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INCORPORATED VILLAGE OF FREEPORT  
ZONING BOARD

MUNICIPAL BUILDING  
46 North Ocean Avenue  
Freeport, NY 11520

December 12, 2024  
6:30 p.m.

M E M B E R S :

ROSA RHODEN	CHAIRPERSON
BEN JACKSON	MEMBER
CHARLES HAWKINS	MEMBER

\* \* \*

REMY WATTS	SECRETARY
JENNIFER UNGAR	DEPUTY VILLAGE ATTORNEY

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December 12, 2024

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-----EXHIBITS-----

BOARD'S FOR I.D. PAGE

1 Affidavit of Publication

2 Affidavit of Posting

APPLICATION 2024-23

BOARD'S FOR I.D. PAGE

1 Affidavit of Mailing

\* \* \*

APPLICATION 2024-24

BOARD'S FOR I.D. PAGE

1 Affidavit of Mailing

\* \* \*

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December 12, 2024

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

APPLICATION#	ADDRESS	PAGE
2024-23	691 South Bayview Avenue	
2024-24	226 Atlantic Avenue	

December 12, 2024

4

1  
2 CHAIRPERSON RHODEN: Good evening  
3 everyone. I'd like to open up the Zoning  
4 Board of Appeals meeting for December 12th.  
5 If everyone could please join me for the  
6 Pledge of Allegiance.

7 (Pledge of Allegiance recited.)

8 CHAIRPERSON RHODEN: Can I please  
9 have a motion to approve the minutes of the  
10 last board meeting.

11 MEMBER JACKSON: So moved.

12 MEMBER HAWKINS: Second.

13 THE SECRETARY: All in favor.

14 MEMBER HAWKINS: Aye.

15 MEMBER JACKSON: Aye.

16 CHAIRPERSON RHODEN: Aye.

17 THE SECRETARY: Any opposed?

18 (No response was heard.)

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

23 THE SECRETARY: I have one Affidavit  
24 of Publication and one Affidavit of Posting  
25 to be entered into the record as Board

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Exhibits for this public hearing.

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

CHAIRPERSON RHODEN: Do we have any requests for adjournment this evening?

THE SECRETARY: Madam Chair, we have no request for adjournment this evening.

CHAIRPERSON RHODEN: If there is anyone here who would like to speak for or against an application, there are forms in the back; complete them and bring them up front for the clerk so they can call you after the application is heard.

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

THE SECRETARY: Application 2024-23, 691 South Bayview Avenue, Residence A, Section 62, Block 187, Lot 13. David Riemer. Construct a new 4,829.71 square foot three-story house with attached garage, two front balconies 42.6 square feet each, two rear decks 188.94 square feet and 189.09 square feet, and maintain hot tub.

December 12, 2024

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1  
2 Variances: Village Ordinance 210-6A, 210-39A  
3 Building height, sky exposure plane, 210-40  
4 Lot area, street frontage, lot width, 210-41  
5 Lot coverage, floor area ratio, 210-43A(1&2),  
6 C(2) required yards.

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

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

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

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

19 MR. CHRISTIANSEN: Steven  
20 Christiansen. 206 Richmond Avenue,  
21 Massapequa, New York 11758.

22 CHAIRPERSON RHODEN: Are you going to  
23 be speaking also?

24 MR. CHRISTIANSEN: He's the owner.

25 CHAIRPERSON RHODEN: So let's get you

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sworn in as well.

D A V I D R I E M E R,  
having been first duly sworn by a Notary  
Public of the State of New York, was  
examined and testified as follows:

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

MR. RIEMER: David Reimer. 691 South  
Bayview Avenue, Freeport, New York.

MR. CHRISTIANSEN: So, obviously  
tonight we're here looking to build a new  
house for David. He is looking, obviously,  
to get a family going coming up. And after  
going through everything with him, he wanted  
to raise his house. So, we ended up coming  
up with the design that you currently saw.  
Everything -- we went around the  
neighborhood, we checked all local areas.  
Everything is pretty much, as far as  
compliant, a lot of people maxed out their  
lot, have more of a lot area than he does.  
People are closer than he is and the side  
yards are also closer. So, we felt what  
we're looking to do is pretty much with the

1  
2 guidelines of the local area. He is putting  
3 on a flat roof on the top -- there will not  
4 be a roof deck up on the roof -- this way the  
5 height is below what is required for the roof  
6 height, not with the sky exposure.

7 MEMBER JACKSON: If I may. Isn't the  
8 height 40 feet?

9 MR. CHRISTIANSEN: It's 35. If  
10 you're looking at 40 feet, then that is the  
11 elevation is 45. If you look on -- from the  
12 grade, it's 35. When we say the elevation,  
13 the elevation is actually front and back  
14 zero, zero. On our zoning analysis sheet on  
15 the cover, going up, proposed is 35 feet.

16 MEMBER JACKSON: Okay.

17 MR. CHRISTIANSEN: There are a lot of  
18 houses higher. Since it's a flat roof, it's  
19 below.

20 MEMBER JACKSON: Understood.

21 MR. CHRISTIANSEN: So, it's pretty  
22 straightforward. He is looking to also, so  
23 that this way we has additional parking, we  
24 made it so that when you pull up to the  
25 house, because the house is somewhat close to

1  
2 the front, he is able to park two cars on his  
3 actual property up on the side. He purposely  
4 did that, because he wanted to make sure if  
5 he had company, people could physically park  
6 on his property and not on the street. We  
7 took that into account as well.

8 Everything is pretty straightforward.  
9 If anyone has any questions, I'll address  
10 them.

11 MEMBER JACKSON: I see, what, 12 foot  
12 ceilings in the garage?

13 MR. CHRISTIANSEN: Yes. We're going  
14 to hang AC unit down in the garage, this way  
15 the cars can go under it. He does have a  
16 pickup truck. He skis a lot on the ski  
17 mountains. He has ski racks on. So, we have  
18 a taller garage door as well, so he can go in  
19 and out of it.

20 MEMBER JACKSON: I have an eight foot  
21 ceiling with a pickup truck.

22 MR. RIEMER: It's lifted. It's huge.

23 MEMBER JACKSON: Not 12 feet.

24 MR. RIEMER: I also want to put bike  
25 racks up on the ceiling.

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MR. CHRISTIANSEN: He's been dealing with flooding his whole life. He doesn't want to deal with anything on the ground.

MR. RIEMER: Last year we had two feet in my house that I had to walk through to walk my dog.

MR. CHRISTIANSEN: He doesn't want anything to be sitting on the floor. He wants put shelves hanging on the ceiling.

There will be breakaway walls. I should have mentioned there will be breakaway walls around the whole perimeter, this way if there is any surf comes in, he's in that zone, it washes right away.

Once again, we would have liked to have done closed concrete walls. Because of the zone that he is in, it has to be breakaway. That's another reason as well. If we were able to fully enclose it and keep it restricted, it would have brought it down.

MEMBER JACKSON: That's in the LiMWA zone?

MR. CHRISTIANSEN: It's in a wave action.

December 12, 2024

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2 MEMBER HAWKINS: There is currently a  
3 structure there, a small structure there now?

4 MR. CHRISTIANSEN: Yes, existing  
5 house.

6 MR. RIEMER: It's where I'm living  
7 right now.

8 MEMBER HAWKINS: How long have you  
9 resided there?

10 MR. RIEMER: Since 2014.

11 MR. CHRISTIANSEN: He's been dealing  
12 with the flooding quite often.

13 MR. RIEMER: For a few years. This  
14 is the right time for me to do it. I'm 35,  
15 starting to build a family and stuff.

16 MEMBER HAWKINS: The hot tub you have  
17 there is 12 inches from the bulkhead; is that  
18 correct?

19 MR. RIEMER: Maybe.

20 MR. CHRISTIANSEN: It is. It's  
21 close.

22 MR. RIEMER: I don't know exactly.

23 MEMBER HAWKINS: How long has that  
24 been there?

25 MR. RIEMER: It's been there for a

1  
2 while. I've had a hot tub since I have been  
3 living there. I had a hot tub in the other  
4 spot I used to live and I moved it over. We  
5 have had it there quite a while.

6 MR. CHRISTIANSEN: The hot tub looks  
7 like it's 11 inches from the bulkhead.  
8 That's down as a maintain. So, if you wanted  
9 to say something, whatever. He is losing his  
10 shed. He currently has a shed, a decent size  
11 shed he's going to lose. There is another  
12 shed that is also coming down. That's why he  
13 wants to put all of that hanging from below  
14 the structure.

15 MS. UNGAR: Do you have examples of  
16 similar properties that are taking up as much  
17 of the property as -- this seems --  
18 obviously, you can't control the lot size.  
19 It is a little bit smaller than other lot  
20 sizes. I'm looking, the lot area is 48  
21 percent where 30 percent is permitted. The  
22 floor area ratio, just under 2,000 is  
23 permitted and you're proposing 4,800. So,  
24 it's almost 150 percent over what's  
25 permitted. I don't know that I have ever

1  
2 seen a floor area ratio 150 percent over  
3 what's permitted before. Those are large  
4 variances: The front yard setback, the rear  
5 yard setback, the side yard setback, the  
6 floor area ratio, the lot coverage. It's a  
7 big house, especially compared to the very  
8 modest house that is currently there. For  
9 the property, it seems bigger than anything I  
10 can think of the Board having seen in the  
11 last ten years since I have been here.

12 MR. CHRISTIANSEN: Okay. On that  
13 block, a couple of houses down on the -- I'm  
14 not sure which direction that is. On the  
15 right side, there are two -- how recent are  
16 those?

17 MR. RIEMER: They just built the  
18 house up the block two years ago, 5,000  
19 square feet. Maybe like two or three houses  
20 up from mine.

21 MEMBER JACKSON: If I'm not mistaken,  
22 that's a 10,000 square foot lot.

23 MR. CHRISTIANSEN: The one he's  
24 talking about, that is a big lot.

25 MEMBER JACKSON: Much bigger lot.

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MR. CHRISTIANSEN: Down further towards the bay, on the right side, two or three homes that looks like they're well more than 50 percent of the lot on the right side.

MEMBER JACKSON: I used to live there.

MR. CHRISTIANSEN: I took a look at it. I'm trying to remember the numbers. I'll say the wrong number. 727. I looked on Google. They're like angled. I think there are two of them that are angled.

MEMBER JACKSON: I know the houses.

MS. UNGAR: Do you have some examples you can point to because, like I said, this is, I think, one of the most dense, largest for the lot size single-family house that has been before this Board in over ten years.

MEMBER JACKSON: We probably need more than addresses. We need to know the specifics.

MR. CHRISTIANSEN: We will work on that. Is that something to go down and do a FOIL and pull the information?

MEMBER JACKSON: If it's in the

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Building Department file, I believe you can.

MS. UNGAR: Yeah, Building Department records can absolutely be FOILED.

MR. CHRISTIANSEN: If you'd like, we can do a FOIL, pull those items up and check see what is it. Because like you mentioned the 48 percent, that's with the decks. Without the decks, it was 47 percent.

MS. UNGAR: Decks over 18 inches are considered part of the primary structure under the code. So, that is the standard that other people do as well when they are putting these numbers.

Obviously, your lot is a little undersized to begin with, and it's a little bit of a weird shape which makes it probably more challenging to design a structure for it, but it's a lot here.

MR. CHRISTIANSEN: Okay. So stating that, would you like us to go do a FOIL, pull a couple of things and then get samples together for you?

MS. UNGAR: That might be a good idea, coming up with some similarly situated

1  
2 properties that are -- it's not just about  
3 house size, it's about the front setbacks,  
4 the side setbacks, it's about the house being  
5 proportional to the land. I don't doubt  
6 there are 5,000 square foot houses, but not  
7 on the same size lot.

8 MEMBER JACKSON: If I could suggest,  
9 it's not one house that has the setback and  
10 one house has the floor area. I'd like to  
11 see a house as close to this in the vicinity  
12 in comparison to the other homes in the  
13 neighborhood.

14 MS. UNGAR: All members of the Board  
15 have been here longer than I have been here.  
16 This is one of the single-family houses most  
17 in need of significant variances that we have  
18 seen.

19 MEMBER JACKSON: Yeah.

20 MS. UNGAR: We have had variances on  
21 lots that are 2,700 square feet, which we  
22 expect to be. This is close to 5,000. So,  
23 we don't usually see this many variances  
24 requested on a lot of this size.

25 MEMBER JACKSON: I do realize there

1  
2 are some houses that are taking up more space  
3 and there are some houses with front yard  
4 setbacks. Again, matching all criteria.  
5 It's a big asking, in my opinion. I would  
6 suggest you do some research and bring it  
7 back to us.

8 MR. RIEMER: You're talking about  
9 living space. You go to Long Beach, the  
10 houses take up the whole property.

11 MEMBER JACKSON: Long Beach has  
12 different zones. We're in Freeport.

13 MR. CHRISTIANSEN: In your area.  
14 Think about houses in your area.

15 MEMBER JACKSON: I know a lot of the  
16 houses on that block were built before the  
17 zoning codes and they were clam shacks.

18 MR. CHRISTIANSEN: All right. Would  
19 you like us to get that together and come  
20 back with all the information? We'll adjourn  
21 and come back.

22 MEMBER JACKSON: Yes.

23 MR. CHRISTIANSEN: We'll do that.

24 While we're here, as far as -- we're  
25 going to come in and check everything. Is

1  
2 there something -- obviously, like you  
3 stated, there is a precedence. Is there  
4 anything that you would like to be seen as we  
5 go back? Is there something that, from your  
6 end, you're looking at right off the bat what  
7 you saw. He wants to get going. So, we're  
8 here to work. If there's something you say  
9 do this, do that, we'll take it under  
10 consideration, this way we can have it  
11 prepared for the next time we come back.

12 MS. UNGAR: You also need to address  
13 criteria in New York State Law for granting  
14 of zoning variances.

15 MR. CHRISTIANSEN: As far as -- I'm  
16 not following you.

17 MS. UNGAR: New York State Village  
18 Law sets out requirements for what you need  
19 to be able to get a variance, and those  
20 criteria should be addressed.

21 MR. CHRISTIANSEN: Okay. Fair  
22 enough. Now another thing is, he does have  
23 on his existing house, he is all the way back  
24 against, we'll say, the creek that's in the  
25 back. We have been discussing possibly

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2 raising that, using that for the back of  
3 this, because it's actually pulling the house  
4 in further, so it's not as back as far as it  
5 currently is. So, I think we moved it in two  
6 feet from where it was. So, if we took that  
7 existing house which he mentioned -- a friend  
8 said he could do it -- and rotate it, pick up  
9 the back box on the space and then we'll  
10 address everything else at that point.

11 MEMBER JACKSON: I don't understand  
12 what you're asking.

13 MR. CHRISTIANSEN: Would you have a  
14 problem if he went and raised the existing  
15 house and incorporated it into part of this?

16 MEMBER JACKSON: If it's within the  
17 drawings. I think that's more of a Building  
18 Department issue.

19 MS. UNGAR: That would be something  
20 that you have to specifically address in your  
21 plans. Obviously, right now what you  
22 submitted calls for the demolition. So,  
23 there are presumably structural things that  
24 need to be addressed. If you are basically  
25 incorporating and elevating that old

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structure in, that would be more of an architectural issue and talking with the Building Department to make sure that's done safely.

MEMBER HAWKINS: The current structure, how far is that from the bulkhead now?

MR. CHRISTIANSEN: Current is about seven feet.

MS. UNGAR: How big is the current house?

MR. RIEMER: 20 by 20.

MR. CHRISTIANSEN: It's on the zoning chart. 683 square feet, and it floods all the time.

MS. UNGAR: Understood.

MR. RIEMER: You get used to it after a while. But I'm getting tired of getting used to it. I'm busier and getting older now. I'm not 20. Now it's like I have to move everything, clean everything up. I'll be home most of the time it happens too.

MS. UNGAR: Elevating is absolutely the best course of action. It's a question

December 12, 2024

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1 of exactly what is going to be elevated.

2 MR. CHRISTIANSEN: We'll check it.  
3 We'll adjourn and come back.

4 CHAIRPERSON RHODEN: Thank you.  
5 Happy Holidays.

6 MR. CHRISTIANSEN: You too. Thank  
7 you.

8 CHAIRPERSON RHODEN: Can I please  
9 have a motion to adjourn.

10 MEMBER JACKSON: So moved.

11 MEMBER HAWKINS: Second.

12 THE SECRETARY: All in favor.

13 MEMBER HAWKINS: Aye.

14 MEMBER JACKSON: Aye.

15 CHAIRPERSON RHODEN: Aye.

16 THE SECRETARY: Any opposed?

17 (No response was heard.)

18 THE SECRETARY: Application 2024-24,  
19 226 Atlantic Avenue, Residence AA,  
20 Section 62, Block 119, Lot 220. Azin  
21 Tarifard. Erect seven foot one inch high by  
22 five foot wide ground sign. Variances:  
23 Village Ordinance 210-6A, 210-212 ground  
24 signs.  
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December 12, 2024

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2 I have one Affidavit of Mailing to be  
3 entered into the record as a Board exhibit  
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 S H A H R O U Z T O R A B I,  
9 having been first duly sworn by a Notary  
10 Public of the State of New York, was  
11 examined and testified as follows:

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

14 MR. TORABI: Shahrouz Torabi. 108  
15 East First Street, Freeport, New York.

16 So what happened is, my wife's office  
17 is, like, residential and commercial. As of  
18 now, we don't know what it is, to be honest  
19 with you. The sign that we are allowed to  
20 put there is only four square feet, and we  
21 wanted to have a bigger sign so people  
22 passing by Atlantic Avenue they can see that  
23 there a pediatric dental office here.

24 The height should be six feet, we're  
25 asking for seven feet and one inch. And the

1  
2 size of the sign we're asking for five feet  
3 by three feet and nine inches. Total is  
4 18.75 square feet.

5 MEMBER JACKSON: Are there other  
6 signs that are similar?

7 MR. TORABI: Yes, there are. But we  
8 don't know the square footage of those, if  
9 they are bigger or smaller, but they're all  
10 over four square feet.

11 MEMBER HAWKINS: Are any over six  
12 feet tall, as opposed to seven feet?

13 MR. TORABI: One of them my wife took  
14 a picture. I don't know how big it is, if  
15 it's six feet or not. I really don't know.  
16 The height, I think we can bring it up to six  
17 feet. We're asking for three feet from the  
18 ground where the sign starts. If there's a  
19 problem with the seven feet, we can bring it  
20 down. We just want to have a bigger sign so  
21 we can have the name, the address, the  
22 website, and phone number that is more  
23 visible for people to see it.

24 MEMBER JACKSON: If you have  
25 pictures, you may want to submit them and

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take a look.

MS. UNGAR: I think he's talking about the ones in the packet.

MEMBER JACKSON: I'm sorry. That's okay. Thank you. We have them.

MR. TORABI: As of now we have a sign that I think is four by four that is only temporary.

MS. UNGAR: Has the sign been installed yet or no?

MR. TORABI: We have a temporary sign there now, but we're only allowed to have it I think one month or maximum two months, I forget. But this one we wanted to have permanent.

MEMBER HAWKINS: The sign you have here, this is a temporary sign?

MR. TORABI: That is correct. I think that is four feet by four feet, which is 20 square feet. We're asking for five feet by three feet and nine inches.

I'm sorry, I'm not familiar with building codes and construction.

MEMBER JACKSON: Four feet by four

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feet is 16 feet. Not that it matters.

MEMBER HAWKINS: Said you are willing to bring it down to six feet?

MR. TORABI: I don't believe we have any problem with that. It will be like two feet from the ground instead of three feet, correct?

MEMBER JACKSON: Yes.

CHAIRPERSON RHODEN: You currently have a sign on the house actually, right?

MR. TORABI: Yes, we do.

CHAIRPERSON RHODEN: The way your house is shaped, it's kind of like you can't see it.

MR. TORABI: A lot of times you can see it, but you have to look at it this way (indicating) to see on top of the building. But this would be on the ground, so if you're passing by from both sides, with this sign on the ground, you can see that there is a pediatric dental office here.

CHAIRPERSON RHODEN: As discussed, you are contemplating lowering the signage, right?

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2 MR. TORABI: Sure. Just can it be  
3 two feet one inch, because I have seven feet  
4 and one inch. I don't know if that one inch  
5 is important or not. The construction part  
6 of it, I'm assuming.

7 CHAIRPERSON RHODEN: What is the  
8 difference? Why five feet? Why couldn't it  
9 be the size of four feet?

10 MR. TORABI: It can be four feet, but  
11 what happens, if I shrink it, then I would  
12 have to have more rows instead of columns for  
13 putting Future Smiles, the address of  
14 website, phone number.

15 CHAIRPERSON RHODEN: On the picture  
16 you sent it has it currently as five feet and  
17 then -- is this because the poles are eight  
18 inches?

19 MR. TORABI: It's just the wider it  
20 is, the bigger the letters would see and more  
21 visible.

22 CHAIRPERSON RHODEN: I didn't have  
23 any other questions for you.

24 MR. TORABI: Thank you so much. Am I  
25 finished?

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CHAIRPERSON RHODEN: Yes. Is there anyone who would like to speak for or against this application this evening?

THE SECRETARY: No.

CHAIRPERSON RHODEN: Thank you very much.

MR. TORABI: We should bring one feet down?

CHAIRPERSON RHODEN: You'll be notified in the mail of our decision. Thank you so much. Happy Holidays.

MR. TORABI: Happy Holidays.

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

MEMBER JACKSON: So moved.

MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

CHAIRPERSON RHODEN: Do we have any

1  
2 decisions that need to be read into tonight's  
3 calendar, please.

4 THE SECRETARY: Yes, Madam Chair.  
5 Application 2024-15, 54 Morton Avenue,  
6 Residence A, Section 55, Block 300, Lot 205.  
7 Desiree Boucher.

8 MEMBER JACKSON: Madam Chair,  
9 regarding Application 2024-15 for the  
10 premises located at 54 Morton Avenue,  
11 Freeport, the applicant comes before this  
12 Board seeking a variance from Village  
13 Ordinances 210-6A, 210-171D1 seeking approval  
14 to maintain privacy fences, 26 feet of four  
15 foot high.

16 I, Ben Jackson, move that this Board  
17 make the following findings of fact:

18 Public hearings were held on  
19 September 19, 2024 and October 17, 2024  
20 wherein home owners Richard Gray and Desiree  
21 Boucher spoke on behalf of their  
22 application. They explained that there have  
23 been issues in the neighborhood, including  
24 with their next door neighbor. They throw  
25 garbage over the fence, they put a

1  
2 wheelbarrow under their car, people have made  
3 horrific comments about their mixed race  
4 marriage. They had applied for what they  
5 believed to be a four foot closed fence. The  
6 permit was changed to approve a four foot  
7 open fence. However, the applicant's did not  
8 realize that the permit had been changed  
9 without any other notification to them. The  
10 Board suggested a three foot closed fence  
11 with one foot open lattice. The applicants  
12 countered with the idea of the final eight  
13 foot fence segment having a swoop down from  
14 four feet to three feet at the end. The  
15 Board adjourned the hearing so the applicant  
16 could consider their options.

17 On October 17, 2024, the hearing was  
18 continued. Applicants presented a drawing on  
19 the swoop that was discussed at the prior  
20 meeting. For the final eight foot segment of  
21 fence, it starts at four feet closed and  
22 then, perhaps two feet or so into the  
23 section, begins to swoop and curve down so  
24 that it ends at three feet at the sidewalk  
25 end. Additionally, the fence is set back

1  
2 about one foot from the sidewalk.

3 The neighbors at 38 Morton who were  
4 looking for a similar variance for their  
5 fence spoke in support of the application.

6 The Board is skeptical of the claims  
7 that a three to four foot closed fence will  
8 keep neighbors from throwing garbage over the  
9 fence when compared with a four foot open  
10 fence. The applicants at 54 Morton pointed  
11 to the illegal fence of 38 Morton in support  
12 of their contention that the fence fits in  
13 with the neighborhood and vice versa. The  
14 Board does not like the trend that failing to  
15 file for or look at the conditions of the  
16 permit granted may ultimately result in  
17 approval of items that otherwise would not be  
18 approved.

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

1  
2 a. That an undesirable change will  
3 not be produced in the character of the  
4 neighborhood and a detriment to nearby  
5 properties will not be created by the  
6 granting of the area variance. This approval  
7 of this fence is changing the character of  
8 the neighborhood in a small but negative way.  
9 The entire rest of the block, minus 38 and 54  
10 Morton, have code compliant open fences.

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

15 c. That the requested area variance  
16 is insubstantial.

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

21 e. That the alleged difficulty was  
22 self-created, but this factor is not  
23 dispositive.

24 The Board, as lead agency, has  
25 determined that this action is a Type II

1  
2 action under SEQRA and no further review is  
3 required.

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

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

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

13 This application for variance is  
14 being granted on the basis of the specific  
15 use proposed. If anything in this  
16 application is to change, the applicant must  
17 return the Board for further review.

18 Applicant's fence variance is  
19 approved with the modification that the swoop  
20 proposed at the meeting, that is Applicant's  
21 Exhibit A, is what the applicant is permitted  
22 to construct. The Building Department is  
23 asked to view the exhibit in the Clerk's  
24 Office to determine that the final fence is  
25 installed matches what was proposed by the

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applicant.

As this variance is regarding fence type and height, this variance is in effect only for the lifetime of this fence. This is not something of a permanent nature such as a garage or house, when any change later could have an enormous impact, but rather a fence is a less permanent structure. At any time in the future, if a future applicant wishes to install a similar fence and said fence is still prohibited in the Village Code, the applicant must return to the Zoning Board for further review.

MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed.

(No response was heard.)

THE SECRETARY: Application 2024-18,  
38 Morton Avenue, Residence A, Section 54,  
Block 300, Lot 198. Herrol Jean-Phillippe.

MEMBER HAWKINS: Madam Chairperson,

1  
2 regarding Application 2024-18 for the  
3 premises located at 38 Morton Avenue,  
4 Freeport, the applicant comes before this  
5 Board seeking a variance from Village  
6 Ordinances 210-6A, 210-171D1 seeking approval  
7 to maintain 56 feet of four foot high closed  
8 PVC fence.

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

11 Public hearing were held on  
12 October 17, 2024 and November 21, 2024  
13 wherein home owners, Herrol and Aline  
14 Jean-Phillippe, spoke on behalf of their  
15 application. They explained that two years  
16 ago they replaced a dilapidated four foot  
17 closed wooden fence with the current four  
18 foot closed PVC fence. The provided photos  
19 of fences on Westside Avenue with similar  
20 fences. The applicants indicated that they  
21 were not necessarily willing to entertain the  
22 swoop fence idea, adopted by their neighbors  
23 at 54 Morton, because they had a previous  
24 four foot closed fence. The Board also  
25 proposed a three foot closed fence with one

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2 foot of lattice like the neighbor at 58  
3 Morton has. The applicants were prepared to  
4 discuss the security issues, similar to those  
5 described by the owners at 38 Morton. The  
6 Board incorporated, by reference, the  
7 testimony from the 54 Morton hearing about  
8 the security issues that had been present on  
9 the block.

10 Richard Gray and Desiree Boucher  
11 spoke on behalf of their application. They  
12 explained that there have been issues in the  
13 neighborhood, including with their next door  
14 neighbor. They throw garbage over the fence,  
15 they put a wheelbarrow under their car,  
16 people have made horrific comments about  
17 their mixed race marriage. They had applied  
18 for what they believed to be a four foot  
19 closed fence. The permit was changed to  
20 approve a four foot open fence. However, the  
21 applicants did not realize that the permit  
22 had been changed without any further  
23 notification to them. The Board suggested a  
24 three foot closed fence with one foot open  
25 lattice. The applicant's countered with the

1  
2 idea of the final eight foot fence segment  
3 having a swoop down from four feet to three  
4 feet at the end. The Board adjourned the  
5 hearing so applicant could consider their  
6 options.

7 On November 21, 2024 the hearing was  
8 continued. Applicant's had determined that  
9 they wanted to install the final eight foot  
10 section of fence as three foot with one foot  
11 of open fence. Applicant was advised that  
12 this fence would need to be installed on both  
13 sides of his property.

14 The Board is skeptical of the claims  
15 that a three to four foot closed fence will  
16 help increase safety when compared with a  
17 four foot open fence. The applicants at 38  
18 Morton pointed to the fence at 54 Morton in  
19 support of their contention that the fence  
20 fits in the neighborhood and vice versa. The  
21 Board does not like the trend that failing to  
22 file for or look at the conditions of the  
23 permit granted may ultimately result in  
24 approval of items that otherwise would not be  
25 approved.

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

9 a. That an undesirable change will  
10 not be produced in the character of the  
11 neighborhood and a detriment to nearby  
12 properties will not be created by the  
13 granting of the area variance. The approval  
14 of this fence is changing the character of  
15 the neighborhood in a small but negative way.  
16 The entire rest of the block, minus 38 and 54  
17 Morton, have code compliant open fences.

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

22 c. That the requested area variance  
23 is insubstantial.

24 d. That the proposed variance will  
25 not have an adverse effect or impact on the

1  
2 physical or environmental conditions in the  
3 neighborhood or district; and

4 e. That the alleged difficulty was  
5 self-created, but this factor is not  
6 dispositive.

7 2. The Board, as lead agency, has  
8 determined that this action is a Type II  
9 action under SEQRA and no further review is  
10 required.

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

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

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

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

24 The applicant's fence variance is  
25 approved with the modification that the final

1  
2 eight foot segment of fence on each side of  
3 the property is to be three foot closed fence  
4 with one foot open on top.

5 As this variance is regarding fence  
6 type and height, this variance is in effect  
7 only for the lifetime of this fence. This is  
8 not something of a permanent nature such as a  
9 garage or house, when any change later could  
10 have a enormous impact, but rather a fence is  
11 a less permanent structure. At any time in  
12 the future, if future applicants wishes to  
13 install a similar fence and said fence is  
14 still prohibited in the Village Code, the  
15 applicant must return to the Zoning Board for  
16 further review.

17 MEMBER JACKSON: Second.

18 THE SECRETARY: All in favor.

19 MEMBER HAWKINS: Aye.

20 MEMBER JACKSON: Aye.

21 CHAIRPERSON RHODEN: Aye.

22 THE SECRETARY: Any opposed?

23 (No response was heard.)

24 THE SECRETARY: Application 2024-19,  
25 435 Pennsylvania Avenue, Residence AA,

1  
2 Section 36, Block 323, Lot 9. Sam Calhoun.

3 MEMBER JACKSON: Madam Chair,  
4 regarding Application 2024-19 for the  
5 premises located at 435 Pennsylvania Avenue,  
6 Freeport, the applicant comes before this  
7 Board seeking a variance from Village  
8 Ordinances 210-6A, 210-35C3 seeking approval  
9 for a proposed gazebo 16 feet by 28 feet.

10 I, Ben Jackson, move that this Board  
11 make the following findings of fact:

12 A public hearing was held on  
13 November 21, 2024 wherein applicant, Samuel  
14 Calhoun, spoke on behalf of his application.  
15 He explained that he is relatively new to the  
16 neighborhood and wanted to build a gazebo in  
17 his backyard for shade purposes. He and his  
18 wife have acquired the job of babysitter for  
19 grandchildren and they need shade for them.  
20 They need shade so that outdoor furniture  
21 does not get completely faded by the sun in a  
22 single season. They need shade for medical  
23 related issues, necessitating avoidance of  
24 the sun. He has a large lot and the gazebo  
25 will fit nicely on the property. He provided

1  
2 three notarized letters of support from  
3 neighbors. The proposed gazebo is six feet  
4 away from the lot line. The next door  
5 neighbor who would be most impacted by this  
6 gazebo has no objection to the gazebo.

7 On balance, the benefit to the  
8 applicant by the granting of this variance is  
9 not 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 not be produced in the character of the  
16 neighborhood and a different to nearby  
17 properties will not be created by the  
18 granting of the area variance.

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

23 c. That the requested area variance  
24 is insubstantial.

25 d. That the proposed variance will

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2 not have an adverse effect of impact on the  
3 physial or environmental conditions in the  
4 neighborhood or district; and

5 e. That the alleged difficulty may  
6 be considered self-created, but this factor  
7 is not dispositive.

8 The Board, as lead agency, has  
9 determined that this action is a Type II  
10 action under SEQRA and no further review is  
11 required.

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

15 Applicant/Owner must comply with all  
16 the Rules and Regulations of the Village of  
17 Freeport.

18 Applicant/Owner must obtain the  
19 required permits from the Building  
20 Department.

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

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MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

THE SECRETARY: Application 2024-21.

98 Martha Street, Residence A, Section 62,  
Block 95, Lot 148. John Cummins.

MEMBER JACKSON: Madam Chair,  
regarding Application 2024-21 for the  
premises located at 98 Martha Street,  
Freeport, the applicant comes before this  
Board seeking a variance from Village  
Ordinances 210-6A, 210-171D2 seeking approval  
for 62 feet of six foot high closed fence.

I, Ben Jackson, move that this Board  
make the following findings of fact:

A public hearing was held on  
November 21, 2024 wherein applicant, John  
Cummins, spoke on behalf of his application.  
He explained that he put in the application  
for the high fence for security purposes. He

1  
2 has had things stolen from his backyard,  
3 including most recently, his barbecue. There  
4 is also a privacy issue, as he lives across  
5 the street from a commercial area. His house  
6 is located at the corner of Martha and  
7 Hudson, fronting on Martha. The part of his  
8 property where he wants the six foot fence is  
9 in the secondary front yard on Hudson, behind  
10 the line of the rear of his house, along the  
11 property line and returning in towards the  
12 house to fence in his backyard. He explained  
13 that the house behind his, which fronts on  
14 Layton, has a similar fence along Hudson. He  
15 is only looking to enclose his rear yard with  
16 the six foot closed fence; the rest of his  
17 yard would have a four foot open fence,  
18 including the primary front yard and the  
19 portion of the secondary front yard from the  
20 house forward. The applicant confirmed that  
21 there are no driveways along that block on  
22 Hudson; there are only two secondary front  
23 yards of his house, and neighbor fronting on  
24 Layton. He is also proposing a two foot  
25 setback on the sidewalk to match that of his

1  
2 neighbor's.

3           The Board is mindful to the need for  
4 lower fences in secondary front yards where  
5 the presence of such a fence could cause  
6 sight line issues when they go up to  
7 driveways. However, this is not the case  
8 here. This is secondary front yard on a  
9 street where there is only a single other  
10 secondary front yard no driveways. The  
11 closed fence is stopping well before the  
12 corner, so it will not present any problems  
13 with sight lines for drivers.

14           1. On balance, the benefit to the  
15 applicant by the granting of this variance is  
16 not 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 not be produced in the character of the  
23 neighborhood and a detriment to nearby  
24 properties will not be created by the  
25 granting of the area variance.

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

6           c. That the requested area variance  
7 is insubstantial.

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

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

14           The Board, as lead agency, has  
15 determined that this action is a Type II  
16 action under SEQRA and no further review is  
17 required.

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

21           Applicant/Owner must comply with all  
22 the Rules and Regulations of the Village of  
23 Freeport.

24           Applicant/Owner must obtain the  
25 required permits from the Building

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Department.

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

Should a driveway ever be installed on Hudson between Martha and Layton, the applicant will need to return to zoning for further review because this variance was granted on the basis of the specific conditions outlined in the hearing. The safety concern would return. Were a driveway to be installed on Hudson.

MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

THE SECRETARY: Application 2024-22,  
41-49 North Bergen Place, Residence A,  
Section 55, Block 270, Lots 4 and 5.

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Domenico Ancona.

MEMBER HAWKINS: Madame Chairperson, regarding Application 2024-22 for the premises located at 41-49 North Bergen Place, Freeport, the applicant comes before this Board seeking a variance from Village Ordinances 210-6A, 210-49D seeking approval to construct a 23,638 square foot four-story, 32-unit apartment.

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

A public hearing was held on November 21, 2024 wherein applicant was represented by Christopher Gomoka of the Law Office of Michael Solomon. Mr. Gomoka explained that the parcel is located on the west side of North Bergen Place, 200 feet south of Randall Avenue and it is in a Residence Apartment District. The property is 185 feet wide by 150 feet deep. A four-story apartment building is proposed at the location, which complies with almost all zoning requirements, including parking, setbacks, height. The surrounding buildings

1  
2 are apartments as well. The only variance  
3 required is 210-49D, which requires 2,607  
4 square feet of contiguous open recreation  
5 space at grade. Only 420 feet is proposed at  
6 grade; however, the applicant is proposing  
7 5,200 square feet of open recreation space on  
8 rooftop. A similar variance for rooftop  
9 recreation space was given to 131-135 Guy  
10 Lombardo in Application 2023-25.

11 In response to a question about the  
12 Nassau County Planning Commission's note that  
13 the project does not indicate any workforce  
14 housing set aside, Mr. Gomoka said there is  
15 communication with the state about the  
16 Workforce Housing Act.

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

24 a. That an undesirable change will  
25 not be produced in the character of the

1  
2 neighborhood and a detriment to nearby  
3 properties will not be created by the  
4 granting of the area variance. Mr. Gomoka  
5 explained that the two existing one-family  
6 houses are the out of character parts of the  
7 neighborhood. The proposed apartment  
8 building will be within the character of the  
9 neighborhood.

10 b. That the benefit sought by the  
11 applicant cannot be achieved some method,  
12 feasible for the applicant to pursue, other  
13 than an area variance. To build this  
14 apartment building, which is in all other  
15 respects compliant with the zoning code,  
16 there are no other feasible options.

17 c. That the requested area variance  
18 is insubstantial.

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

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

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

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

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

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

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

24 MEMBER JACKSON: I second.

25 THE SECRETARY: All in favor.

December 12, 2024

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MEMBER HAWKINS: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

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

MEMBER JACKSON: So moved.

MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER HAWKINS: Aye.

MEMBER JACKSON: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(Time Ended: 7:28 p.m.)

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December 12, 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 18th day of December, 2024.

  
BETHANNE MENNONNA