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INCORPORATED VILLAGE OF FREEPORT  
ZONING BOARD

MUNICIPAL BUILDING  
46 North Ocean Avenue  
Freeport, NY 11520

May 15, 2025  
6:45 p.m.

M E M B E R S:

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

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- |                |                         |
|----------------|-------------------------|
| DARREN MERIMS  | SECRETARY               |
| LISA DEBOURG   | DEPUTY VILLAGE CLERK    |
| JENNIFER UNGAR | DEPUTY VILLAGE ATTORNEY |
| SCOTT BRAUN    | BUILDING DEPARTMENT     |

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-----EXHIBITS-----

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

\* \* \*

APPLICATION 2025-4

<u>BOARD'S FOR I.D.</u>	<u>PAGE</u>
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\* \* \*

APPLICATION 2025-5

<u>BOARD'S FOR I.D.</u>	<u>PAGE</u>
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APPLICANT'S FOR I.D.

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APPLICATION 2025-6

<u>BOARD'S FOR I.D.</u>	<u>PAGE</u>
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May 15, 2025

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

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CHAIRPERSON RHODEN: Good evening everyone. If everyone could please join me for the Pledge of Allegiance.

(Pledge of Allegiance recited.)

CHAIRPERSON RHODEN: Can I please have a motion to approve the minutes from this last zoning board meeting.

MEMBER JACKSON: So moved.

MEMBER HAWKINS: Second.

THE CLERK: All in favor.

MEMBER HAWKINS: Aye.

MEMBER JACKSON: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE CLERK: Any opposed?

(No response was heard.)

CHAIRPERSON RHODEN: Do we have any Affidavits of Publication or Posting that need to entered into the record as exhibits?

THE CLERK: We have one Affidavit of Posting and one Affidavit of Publication to be placed in the record as Board's exhibits.

(WHEREUPON, the above-referred to documents were marked as Board's Exhibits, in

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evidence, as of this date.)

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

THE CLERK: No requests for adjournment.

CHAIRPERSON RHODEN: Before we call the first application, if there is anyone here who would like to speak for or against an application that is not the applicant, can you please fill out a form that's on the back table and bring it up to the clerk.

Can we please call the first application tonight's calendar?

THE CLERK: Application 2025-4, 66 South Bay Avenue, Residence A, Section 62, Block 154, Lot 520. Alyssa Narine. Maintain 266 foot of six foot high closed PVC fence and 180 feet by four feet high open fence. Village Ordinance, Section 210-6A, 210-171D92) fences and enclosures.

We have an Affidavit of Mailing to be placed on the record for this application.

(WHEREUPON, the above-referred to document was marked as Board's Exhibit 1, in

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evidence, as of this date.)

A L Y S S A N A R I N E,  
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.

MS. NARINE: Alyssa Narine. 66 South  
Bay Avenue, Freeport, New York 11520.

Good evening. I had to measure the  
fence, and it's five feet one inch and five  
feet five inches. You wanted me come back to  
give you the height.

MEMBER HAWKINS: Is that the height  
on the driveway side?

MS. NARINE: Yeah.

MEMBER HAWKINS: All the way around?

MS. NARINE: Yeah, up to the -- it's  
four feet.

MEMBER JACKSON: You have a brick  
structure. That means it's higher than six  
feet.

MS. NARINE: Exactly. It's level.

MEMBER HAWKINS: The brick structure

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was there before, you're saying?

MS. NARINE: Yes. That was already in the plan, the site plan.

MEMBER HAWKINS: That brick structure divides your house and your neighbor's property?

MS. NARINE: No. I had an outdoor grill area, and my windows, my basement windows are plastic, so every time rains over there it was melting into the driveway. That's why I put that there for than. It's going to be nine years for that.

MEMBER HAWKINS: The fence that divides your driveway on Ray Street where your neighbor is and your house is, I think that's what our concern was before, right, that it was coming out, it was five feet.

MS. NARINE: It was higher.

MEMBER HAWKINS: Higher than the required height.

MS. NARINE: Yes.

MEMBER HAWKINS: Did you decide what you wanted to do with that?

MS. NARINE: I measured it. I came

1  
2 back and I measured it. I saw it was less  
3 than six feet. It's actually less than what  
4 it was since 1997. It's a whole foot less  
5 than before. I don't know if it makes a  
6 difference or not, but I also drove around  
7 the neighborhood and I saw driveway  
8 situations the way as mine; they have six  
9 feet or 67 inches, six feet two inches, in  
10 the neighborhood too. Very similar where you  
11 can't see coming out the driveway.

12           Actually, for the last -- it's nine  
13 years since I owned the house. I never  
14 had -- knock on wood -- an accident with my  
15 driveway. I do have a stop sign there. I've  
16 had more accidents in that area for the stop  
17 sign than my driveway with the fence.

18           CHAIRPERSON RHODEN: Did you take  
19 pictures of the houses you're referring to  
20 that you just mentioned?

21           MS. NARINE: No, I just took the  
22 addresses. Even when you come out of my  
23 block, there's a three feet concrete  
24 structure and then on top of it is a six foot  
25 fence, on Atlantic Avenue and Ocean, that

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corner house, diagonally from the gas station. Very similar situation where coming out you can't see. It's really higher than -- that's the highest fence in Freeport that I found.

MEMBER JACKSON: Long Beach, you said, right?

MS. NARINE: Yeah. And then there's Brookside Avenue, there's a seven foot fence. Same situation. The corner, when you're turning, you can't see either; it's seven feet. Mine is five feet.

MEMBER JACKSON: A lot of those fences, unfortunately, people are doing without permits. They may not have got caught yet. It's the same concern of safety. Our concern is a fence that high, someone walking down the sidewalk backing out of the driveway, you can't see them.

CHAIRPERSON RHODEN: Yeah. I thought they when we talked last time you were going to go back and try to see what you could do with the corner into not having -- maybe a couple of -- not having it solid or just

1  
2 having, I guess some patterns for that  
3 corner.

4 MS. NARINE: Honestly, I wasn't going  
5 to touch anything in my house right now.  
6 That's what I was asking before if -- even if  
7 I had to change anything, if I can wait to  
8 change it, if I had to. I wasn't planning on  
9 doing anything to the house. Yeah, I own the  
10 house, but I'm not there right now. I'm  
11 taking care of my mom in Queens. Even when  
12 the guy who gave me the summons for the  
13 house, he caught me when I was getting close  
14 to my kids.

15 MS. UNGAR: I think the biggest  
16 concern is certainly that final section of  
17 fence that is between the two driveways. A  
18 lot of times people have solid right up to  
19 the edge. On the other side of your  
20 driveway, that's not right up against your  
21 driveway. If I'm looking at the picture  
22 correctly, you have a section of fence before  
23 the driveway starts. So, there is some sight  
24 before the corner between you and your  
25 neighbor where they have a driveway and you

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have a driveway. That six foot solid single section of fence --

MS. NARINE: Five feet.

MS. UNGAR: Five feet of fence.

MS. NARINE: And the trees.

MS. UNGAR: Is definitely a visibility barrier between the two driveways, in terms of backing out. It's a safety concern both for your neighbor when backing out and a safety concern for you backing out any pedestrians that are there.

MEMBER JACKSON: I'm going to make a suggestion. If you'd like to think about it, if you need a little more time, why don't you adjourn it and come back?

MS. UNGAR: I don't know what the Board is looking for, but would the Board be willing to entertain switching out that section?

MEMBER JACKSON: Yeah.

CHAIRPERSON RHODEN: Yeah.

DEPUTY CHAIR CAREY: Of course.

MS. UNGAR: There's not specifically a specific time frame, but certainly it would

1  
2 give you a path forward, if it's switching  
3 out that single section of fence.

4           Once again, it's about the sight  
5 line. It's about the visibility and safety  
6 for pedestrians, especially when backing out  
7 of the driveway and you can't see. With the  
8 rest of it being in that secondary front  
9 yard, there's some more flexibility in terms  
10 of openness of the front yard. We understand  
11 a lot of your yard is side yard as opposed to  
12 rear yard, but that one section is  
13 particularly problematic. I think it sounds  
14 like the Board would be willing to grant the  
15 variance, except for switching out that one  
16 section of fence to an open five foot section  
17 of fence. That would relieve the safety  
18 concerns and not require or replace all of  
19 the other fence sections.

20           MS. NARINE: Which part would you  
21 want me to replace, if I had to replace  
22 something else?

23           MS. UNGAR: Technically, the whole  
24 six foot portion on Ray Street of closed  
25 fence isn't permitted; it's a secondary front

1  
2 yard. But when we're talking about kind of  
3 the safety concern and the aesthetics of the  
4 secondary front yard can function more as a  
5 rear yard, there historically has been more  
6 flexibility in that regard. We're really  
7 just talking that single section.

8           There are many more feet in violation  
9 of the code, but in terms of meeting the  
10 safety requirements and also recognizing that  
11 this is a new section of code that we're  
12 dealing with. We understand that while you  
13 haven't filed for a permit, your fence does  
14 predate that new code section. On the  
15 balance, the safety objective is the Board's  
16 primary concern, in terms of zoning, are met  
17 with just that single section of fence right  
18 between two driveways closest to the  
19 sidewalk. Switching that to a five foot open  
20 could -- or better, the rest of it is four  
21 foot. Switching it to four foot open would  
22 meet the needs.

23           CHAIRPERSON RHODEN: I think we're  
24 talking about this here?

25           MS. UNGAR: Yeah.

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CHAIRPERSON RHODEN: We're talking about this part right here.

MS. NARINE: That one.

MS. UNGAR: Just that one section, switch that to a four foot section.

CHAIRPERSON RHODEN: So this could carry here.

MS. NARINE: Okay.

MEMBER JACKSON: Does that work for you?

MS. NARINE: Do I have to do it right away? Is there a time limit?

MS. UNGAR: There is, technically, no specific time limit. Your case in court wouldn't get closed out until the new fence had been put in and you're no longer in violation. To close out the court case, a then certain amount of time passes, then you might get issued more tickets. You're not looking to get more tickets.

Do you have any sense of what a timeline for you to do that would look like? It doesn't have to be exact, but.

MS. NARINE: Before September.

1  
2 MS. UNGAR: The Board, for example,  
3 has 60 days to make a decision. That would  
4 put us in the middle of the summer before you  
5 got a decision, and then they understand. I  
6 think if you were looking to do something  
7 certainly sometime in the fall, that's not  
8 completely unreasonable.

9 MS. NARINE: Okay.

10 MS. UNGAR: Okay?

11 MS. NARINE: Yeah, that's fine.

12 MEMBER JACKSON: Best of luck.

13 MS. NARINE: Thank you. Do I have to  
14 come back or anything?

15 CHAIRPERSON RHODEN: You will get  
16 notified in the mail. You'll receive your  
17 decision in the mail. Okay?

18 MS. NARINE: Okay. Thank you.

19 CHAIRPERSON RHODEN: Thank you so  
20 much.

21 Do we have anyone who would like to  
22 speak for or against this application this  
23 evening?

24 (No response was heard.)

25 CHAIRPERSON RHODEN: Okay, we don't.

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Can I have a motion to close to further evidence and reserve decision?

DEPUTY CHAIR CAREY: So moved.

MEMBER JACKSON: Second.

THE CLERK: All in favor.

MEMBER HAWKINS: Aye.

MEMBER JACKSON: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE CLERK: Any opposed?

(No response was heard.)

THE CLERK: Application 2025-5, 3 Ray Street, Residence A, Section 62, Block 52, Lot 500. Ansel Wallace. Maintain 86 feet by 6 feet high closed PVC fence. Variances: Village Ordinance 210-6A, 210-171D(2) fences and enclosures.

I have one Affidavit of Mailing to be placed in the record for this application.

A N S E L W A L L A C E,  
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

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name and address for the record.

MR. WALLACE: Ansel Wallace. 3 Ray Street, Freeport, New York.

Last time we spoke you asked me to come back with ideas on how to exit the driveway safely.

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

MEMBER JACKSON: Where do you mount this?

MR. WALLACE: On the fence.

DEPUTY CHAIR CAREY: I can see how it would help driver and also help pedestrians who might inadvertently be walking by.

MR. WALLACE: You wouldn't hit anybody. It's high enough where they can see.

DEPUTY CHAIR CAREY: They can look at you and see a car coming out?

MR. WALLACE: Yes.

MEMBER JACKSON: If I remember right, you don't have another driveway.

MR. WALLACE: No.

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MS. UNGAR: Is there a stop sign going southbound on South Main and Ray?

MEMBER JACKSON: Not on South Main. On Ray Street, I think.

MR. WALLACE: Only on Ray.

MS. UNGAR: I see a stop sign on Ray Street.

MR. WALLACE: Yeah.

MS. UNGAR: So the traffic control device, the closest traffic control device going southbound is at Atlantic and South Main. Where southbound traffic on South Main does have a traffic control device, but I think the right turn off of Atlantic is a yield or is it a light?

MEMBER JACKSON: It's a lane. It's not a turning lane, it's a single.

You said you back into your driveway?

MR. WALLACE: Yes, I back in. It's a very short driveway. It's basically --

MEMBER JACKSON: Enough for a car.

MR. WALLACE: Yeah. Just enough for a car.

MS. UNGAR: I'm just having serious

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concerns. South Main has a double yellow line down it. It's definitely a relatively main through fare, without much in the way of stop signs or lights, once you get south of Atlantic.

DEPUTY CHAIR CAREY: People go high speeds there.

MS. UNGAR: People know once they pass that light at Atlantic they have -- when is the next stop sign that they have going southbound?

MEMBER JACKSON: Bedell.

MS. UNGAR: Bedell?

MEMBER JACKSON: Yeah.

CHAIRPERSON RHODEN: Yeah, Bedell.

MS. UNGAR: That's a long stretch. You're right in the beginning of that stretch where they are expecting to be taking off and going. Again, six feet fence in a secondary front yard, they're very problematic. It's such a long enough stretch where cars would have had a block to pick up speed from the light at Atlantic.

MR. WALLACE: I understand what

1  
2 you're saying. The thing is, the fence, when  
3 you exit, because it's so close, by the time  
4 you exit out, you're actually seeing  
5 everything all already. It's not even a  
6 driveway, it's very short.

7 DEPUTY CHAIR CAREY: Do you have barn  
8 doors or swing doors?

9 MR. WALLACE: They swing all the way  
10 out.

11 MS. UNGAR: Here is the problem. It  
12 also would be a violation of the code for  
13 those doors to swing out anyway. You can't  
14 have open solid six foot gates blocking the  
15 sidewalk; that would be a violation of the  
16 code. If a police officer or a building  
17 inspector --

18 MR. WALLACE: It's not blocking the  
19 sidewalk. It goes all the way back and  
20 touches.

21 DEPUTY CHAIR CAREY: You have to  
22 physically go out and move it?

23 MR. WALLACE: You physically go out,  
24 open it all the way.

25 MS. UNGAR: As I recall, the last

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time you were here, you told us you swing open the gates and leave it open blocking the sidewalk.

MR. WALLACE: You said it's not a good idea. But it goes all the way.

CHAIRPERSON RHODEN: There's one slide in and the other one is open or are both of them open?

MR. WALLACE: No, they both open.

CHAIRPERSON RHODEN: Swing out.

MR. WALLACE: Yes, they both swing out.

DEPUTY CHAIR CAREY: When you were thinking about making the fence, did you ever think about designing it with the barn doors so they would slide in and out?

MS. UNGAR: Barn doors still doesn't fix it.

DEPUTY CHAIR CAREY: I was thinking of ideas.

MS. UNGAR: There is still a six foot solid fence on the property that has a double solid yellow line, which is kind of a main access for getting down into that area of

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South Freeport. The canal separates it. That's the way in and out of Freeport, of South Freeport in that area.

DEPUTY CHAIR CAREY: Can you refresh my memory, counselor? A double yellow line indicates it's a highly trafficked street, correct?

MS. UNGAR: I don't know necessarily specifically, but double solid yellow line certainly indicates a more highly trafficked street where you don't want people passing. And it certainly is in terms of getting reductions on taxes, I know one of the Star cases, one of the things is a double yellow line, zoned as a busier, more congested type of area. Where the safety concern, to me, is the biggest issue in this.

MEMBER JACKSON: Would you consider changing the gates?

CHAIRPERSON RHODEN: I just want to make sure. Specifically, like, if you read what the definition of double yellow lines are, one of the things they take about is crossing lines in generally prohibited,

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except in specific situations of a left turn or access to driveways. So, they do touch on it, because it means that it must be a really heavier traffic, so you have traffic both ways, right?

MEMBER JACKSON: Would you consider the other side and the gates and a section on either side being lower and open four feet?

MR. WALLACE: On both sides? I mean --

MEMBER JACKSON: A section on both sides and the gate. At least you have visibility, people have visibility of the street.

MR. WALLACE: I'd consider that.

MEMBER JACKSON: You would consider that?

MR. WALLACE: Yeah, or close it up completely, not use the driveway.

MEMBER JACKSON: Then you have no off-street parking.

MR. WALLACE: I'll park on the street.

MS. UNGAR: It still doesn't change

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the fact it is a zoning violation. One of the biggest parts is the safety concern. Our Building Code does not permit six foot closed fences in secondary front yards at all.

Additionally, under the code you are required to provide two off-street parking spaces. Not all existing houses have those. However, if you were to close it up and no longer provide that, you would not be permitted to do that under the zoning code.

CHAIRPERSON RHODEN: So, you would entertain changing that to an open gate area, so you have a clear view coming in and out of your driveway?

MR. WALLACE: Sure.

CHAIRPERSON RHODEN: You would be willing to do that.

MS. UNGAR: Madam Chair, one section on each side of the gate plus the two gates to switch to four foot open fence?

CHAIRPERSON RHODEN: Yes, exactly.

MR. WALLACE: How much sections.

MEMBER JACKSON: The gates and one section on either side.

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MR. WALLACE: Okay.

CHAIRPERSON RHODEN: The two gates will be open and one section on each side, so there's visibility, right?

MR. WALLACE: No problem.

DEPUTY CHAIR CAREY: We mean open slots.

MEMBER JACKSON: Open gate.

MS. UNGAR: If you have any questions about fence design, talk to the Building Department before actually doing the work.

CHAIRPERSON RHODEN: Please touch base with them.

MR. WALLACE: How long before?

CHAIRPERSON RHODEN: The Board has 60 days to make a decision. You'll receive something in the mail from us stating what our decision is. From there, you can decide how you are going to move forward.

MR. WALLACE: Thank you, I appreciate it. You guys have a great evening.

CHAIRPERSON RHODEN: You too. Thank you for doing research and being creative.

MR. WALLACE: Thank you.

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

THE CLERK: No, we don't.

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

MEMBER JACKSON: So moved.

MEMBER HAWKINS: Second.

THE CLERK: All in favor.

MEMBER HAWKINS: Aye.

MEMBER JACKSON: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE CLERK: Any opposed?

(No response was heard.)

THE CLERK: Application 2025-6, 411 Guy Lombardo Avenue, Residence A, Section 62, Block 88, Lot 50. Nusrat Shova. Proposed six foot high by 40 foot wide brick/aluminum fence plus three aluminum gates. Variances: Village Ordinance 210-6A, 210-171D(1) fences and enclosures.

I have one Affidavit of Mailing to be

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placed on the record as an exhibit for this application.

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

M A R C E L O K O H A N,  
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. KOHAN: Marcelo Kohan, architect. My office is located at 2963 Holiday Park Drive in Merrick, New York.

First of all, good evening everybody. As I said, I believe you all have been able to see the documentation that was provided originally. We prepared the letter explaining why we're seeking to have a six foot fence in front of the property, which is mainly for security reasons. In that application, my client, Nusrat Shova, hired my office to maintain construction of a six feet high fence at the front of the property.

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Said fence was partially built because of the benefit of permit before the corner issue.

In that document, it also mentioned that safety and welfare for the two nephews who are currently living with my client were the main reason for the erection of this fence. Both children have a history of escaping their home in the past. Currently, their parents cannot take care of them, they face their own issues. Their father, for example, has cancer, and the mother is taking care of a third child who has issues as well, unfortunately.

We understand that six foot high fence in front of the property does not meet the Village Ordinance Section 210-171 where no fence located in the front yard can be over four feet high. We know that. We ask you for your understanding that the variance is out of necessity to make it almost impossible for children to escape the lot.

At this point, we'd like the Board to grant permission to allow my client to continue with construction of this fence

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2 which, as you can see from the drawings that  
3 were submitted, is not only decorative but  
4 aesthetically pleasing. This fence is not  
5 solid brick, as it was initially believed.  
6 It is a combination of brick and aluminum  
7 railing and aluminum gate, which is very open  
8 from the outside. Again, as you can see from  
9 the rendering that was submitted. We believe  
10 this fence will not create a negative effect  
11 on the adjacent property. On the contrary,  
12 it will enhance the character on the block.

13 So, again, thank you for you  
14 consideration. We look forward to a positive  
15 determination.

16 MEMBER JACKSON: I have a few  
17 questions.

18 MR. KOHAN: Sure.

19 MEMBER JACKSON: You're putting a six  
20 foot fence in the front and a four foot fence  
21 on the side?

22 MR. KOHAN: First, we know the four  
23 foot fence on the side was originally  
24 existing with the house when my client bought  
25 it. So, we knew that was an issue with this

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fence. Before we replaced the fence on the side, we wanted to know if he would be able to have approval for the six foot high fence in the front, then we would file another application to modify the fence on the side to six feet.

MEMBER JACKSON: That being said, honestly, one of the concerns is visibility in and out of the driveway. Guy Lombardo is a very busy street, people race up and down there, which is also a concern for safety. I get that. Is there any thought process moving that wall back and parking the cars in front of it?

MR. KOHAN: Moving the wall back? Initially, the fence -- again, there was a fence built in place of the we have now. There was originally a vinyl fence built. This one is placed in the same location as the one existing. We could not find any records for that. There are no records that we found. We don't know if the original fence was installed with a permit or not. So, my client now knows, knowing the process

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2 of what's needed in order to build a fence,  
3 he removed that one and started replacing it  
4 with a new one. And the brick and aluminum  
5 railing gate we are proposing, obviously,  
6 it's pretty open. For safety reasons, you  
7 can see when cars come in, cars come out.  
8 The gates are very wide.

9 MEMBER JACKSON: I'm going to  
10 disagree with you on that one. My question  
11 is, would they be willing to move this back.  
12 They have a sixty foot front yard, they have  
13 plenty of room. If that was set back 20  
14 feet, there would be no issue. God forbid  
15 one of the children did get over the fence.

16 MR. KOHAN: I'm sorry?

17 MEMBER JACKSON: I would recommend 20  
18 feet. Especially if you want to bring six  
19 foot along the side, which is under another  
20 application. I couldn't see allowing six  
21 foot right up to the sidewalk, because of  
22 safety. It's pretty busy street, there is a  
23 school right there, there is a park right  
24 there. Backing in out of the driveway, it  
25 would be extremely concerning that someone

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would get hurt.

MR. KOHAN: Well, I believe the gate will be maintained sufficiently safe and secure. I don't think that would happen. I don't know what type of security system they have with a gate. I don't know if it will open automatic or manually open, maybe it will be activated electronically with a device. The only person who is opening them would be able to access those doors.

As far as setting them back 20 feet, I believe that defeats the purpose. It's a large property. My client is planning on having some gardening plants and things in front. If you put the fence in the back, that will defeat the purpose, I think.

MEMBER JACKSON: But there's also a circular driveway. My thought is, if that were in front of the fence, it was set back, you still have the same amount of space.

MR. KOHAN: That is something we will have to talk to my client.

MEMBER JACKSON: Okay.

CHAIRPERSON RHODEN: Definitely

1  
2 thinking about this masonry fence that you're  
3 trying to put up, even though you have some  
4 of it on top, what is the thought behind  
5 this, because -- is it to prevent the  
6 children from coming out?

7 MR. KOHAN: Yeah. The main reason we  
8 want six foot high is to prevent the children  
9 coming out. Then the combination of brick  
10 and aluminum is correct the decision, is just  
11 something that my client wants to see on his  
12 property. Again, the fact it's a combination  
13 of the two, it's not solid brick like a fort.  
14 It's mainly a personal decision by my client.  
15 That's what he would like to have.

16 CHAIRPERSON RHODEN: The only  
17 concerning thing that I have that is safety  
18 related, I find that this -- I've climbed  
19 numerous fences in my childhood. I find that  
20 this type of scenario would be more conducive  
21 to someone climbing over. Being that you  
22 have the brick there as a step to climb over  
23 the fence, making it a lot easier for someone  
24 to climb over the fence. Then you know.

25 MR. KOHAN: We know that. I think my

1  
2 client have constantly there people in charge  
3 of watching the kid. When they're outside,  
4 they're constantly being looked at. We know  
5 that it's not the -- I mean, they will be  
6 able, if they really wanted to, climb the  
7 fence and be able to go through, but it's a  
8 little harder to do so. By the time they try  
9 to climb, the people watching them constantly  
10 will go grab them, you know.

11 DEPUTY CHAIR CAREY: The wrought iron  
12 open fences to most of our experience, have  
13 been more difficult the climb and providing a  
14 foothold, and it's a way to increase  
15 visibility not being an issue.

16 MEMBER JACKSON: And falls.

17 MR. KOHAN: It's mainly a personal  
18 decision on my client, installing the brick  
19 together with the railing. But again --

20 CHAIRPERSON RHODEN: We would ask  
21 that you consider that, as you're also coming  
22 back, considering revisiting the setback.  
23 Revisit this because, like we said, an open  
24 wrought iron open or picket fence is more  
25 conducive to what you're looking for,

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especially if, like you said, more aesthetics for the client. Safety, honestly, is more of a, I would think, more accessible for any individual to climb over.

MR. KOHAN: I understand. Okay.

MS. UNGAR: Based on the picture, how far apart are those bars that go over the brick?

MR. KOHAN: Those bars? You mean the piers? The brick piers?

DEPUTY CHAIR CAREY: Between the wrought iron.

MS. UNGAR: The bars in between on the brick, how far apart are the bars?

MR. KOHAN: Each section is seven feet four inches.

MS. UNGAR: Okay.

MEMBER JACKSON: Each baluster. How far apart is each one?

MR. KOHAN: Each baluster is three inches apart, per code.

MS. UNGAR: How about on the gates, the width in the pictures don't match.

MR. KOHAN: The gates are like two

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2 gates, 13 feet. Together they're 13 feet  
3 wide. The two sections swing onto the  
4 property from the street. Again, they're  
5 also consisting of balusters only three  
6 inches apart. The idea was to have some kind  
7 of homogenous plan.

8 MS. UNGAR: As you may be aware,  
9 brick fences generally aren't permitted in  
10 our code as a fencing type of material at  
11 all. Are there other fences in the  
12 neighborhood that have brick walls like this?

13 MR. KOHAN: No, we haven't seen it.  
14 Again, we know that the fence, by code fences  
15 have to be wood or vinyl or aluminum railing.  
16 There's no mention of brick. However, being  
17 the personal liking of my client, the fact  
18 that we would be mixing it together with  
19 aluminum, we thought this would be something  
20 worth while going after.

21 I hope I answered all of your  
22 questions.

23 MEMBER JACKSON: Would you like to  
24 adjourn and revisit this with your client,  
25 come up with a better solution?

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MR. KOHAN: Maybe we can do that. First of all, we'd like to see the other options we spoke about before. I would like to discuss that with my client.

CHAIRPERSON RHODEN: That's why we're recommending that you possibly request an adjournment and then discuss it with your client, come up with options that is a better fit.

MR. KOHAN: Okay.

MS. UNGAR: I think the two issues with this is the material doesn't fit in the character of the neighborhood. As you heard with the previous two applications, the solid brick sections really do provide a visible block for being able to see pedestrians. Obviously, one of the biggest concerns in terms the Village and the zoning board is -- one of the concerns on their mind is making sure the pedestrians and drivers alike are able to move safely within this Village.

MR. KOHAN: I understand that. You're allowed to put four foot high solid vinyl fence.

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MS. UNGAR: You're not allowed to put a four foot solid fence in the front yard. You are only allowed an open fence in the front yard.

MR. KOHAN: Open fence.

MS. UNGAR: A four foot open fence. Asking for three feet --

MR. KOHAN: The vinyl fence sections, I haven't seen any. Vinyl fences are not open.

MS. UNGAR: Four foot closed vinyl fences aren't permitted. You are more likely to see the one that have separations between them, to provide for at least some visibility. The biggest concern, even with the brick being three feet, is you have that toddler walking along, the car backing out can't see them, or the kid riding the tricycle on the sidewalk. It's just not something the Board has been willing to compromise on, in terms of the safety, without figuring out some kind of method to meet the safety concerns while also meeting the needs of the applicant.

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MR. KOHAN: Again, the gates were always the railing, and the railing you can see through. A car coming in or out is obviously visible from the street.

MEMBER JACKSON: You still have a blind spot with the piers. That's the concern.

MR. KOHAN: I see.

MEMBER JACKSON: It's a little blind spot with a kid coming out. I understand what you're saying. It's a safety concern.

MR. KOHAN: I understand.

MEMBER HAWKINS: They do have vinyl picket fences. They're not all solid the. First applicant has a vinyl picket fence in her front yard.

MR. KOHAN: I personally have not seen them. I'll take your word for it.

CHAIRPERSON RHODEN: There's options. I'm sure you can go back and think of creative ideas.

MR. KOHAN: We'll try.

CHAIRPERSON RHODEN: Thank you.

MEMBER JACKSON: Thank you very much.

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CHAIRPERSON RHODEN: So, we're going to adjourn. May I please have a motion to adjourn.

MEMBER JACKSON: So moved.

MEMBER HAWKINS: Second.

MS. UNGAR: Is there any public comments?

CHAIRPERSON RHODEN: Do we have any public comments? Would anyone like to speak for or against this application?

THE CLERK: No.

CHAIRPERSON RHODEN: Can we please have a motion to adjourn.

MEMBER JACKSON: So moved.

MEMBER HAWKINS: Second.

THE CLERK: All in favor.

MEMBER HAWKINS: Aye.

MEMBER JACKSON: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE CLERK: Any opposed?

(No response was heard.)

CHAIRPERSON RHODEN: Do we have any decisions that need to be read tonight?

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THE CLERK: Application 2024-23, 691 South Bayview Avenue. Residence A. Section 62, Block 187, Lot 30. David Riemer. Construct a new 3,743 square feet three story house with attached garage, one rear deck 180 square feet, one rear balcony 52.5 square feet, and maintain hot tub. Variances: Village Ordinance 210-6A, 210-39A building height, sky exposure plane, 210-40 lot area, lot width, 210-41 lot coverage floor area ratio, and 210-43A(1) and(2) and C(2) required yards.

MEMBER JACKSON: Madam Chair, I'd like to recuse myself from this application.

CHAIRPERSON RHODEN: Yes.

DEPUTY CHAIR CAREY: Building Department Permit Application 20243871.

Madam Chair, regarding Application 2024-23 for the premises located at 691 South Bayview Avenue, Freeport, the Applicant comes before this Board seeking a variance from Village Ordinances 210-6A, 210-39A, 210-40, 210-41 and 210-43A(1), (2) and C(2) seeking approval to construct a new 3,743 square foot

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three-story house with attached garage, one rear deck 180 square feet, one rear balcony 52.5 square feet, and maintain t hot tub.

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

A public hearing was held on December 12, 2024 wherein applicant, David Riemer, was represented by architect Steven Christiansen. The original application called for a 4,829.71 square foot home with two front balconies of 42.6 square feet each, plus two rear decks of 188.94 and 189.09 square feet, creating a higher lot coverage, floor area ratio, and smaller setbacks than those ultimately before the Board.

Mr. Christiansen explained that Mr. Riemer is looking to build a house for his future family. He explained that pretty much everything was compliant, and other people in the neighborhood have maxed out their lots more than Mr. Riemer. When asked about 12 ceiling height in the garage, Mr.

Christiansen explained that he wants everything stored off the ground. There will

1  
2 be breakaway walls. Mr. Riemer is currently  
3 living in the 683 square foot residence on  
4 the property. When asked about the hot tub  
5 on the property, Mr. Christiansen said it is  
6 11 inches from the bulkhead. Mr. Riemer said  
7 it had been there since he moved in, in 2014.

8 The attorney for the Board asked for  
9 examples of similar properties that are  
10 seeking variances for as many items as the  
11 applicant is. A couple of examples were  
12 provided, which were not quite comparable to  
13 the applicant's proposal. Mr. Christiansen  
14 asked for an adjournment to come back with  
15 examples of similarly situated properties in  
16 the neighborhood which required similar  
17 variances in terms of number and magnitude.

18 During the adjournment, the plans for  
19 the proposed house were amended to what is  
20 being approved in this decision. The size of  
21 the house was reduced significantly,  
22 decreasing lot coverage and floor area ratio.  
23 Setbacks were increased as well.

24 The hearing resumed on April 17, 2025  
25 wherein attorney William Chimeri represented

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2 applicant. He had premarked 21 exhibits to  
3 submit as a package, most of which were  
4 Nassau County Land records for the  
5 surrounding properties. Mr. Chimeri  
6 explained that Mr. Riemer had lived at the  
7 property since 2014 and plans to continue  
8 living there, if the variances are granted.  
9 The property is an irregularly shaped parcel.  
10 He explained that after the December meeting  
11 that applicant went back to the drawing board  
12 and submitted new plans with smaller  
13 variances to keep in line with the character  
14 of the neighborhood.

15 Mr. Chimeri counts 17 waterfront  
16 homes on South Bayview Avenue in Freeport,  
17 and looked at the county records for all  
18 properties, and found that all 17 are  
19 substandard in one or more ways with respect  
20 to the Village Code. He presented issues  
21 with lot size, floor are ratio, lot coverage,  
22 sky exposure plane, lot depth, front yard  
23 setbacks, side yard setbacks, and rear yard  
24 setbacks. He explained that seven of the  
25 properties have a floor area ratio that

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exceeds the code, and five of those have a higher percentage than the applicant is seeking. He explained that many houses don't meet the 50 foot width requirement and many of those houses were built in the early 2000s.

Additionally, regarding floor area ratio, Mr. Chimeri explained that they disagree with how the floor area ratio is calculated in the code. His position is that the first floor should not count, although it is counted under the code. He explained that the space is not conditioned and, technically, walls are not required at all. The property must be elevated, but it could be on columns. Mr. Chimeri opined that it is nicer aesthetics for the neighborhood to have walls, but that if those walls will act to be a stumbling block with the Board in regard to floor area ratio, then they can be removed.

Regarding a method other than a variance to achieve the applicant's goals, Mr. Chimeri explained that it is impossible to build a new house on the lot without some

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variances; the neighboring houses showed this. He explained that it was downsized to meet the Board's request, and now fits in the neighborhood.

The terms of the substantial nature of the variances, Mr. Chimeri explained that it is not just numbers, but circumstances in the neighborhood as a whole which should be considered. Given that all houses have some variances, Mr. Chimeri posits that the variances requested are not substantial. The floor area ratio, without including the first floor, is 57 percent when 50 percent is permitted. The street frontage is 43 feet where 50 is required.

Mr. Chimeri explained that the proposed structure will meet all safety and environmental codes and regulations and will be more green friendly. He also provided the negative SEQRA declaration from the Building Department.

Finally, regarding a self-created difficulty, Mr. Chimeri argues that the difficulty is not self-created because the

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property is what it is, the lot size can't be increased. It can't be extended and it is in conformity with 16 other properties on the block.

On balance, Mr. Chimeri concluded that when weighing the five factors for variances, the variances should be granted.

Mr. Christiansen explained that the project was made smaller by bringing in all of the sides of the house. The house is now technically only a 2,400 square foot, two bedroom house. The third floor does not cover the entire second floor. The balconies in the front of the house were removed as well.

Mr. Chimeri explained how he made his calculations as to floor area ratio, setbacks, etcetera.

Regarding all variances requested, except for that of the rear yard setback for the hot tub, the Board has determined:

1. On balance, the benefit to the applicant by the granting of this variance is not outweighed by the detriment to the

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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 variances 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 was not self-created.

2. Regarding the rear yard setback required to keep the hot tub, the Board has determined that there could be an undesirable

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2 change in the character of the neighborhood  
3 should the hot tub be able to remain in its  
4 current location. As a waterfront property,  
5 the code limits structures close to the  
6 bulkhead in part to preserve sight views.  
7 The hot tub may be moved to a space farther  
8 from the bulkhead. The requested variance is  
9 substantial and self-created. Therefore, the  
10 request for a variance in its current  
11 location is denied. Should Mr. Riemer wish  
12 to move the hot tub, the Board would grant a  
13 lesser variance which could perhaps meet his  
14 needs and would approve a modified variance  
15 of a 14 foot rear setback to accommodate the  
16 hot tub and balance the need to preserve the  
17 views on the canal.

18 3. The Board, as lead agency, has  
19 determined that this action is a Type II  
20 action under SEQRA and no further review is  
21 required.

22 I further move that this application  
23 be granted subject to the following  
24 conditions:

25 Applicant/Owner must comply with all

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the Rules and Regulations of the Village of Freeport.

Applicant must obtain the required permits from the Building Department.

This application for variances 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.

As the hot tub is a semi-portable structure, any variance given for the hot tub only applies to the hot tub and would not apply to other accessory structures such as sheds, gazebos, etcetera.

MEMBER HAWKINS: Second.

THE CLERK: All in favor.

MEMBER HAWKINS: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

Can I please have a motion to close the legislative session?

MEMBER HAWKINS: So moved.

DEPUTY CHAIR CAREY: Second.

THE CLERK: All in favor.

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May 15, 2025

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MEMBER HAWKINS: Aye.  
DEPUTY CHAIR CAREY: Aye.  
CHAIRPERSON RHODEN: Aye.  
THE CLERK: Any opposed?  
(No response was heard.)  
(Time Ended: 7:44 p.m.)

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May 15, 2025

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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 29th day of May, 2025.

*BethAnne Mennonna*  
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BETHANNE MENNONNA