

A scheduled meeting of the Zoning Board of Appeals of the Incorporated Village of Freeport was held on November 20, 2025 in the Municipal Building, Main Conference Room, 46 North Ocean Avenue, Freeport, New York, at 6:30 P.M. with the following present:

Rosa Rhoden	Chairperson	
Jennifer Carey	Deputy Chairperson	
Charles Hawkins	Member	
Ben Jackson	Member	Excused
Anthony Mineo	Member	Excused
Luis Rodriguez	Alternate Member	
Gina Terzulli	Secretary of Zoning Board of Appeals	
Jennifer Ungar	Deputy Village Attorney	
Scott Braun	Building Department Representative	

At 6:44 P.M. the Board convened in the Main Conference Room and Chairperson Rhoden led in the Pledge of Allegiance.

Six (6) members of the public were present.

Motion was made by Alternate Member Rodriguez, seconded by Deputy Chairperson Carey and carried to approve the minutes from October 16, 2025.

The Clerk polled the Board as follows:

Deputy Chairperson Carey	In Favor
Member Hawkins	In Favor
Member Jackson	Excused
Member Mineo	Excused
Alternate Rodriguez	In Favor
Chairperson Rhoden	In Favor

The Secretary of Zoning Board of Appeals presented one (1) Affidavit of Publication and one (1) Affidavit of Posting which were marked into evidence as Board Exhibits.

One (1) Affidavit of Mailing was marked into evidence as a Board Exhibit for 48 Harris Avenue.

There were no requests for adjournment.

Application #2025-12 – 48 Harris Avenue, Residence A-Section 55/ Block 254/ Lot 115 – John Esposito Proposed 442 SF first floor addition and 418 SF second floor addition. *Variances: Village Ordinance §210-6A. Conformity Required, §210-21 Permissible Extensions of Use.*

Chris Gray, the architect presented the application.

Motion was made by Member Hawkins, seconded by Member Carey and carried to close the public hearing to further evidence and testimony and reserve decision for this application.

The Clerk polled the Board as follows:

Deputy Chairperson Carey	In Favor
Member Hawkins	In Favor
Member Jackson	Excused
Member Mineo	Excused
Alternate Rodriguez	In Favor
Chairperson Rhoden	In Favor

Jennifer Ungar, Deputy Village Attorney stated that additional information was required by the building department from the applicant.

Application #2025-13 – 120 Sportsmans Avenue, Residence A-Section 62/ Block 088/ Lot 1 – Ocean Builders Corp. Erection of 2,434 SF 3-story, 1 family dwelling. *Variances: Village Ordinance §210-6A. Conformity Required, §210-40 Lot Area: street frontage; lot width, §210-41 Lot coverage; floor area ratio, §210-43A Required yards*

Motion was made by Deputy Chairperson Carey, seconded by Alternate Member Rodriguez and carried to adjourn the application pending additional information from the applicant required by the Building Department.

The Clerk polled the Board as follows:

Deputy Chairperson Carey	In Favor
Member Hawkins	In Favor
Member Jackson	Excused
Member Mineo	Excused
Alternate Rodriguez	In Favor
Chairperson Rhoden	In Favor

Decisions:

Application #2025-9 – 29 West Sunrise Highway, Business B – Section 55/ Block 21/ Lot 20 – Marcelo Kohan – Change of use to Medical Office. *Variances: Village Ordinance §210-6A, §210-172 Required Parking Spaces.*

Jennifer Carey moved that this Board make the following findings of fact:

A public hearing was held on August 21, 2025 wherein applicant was represented by architect Marcelo Kohan. He explained that his client needs a parking variance for using the property for medical space. He explained that the denial letter said 6 spaces were required, and that his client had one parking space in the back, as part of a shared lot, where he can park his car. His client provides shuttle service for the patients, and drop off at the rear entrance if necessary. His client Dr. Theagene runs a pain management practice, and also has an acupuncturist and a physical therapist. He is relocating his practice from Laurelton, Queens to Freeport. The denial letter was

reported to be incorrect as 6 spaces are required for the size of the space, with an additional 2 for employees, for a required total of 8. There is a pre-existing second floor apartment that is not in question in this application.

A neighbor, Ratan Halder, spoke on the application. He explained that he and his wife own the building on 22 Pine Street, which is where the rear parking lot is. He said that any space of the applicant in the back of the building must be accessed by going through his lot, which is barely adequate for their own needs. He said that the applicant has no independent way to get from his space from Pine Street.

A second neighbor, Menalos Samaroy, representing 15, 17, and 19 Sunrise Highway expressed concerns about the limited parking on Sunrise Highway. He also drew attention to the fact that Pine Street is restricted on school days. A police barricade closes that road, which decreases any access to the Pine Street lot, even if it were available.

The hearing resumed on September 18, 2025 wherein applicant returned. 8 parking spaces are required for this application. Mr. Kohan explained that there was a shuttle either by Uber or a car service. He said that they could drop in the back if there is no availability in the front. Mr. Kohan attempted to show an easement, but there does not appear to be one recorded anywhere. The Board clarified that Pine Street is closed during the school day and would not be opened for access.

Mr. Theagene testified as well. He plans to see patients 2 days a week, perhaps 10 patients a day. The building is an attempt to slowly retire. He explained that he realizes he does not have a space in the back of his building.

Mr. Halder spoke again. He reiterated that Mr. Theagene will have no access to the back of the building.

1. 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. This building is a pre-existing building with no off-street parking. With Mr. Theagene's plans for a shuttle for his patients, the off-street parking demands should be reduced.
 - 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. There are no other options to use this pre-existing building without a parking variance.
 - c. that the requested area variance is insubstantial. When viewed in the light of a pre-existing building that previously operated with no parking, with the same size space, the 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 was not self-created. This is a pre-existing building. The only self-created issue is the desire to open a business.
2. The Board, as lead agency has determined that this action is a Type II action and under SEQRA and no further review is required.

I further move 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. As explained in the application, applicant must continue to provide a shuttle service for all of the patients to this location. As off-street parking is an issue, this is essential to provide alternate ways to alleviate this pressure.

Seconded by: Charles Hawkins

The Clerk polled the Board:

Deputy Chairperson Carey	In Favor
Member Hawkins	In Favor
Member Jackson	Excused
Member Mineo	Excused
Alternate Rodriguez	In Favor
Chairperson Rhoden	In Favor

Application #2025-11 – 206 Church Street, Residence A – Section 55/Block 366/Lot 70-Janna Rodriguez– Proposed 1-story front addition 118 SF, 2½ story rear addition 5,536 SF, new 45 SF front steps & platform with roof, new 20’ x 25’ garage, 20’ x 10’ shed, 2 new cellar entrances and replace existing driveway with 3,143 SF circular driveway and pave 2,393 SF area on the side of the house. *Variations: Village Ordinance §210-6A. Conformity Required, §210-21 Permissible Extensions of Use, §210-41 Lot Coverage; Floor Area Ratio.*

Charles Hawkins moved that this Board make the following findings of fact:

A public hearing was held on October 16, 2025 wherein applicant Janna Rodriguez was represented by attorney William Chimeri. He explained that his client was seeking a variance for the property located at 206 Church Street. He provided a package of evidence including petitioner's deed, petitioner's certificate of occupancy for a two-family dwelling dated February 3, 1976, plans for the project, letter of denial, petition for variance, negative SEQRA declaration, photos of the existing house, letter of support from residents and neighbors, certificate of accreditation, letter in support from the Village, and two court decisions relevant to the application.

Mr. Chimeri explained that the house is a legal two-family according to the Certificate of Occupancy dated February 3, 1976, which said that a variance was granted by the Zoning Board of Appeals for a two-family property on January 28, 1976. Ms. Rodriguez is seeking to expand her current two-family house to include the permitted use of the property as a licensed day care facility. Ms. Rodriguez will live in the house after its completion, along with her mother and brother. The plans provide for a daycare servicing up to 32 children.

Mr. Chimeri explained that the Board should consider the expansion of the two-family use under the area variance standard as opposed to that of a use variance for three reasons. First, New York courts have held that when a variance has been granted as use, no further use variance is required for its expansion as use that has been granted through a variance is now a conforming use, as opposed to a non-conforming use. Second, Mr. Chimeri opined that the Village Code permits a non-conforming building to be expanded if it does not extend the specific aspect of non-conformity. The project does not change the non-conformity, i.e. the two-family use. Third, Mr. Chimeri directed the Board to another court case that held that where changes to a building consist of area issues, such as size, the area variance criteria should be applied. As such, increasing the size of a two-family house would be analyzed under the area variance standard.

The Board has reviewed the cases, as well as the Zoning Board decision from 1976. While the certificate of occupancy fills in a pre-printed part of the form to state that a variance was granted, the original application before the Zoning Board was for actually for a fact-finding hearing to establish continuance of premises at 206 Church St., Freeport, as a non-conforming two-family since prior to the adoption of a 1960 zoning code which removed two family houses as a permissible use. The Board initially determined that the Petitioner had not met its burden, Petitioner filed an article 78 appealing said decision, and a factfinding rehearing was ordered by the court. The decision of the Zoning Board was with respect to a permit to continue the use of the premises at 206 Church Street as a non-conforming two-family dwelling. Said application was granted. As such, the house is a non-conforming two-family dwelling. No use variance was granted. A two-family certificate of occupancy was issued based on a fact finding that the house had been used continuously as a two-family house since at least 1945, and well before the code changed in 1960. Contrary to the pre-printed language on the certificate of occupancy, a use variance was not granted.

After having reviewed the cases, the Board agrees with reasons two and three presented by Mr. Chimeri, that the proper standard to analyze the proposed changes to the property using the area variance standard. As the size of the property is so large, the house does not require any area

variances to be built. The only area variance required is for the 200-foot shed. Under the code, any accessories structures may not total more than 500 square feet. The garage is 500 square feet and the shed is 200 square feet. The applicant is willing to remove the shed if necessary, however, the shed is intended to store children's toys. Compared to the size of the parcel, 200 square feet is small relative to a parcel of land which is almost 20,000 square feet. The code allows 10% or 500 square feet of accessory structure, whichever is less. Were 10% allowed, applicant would be permitted almost 2,000 feet in accessory structures, but 700 is requested.

3. 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. The neighbors sent in letters in support of the project, and how it will not change the character of the neighborhood. The property has been a two-family house in the past, and will continue to be in the future, with the addition of much-needed daycare.
 - 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. If the applicant is to have a shed to protect children's outdoor toys from the elements, there is no other good method for applicant to pursue.
 - c. that the requested area variance is insubstantial. When weighed against the size of the parcel, 200 square feet for a shed 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 determinative. The request for a shed that is over the limit allowed for accessory structures is self-created.

As per the arguments made by Mr. Chimeri regarding the expansion of the two-family house, there is no use variance required for this application, and none is being granted. The increased size of the house did not require any area variances. As per the text of the 1976 zoning decision, the house is a non-conforming two-family house, which could still lose its two-family use if abandoned.

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

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

5. Applicant/Owner must comply with all the Rules and Regulations of the Village of Freeport.

- 6. Applicant must obtain the required permits from the Building Department.
- 7. 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.

Seconded by: Jennifer Carey

The Clerk polled the Board:

Deputy Chairperson Carey	In Favor
Member Hawkins	In Favor
Member Jackson	Excused
Member Mineo	Excused
Alternate Rodriguez	Recused
Chairperson Rhoden	In Favor

At 7:25 P.M., motion was made by Deputy Chairperson Carey, seconded by Member Hawkins and carried to close the meeting.

The Clerk polled the Board as follows:

Deputy Chairperson Carey	In Favor
Member Hawkins	In Favor
Member Jackson	Excused
Member Mineo	Excused
Alternate Rodriguez	In Favor
Chairperson Rhoden	In Favor



Gina Terzulli
 Secretary of Zoning Board of Appeals