

INCORPORATED VILLAGE OF FREEPORT
ZONING BOARD

MUNICIPAL BUILDING
46 North Ocean Avenue
Freeport, NY 11520

October 17, 2024
6:30 p.m.

M E M B E R S:

BEN JACKSON	ACTING CHAIR
ANTHONY J. MINEO	MEMBER
CHARLES HAWKINS	MEMBER

* * *

REMY WATTS	SECRETARY
JENNIFER UNGAR	DEPUTY VILLAGE ATTORNEY
SCOTT BRAUN	BUILDING DEPARTMENT

RECEIVED

2024 NOV 14 10:06
VILLAGE OF FREEPORT, NY

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

-----EXHIBITS-----

BOARD'S FOR I.D. PAGE

1 Affidavit of Publication 4

2 Affidavit of Posting 4

* * *

APPLICATION 2024-9

BOARD'S FOR I.D. PAGE

1 Affidavit of Mailing 6

APPLICANT'S FOR I.D.

A Site Plan 11

* * *

APPLICATION 2024-15

BOARD'S FOR I.D. PAGE

1 Affidavit of Mailing 23

APPLICANT'S FOR I.D.

A Drawing 28

* * *

APPLICATION 2024-18

BOARD'S FOR I.D. PAGE

1 Affidavit of Mailing 48

APPLICANT'S FOR I.D.

A Seven photos of Westside 49

B Three photos of Archer 53

* * *

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

October 17, 2024

3

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

APPLICATION#	ADDRESS	PAGE
2024-9	147 Woodcleft Avenue	5-23
2024-15	54 Morton Avenue	23-47
2024-18	38 Morton Avenue	47-63

* * *

October 17, 2024

4

1
2 ACTING CHAIR JACKSON: Good evening,
3 everybody. Welcome to the October 17th Board
4 of Zoning Appeals meeting. Would everyone
5 please stand for the Pledge of Allegiance.

6 (Pledge of Allegiance recited.)

7 ACTING CHAIR JACKSON: Are there any
8 Affidavits of Publication or Posting?

9 THE SECRETARY: I have one Affidavit
10 Publication and one Affidavit of Posting to
11 be entered into the record as Board exhibits
12 for this public hearing.

13 (WHEREUPON, the above-referred to
14 documents were marked as Board's Exhibits 1
15 and 2, in evidence, as of this date.)

16 ACTING CHAIR JACKSON: Thank you.
17 Are there any requests for adjournment?

18 THE SECRETARY: Member Jackson, we
19 have one request for adjournment this
20 evening. Application 2024-17, 101 Albany
21 Avenue, Manufacturing, Section 62, Block E,
22 Lot 111-115. Salvatore Ferrara.

23 MS. UNGAR: We need a motion to
24 approve the adjournment.

25 MEMBER MINEO: So moved.

October 17, 2024

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

MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER MINEO: Aye.

ACTING CHAIR JACKSON: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

ACTING CHAIR JACKSON: I'd like to request a motion to approve the minutes from last month's meeting.

MEMBER HAWKINS: So moved.

MEMBER MINEO: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER MINEO: Aye.

ACTING CHAIR JACKSON: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

ACTING CHAIR JACKSON: Can we call the first Case?

THE SECRETARY: Application 2024-9, 147 Woodcleft Avenue, Marine Commerce, Section 62, Block 177, Lot 534. Aaron Kadosh. Propose one-story side addition 224

1
2 square feet, one-story addition 169 square
3 feet, second story terrace 930 square feet,
4 roof over deck 424 square feet, and wood
5 shades/pergola 240 square feet. Variances:
6 Village Ordinance 210-6A, 210-40 required
7 yards, 210-172(4) required parking spaces.

8 I have one Affidavit of Mailing to be
9 entered into the record as a Board exhibit
10 for this application.

11 (WHEREUPON, the above-referred to
12 document was marked as a Board Exhibit, in
13 evidence, as of this date.)

14 R O B E R T R A M I R E Z,
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 MR. RAMIREZ: Robert Ramirez. 990
21 Motor Parkway, Central Islip, New York 11722.
22 My testimony is for Mr. Kadosh; he is not
23 here tonight. He'S got some family holiday,
24 Jewish holiday.

25 We are asking permission for variance

1
2 for proposed one-story side addition 224
3 square feet. Also one-story addition 169
4 square feet, second story terrace 930 square
5 feet, roof over deck 424 square feet, and
6 wood shades 240 square feet. We are asking a
7 variance for Village Ordinance 210-40
8 required yard and front yard 4.8 feet instead
9 of required ten feet. Also we are asking
10 variance for parking space require 11, we've
11 got three parking space. Beside this, in the
12 previous meeting, we already provide
13 agreement to the parking spaces in the front
14 across the street. We are expecting to get
15 that approval tonight.

16 ACTING CHAIR JACKSON: So, during the
17 last meeting we requested to know
18 specifically what section, block and lot that
19 parcel is. Do you have information for us
20 this evening?

21 MR. RAMIREZ: It's the 69.

22 ACTING CHAIR JACKSON: I'm sorry.

23 MR. RAMIREZ: 69. Lot 69. I spoke
24 with Mr. Sergio, after the meeting two, three
25 weeks ago, and he told me. That day I was

1
2 here, I have meeting with the attorneys with
3 the Village and they decide to get this
4 approval, like we asking them. I mean, any
5 and all application to get a permit for the
6 parking that he told me.

7 ACTING CHAIR JACKSON: I don't think
8 there is an issue at this point for the
9 opening of the parking, which is one of the
10 things we discussed.

11 Do you have the section and block, or
12 is it the same as the one across the street?

13 MR. RAMIREZ: It's the same. We
14 already provide.

15 MS. UNGAR: You don't have the
16 section, block and lot.

17 MR. RAMIREZ: The lot is 69, the lot.

18 MS. UNGAR: Lot 69?

19 MR. RAMIREZ: Yep.

20 MEMBER MINEO: It's still Section 62,
21 Block 177, Lot 69, correct?

22 MR. RAMIREZ: Right. I understand
23 all information we already provide is
24 correct.

25 ACTING CHAIR JACKSON: Obviously, if

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

you're using that lot, we would like it to be striped, mark out the location of the spots that you're using across the street.

MR. RAMIREZ: Right. Our idea is, you know, Number 1, we purchase building, maintain, neighborhood looks better. Number 2, the people come to enjoy the place and everything a win win. The Village win, the neighborhood win, the owner. That's what we try to do.

ACTING CHAIR JACKSON: Do you have anymore questions?

MEMBER MINEO: No.

ACTING CHAIR JACKSON: Okay. Thank you. I'd like a hear a notion.

MS. UNGAR: If I may, I just want to look up the section, block and lot and make sure that that is what we're talking about, because in terms of writing decisions, it needs to be accurate. There were no properties found with that section, block and lot. So, give me a minute.

MR. RAMIREZ: I have a question. Do you have any notes or report from the

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

Attorney's office or no.

MS. UNGAR: I'm one of the attorneys, but my understanding last time was that the lease that was previously provided showed the same section, block and lot either as the property -- there was some confusion over the section, block and lot numbers. I have no problem asking for an update, at least that conforms to the section, block and lot, but I wanted something for the record to make it clear.

So, I believe that what you're looking for -- so, it's Section 62, Block 174, Lot 269; that's the lot across the street. Do you know if there has been done a formal parking plan stamped by an architect or an engineer showing, laying out the parking spaces with the appropriate size of the spaces, the appropriate turning radius, all of that kind of stuff?

MR. RAMIREZ: Okay, we already provide this one. I don't know if this is -- you got a copy of this.

ACTING CHAIR JACKSON: But I believe

1
2 that's on the east side of the street where
3 the building is; is that correct?

4 MR. RAMIREZ: No, this is across the
5 street. You got a copy of this in your file.
6 This is our last documents.

7 MS. UNGAR: Are you able to provide
8 that copy for us tonight?

9 MR. RAMIREZ: I got this copy for
10 you. I already wrote something next to it.

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

14 MS. UNGAR: The section, block and
15 lot written here is the wrong section, block
16 and lot handwritten there.

17 I have a question though about this
18 drawing, because I see that, not directly
19 relevant to this hearing but it is, the
20 parking lot behind, which is for the factory.
21 Part of their variance was having an open
22 space to go out into the street right through
23 where the handicap parking spaces are. They
24 were required to have an egress from their
25 parking lot onto Woodcleft, so as not to just

1
2 cause all of the commercial traffic to exit
3 onto South Ocean Avenue. So, this parking
4 plan isn't in accordance with another
5 variance. So, it's not specifically this
6 variance, but we won't be able to approve
7 this parking plan as shown because it's
8 blocking off that area.

9 MR. RAMIREZ: For the parking behind.

10 MS. UNGAR: For the factory, correct.

11 MR. RAMIREZ: Well, they are using
12 the parking behind to get in and out how it
13 showing on there. That's what they are using
14 this.

15 MS. UNGAR: But that's not in line
16 with the requested variance. This Board
17 isn't going to sign off on a parking plan
18 that closes off something that this specific
19 Board previously said. It absolutely will
20 not be approved to only have traffic exit out
21 onto South Ocean. They have to be able to
22 exit, the factory, onto Woodcleft.

23 MR. RAMIREZ: Okay. Let me try to
24 understand. That means the previous approval
25 was they get in the South Street and get out

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

on Woodcleft Avenue?

MS. UNGAR: If you want to come over, I'll show you.

Part of the condition from the previous approval was that this was going to be able to go out. This was not going to be the only way in or out. They promised to leave a 20 foot space here to exit from this lot out to here. So, while it's not specifically connected to this application, this Board isn't going to give a blessing to this, when it knows it violates something else that has previously been approved.

MR. RAMIREZ: Okay. But this is like this right now.

MS. UNGAR: That means they did something that wasn't permitted. But the Board -- we're not going around?

MR. RAMIREZ: You want me to change the drawing?

MS. UNGAR: No, it's not about changing the drawings, it's about making sure that what is being approved is going in line with what the Board previously approved.

October 17, 2024

14

1
2 MR. RAMIREZ: My question to you, you
3 have issue if we are using this way, it's not
4 go out?

5 MS. UNGAR: That is not a problem.
6 The Board is not going to sign off on the
7 parking plan as is. If it's spaced this way,
8 the Building Department is going to be going
9 down there and write citations to the factory
10 next week, because this is not in line with
11 what was approved.

12 MR. RAMIREZ: Can you, the Board,
13 approve this and then figure out this later,
14 because it's two cases?

15 MS. UNGAR: If you'd like to adjourn
16 to next month and submit a new plan that
17 shows a conforming parking lot, that's fine.
18 The Board is not going to approve something
19 only on the basis of --

20 MR. RAMIREZ: Come back next month?

21 MS. UNGAR: The public has a right to
22 weight in on it.

23 MR. RAMIREZ: Four times? This is my
24 third time. These people, they are desperate
25 because they would like to prepare

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

everything. I've got to do what I've got to do. That other guy, he was to strange, the situation, because he doesn't know how it work.

We have to come back next month?

MS. UNGAR: I'm also seeing here this lot is listed as being 80 feet, which means you're going into -- the lot that you're talking about is only 40 feet wide. So, it's not just lot 269 in question.

MR. RAMIREZ: Let me ask you something, because your the attorney, right?

MS. UNGAR: Yes.

MR. RAMIREZ: Can you speak with Sergio? He told me to come in with him and you will approve, everything will be fine.

MS. UNGAR: First of all, I don't believe Sergio would say everything is fine and approved, because Sergio knows that this is an independent Board who doesn't -- Sergio knows he doesn't have the ability to approve things himself.

MR. RAMIREZ: He told me, you, the Board, the attorney, will agree to approve

1
2 this. I'm asking, that means to use this
3 without any another application for the
4 parking permit.

5 MS. UNGAR: Why don't you go back to
6 the podium.

7 I don't know if Sergio had recently
8 looked at the previous approval from the
9 factory, but whatever happens with this could
10 affect what is happening with the factory.
11 So, the Board is not going to sign off on a
12 parking plan that is in violation of a
13 previous variance that they granted. They're
14 just not going to do it.

15 MR. RAMIREZ: Okay. It's not
16 possible to approve this and figure out later
17 the factory? Is that possible or no?

18 ACTING CHAIR JACKSON: We can't
19 approve it based on this plan because it is
20 already violating a variance issued. This
21 plan has to change.

22 What I suggest this at this point is
23 go back and amend this so this conforms.
24 We'll adjourn until the next meeting.

25 MR. RAMIREZ: That should be open,

1
2 the area between the back and the front.
3 That's what you try to explain, right?

4 ACTING CHAIR JACKSON: In the prior
5 decision, they gave access coming from
6 Woodcleft to the back parking lot for the
7 catering hall. It's showing here it's closed
8 off. So, that has to be opened up. Then the
9 parking -- you have to maintain the same
10 amount of spots to get a variance for the
11 back parking lot. There is a little more to
12 it.

13 MEMBER MINEO: The lot that you're
14 talking about also has to be the size of the
15 lot, not what's indicated on here, which is
16 double the size; is that right?

17 MS. UNGAR: Correct. You're showing
18 80 by 90 lot, but Lot 69 is 40 by 90. It has
19 to be done appropriately, so that everyone is
20 on notice of what is being used for what
21 purpose.

22 MR. RAMIREZ: Let me get close to
23 you, because I would like to know what you
24 need to put in the notes.

25 ACTING CHAIR JACKSON: I think what

1
2 you need to do is hire someone, a
3 professional at this, to handle this. It's
4 not our job advise you. Somebody needs to
5 present this.

6 MR. RAMIREZ: Right.

7 ACTIN CHAIR JACKSON: You told us he
8 owns this restaurant. Find somebody who
9 understand this. Find an attorney who
10 understands this to present this. These are
11 minor things but it's things we can't
12 approve.

13 MR. RAMIREZ: Here is my question:
14 The previous approval for this was -- we
15 found this, this copy of the record. This
16 was approved like this. That means you can
17 see part of the map, this is an approval on
18 the file here like this. We just figure out
19 this is the front.

20 MS. UNGAR: I'm going to --

21 MR. RAMIREZ: You told me that
22 previous approval was to go through here.

23 MS. UNGAR: Yes.

24 MR. RAMIREZ: This is like this. You
25 put this.

1
2 MS. UNGAR: The Zoning Board is the
3 only one to approve a plot plan. I remember
4 when there was a hearing they said, "We're
5 going to come back with a plan." The Zoning
6 Board doesn't see it after that point. The
7 Zoning Board can look and say this is not
8 what is supposed to happen. What was
9 supposed to happen is the people on South
10 Ocean, the residents on South Ocean will have
11 sufficient traffic on the Mile, and part of
12 it was we're not going to ask cars to go
13 straight out from the parking lot directly on
14 South Ocean.

15 MR. RAMIREZ: This is my question to
16 you: If we had to do this again, we're
17 leaving this open through here and we got a
18 lot of space in here. We come back. This is
19 fine.

20 MS. UNGAR: That's only one section,
21 block and lot. It's multiple section, block
22 and lots. It's incomplete; that's the whole
23 point. It's not all of it.

24 MR. RAMIREZ: Okay.

25 MS. UNGAR: I don't know what this

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

section, block and lot here --

MR. RAMIREZ: No, this is more different.

MS. UNGAR: What is this one?

ACTING CHAIR JACKSON: Sir, if I may. There are other people waiting. This is not what this meeting is for; it's not for us to educate you on how to get this through. I'm going to suggest, yet again, to find somebody professional who understands what's going on here to adjust this. It's a pretty simple thing to do, but we can't advise you on how to adjust it and make it right. We can only tell you what we're seeing is something we cannot approve. I strongly recommend that you adjourn, come back next month. Seek professional help on this and they will be able to advise you and straighten everything out.

MR. RAMIREZ: My question -- let me try to understand -- if we fix this, Number 1. If we leave this open, Number 2, and we figure out the parking with that plan, that's fine?

1
2 ACTING CHAIR JACKSON: Can't approve
3 that by you saying that. We have to see it.
4 If we see it, we'll definitely consider it.
5 I don't see anything out of the ordinary.
6 It's something we have to discuss.

7 MS. UNGAR: I can also say a gate is
8 not acceptable.

9 MR. RAMIREZ: To be removed.

10 MS. UNGAR: People can't park.

11 MR. RAMIREZ: We'll remove it. It's
12 a system right now.

13 MS. UNGAR: Okay.

14 MR. RAMIREZ: Okay, we'll figure out
15 this and come back.

16 ACTING CHAIR JACKSON: Very good.

17 MS. UNGAR: You can't take this. She
18 marked it as an exhibit. You submitted it to
19 the Board. I said do you have a copy, and
20 you handed it up.

21 MR. RAMIREZ: Do you want another
22 copy? I made copy of this.

23 MS. UNGAR: I wasn't at last month's
24 meeting. I didn't have that package.

25 MR. RAMIREZ: You told me she already

1
2 kept that one that you said, right? That's
3 what you said, right?

4 MS. UNGAR: You know what we are
5 going to do? We are going to put the sticker
6 on the clean copy from Charles, so that you
7 can retain your notes.

8 MR. RAMIREZ: Exactly.

9 MS. UNGAR: So this copy that we took
10 from Mr. Hawkins is now our Exhibit A. It's
11 the same as what the applicant provided to us,
12 minus his own personal handwritten notes.

13 ACTING CHAIR JACKSON: So we're going
14 to adjourn the hearing.

15 MR. RAMIREZ: Okay. We're on the
16 same page. Next month we'll be here before
17 Thanksgiving.

18 MEMBER HAWKINS: I'd like to get a
19 motion to adjourn this.

20 MEMBER MINEO: So moved.

21 MEMBER HAWKINS: Second.

22 THE SECRETARY: All in favor.

23 MEMBER HAWKINS: Aye.

24 MEMBER MINEO: Aye.

25 ACTING CHAIR JACKSON: 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.)

ACTING CHAIR JACKSON: Go to the next case.

THE SECRETARY: Application 2024-15, 54 Morton Avenue, Residence A, Section 55, Block 300, Lot 205. Desiree Boucher. Maintain privacy fence 26 feet of four feet high closed. Variances: Village Ordinance 210-6A, 210-171D(1) fences and enclosures.

I have one Affidavit of Mailing to be entered into the record as Board Exhibit 1 for this application.

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

R I C H A R D G R A Y,
having been first duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

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

October 17, 2024

24

1
2 COURT REPORTER: Please state your
3 name and address for the record.

4 MR. GRAY: Richard Gray, G-R-A-Y. 54
5 Morton Avenue, Freeport New York.

6 MS. BOUNCHER: Desiree Boucher. 54
7 Morton Avenue, Freeport, New York 11520.

8 MR. GRAY: Good evening. When we
9 were here last on September 19th, we had an
10 opportunity to present to the Board options
11 of what we were hoping to do to address the
12 matter of the fence that is currently
13 installed. We had presented challenges that
14 we were experiencing, both my wife and I,
15 with the community and certain circumstances
16 that were leading us to create a barrier and
17 provide safety and comfort, as well as
18 significant privacy to our home at 54 Morton.

19 I took the liberty of taking your
20 advice and speaking with the contractor,
21 speaking with various other individuals on
22 the design principles and so forth. I also
23 took your advice in drawing up a sketch.
24 Please excuse my artistic challenges, but I
25 wanted to share that. I'm going to try to

1
2 bring this up here and submit it into
3 evidence. But as can you see, here is the
4 fence. This is the sidewalk that you have
5 pictures in your package. And down here,
6 after speaking with the contractor, they were
7 indicating that it's a challenge for them to
8 do what is being asked. It's a special
9 design and it has to be, like, a preorder.

10 I want to please draw your attention
11 as to why this is such a real challenge for
12 us. On October 12th, there was some violent
13 break-ins on our block. There was a recent
14 incident where right across the street a
15 group of youth were trying to kick down a
16 woman's door. I have video to show you of
17 everything that took place. I was speaking
18 with the Police Department in Freeport, and I
19 have the case number with the First Precinct.
20 These people jumped over fences and broke
21 into people's homes, they broke into people's
22 backyards. In doing so, it really put -- my
23 wife was shattered. I was not able to
24 comfort her at the time, but due to the fact
25 that we have a dog, that was the one thing --

1
2 that, plus the locked doors.

3 I do want to point out that when we
4 lower this fence, it gives people better
5 access to our property. We're just trying to
6 do everything we can to create security and
7 privacy. But after this last weekend,
8 October 12th, it was too much to handle. The
9 police were all over the block.

10 MS. BOUNCHER: Up and down the block.

11 MR. GRAY: We couldn't leave. We
12 were like prisoners on our own block. We
13 were told to stay in place. If I can show
14 you -- I don't want to submit my iPad, but I
15 can show you video footage. You'll see seven
16 to eight individuals running ramped through
17 the community. When she stays by herself,
18 when I'm at work, it's difficult. I'm just
19 asking if there is any possibility. Our
20 neighbors also here. They're right down from
21 us at 38 Morton. We have basically the same
22 challenges, and they witnessed the actual
23 attempt to break in. So, they can speak a
24 little more intelligibly towards that. My
25 concern, at this point, is how we can find a

1
2 way to have a happy medium. So, I wanted --

3 ACTING CHAIR JACKSON: If I may. Is
4 this acceptable to you at the front? Is your
5 drawing -- are you presenting this? Just for
6 my understand. Believe me, I'm very
7 sympathetic to your plight. It's an awful
8 thing and shouldn't happen.

9 Are you presenting this for us to
10 approve or are you saying this is a
11 compromise?

12 MR. GRAY: Well, it's both. I'm
13 hoping that when we had agreed -- the minutes
14 will show -- that you were amenable to this
15 option, I was hoping that with the evidence
16 that I'm presenting today, plus the witness
17 testimony and everything we have to present
18 today would give us an opportunity to just,
19 please, reconsider, and if we can achieve it,
20 because we have done everything we can.

21 ACTING CHAIR JACKSON: Personally, I
22 am very sympathetic. It's a horrible
23 situation. The concern being with the low
24 fence, unfortunately, it lowers your
25 visibility of children coming through. There

1
2 has to be a balance between -- safety for you
3 is extremely important, but also you have a
4 kid on the block on a bicycle. That's why
5 that law is in place. That's the concern.

6 I think this is pretty much what we
7 discussed. If it's an option either way, we
8 can discuss it amongst ourselves and base our
9 decision accordingly. How would you feel
10 about that?

11 MR. GRAY: Well, I can thank you
12 pictures. I'd also like to point out -- I
13 know that this is -- can I submit it now?

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

17 MR. GRAY: We have approximately, in
18 addition, 12 pieces of evidence to support
19 that this is not just our request, but the 12
20 to 15 other home owners have. We have spoken
21 and we have come up with this idea. This
22 seems to be an ongoing thing throughout
23 Freeport. These locations, Exhibit 1D that
24 was graciously provided by our neighbors
25 working cohesively to address the matter, we

1
2 found that there are several properties as
3 well with the same exact that has been in
4 effect and record for a number of years. We
5 understand the safety concern and we just
6 want you to be aware of these as well.

7 ACTING CHAIR JACKSON: So you're
8 aware also, the Building Department has gone
9 into your neighborhood and made a list of
10 homes with fences in front. The one's that
11 don't comply, do not have permits for them.
12 I believe there is one that was prior to the
13 code change, it was a corner lot, so it was
14 allowed to have the fence there.

15 MR. GRAY: It's a corner lot, you
16 said?

17 ACTING CHAIR JACKSON: A corner lot.
18 They have a sidewalk on either side. You
19 have a front yard and a secondary front yard.
20 That makes a difference.

21 MR. GRAY: We're in the middle of the
22 block.

23 ACTING CHAIR JACKSON: I'm saying
24 that's something that is in your pictures.
25 One of the homes the Building Department

1
2 found, that was one of the cases. We'd be
3 happy, if you want to submit that, happy to
4 look at them. Unfortunately, they will
5 probably be issued violations for not being
6 in compliance. It's a catch 22.

7 Unfortunately, a lot of people do it. Unless
8 somebody complains -- the Building Department
9 doesn't necessarily spend the day looking for
10 a fence that's illegal. Even though you're
11 right. I have seen it myself. I'm a
12 Freeport resident, obviously. A lot gets
13 done without permits, they do it on a
14 Saturday. A lot of times it gets overseen.

15 MR. GRAY: Right. The only actual
16 reason that we're here is because of the
17 contentiousness we have been dealing with.
18 So, understandable. Submitting this would be
19 superfluous at this point, because you are
20 already aware. I wanted to you be aware.

21 MS. UNGAR: I was going to ask a
22 question, because I sympathize with what you
23 went through a couple of weeks or last week.

24 I'm trying to understand. Are there
25 any fences shutting off your backyard?

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

MS. BOUNCHER: We have a six foot fence in our whole backyard.

MS. UNGAR: Cutting off the front of the house. I don't see anything on the drawing.

ACTING CHAIR JACKSON: I believe there is, if I remember.

MR. GRAY: I want to understand the question. Are you asking about the back rear portion of the home?

MS. UNGAR: I'm trying to understand.

MR. GARY: May I approach?

MS. UNGAR: Of course. I'm trying to understand the safety concern you are speaking of. This, theoretically, is showing everything. Are there gates/fences here? They're not on this drawing. That's why I'm asking.

MR. GRAY: No. The original area is the fence that was installed.

MS. UNGAR: Correct. Is there anything enclosing your backyard?

MR. GRAY: Yes. That's the one.

MS. UNGAR: My first thought was,

1
2 looking at this picture, the fence is around
3 three sides, how does that that help, if they
4 can still run into the backyard.

5 And then kind of my question about
6 having a fence going high up to the curb,
7 does that provide additional safety in terms
8 of having slightly bigger section to see
9 through, or does it prevent you from being
10 able to see down the block if there is
11 something else going on?

12 MR. GRAY: Our house is pitched
13 significantly higher than every other home on
14 the block. We have a pitch level that's
15 probably about another six to seven feet
16 higher.

17 MS. BOUNCHER: You do have pictures
18 in the packet that was submitted in September
19 showing my husband taking a picture from his
20 car on the driveway and me walking the dog.
21 There is a clear sight line.

22 MR. GRAY: The sight line is here.
23 When you're standing or even if you're in
24 your vehicle, you have a clear sight line to
25 the sidewalk. There is no obstruction

1
2 because the fence is much lower. Because of
3 the elevation of the home, it prevents there
4 being any visual obstruction or any kind of
5 impedece to anyone four feet and under, due
6 to the fact of the elevation.

7 MS. BOUNCHER: Additionally, both of
8 our neighbors are on opposite -- they are
9 completely on the opposite side of the fence
10 that was installed; it doesn't block their
11 driveway at all.

12 MS. UNGAR: I understand. It was a
13 question of this is a security thing. I'm
14 kind of sitting here saying, wouldn't a
15 partially open fence help provide more
16 transparency to see what is going on around
17 you, because without -- which I'm not suggest
18 you should and it is absolutely prohibited by
19 code, but without having a fence straight out
20 at the sidewalk blocking off the whole
21 property, your front yard is still
22 accessible, whether it's a four foot solid or
23 four foot open fence. That's the part I'm
24 trying to understand and grapple with.

25 MR. GRAY: There were other

1
2 contributing factors as to why the privacy
3 fence was put up, because there were issues
4 with our neighbor crossing into our property
5 with their quad, they were throwing garbage.
6 There was a lot of contentious, intentful,
7 malicious acts that we had been dealing with.

8 So, by creating this, and when we
9 presented it last on the 19th, the amenable
10 options, as you can see, was creating a 12
11 inch swoop which gave us more sight line.
12 So, that allowed for that. The Board had --
13 there are pictures that I can show you. This
14 will come down, the 12 inches. This will now
15 be three feet with -- it would be a little
16 more open, so that will be more of a sight
17 line.

18 MS. UNGAR: Is this a section of the
19 fence?

20 ACTING CHAIR JACKSON: It's not right
21 up to the sidewalk, it's setback.

22 MR. GRAY: That's another thing, it's
23 not right up to the sidewalk. If the
24 sidewalk was, let's say, here, it's further
25 back, based on what was initially requested

1
2 by us, by the contractor, to give more sight.

3 So, even in speaking with the
4 contractor, they had stated that because the
5 ground is hardening and the temperature -- to
6 dig now would be a little difficult because
7 the cement holding everything. So, they were
8 suggesting that this would be the most
9 amenable option, based on what you and I
10 spoke about last time, creating a deep swoop,
11 giving more accessibility, which creates the
12 appearance of aesthetically pleasing to the
13 neighborhood.

14 MEMBER HAWKINS: That first section
15 there, how much of that section is going?

16 MR. GRAY: It's going to be down
17 three feet.

18 MS. BOUNCHER: The whole thing.

19 MEMBER HAWKINS: That entire section?

20 MR. GRAY: Yeah. It goes down, that
21 whole plank. Plus remember, we're back
22 another whole foot as well.

23 MS. BOUNCHER: That pole that's by
24 the sidewalk, that had to be cut.

25 MR. GRAY: They'll cut the pole from

1
2 the height, dropping it down another foot,
3 which makes it the three feet.

4 I'm sorry about the drawing. I'm
5 hoping you can understand.

6 MS. UNGAR: The drawing makes it very
7 clear what you're trying to do.

8 ACTING CHAIR JACKSON: We don't grade
9 for drawings.

10 MS. UNGAR: I was going to say, I
11 still have sort of some concern about this
12 fitting in with neighborhood. I don't know.
13 Maybe our Building Department representative
14 can come up and talk, because of the things
15 is fitting in the neighborhood -- your
16 neighbors will be presenting next -- talk
17 about the character of the neighborhood. The
18 photos that were taken, they're generally
19 open fences. They're generally conforming
20 fences on the block. So, kind of the
21 question is, what is conforming. If you're
22 each saying the other one is going to be
23 doing it, it's sort of creating a more
24 artificial sense than what the neighborhood
25 is by kind of a couple of people trying to

1
2 post similar fences at the same time. It's a
3 question about the character of the
4 neighborhood. Is this what you want the
5 character of the neighborhood to look like.

6 It's just a concern, because what
7 comes next, because this Board, recent, has
8 seen an increase in the number of
9 applications with people seeking five foot
10 closed fences in their front yard, six feet
11 closed fences. It does become kind of a
12 concern where how much is going to be granted
13 before we start getting where everyone is
14 going to be having these taller fences coming
15 close out to the sidewalk. It's kind of a
16 bigger, broader long-term question for the
17 Village that I'm kind of --

18 MR. GRAY: That's why when we
19 initially presented on the 19th we thought
20 that based on the recommendations that were
21 given, that the option to swoop it down would
22 be amenable. The other young lady that was
23 present at the time also was in agreement
24 with it at the time for us to bring sketches
25 and bring ideas and that it would be

1
2 considered. So, that's why I tried to take
3 the snapshots of the actual design and then
4 draw what it would look like. Considering
5 that we're further back from the sidewalk
6 gives us a lot more advantage for more sight
7 line. Our driveway is not that level.
8 Because it's higher, it gives us something
9 that most other homes does not come with,
10 because of the pitch level that was designed,
11 because of the flood Zone 1 and 2, because of
12 the fact when the water does drain down it
13 makes it easier.

14 MS. UNGAR: Understood.

15 MR. GRAY: I was also thinking to add
16 what is a little motion sensor on the edge of
17 the fence. I was also thinking of that idea.
18 I spoke with one of the contractors and they
19 thought it was an interesting idea. It kind
20 of gives -- if I'm walking down or riding my
21 bike down the driveway, it alerts like a
22 little sound that is not impeding, of course,
23 or intrusive to others, but it lets you know
24 that here. If that was another option that
25 would be something I could also look at, that

1
2 I'm amenable to. I just -- if you can -- I
3 don't even know if you can imagine what we
4 have been going through the last year.

5 MS. UNGAR: I can't.

6 MR. GRAY: I'm not trying to put you
7 in that mindset, but it has gotten to the
8 point where we were even considering moving,
9 and that made no sense, because she was very
10 unhappy.

11 MS. BOUNCHER: I'm unhappy. I'm
12 sorry, I've had it. I'm done. I'm done. We
13 pay taxes that is not cheap and the behavior,
14 it's ridiculous. If we could swoop that,
15 like we discussed the last time, the last
16 piece of fence, we will be amenable to doing
17 that. When we last left here, that was our
18 understanding: Come back with some options.
19 I know my husband had mentioned the swoop to
20 Mr. Jackson, and you had said, at the time,
21 that would be an option to bring. So, we're
22 comfortable at least knowing that we will do
23 that, but I'm not open to any other options.
24 I'm just going to be honest with you. The
25 scooping was a lot for me to even consider,

1
2 because of everything going on. So, if we
3 can come to a compromise on that, that would
4 be great.

5 MR. GARY: Additionally, the
6 contractors were stiffing us, trying to
7 leverage more. They had agreed to offset the
8 cost and take responsibility for their
9 mishap. So, that's -- I think if we go back,
10 it's going to be even more problematic.
11 We're trying not to. I think we're in a
12 sweet spot right now, to be clear. But yeah,
13 I just really thank the Board for the
14 opportunity to present, and I hope we can
15 come to an understanding.

16 ACTING CHAIR JACKSON: Any other
17 questions?

18 MEMBER HAWKINS: No.

19 ACTING CHAIR JACKSON: I'm sorry for
20 your plight. I've live here my whole life,
21 around the corner from you. That's not
22 typical of Freeport. So, I hope it's not a
23 reflection.

24 MR. GRAY: No, I am it's just a
25 couple of bad apples in the bunch. That's

1
2 why you're supposed to get to the vegetable
3 stand earlier in the morning to pick out the
4 best.

5 ACTING CHAIR JACKSON: Would anyone
6 else like to speak on this application?

7 H E R R O L J E A N P H I L I P P E,
8 having been first duly sworn by a Notary
9 Public of the State of New York, was
10 examined and testified as follows:

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

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

17 MR. JEAN-PHILIPPE: Herrol
18 Jean-Philippe. 38 Morton Avenue, Freeport,
19 New York 11520.

20 MRS. JEAN-PHILIPPE: Aline
21 Jean-Philippe. I reside at 38 Morton Avenue,
22 Freeport, New York 11550.

23 MR. JEAN-PHILIPPE: First of all,
24 thank you very much for giving us the
25 opportunity to come here and speak on behalf

1
2 of our neighbor, Mr. Gray, and also for
3 ourselves. We are both in the same
4 situation. We completely and totally support
5 our neighbor here with the fence in the way
6 that it has been constructed.

7 I believe it was two years ago we
8 constructed our fence first, and I shall
9 explain -- I should say replaced our fence
10 first, and I shall explain to you. A little
11 over two years ago we replaced the fence that
12 was there already. Actually, it was a wooden
13 fence with no space and it was four feet
14 tall. We didn't know that we had to go and
15 get permission, because it was a fence there
16 already; it was four feet with no space. All
17 we did was replaced it with a PVC. That's
18 what we did.

19 MRS. JEAN-PHILIPPE: We're talking
20 about them.

21 ACTING CHAIR JACKSON: We'll hear
22 your case in a minute. If you'd like to
23 speak on their case now.

24 MR. JEAN-PHILIPPE: Now the other
25 fence they have four feet fence that's up,

October 17, 2024

43

1
2 and it is not an eyesore. In fact, it's only
3 at four feet. I believe four feet is the
4 sweet spot, and I say that because of the
5 situation that just occurred a few days ago.
6 On October 12th, around 7:45, 8:00, we had
7 seven or eight youths running down the block.
8 I actually witnessed what happened. Right
9 across the street me from 31 Morton Avenue,
10 there was no fence actually, several homes,
11 and the young gentleman they were walking on
12 people's property. There was no fence, okay,
13 which means they were able to go from one
14 property to the next with not barrier
15 whatsoever and kicked somebody's door down.
16 I gave a full statement to the police officer
17 and I have it right here, because I witnessed
18 what happened. If you had a fence there, if
19 it was a tall fence, I'm not saying this
20 would have prevented what happened. However,
21 they would have to scale the fence and it
22 would have taken more time. We do have
23 pictures of what took place in the backyards
24 for Mr. Gray and I think for another neighbor
25 as well -- actually, two other neighbors.

1
2 So, the fence being there in the
3 height, okay, is actually a good thing. I
4 think it gives protection for the neighbors.
5 I understand the concern going from four feet
6 to five feet to six feet; yes, I do. Four
7 feet, I do believe, is a sweet spot where the
8 neighbors could stop. So, his fence I
9 believe is four feet, it's about the same
10 height as ours. I have not measured it, but
11 I think it's the exact same thing. This is
12 what I'm looking at. So, I have no objection
13 to their fence and I would believe that --

14 MRS. JEAN-PHILIPPE: It beautifies
15 the neighborhood.

16 MR. JEAN-PHILIPPE: Absolutely. I
17 would believe on our block and the
18 surrounding area we would get a whole lot of
19 support, and I say that because of all the
20 exhibits that we have here. For example,
21 West Side Drive -- I don't want to get into
22 it yet. I'm still arguing on their behalf.

23 MRS. JEAN-PHILIPPE: On their behave.

24 MR. JEAN-PHILIPPE: We do not object.
25 In fact, we're in favor and for.

1
2 ACTING CHAIR JACKSON: Thank you very
3 much. Do we have anybody else who would like
4 to speak?

5 THE SECRETARY: No, Member Jackson.

6 ACTING CHAIR JACKSON: I'd like to
7 hear a motion to close to further evidence
8 and testimony and reserve decision.

9 MR. GRAY: I was just going to ask --

10 ACTING CHAIR JACKSON: Would you like
11 to speak again?

12 MR. GRAY: I just wanted to say that
13 I know that there's a lot of challenges in
14 moving into new communities and learning the
15 rules and regulations. This was never to
16 blatantly go beyond and do our own thing. We
17 just thought it was going to help and, you
18 know, we're amenable to moving in that
19 option. I know it takes time to get the
20 contractor on board, to get the pieces
21 designed, whatever, but we're definitely
22 willing to move in that direction.

23 MEMBER HAWKINS: Are you and your
24 neighbor at 38, do you all have a fence
25 around your backyard? Is that what you're

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

saying?

MR. GRAY: I have a fence in my backyard, yes.

MEMBER HAWKINS: They have a fence also?

MR. GRAY: Yes.

MEMBER HAWKINS: You have fences separating you from your neighbor, correct?

MR. GRAY: Yes.

MEMBER HAWKINS: But there is no fence in the front of either house?

MR. GRAY: No, no, we didn't do a fence in the front, because we spent some money to try to beautify the landscaping with a lot of shrubbery and the deciduous trees. So, we did that and it kind of beautified. People coming over and they often stop by and they see and take pictures and stuff. I say that to say that if we were to put a fence in the front, it would have blocked that visual aspect. So, we just -- I think that would have not been a good thing.

MEMBER HAWKINS: Thank you.

MR. GRAY: I could show you the

1
2 video, but I don't want to take up your time.
3 If it helps.

4 ACTING CHAIR JACKSON: I trust your
5 word on it.

6 I'd like to hear a motion to close to
7 further evidence and testimony and reserve
8 decision.

9 MEMBER MINEO: So moved.

10 MEMBER HAWKINS: Second.

11 THE SECRETARY: All in favor.

12 MEMBER HAWKINS: Aye.

13 MEMBER MINEO: Aye.

14 ACTING CHAIR JACKSON: Aye.

15 THE SECRETARY: Any opposed?

16 (No response was heard.)

17 ACTING CHAIR JACKSON: Thank you.
18 You'll get a decision.

19 MR. GRAY: Thank you.

20 THE SECRETARY: Application 2024-18,
21 38 Morton Avenue, Residence A, Section 54,
22 Block 300, Lot 198. Herrol Jean-Philippe.
23 Maintain 56 foot of four foot high closed PVC
24 fence. Variances: Village Ordinance 210-6A,
25 210-171D(1) fences and enclosures.

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

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

8 MR. JEAN-PHILIPPE: Good evening
9 again. So, two years ago we replaced a fence
10 that was there already. The fence that was
11 there, as I mentioned earlier on, was a brown
12 wooden fence, it was four feet tall. We
13 replaced -- in the front, same exact place.
14 We replaced that fence with a PVC, and we did
15 it to beautify our property, the
16 neighborhood, etcetera.

17 In fact, we drove around the
18 vicinity. Within one to two minutes of
19 driving and on one block alone, Westside
20 Drive alone, there's about ten properties.

21 ACTING CHAIR JACKSON: Do you mean
22 Westside Avenue?

23 MRS. JEAN-PHILIPPE: Westside Drive.

24 ACTING CHAIR JACKSON: In Freeport?
25 I think it's Westside Avenue.

1
2 MR. JEAN-PHILIPPE: My apologies.
3 There's about nine or ten properties with
4 that exact fence. We can give this to you as
5 evidence.

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

9 ACTING CHAIR JACKSON: Just so you
10 understand, as I explained in the last case,
11 very often these homes have these fences and
12 they're not permitted. Although I agree you
13 may see quite a few around, I do myself, it's
14 something that they really should have
15 permits for and they haven't been caught yet
16 or somebody hasn't complained. It may not be
17 indicative of what's allowed in the Village
18 but more indicative of people doing what they
19 shouldn't be doing.

20 MR. JEAN-PHILIPPE: I concur.
21 However, back in 2001, I believe six or seven
22 of those properties was built by a developer
23 and that development was created in 2001. I
24 would believe because of development was so
25 big they had to have had a permit to have

1
2 done that, because it's partitioned in
3 several places. So, that development most
4 definitely had a permit to do it at that
5 time. Although, it was 22 years ago. It was
6 quite some time ago. I don't know when the
7 law was enacted here in Freeport, in terms of
8 height and space in between, so I can't speak
9 to that. But I would imagine for that
10 particular development, it was very big, it
11 had to receive a permit to do what it did at
12 that time. And I have --

13 ACTING CHAIR JACKSON: What is the
14 location of this development?

15 MR. JEAN-PHILIPPE: That development
16 went in, I believe, 2001.

17 ACTING CHAIR JACKSON: That's on
18 Westside?

19 MR. JEAN-PHILIPPE: That is correct.
20 I have more.

21 MS. UNGAR: If I can interrupt for
22 just a minute. What made you choose Westside
23 to photograph, when South Atlantic --

24 MR. JEAN-PHILIPPE: Because Westside
25 is not too far from where I live. I live on

1
2 Morton Avenue, and around the corner is
3 Atlantic Avenue. Westside runs on Atlantic
4 all the way down to the water. So, as soon
5 as you turn on Westside, you get a house, and
6 I believe in that packet that I gave you,
7 there's a house that is there and then so
8 forth and so on.

9 MS. UNGAR: Okay. I was just
10 curious. It's not the most obvious right
11 around the corner from your house, it's a few
12 block away.

13 MR. JEAN-PHILIPPE: Yes.

14 MRS. JEAN-PHILIPPE: It was random.
15 We were walking and here is this one, here is
16 another one. We took pictures.

17 MR. JEAN-PHILIPPE: I have more. I
18 have one recent on Archer Avenue. We have
19 three -- actually, there's more than three,
20 but I didn't want to go through all of them
21 on Archer Avenue. I live around the corner
22 from Archer Avenue. So, we have three.

23 ACTING CHAIR JACKSON: I hate to
24 correct you, but it's Archer Street.

25 (WHEREUPON, the above-referred to

1
2 documents were marked as Applicant's Exhibit
3 B, for identification, as of this date.)

4 ACTING CHAIR JACKSON: Not knowing
5 what has been permitted or isn't permitted it
6 would be difficult to base a decision on
7 these exhibits that you have presented. We
8 can't approve you because someone put in a
9 fence illegally, and we don't know either
10 way. My guess is a lot of these, if not all,
11 are probably not legal.

12 MR. JEAN-PHILIPPE: We have more.
13 Some of them are actually very recent. And
14 we have more that we are able to present, or
15 is that enough? That's just within --

16 ACTING CHAIR JACKSON: It's enough
17 for now.

18 Ms. Ungar, I don't know, but maybe we
19 should adjourn it to see if these are under
20 approved permits or not, if they are being
21 presented as evidence.

22 MS. UNGAR: I think that that's
23 reasonable. Just because people have them
24 doesn't mean they should be there. That's
25 the problem that you are going to find is

1
2 that unfortunately a lot of people don't
3 think they need or don't think they should
4 have fences --

5 ACTING CHAIR JACKSON: Permits.

6 MS. UNGAR: Excuse me. And fence
7 companies, while they know permits are
8 needed, they tend not to enlighten the home
9 owner about the need for permits and,
10 unfortunately, we end up in so many
11 situations where fences have been built
12 without permits.

13 MR. JEAN-PHILIPPE: In our particular
14 case, we had a fence there already.

15 MRS. JEAN-PHILIPPE: It was a wooden
16 fence that was an eyesore. That's why we
17 chose the PVC to beautify the neighborhood.

18 MS. UNGAR: Either way there are two
19 questions. Did that fence have a permit?

20 MR. JEAN-PHILIPPE: That fence had
21 been there before.

22 MRS. JEAN-PHILIPPE: When we bought
23 the house. We bought the house back in 2003
24 and I'm pretty sure it had a permit, because
25 we also had an issue with the shed which did

1
2 not have a permit, and we had to come before
3 the Board so we could maintain it.

4 MS. UNGAR: Okay. Either way, even
5 if that fence had a permit, you still can't
6 remove that fence and then put in a new
7 nonconforming fence, which, obviously, you
8 weren't aware of.

9 MRS. JEAN-PHILIPPE: Right. I
10 thought it was there already, we're going to
11 put a more beautiful one and we did not know
12 that we had to go through the Board for it to
13 be approved.

14 ACTING CHAIR JACKSON: That's fair
15 enough. I think the best thing would be to
16 adjourn, if you don't mind coming back to
17 next hearing. We'd like to explore what's on
18 these properties. If it valid, you have a
19 more valid case. So, it's something we need
20 to look into.

21 MRS. JEAN-PHILIPPE: Fair enough.

22 MEMBER HAWKINS: Just to let you
23 know, our Building Department, since he did
24 some work -- I just want to acknowledge it.
25 He went to different locations on Morton

1
2 Avenue. We have 58 Morton Avenue, which has
3 a three foot fence with a one foot open
4 lattice above it. He also went to 30 Morton
5 Avenue which has a picket fence, white picket
6 fence. 19 Morton Avenue on your block has a
7 picket fence. And he went to 17 that has a
8 chain link fence. The only ones he took on
9 the block that have solid fences that go all
10 the way to the driveway are both applications
11 of 58 Morton Avenue and 38 Morton Avenue.

12 MRS. JEAN-PHILIPPE: Okay.

13 ACTING CHAIR JACKSON: As a thought,
14 would you be willing to do what your neighbor
15 is proposing to do, swoop down the fence in
16 the front? Would that be something you would
17 consider.

18 MR. JEAN-PHILIPPE: I don't know if
19 it's something we could consider. I say that
20 because of the fence that was there already,
21 it was four feet. Not only was it four feet,
22 it was a closed fence.

23 ACTING CHAIR JACKSON: I understand
24 your thoughts. That doesn't give you any
25 justification or weight here, because it was

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

there. It could have been there illegal or before those codes existed. Even though it was there, if you replace it, you have to conform to the new codes.

MR. JEAN-PHILIPPE: Understood.

ACTING CHAIR JACKSON: Just as a thought. I figured I'd throw it out there. You are going to come back anyway. Maybe it's something you want to think about, having a swoop down on the fence. Especially for the character of the neighborhood.

MRS. JEAN-PHILIPPE: Just scoop it down. Can you elaborate, in terms of --

ACTING CHAIR JACKSON: We have an excellent drawing.

MRS. JEAN-PHILIPPE: To curve it. Are you talking about only the first eight feet?

ACTING CHAIR JACKSON: The first section.

MR. JEAN-PHILIPPE: Yeah, sure.

MRS. JEAN-PHILIPPE: Absolutely.

ACTING CHAIR JACKSON: If you don't mind, I'd still like to adjourn and come back

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 next hearing.

MR. JEAN-PHILIPPE: Sure.

ACTING CHAIR JACKSON: I would like to look into these cases.

MRS. JEAN-PHILIPPE: Sure.

MEMBER HAWKINS: Can I show you another picture also. This is another fence on your block. This is a three foot fence, and on top is the lattice which makes it four feet altogether.

MR. JEAN-PHILIPPE: That's 58 Morton Avenue?

MEMBER HAWKINS: Yes.

MR. GRAY: That's our neighbor. She's been there a very long time. Her husband built the house.

MEMBER HAWKINS: I just wanted to show them the house.

ACTING CHAIR JACKSON: That's lattice on top so it does give the visible, which is the concern.

MR. JEAN-PHILIPPE: I prefer the curve.

MRS. JEAN-PHILIPPE: Aesthetically, a

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

curve is more appealing.

MEMBER HAWKINS: I wanted to show you both options.

MRS. JEAN-PHILIPPE: Of course. Thank you.

MR. JEAN-PHILIPPE: So now should we move on to the security aspect, or I don't need to move onto that?

ACTING CHAIR JACKSON: I don't believe it's necessary. We heard enough from the last case. I think it's the same testimony, I think it can be considered, since it's your neighbors.

MS. UNGAR: I'd just ask that formally, for the record, the testimony about the safety and security concerns from the previous hearing be incorporated by reference into this one. So, if anyone has any questions, that testimony was given during this hearing as well.

MR. JEAN-PHILIPPE: Okay. I just want to present something. I don't have a copy of it, so I can't present it, which is the statement I made to the police officer of

1
2 what happened that day on October 12th.

3 MS. UNGAR: You are always welcome to
4 bring a copy the next time, if you want.

5 MRS. JEAN-PHILIPPE: Thank you.

6 ACTING CHAIR JACKSON: Would anyone
7 else like to speak on this case?

8 THE SECRETARY: No, Member Jackson.

9 ACTING CHAIR JACKSON: I'd like to
10 hear a motion to adjourn -- would you like to
11 speak? You shocked me. Come on up.

12 MR. GRAY: I just was to say that
13 we're going to work together. We're going to
14 do everything we can. Whatever comes out of
15 this, we're in full support of one another
16 and we're going to try to do our best to make
17 sure everybody is safe. We are looking out
18 for one another the best we can. We hope if
19 this does come to fruition and we are able to
20 have this, do we have a set amount of time in
21 which to do it? Could we extend it to when
22 it gets a little easier for the ground to be
23 soft?

24 ACTING CHAIR JACKSON: So, I can tell
25 you, I dig pole for a living. You're fine

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

through Christmas.

What's the timeframe? Is there an approval to do the work? Can you speak to that, Scott? If the variance is approved and the permit is issued how long do they have to do the work?

MR. BRAUN: I would say it depends on the fence company. Quite honestly you don't have to dig holes. The posts are there. You are changing the top. You just have to take the middle section out. As far as big holes, the posts are fine. The section in the middle has to be changed.

MR. GRAY: They were telling me something else. I guess they were trying to -- thank you.

MR. BRAUN: The posts are the correct height. It's the fence section in the middle that can be removed. They can remove the sections, or the sections you have can be cut and then a cap put on top. There are different ways to do it. You don't have to dig the ground.

ACTING CHAIR JACKSON: In any case,

1
2 if we decide to approve, once it's approved
3 you will be informed, then you have to come
4 down and get a building permit. And the
5 Building Department is great working with
6 you. If it's January and you can't dig,
7 they'll give you -- more than likely they'll
8 give you an extension until to wait until the
9 spring, if that's what you're asking.

10 MR. GRAY: Just to be clear, do we
11 pay again?

12 ACTING CHAIR JACKSON: You don't have
13 to pay any more. It's part of the process.
14 I see you breathing heavy.

15 MR. GRAY: You have no idea how much.
16 We have to come down to get a permit and
17 apply again.

18 MS. UNGAR: You applied for the
19 permit. You haven't been granted the permit
20 yet. So, if you are approved by Zoning, then
21 you physically get the permit. At that
22 point, you are allowed to begin work. The
23 Building Department understands, obviously,
24 holes to be dug cannot happen in the winter.

25 MR. BRAUN: It's two different things

1
2 because they have a permit for the fence, but
3 they put the wrong fence in. The people at
4 38 never had a permit. Two different things.

5 MR. GRAY: We're modifying.

6 MR. BRAUN: You would be amending the
7 project.

8 MRS. JEAN-PHILIPPE: But we have to
9 get a permit.

10 MS. UNGAR: Which you already applied
11 for, just once. If the application is
12 approved, it goes through, then you are given
13 a permit which gives you the formal okay for
14 it, including whatever modifications.

15 MRS. JEAN-PHILIPPE: I understand.

16 ACTING CHAIR JACKSON: Once you get
17 issued the permit, you can talk to the
18 Building Department directly. They are very
19 reasonable about that, if you need time.

20 MR. GRAY: I've spoken with them a
21 couple of times.

22 THE SECRETARY: We need a motion.

23 ACTING CHAIR JACKSON: To adjourn.

24 MEMBER MINEO: So moved.

25 MEMBER HAWKINS: Second.

October 17, 2024

63

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: All in favor.

MEMBER HAWKINS: Aye.

MEMBER MINEO: Aye.

ACTING CHAIR JACKSON: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

ACTING CHAIR JACKSON: Make a motion
to close the meeting.

MEMBER HAWKINS: So moved.

MEMBER MINEO: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER MINEO: Aye.

ACTING CHAIR JACKSON: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

(TIME ENDED: 7:50 p.m.)

* * *

October 17, 2024

64

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 30th day of October, 2024.


BETHANNE MENNONNA