

A scheduled meeting of the Zoning Board of Appeals of the Incorporated Village of Freeport was held March 20, 2025 in the Municipal Building, Main Conference Room, 46 North Ocean Avenue, Freeport, NY at 6:00 P.M. with the following present:

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| Rosa Rhoden | Chairperson | |
| Jennifer Carey | Deputy Chairperson | Excused |
| Anthony Mineo | Member | |
| Ben Jackson | Member | |
| Charles Hawkins | Member | Excused |
| Drew Scopelitis | Alternate Member | Absent |

The meeting was also attended by:

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| Jennifer Ungar | Deputy Village Attorney |
| Remy Watts | Secretary to the Zoning Board of Appeals |

At 6:32 P.M., the Board convened in the Main Conference Room and Chairperson Rhoden led in the pledge of Allegiance.

The Public Hearing was called to order for which a full stenographic record was taken.

Two (2) individuals were present.

Motion was made by member Jackson, seconded by Member Mineo and carried to approve the February 20, 2025 minutes.

The Clerk polled the Board as follows:

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| Deputy Chairperson Carey | Excused |
| Member Mineo | In Favor |
| Member Jackson | In Favor |
| Member Hawkins | Excused |
| Chairperson Rhoden | In Favor |

DECISIONS:

Application #2024-25 – 411 S. Ocean Avenue, Residence A – Section 62/ Block 170/ Lot 10 – Kimberly Smith – Maintain 648 SF garage. *Variances: Village Ordinance §210-6A, §210-41 Lot coverage; floor area ratio.*

Anthony Mineo moved that this Board make the following findings of fact:

A public hearing was held on January 16, 2025 wherein applicant Kimberly Clark Smith spoke on behalf of her application. She explained that she owns a home health care company with the state of New York, which is for medically fragile children with disabilities under the Medicaid Waiver Program. She put the garage there to store a wheelchair, handicapped equipment, and a car. She explained that the garage was built without a permit because her husband worked in contracting on Florida, and they didn't think contractors needed to get permits.

She was issued a stop work order by the building department in May 2024. She testified that the building department told her that because the framing of the garage was complete, she was told to do the roofing and siding. There are no notes from the inspector who issued the stop work order that permission was given to move forward. She was subsequently issued a summons for violating a stop work order. She said she had no plans to put in a driveway to access the garage. She was also unconcerned about her ability to get a car to the garage, although her house is only about 11 feet 6 inches from her property line, with a platform for an air conditioner that juts out into that space. She testified that the platform sticks out 3 feet, and that when the car drives past, there is about 5 feet on the side of her car.

1. On balance, the benefit to the applicant by the granting of this variance is far outweighed by the detriment to the health, safety and welfare of the neighborhood or community if such variance were to be granted. The Board has determined:
 - a. that an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. This is an oversized detached garage present on a property that already contains an attached garage.
 - b. that the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance. Applicant can build a size-compliant garage. The Board heard no testimony that a garage of this size was needed for applicant’s purposes. The Board only heard that a car, a wheelchair, some handicapped equipment and some lawn furniture are stored there.
 - c. that the requested area variance is substantial.
 - d. that the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - e. that the alleged difficulty was self-created. Applicant admitted that she and her husband built the garage without the benefit of a permit because her husband used to work on contracting in Florida and did not think contractors needed to have permits.

It was further moved that this application be **DENIED** based upon the foregoing findings.

Second by Member: Ben Jackson

The Clerk polled the Board as follows:

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| Deputy Carey | Excused |
| Member Mineo | In Favor |
| Member Jackson | In Favor |
| Member Hawkins | Excused |
| Alternate Scopelitis | Absent |
| Chairperson Rhoden | In Favor |

Application #2024-17 – 101 Albany Avenue, Manufacturing – Section 62/ Block E/ Lot 111-115 – 101 Albany LLC – Legalize 2nd Floor Offices. *Variances: Village Ordinance §210-6A, §210-172A (9) Required parking spaces.*

Anthony Mineo moved that this Board make the following findings of fact:

A public hearing was held on November 21, 2024 wherein applicant was represented by attorney Albert D’Agostino. He began with a clarification that the original zoning application was filed on behalf of Bramson House Inc, who he believed was the owner of the property. The owner of the property is 101 Albany LLC, and that is who he is representing in the hearing. The property is known as 101 Albany Avenue.

The subject property contains a building with a mezzanine, which was installed by the tenant. Cars and car parts are stored in the building. The mezzanine is used partly for storage of car parts and partly for office space. Mr. D’Agostino stated that cars are moved across the street to the other location (124 Albany Avenue, 62-D-155), “which we do not own and which we have no involvement with other than the fact that their tenants also operate the business here.”

In its current configuration, 101 Albany Avenue requires 24 parking spaces and 13 are provided. Mr. D’Agostino introduced Ethan Schukoske of Atlantic Traffic and Design to present a parking study. He explained that the mezzanine is presently there, so no new construction is being done. The application is to legalize what is currently there. He said that when they were on site, the present maximum parking demand is 5 parked vehicles. There are a couple of workers in the office space of the mezzanine. He believes that there is more than sufficient parking present at the space.

Customers do not park at 101 Albany. The main location of the business is 124 Albany Avenue where they do the vehicle repairs. Mr. Schukoske explained that it is the same tenant at 101 Albany and 124 Albany Avenue, but a different owner across the street. He explained that there are no damaged cars of theirs parked either outside the property or on the street side. All of the damaged cars were being worked on across the street or stored within their building.

2. On balance, the benefit to the applicant by the granting of this variance is not outweighed by the detriment to the health, safety and welfare of the neighborhood or community if such variance were to be granted. The Board has determined:
 - a. that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the area variance;
 - b. that the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - c. that the requested area variance is insubstantial;

- d. that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - e. that the alleged difficulty may be considered self-created, but this factor is not dispositive.
3. The Board, as lead agency, has determined that this action is an unlisted action under SEQRA. A short environmental assessment form has been completed by the applicant and this Board. The Board finds no environmental impact under SEQRA, issues a negative declaration, and no further review is required.

It was further moved that this application be granted subject to the following conditions:

- 1. Applicant/Owner must comply with all the Rules and Regulations of the Village of Freeport.
- 2. Applicant must obtain the required permits from the Building Department.
- 3. This application for variance(s) is being granted on the basis of the specific use proposed. If anything in this application is to change, the applicant must return to the Board for further review.
- 4. This application is being granted subject to the specific use outlined in this decision and explained during the hearing. This building is not being used for the running of a separate business. This building is being used for storage associated with the car repair shop across the street at 124 Albany Avenue, as well as incidental office use in conjunction with the car repair shop across the street. As such, there is no separate parking demand being created by the use of this building. Applicant has presented a parking study which shows that the 13 spaces provided meet the current demand of the property. However, should this building ever be used as anything more than storage for the business use across the street, no showing has been made that the parking currently provided is adequate. Therefore, the variance would be rescinded, and the owner of the property would be required to return to the zoning board for further review.

Second by: Ben Jackson

The Clerk polled the Board:

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| Deputy Carey | Excused |
| Member Mineo | In Favor |
| Member Jackson | In Favor |
| Member Hawkins | Excused |
| Alternate Scopelitis | Absent |
| Chairperson Rhoden | In Favor |

At 6:45 P.M., motion was made by Member Mineo, seconded by Member Jackson and carried to close the meeting.

The Clerk polled the Board:

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| Deputy Carey | Excused |
| Member Mineo | In Favor |
| Member Jackson | In Favor |
| Member Hawkins | Excused |
| Chairperson Rhoden | In Favor |

Remy Watts

Remy M. Watts
Secretary to the Zoning Board of Appeals