legislative portion of the meeting
21 and we will be back.

22 We'll be in touch.

23 MS. BRAVIN: Thank you.

24 CHAIRPERSON RHODEN: We're going to
25 go into executive session -- I'm sorry, we do

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2 have to read one. We're not closing yet.

3 Can you read the first application on
4 tonight's calendar for approval.

5 THE SECRETARY: Application 2024-7,
6 16 Archer Street, Section 62, Block 48,
7 Lot 4. Jose Gutierrez.

8 MEMBER MINEO: Madam Chair, regarding
9 Application 2024-7 for the premises located
10 at 16 Archer Street, the applicant comes
11 before this Board seeking a variance from
12 Village Ordinances 210-6A, 210-37, 210-31,
13 seeking approval for a proposed new 4,020
14 square foot two-story, two-family residence
15 to existing vacant lot.

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

18 A public hearing was held on June 20,
19 2024 wherein Luis Rodriguez presented on
20 behalf of the applicant. He explained that
21 the house at 16 Archer was previously a legal
22 five-family house, which has now been
23 demolished. The proposal is to build a legal
24 two-family home. Mr. Rodriguez presented an
25 exhibit which showed other legal two-family

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2 homes in the neighborhood. He explained that
3 52 North Bergen and 97 Raynor were both
4 approved by the Zoning Board and the others
5 were pre-existing non-conforming. 97 Raynor
6 was approved by the Board in 2012, but 52
7 North Bergen is a four-family apartment
8 building in an Apartment District which would
9 not have needed approval from Zoning.

10 Mr. Rodriguez explained that the
11 property goes through from Archer Street to
12 Franklin Square. One driveway is proposed.
13 The Board asked if the applicant had
14 considered splitting the lot front and back
15 and building two single family houses.
16 Mr. Rodriguez said they had not because there
17 was not enough square footage. He explained
18 the lot is 8,226 square feet. Mr. Rodriguez
19 said that the purchaser did not know a
20 variance would be needed when they purchased
21 it, and that it was marketed as a five-family
22 house. Once they began the demolition, they
23 realized they would need a permit to build a
24 two-family home. In a response to a question
25 from the Board, Mr. Rodriguez explained that

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2 the basement would be used for storage, not
3 habitable space. Mr. Rodriguez explained
4 that the property was bought for \$424,000
5 cash, and there will be no mortgage.
6 Mr. Rodriguez said there is no financial
7 hardship to build the house, but that there
8 would be no benefit to building a one-family
9 house. There were no public comments on the
10 application.

11 Regarding the use variance to build a
12 two-family house when not permitted in the
13 code, the Board finds:

14 1. Applicant has not demonstrated
15 that applicable zoning regulations and
16 restrictions have caused unnecessary
17 hardship. Applicant has not demonstrated to
18 the Board of Appeals that for each and every
19 permitted use under the zoning regulations
20 for the particular district where the
21 property is located:

22 a. The applicant cannot realize a
23 reasonable return, provided that lack of
24 return is substantial as demonstrated by
25 competent financial evidence. Applicant gave

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2 no numbers to show that a reasonable return
3 could not be realized.

4 b. That the alleged hardship
5 relating to the property in question is
6 unique and does not apply to a substantial
7 portion of the district or neighborhood. The
8 property is not unique. The surrounding area
9 is zoned primarily Residential A. There are
10 a mix of two-family and one-family houses.
11 Applicant's property is not unique.

12 c. That the requested use variance,
13 if granted, will not alter the essential
14 character of the neighborhood. Regarding
15 this factor, applicant made a reasonable case
16 that there are other two-family homes in the
17 neighborhood. However, to obtain a use
18 variance, applicant must meet all of the
19 factors. This is the only factor that the
20 applicant can meet the criteria for.

21 d. The alleged hardship has not been
22 self-created. The hardship was self-created.
23 Applicant bought a property without doing
24 proper due diligence in the Village. Had the
25 applicant done more research, he would have

1
2 learned that two-family houses are not
3 permitted in the Village.

4 The Board does not need to make a
5 finding as to sky exposure plane, given that
6 the use is not being granted.

7 I further move that this application
8 be denied based upon the foregoing findings.

9 MEMBER HAWKINS: Second.

10 THE SECRETARY: All in favor.

11 MEMBER HAWKINS: Aye.

12 MEMBER MINEO: Aye.

13 MEMBER JACKSON: Aye.

14 DEPUTY CHAIR CAREY: Aye.

15 CHAIRPERSON RHODEN: Aye.

16 THE SECRETARY: Any opposed?

17 (No response was heard.)

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

21 MEMBER JACKSON: So moved.

22 MEMBER HAWKINS: Second.

23 THE SECRETARY: All in favor.

24 MEMBER HAWKINS: Aye.

25 MEMBER MINEO: Aye.

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MEMBER JACKSON: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

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

MEMBER JACKSON: So moved.

MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER MINEO: Aye.

MEMBER JACKSON: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(Time Ended: 7:00 p.m.)

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July 18, 2024

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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 25th day of July, 2024.


BETHANNE MENNONNA