

Town of North Hempstead

Chairman
David L. Mammìna, A.I.A.

Members
Leslie Francis, Esq.
David I. Levine, Esq.
Daniel Donatelli, Esq.
Jay Hernandez



Board of Zoning Appeals

210 Plandome Road
Manhasset, NY 11030
(516) 869-7667
Fax (516) 869-7812

CALENDAR FOR MAY 19, 2021

RESIDENTIAL CALENDAR

APPEAL #21058 – Andrew & Lauren Barenello; 40 Combes Ave., Manhasset; Section 3, Block 58, Lot 266; Zoned Residence-B

Variances §§70-42 & 70-100.2K to legalize a roofed over patio too close to a rear property line and to install a generator too close to a side property line.

APPEAL #21032 - TYB Management (Fayyaz Khan); 208 Grand Street, Westbury (New Cassel District); Section 11, Block 47, Lot 15; Zoned Residential-C (New Cassel Urban Renewal Overlay District)

Conditional Use under §§70-195.16(B) and variance from 70-100.1(B) to legalize a finished cellar which includes a 3-piece bathroom, walls that exceed 6 feet in length, and plumbing lines for a shower (all permitted by conditional use only) and to legalize a frame shed that is too close to the side and rear property lines.

COMMERCIAL CALENDAR

APPEAL #21044 - Su Yong Choi, Kione Enterprises; 400 Northern Blvd., Great Neck; Section 2, Block 85, Lots 35 & 36, Zoned Business-A

Variances from § 70-103(A)(1) to legalize interior alterations and construct new alterations to a commercial space for use as a tutoring center and office with not enough parking.

APPEAL #20938 – Vohora Realty; 27 Myrtle Street, Manhasset; Section 3, Block 44, Lot 1; Zoned Business-B

Variances from §§70-208.G and 70-208.F to convert a non-conforming mixed-use building entirely to residential (expanding a non-conforming use) and additions to the building (expanding a non-conforming building).

APPEAL #21060 – LIDL US, LLC; 2475 Jericho Turnpike, Garden City Park; Section 9, Block 612, Lot 51; Zoned Business A

Conditional Use §70-126.F to construct interior alterations for a new retail grocery store (a conditional use).

The live Zoom meeting can be accessed at: <https://us02web.zoom.us/j/82772725971> Or via phone at +1 929 436 2866 or +1 312 626 6799 or +1 301 715 8592 or +1 346 248 7799 or +1 669 900 6833 or +1 253 215 8782 using Webinar ID: 827 7272 5971. Additionally, the public may view the live stream of this meeting at <https://northhempsteadny.gov/townboardlive>.

Should you wish to participate in an appeal hearing, please register in advance by sending an email to bzadept@northhempsteadny.gov no later than Friday, May 14, 2021. Please include your first and last name, street address, email address, any prepared written comments/questions and the appeal number you wish to be heard on. Comments will be limited to 3 minutes per speaker. Members of the public can email written comments or questions addressed to the Board. Written comments must be received 60 minutes prior to the meeting. Questions and/or comments which are timely submitted will be accepted and made a part of the record.

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NOTICE OF DECISION

APPEAL #20869 - Huntington Coach, L.L.C. (15 Harbor Park Drive Realty, LLC), 15 Harbor Park Drive, Port Washington; Section 6, Block 86, Lot 11; Zoned: Planned Industrial Park.

Appeal for determination, or in the alternative, variance §70-150*, and variances §70-103.A(1), 70-103.G, 70-212.A, and 70-229.A to legalize the storage of school buses, which is not a permitted use in the PIP District, with parking that is less than required, the use of a required parking area for school bus storage and non-compliance with a prior BZA decision #19499. *The variance for §70-150 is no longer applicable per town board resolution no. 132-2021 granting immunity.

Whereas, an application (19-113977) was filed with the Board of Zoning Appeals and a public hearing was held following due notice; and

Whereas, a review was undertaken pursuant to the State Environmental Quality Review Act, and the Board of Zoning Appeals hereby establishes itself as "Lead Agency" and hereby determines that this Unlisted Action will not result in any significant adverse environmental impacts; at a meeting of the Board held on **May 19, 2021**, the appeal in the above entitled matter was decided as follows:

GRANTED of the dimension and in the location as shown on drawings prepared by Christopher M. Tartaglia, P.E. dated June 28, 2018 **SUBJECT TO THE CONDITIONS IMPOSED BY TOWN BOARD RESOLUTION 132-2021.**

THIS IS NOT A BUILDING PERMIT

The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

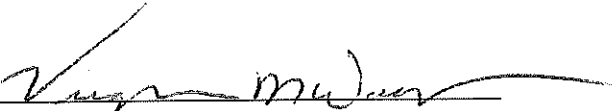
Motioned by: Member Donatelli Seconded by: Vice Chairman Francis

Ayes: Member Donatelli, Vice Chairman Francis, Chairman Mammina

Nays: None

Absent: Member Hernandez

Abstain: Member Goodsell

A handwritten signature in black ink, appearing to read "Virginia M. Wagner", is written over a horizontal line.

VIRGINIA M. WAGNER
SECRETARY

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NOTICE OF DECISION

APPEAL #20884- Huntington Coach, L.L.C. (21 Harbor Park Drive Realty, LLC), 21 Harbor Park Drive, Port Washington; Section 6, Block 86, Lot 10; Zoned: Planned Industrial Park

Appeal for determination, or in the alternative, variance from §70-150* and variances from §§70-103.A.1, 70-103.G, and 70-212.A, to legalize the storage of school buses which is not a permitted use in the PIP District, with parking that is less than required, the use of a required parking area for school bus storage. *The variance for §70-150 is no longer applicable per town board resolution no. 132-2021 granting immunity.

Whereas, an application (19-115120) was filed with the Board of Zoning Appeals and a public hearing was held following due notice; and

Whereas, a review was undertaken pursuant to the State Environmental Quality Review Act, and the Board of Zoning Appeals hereby establishes itself as "Lead Agency" and hereby determines that this Unlisted Action will not result in any significant adverse environmental impacts; at a meeting of the Board held on **May 19, 2021**, the appeal in the above entitled matter was decided as follows:

GRANTED of the dimension and in the location as shown on drawings prepared by Christopher M. Tartaglia, P.E. dated June 28, 2018 and revised through May 20, 2019 **SUBJECT TO THE CONDITIONS IMPOSED BY TOWN BOARD RESOLUTION 132-2021.**

The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

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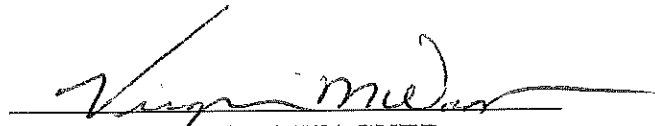
Motioned by: Member Donatelli Seconded by: Vice Chairman Francis

Ayes: Member Donatelli, Vice Chairman Francis, Chairman Mammina

Nays: None

Absent: Member Hernandez

Abstain: Member Goodsell


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NOTICE OF DECISION

APPEAL #20968 – Huntington Coach, L.L.C.; 13 Harbor Park Drive, Port Washington; Section 6, Block 86, Lot 7; Zoned: Planned Industrial Park.

Appeal for determination, or in the alternative variance §70-150* to legalize the outdoor storage of school buses and an indoor vehicle maintenance facility which are not permitted uses in the PIP District, and variances from §§70-103.A.1, 70-103.B, 70-103.G, 70-212.A, and special exemption from 70-229.A to legalize the storage of school buses within a required parking area, with parking that is less than required, parking spaces that are too small, and a landscaped area that is smaller than what was approved under Appeal #12417. *The variance for §70-150 is no longer applicable per town board resolution no. 132-2021 granting immunity.

Whereas, an application (20-104442) was filed with the Board of Zoning Appeals and a public hearing was held following due notice; and

Whereas, a review was undertaken pursuant to the State Environmental Quality Review Act, and the Board of Zoning Appeals hereby establishes itself as "Lead Agency" and hereby determines that this Unlisted Action will not result in any significant adverse environmental impacts; at a meeting of the Board held on **May 19, 2021**, the appeal in the above entitled matter was decided as follows:

GRANTED of the dimension and in the location as shown on drawings prepared by Michael Tartaglia, P.E. dated June 28, 2018 and revised through June 19, 2020, (Site Plan) and on plans prepared by Richard S. Kent, R.A. dated April 1, 2018 and revised through June 27, 2018 (Floor Plans) **SUBJECT TO THE CONDITIONS IMPOSED BY TOWN BOARD RESOLUTION 12-2021.**

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The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

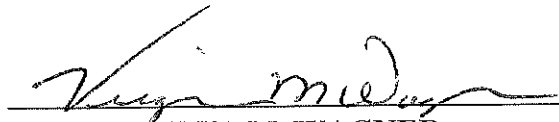
Motioned by: Member Donatelli Seconded by: Vice Chairman Francis

Ayes: Member Donatelli, Vice Chairman Francis, Chairman Mammina

Nays: None

Absent: Member Hernandez

Abstain: Member Goodsell



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NOTICE OF DECISION

APPEAL #21030 - Xing Zhang; 288 Continental Drive, New Hyde Park; Section 8, Block 269, Lot 14; Zoned Residential-A

Variances from §70-32.7 to legalize an addition with an eave height that is too high.

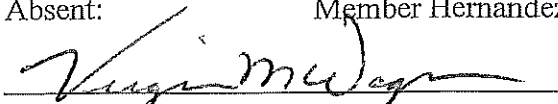
Whereas, an application (21-101433) was filed with the Board of Zoning Appeals and a public hearing was held following due notice. That at a meeting of the Board held on **May 19, 2021**, the appeal in the above entitled matter was decided as follows:

GRANTED of the dimension and in the location as shown on drawings prepared by Mark Anthony Munisteri, R.A. dated September 4, 2018 and revised through January 29, 2021 and on a survey prepared by Christopher Henn, L.S. dated July 30, 2020.

IN REACHING THIS DETERMINATION, THE BOARD CONSIDERED THE FACTORS SET FORTH IN THE ATTACHED FINDINGS OF FACT

The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by:	Member Goodsell	Seconded by:	Member Donatelli
Ayes:	Member Goodsell, Member Donatelli, Vice Chairman Francis, Chairman Mammina		
Nays:	None		
Absent:	Member Hernandez		


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Board of Zoning Appeals

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Findings of Fact for Appeal # 21030

APPEAL #21030 - Xing Zhang; 288 Continental Drive, New Hyde Park; Section 8, Block 269, Lot 14; Zoned Residential-A

Variances from §70-32.7 to legalize an addition with an eave height that is too high.

Under Section 267-b of the Town Law, the Board is empowered to grant area variances in cases where the benefit to the applicant outweighs the detriment to the health, safety and welfare of the neighborhood or community. The Board is also required to grant the *minimum* variance necessary. In making such determination the Board shall also consider: 1) whether 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; 2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; 3) whether the requested area variance is substantial; 4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and 5) whether the alleged difficulty was self-created. After careful consideration of the facts presented during the hearing, personal observations of the site and surrounding area, a review of Building Department files, and a review of the Town Code as it pertains to development of this property, the Board finds the following with respect to these criteria:

1. The Board finds that granting the requested variance will not have a negative impact on the character of the neighborhood. In making this determination the Board notes the following:
 - a) At 28.58' the home is 1.42' below the 30' maximum ridge height permitted by the Town Code.
 - b) If the variance was denied the applicant would potentially need to raise the ridge height of the home in order to comply with the eave height requirements of the Code. This would most likely have more of an impact on the neighbors and neighborhood than the requested variances.
 - c) The "eave" as viewed from the outside of the home is actually lower than the "eave height" measurement which is the subject of the variance. This is due to the fact that the "eave height" calculation is taken from the inside of the home.¹ Therefore, the impact to the neighbors and surrounding neighborhood is an eave height variance of only 1.18' (eave height of 125.6' – 102.42' = 23.18' where 22' is allowed) as opposed to the 2.38' variance as calculated according to the Code.

¹ Eave height as defined in §70-231 of the Town Code is as follows: "Eave Height: The top of the uppermost wall plate, as measured from the average level of the preexisting grade at the perimeter of the building."

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- d) The configuration of the home on a corner lot mitigates potential impacts to the neighbors as a result of granting the variance. Specifically, the 30.60' rear yard setback (south side of the home) is actually double the required rear setback of 15'. In addition to the large setback in this area, the side yard setback on the southeast side of the home is also larger than required (12.16 where 10' is required).
2. The applicant could not achieve the benefit of legalizing the home as built without the necessity of the variances. The only alternative would be a reconstruction of the home which would come at a significant expense to the homeowner.
3. As stated above the substantiality of the variance is reduced due to the fact that the "eave" as viewed from the outside of the home is actually lower than the "eave height" as calculated from the inside of the home. Therefore, the Board does not find the resulting effect of granting the variance to be substantial.
4. For the reasons stated above, the Board finds that granting the requested variances would not result in adverse effects or impacts to the physical or environmental conditions of the surrounding neighborhood.
5. The alleged difficulty is self-created since the applicant constructed a home which does not comply with the requirements of the Code.

In conclusion the Board finds that the applicant's request for relief from the requirements of §70-32.7 are supported by the record herein.

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NOTICE OF DECISION

APPEAL #21051 - Ping Chung; 1010 North 3rd Street, New Hyde Park; Section 8, Block 4, Lot 38; Zoned: Residence-C.

Variances from §§70-100.2(A)(4)(b), 70-49, 70-208(F) and 70-229.A and special exception from §70-231 to legalize fencing that is too tall, and to legalize a garage addition and roofed over patio on a detached garage that is too wide and is larger than the overall permitted size on a non-conforming property and which does not comply with a prior BZA decision (Appeal #20763).

Whereas, an application (21-101819) was filed with the Board of Zoning Appeals and a public hearing was held following due notice. That at a meeting of the Board held on **May 19, 2021**, the appeal in the above entitled matter was decided as follows:

DENIED with respect to the variance sought under §70-100.2(A)(4)(b) to legalize fencing that is too tall and **GRANTED** with respect to the variances and special exception sought under §§70-49, 70-208(F), 70-229.A and 70-231 to legalize a garage addition and roofed over patio on a detached garage that is too wide and is larger than the overall permitted size on a nonconforming property and which does not comply with a prior BZA decision (Appeal #20763) of the dimension and in the location as shown on drawings prepared by Norman C. Lok, P.E. dated June 12, 2018 and revised through December 3, 2020 and on a survey prepared by Barry M. Fahrer dated October 9, 2017 (*as amended by the BZA*).

The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by:	Member Goodsell	Seconded by: Vice Chairman Francis
Ayes:	Member Goodsell, Member Donatelli, Vice Chairman Francis, Chairman Mammina	
Nays:	None	
Absent:	Member Hernandez	

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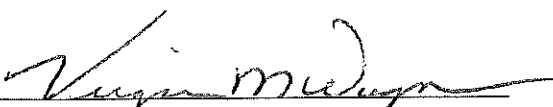
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Goodsell Seconded by: Vice Chairman Francis

Ayes: Member Goodsell, Member Donatelli, Vice Chairman Francis,
Chairman Mammina

Nays: None

Absent: Member Hernandez



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NOTICE OF DECISION

APPEAL #21056 - Chabad of Roslyn Inc., 75 Powerhouse Road, Roslyn Heights; Section 7, Block 47, Lot 30; Zoned: Business-A and Residential-C

Variances from §§70-48, 70-49.B, 70-51.C, 70-52, 70-52.3.A, 70-52.3.B, 70-103.A to construct a second story addition to a religious structure that is larger and taller than permitted, covering more of the lot than permitted, is too close to the side and rear property lines, does not comply with the sky exposure plane requirements and does not have enough parking.

70-150 is no longer applicable per town board resolution no. 132-2021 granting immunity.

Whereas, an application (14-100588) was filed with the Board of Zoning Appeals and a public hearing was held following due notice. That at a meeting of the Board held on **May 19, 2021**, the appeal in the above entitled matter was decided as follows:

GRANTED of the dimension and in the location as shown on drawings prepared by Robert Bahary, R.A. dated May 6, 2013 and revised through November 24, 2015 **SUBJECT TO THE FOLLOWING CONDITION:**

The temporary trailers which are currently located on the property must be removed within sixty (60) days of receiving a building permit for the work specified above.

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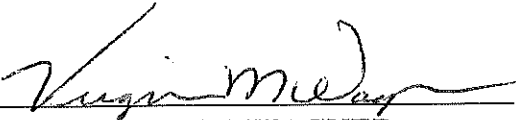
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Donatelli Seconded by: Vice Chairman Francis

Ayes: Member Goodsell, Member Donatelli, Member Levine
 Vice Chairman Francis, Chairman Mammuna

Nays: None

Absent: Member Hernandez



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