

Chairman
David L. Mammìna, A.I.A.

Vice Chairman
Leslie Francis, Esq.

Members
Daniel Donatelli, Esq.
Jay Hernandez
Patricia A. Goodsell, Esq.

Town of North Hempstead



Board of Zoning Appeals

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

CALENDAR FOR APRIL 6, 2022

RESIDENTIAL CALENDAR

APPEAL #21201 - Michael Klein; 6 Warwick Road, Great Neck; Section 2, Block 154, Lot 22; Zoned: Residence-A

Variance from §70-29.B to construct an addition and a bay window that are too large.

APPEAL #21202 - Halyna Sarlanis; 29 Ridge Drive, Manhasset; Section 3, Block J, Lot 421; Zoned: Residence-B

Variances from §§70-100.1(B) & 70-100.1(D) to legalize a detached garage that is too close to the side property line and too close to the adjoining neighbor's home.

APPEAL #21184 – Benjamin Borgognone; 204 Mill Spring Rd., Manhasset, Section 3, Block 222, Lot 1; Zoned Residence-A

Variances from §§ 70-29(B), 70-30.B to construct additions that are too big and to convert a portico that is too close to the street.

APPEAL #21203 – Eric Schaffer & Nancy Resiman; 73 Summit Rd., Port Washington, Section 6, Block 82, Lot 43; Zoned Residence-A

Appeal for Determination or in the alternative Variances from §§ 70-30(B), 70-100.2(H) & 70-101(H) to construct additions and a raised terrace that are too close to a street and to legalize AC units that are in a front yard and too close to a street.

APPEAL #21204 – Lincy Lukose; 90 Aster Dr., New Hyde Park, Section 8, Block 305, Lot 11; Zoned Residence-B

Variances from §§ 70-40(A), 70-41(A), 70-100.1(A) & 70-101(B) to construct a second-story addition that is too close to the street and too close to the side property line, a rear one-story addition that is too close to the side property line, an open porch that is too close to the street, and a garage which is located within the front yard (not permitted).

APPEAL #21205 - Matthew Tittler; 303 Curtis Avenue, Carle Place; Section 10, Block 35, Lot 92; Zoned: Residence-C (Up-zoned to Residence-B)

Variances §§70-39.B, 70-40.C, 70-41.A & 70-41.A(1)(e) to construct an addition that is too large, is located too close to the side property line and the street and with smaller than required total side yards.

APPEAL #21206- Esther Francine Guastello; 37 Emerson Court, Westbury; Section 10, Block 163, Lot 22; Zoned: Residence-C

Variances from §§70-103.C(2)(a)[5] and 70-100.2(A)(4) to legalize pool fencing forward of the rear building line and within a side yard and to legalize the same fencing which is considered too tall along a side yard and too tall facing the street.

COMMERCIAL CALENDAR

APPEAL #21207 – Fifth Avenue of Long Island Realty; 2072 Northern Blvd., Manhasset, Section 3, Block 183, Lot 12; Zoned Business-A

Variances from §§ 70-196.J(1)(a) and 70-196.J(1)(f) to construct wall signs that are too high and exceed the amount of signs permitted on a single wall.

APPEAL #21208 – The Edelson Property Group, LLC; 158 Main St., Port Washington, Section 5, Block 37, Lot 820; Zoned Business-B

Conditional Use §70-139(A) and variance from §70-103(A) to construct interior alterations to convert a retail space to a ice cream shop (a conditional use) with not enough parking.

APPEAL #21209 - Port Washington Fire Department, Inc.; 423 Port Washington Boulevard, Port Washington; Section 6, Block 59, Lot 50; Zoned: Residence-B.

Variances from §§70-40.B, 70-41.D, 70-42.6(F), 70-103.B & 70-103.F to construct an addition to a fire house that is too close to the front property line and too close to the side property line, with too much front yard paving, with a loading zone that is smaller than required and a new parking lot containing parking spaces that are smaller than required.

APPEAL #21210 – Van Buren Properties III, LLC/Gun Hill Triangle Realty Corp./Empire Car Rental/Hitch King; 1850 Imperial Ave., New Hyde Park, Section 8, Block 193, Lots 4-11, 47, 25-31; Zoned Industrial-B

Variances from §§ 70-103(A) and 70-212.B to legalize interior alterations to convert a warehouse into an auto body repair shop with not enough parking and outdoor storage that is too close to the street, takes up too much of the lot, and will not be screened from view.

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Board of Zoning Appeals

210 Plandome Road
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NOTICE OF DECISION

APPEAL #20843 – David Latham; 255 Park Avenue, Garden City Park; Section 33, Block 174, Lots 14 & 15; Zoned: Residential-C

Variances from §§70-44, 70-100.2(A)(2), 70-100.2(A)(4), 70-50(A), 70-100.1(A), 70-100.1(B), 70-100.1(J) and 70-220(D) to legalize the storage of commercial vehicles on a residential property (not a permitted use), to legalize fencing that is too high and that is in a front yard, and to legalize a shed in the front yard that is too close to the street and too close to the side property line and is on a lot without a main building on it.

Whereas, an application (FILE #21-240755, BZA19-112812) 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, therefore, at a meeting of the Board held on **April 6, 2022** the appeal in the above-entitled matter was decided as follows:

DENIED as moot with respect to the variance sought under §70-44, **DENIED** with respect to the variances sought under §§ 70-50(A), 70-100.1(A) and 70-100.1(B) to legalize a shed in the front yard that is too close to the street and too close to the side property line, **GRANTED** with respect to the variances sought under §§ 70-100.2(A)(2) & 70-100.2(A)(4) to legalize fencing that is too high and that is in a front yard, **GRANTED** with respect to the variances sought under §§ 70-100.1(J) and 70-220(D) to legalize a shed on a lot without a main building on it (the shed must be moved to a location which complies with the setback requirements), and **GRANTED sua sponte as an amendment to the use variance previously granted under Appeal #12981** to legalize the storage of commercial vehicle(s) on a residential property of the dimension and in the location as shown on a survey prepared by Daniel A. Kadyszewski, L.S. dated May 18, 2020 *as annotated by the applicant* **SUBJECT TO THE CONDITIONS CONTAINED IN THE ATTACHED RIDER:**

THIS IS NOT A BUILDING PERMIT

SEE ATTACHED RIDER

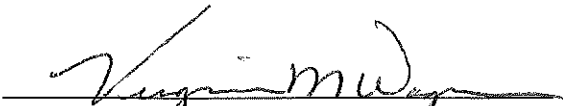
**IN REACHING THIS DETERMINATION, THE BOARD CONSIDERED THE
FACTORS SET FORTH IN THE ATTACHED FINDINGS OF FACT**

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

Motioned by: Member Goodsell Seconded by: Member Donatelli

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

Nays: None



VIRGINIA M. WAGNER
SECRETARY

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Board of Zoning Appeals

Town of North Hempstead

Rider #1 to Appeal # 20843 (Findings of Fact)

APPEAL #20843 – David Latham; 255 Park Avenue, Garden City Park; Section 33, Block 174, Lots 14 & 15; Zoned: Residential-C

Variances from §§70-44, 70-100.2(A)(2), 70-100.2(A)(4), 70-50.A, 70-100.1(A), 70-100.1(B), 70-100.1(J) and 70-220.D to legalize the storage of commercial vehicles on a residential property (not a permitted use), to legalize fencing that is too high and that is in a front yard, and to legalize a shed in the front yard that is too close to the street and too close to the side property line and is on a lot without a main building on it.

1. The Board finds that with respect to the variance requested under 70-44, the application does not represent a new “use” variance but rather an expansion of the use variance which was granted under Appeal #12981 to store a commercial vehicle on the subject property. The Board also finds that granting this amendment, which will allow for the storage of three (3) additional vehicles will not materially change the use of the subject property and therefore, no adverse impacts to adjacent properties or the surrounding neighborhood are anticipated.

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Board of Zoning Appeals

Town of North Hempstead

Rider #2 to Appeal # 20843 (Conditions)

APPEAL #20843 – David Latham; 255 Park Avenue, Garden City Park; Section 33, Block 174, Lots 14 & 15; Zoned: Residential-C

Variances from §§70-44, 70-100.2(A)(2), 70-100.2(A)(4), 70-50.A, 70-100.1(A), 70-100.1(B), 70-100.1(J) and 70-220.D to legalize the storage of commercial vehicles on a residential property (not a permitted use), to legalize fencing that is too high and that is in a front yard, and to legalize a shed in the front yard that is too close to the street and too close to the side property line and is on a lot without a main building on it.

1. *There shall be no outdoor storage of materials on-site.*
2. *There shall be no idling of vehicles/trucks at any time.*
3. *There shall be no vehicle repair permitted on-site.*
4. *There shall be no more than four (4) commercial vehicles stored on the site at one time.*
5. *The premises shall be maintained in an orderly manner at all times.*
6. *The owner must obtain approval from the Town of North Hempstead Highway Department to maintain the fence in the right-of-way.*

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NOTICE OF DECISION

APPEAL #21183 - Tabs Motors of Valley Stream (BP Gas Station); 200 Hillside Avenue, New Hyde Park; Section 8, Block 3, Lot 1; Zoned: Business-A/ Residence-C

Variances §§70-196.J, 70-196.K, 70-196.K(4), 70-134, 70-203.G, 70-203.P(2)(a), 70-203.P(2)(b), and 70-203.P(2)(f) to construct a replacement gas station with a new convenience store that is larger than permitted, without a landscape buffer between the Business and Residential zones, with no provision of perimeter landscaping, a trash enclosure (not permitted) that is too close to the rear property line, canopy signs (not permitted) and a ground sign that is larger than permitted.

Whereas, an application (FILE #18-228836, BZA21-000032) 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, therefore, at a meeting of the Board held on **April 6, 2022** the appeal in the above entitled matter was decided as follows:

DENIED with respect to the variance sought under § 70-203.P(2)(a) for a new convenience store that is larger than permitted, and **GRANTED** with respect to the variances sought under §§ 70-196.J, 70-196.K, 70-196.K(4), 70-134, 70-203.G, and 70-203.P(2)(f) of the dimension and in the location as shown on drawings prepared by Christopher Mark Tartaglia, P.E. dated April 29, 2019 and revised through November 22, 2021. No vote was taken regarding the variance requested under § 203.P(2)(b) as this was determined to be a matter to be decided by the Town Board.

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

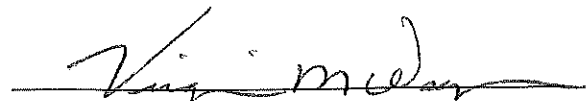
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The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Goodsell Seconded by: Member Hernandez

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

Nays: None


VIRGINIA M. WAGNER
SECRETARY

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Board of Zoning Appeals

Town of North Hempstead

Rider to Appeal # 21183 (Findings of Fact)

APPEAL #21183 - Tabs Motors of Valley Stream (BP Gas Station); 200 Hillside Avenue, New Hyde Park; Section 8, Block 3, Lot 1; Zoned: Business-A/ Residence-C

Variances §§70-196.J, 70-196.K, 70-196.K(4), 70-134, 70-203.G, 70-203.P(2)(a), 70-203.P(2)(b), and 70-203.P(2)(f) to construct a replacement gas station with a new convenience store that is larger than permitted, without a landscape buffer between the Business and Residential zones, with no provision of perimeter landscaping, a trash enclosure (not permitted) that is too close to the rear property line, canopy signs (not permitted) and a ground sign that is larger than permitted.

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 with respect to the variance requested under 70-203.P(2)(a) the potential detriment to the health safety and welfare of the neighborhood of granting a variance to build a convenience store which is larger than permitted, outweighs the benefit to the applicant. This determination is made in part due to the lack of evidence presented by the applicant as to any unique hardship or the need for the larger convenience store. The Board further finds that permitting an oversized convenience store would undermine the goals of the Town Board in establishing the requisite dimensional criteria and would result in the overdevelopment and intensified use of this site. An oversized convenience store on this property would not be in keeping with other gas stations with convenience stores on similar sized lots in the neighborhood. In addition, granting the requested variance would set a negative precedent detrimental to the character of the neighborhood for approving similar applications which do not comply with the Town Code (see Pecoraro v. Bd. of Appeals of Town of Hempstead, 2 N.Y.3d

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608, 613 (2004); Nataro v. DeChance, 53 N.Y.S.3d 156 (2nd Dept 2017); Russo v. City of Albany Zoning Board, 910 N.Y.S. 2d 263 (3rd Dept 2010).

2. The Board finds the requested variance of 1500 square feet where 1250 square feet is allowed to be substantial.
3. The difficulty is self-created because the applicant chooses to develop the property with a convenience store that does not conform to the requirements of the Town Code.

With respect to the variances sought under §§ 70-196.J, 70-196.K, 70-196.K(4), 70-134, 70-203.G, and 70-203.P(2)(f), the Board finds that the benefit to the applicant in granting the requested variances outweighs any detriment to the health, safety and welfare of the community.

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NOTICE OF DECISION

APPEAL #21195 - Timothy Latchana; 703 Irving Street, Westbury; Section 10, Block 37, Lot 24; Zoned: Residence-C

Variance from §70-102.C(5)(a) to legalize a semi-inground pool and pool equipment that are too close to the rear and side property lines.

Whereas, an application (FILE #21-013524, BZA22-000009) 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 **April 6, 2022**, the appeal in the above-entitled matter was decided as follows:

DENIED

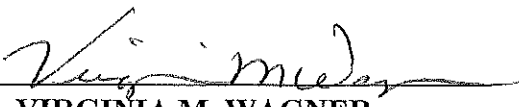
IN REACHING THIS DETERMINATION, THE BOARD CONSIDERED THE FACTORS SET FORTH IN THE ATTACHED FINDINGS OF FACT

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

Motioned by: Vice Chairman Francis Seconded by: Member Goodsell

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

Nays: None


VIRGINIA M. WAGNER
SECRETARY

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Board of Zoning Appeals

Town of North Hempstead

Rider to Appeal # 21195 (Findings of Fact)

APPEAL #21195 - Timothy Latchana; 703 Irving Street, Westbury; Section 10, Block 37, Lot 24; Zoned: Residence-C

Variance from §70-102.C(5)(a) to legalize a semi-inground pool and pool equipment that are too close to the rear and side property lines.

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 could be a detriment to neighboring properties and the surrounding neighborhood by creating a life safety hazard due to the close proximity of the swimming pool to the property line. This situation is exacerbated by the substantiality of the variances. The swimming pool is setback only 4.2 feet from the side property line where a 10' setback is required and 4.4' from the rear property line where a 10' setback is required. The pool equipment is setback only 1.2' from the side property line where 10' is required and 2.8' from the rear property line where 10' is required.
2. The difficulty is self-created as the applicants installed a swimming pool without permits. Although this fact is not determinative it weighs heavily in favor of denial.
3. The Board finds that granting the requested variance to permit the pool and pool equipment to remain too close to the rear and side property lines will set a negative precedent detrimental to the character of the neighborhood for approving similar applications which do not comply with the Town Code (*see Pecoraro v. Bd. of Appeals of Town of Hempstead*, 2 N.Y.3d 608, 613 (2004); *Nataro v. DeChance*, 53 N.Y.S.3d 156 (2nd Dept 2017); *Russo v. City of Albany Zoning Board*, 910 N.Y.S. 2d 263 (3rd Dept 2010). This is particularly concerning to the Board because of the life safety hazard involved.

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In balancing the benefit to the applicant in keeping the pool and pool equipment in its existing nonconforming location with the detriment to the health, safety and welfare of the neighborhood, the Board recognizes there will be a financial cost to the applicant to relocate the pool and pool equipment, which were installed without the benefit of a permit, to a conforming location. After weighing the various factors including the substantiality of the variance, the life safety hazards and the self-created nature of the need for the variance against the expense of compliance to the applicant, the Board finds that the benefit to the applicant is outweighed by the detriment to the community and therefore the variance sought under §70-102.C(5)(a) is DENIED.

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Vice Chairman
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Board of Zoning Appeals

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NOTICE OF DECISION

APPEAL #21196 - Fritz Moise; 203 Urban Avenue, Westbury; Section 11, Block 27, Lot 75; Zoned: Residence-C

Variances from 70-100.2(A)(2) and 70-100.2(A)(4) to construct fencing in a front yard and fencing that is too tall.

Whereas, an application (FILE #21-264896, BZA21-107153) 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 **April 6, 2022**, the appeal in the above-entitled matter was decided as follows:

The request for a variance under § 70-100.2(A)(4) was **WITHDRAWN** by the applicant at the hearing and the variance sought under § 70-100.2(A)(2) is **GRANTED** of the dimension and in the location as shown on a survey prepared by Christopher M. Buckley, L.S. dated January 21, 2020 *as annotated by the applicant and as amended* **SUBJECT TO THE FOLLOWING CONDITION:**

- 1. As this variance represents a reasonable accommodation being provided to the applicant pursuant to the Americans with Disabilities Act, this variance shall not run with the land and the fencing in the front yard shall be removed upon the termination of the disabled person's residency in the home.*

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

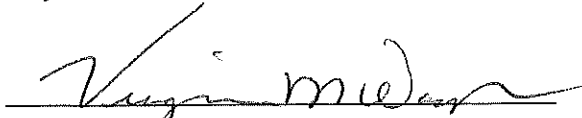
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The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Vice Chairman Francis Seconded by: Member Donatelli

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

Nays: None



VIRGINIA M. WAGNER
SECRETARY

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Board of Zoning Appeals

Town of North Hempstead

Findings of Fact for Appeal # 21196

APPEAL #21196 - Fritz Moise; 203 Urban Avenue, Westbury; Section 11, Block 27, Lot 75; Zoned: Residence-C

Variances from 70-100.2(A)(2) and 70-100.2(A)(4) to construct fencing in a front yard and fencing that is too tall.

The Board finds the applicant has submitted sufficient evidence to support why this application should be given special consideration under the Americans with Disabilities Act 28 C.F.R. § 35. Pursuant to § 35.130(b)(7), local governments are required to make reasonable modifications to policies, practices, or procedures to prevent discrimination on the basis of disability.

After careful consideration of testimony and other evidence submitted on the record for this appeal, the Board finds that the person to be accommodated has a disability; the modification being requested (permitting fencing in the front yard) is reasonably necessary to accommodate the disability; and the modification will not fundamentally and unreasonably alter the purpose of the zoning ordinance due to the limitations and conditions being imposed.

Given the above, the board grants the relief requested under 70-100.2(A)(2) to erect fencing within a front yard with the specific limitations and conditions as specified in the Notice of Decision, as a reasonable modification to the Zoning Code in order to accommodate the disability of the applicant's child.

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NOTICE OF DECISION

APPEAL #21199 – 13 Avenue A, LLC; 13 Avenue A., Port Washington, Section 4, Block 35, Lot 6; Zoned Business-A

Appeal for determination that the building department erred in denying an application for a certificate of existing use for a four-family dwelling.

Whereas, an application (FILE #11-142299, BZA22-000011) 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 **April 6, 2022**, the appeal in the above-entitled matter was decided as follows:

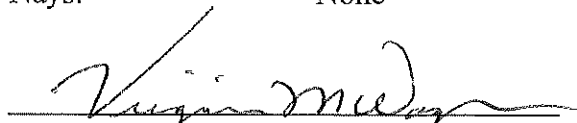
GRANTED of the dimension and in the location as shown on a survey prepared by John P. Ferrantello, LLS dated August 16, 2011 and on drawings prepared by Donald Alberto, R.A. dated April 19, 2021.

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 Hernandez, Member Donatelli,
Vice Chairman Francis, Chairman Mammina

Nays: None


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NOTICE OF DECISION

APPEAL #21200- Mandel-Wilentz Dermatology, PLLC; 45-47 Northern Boulevard, Greenvale; Section 20, Block 29, Lots 67 & 68; Zoned: Business-B

Variances from §§70-103.A, 70-103.B & 70-103.F to construct interior alterations for the conversion of retail space to a medical (dermatology) office with no loading zone, not enough parking on site, and parking stall spaces that are too small.

Whereas, an application (FILE #21-005956, BZA22-000017) 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 **April 6, 2022**, 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 Jared Mandel, R.A. dated June 1, 2021 and revised through September 28, 2021.

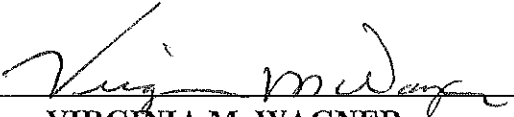
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Donatelli Seconded by: Member Goodsell

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

Nays: None

Abstain: Member Hernandez



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NOTICE OF DECISION

APPEAL #21201 - Michael Klein; 6 Warwick Road, Great Neck; Section 2, Block 154, Lot 22; Zoned: Residence-A

Variance from §70-29.B to construct an addition and a bay window that are too large.

Whereas, an application (FILE #21-010433, BZA22-000023) 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 **April 6, 2022**, 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 Alan Jeffrey Cooper, R.A. dated March 2, 2020 and revised through July 21, 2021.

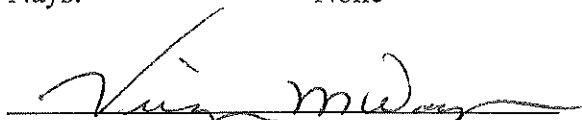
IN REACHING THIS DETERMINATION, THE BOARD CONSIDERED THE FACTORS SET FORTH IN THE ATTACHED FINDINGS OF FACT

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

Motioned by: Member Donatelli Seconded by: Member Goodsell

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

Nays: None


VIRGINIA M. WAGNER
SECRETARY

THIS IS NOT A BUILDING PERMIT

Board of Zoning Appeals

Town of North Hempstead

Rider to Appeal # 21201 (Findings of Fact)

APPEAL #21201 - Michael Klein; 6 Warwick Road, Great Neck; Section 2, Block 154, Lot 22; Zoned: Residence-A

Variance from §70-29.B to construct an addition and a bay window that are too large.

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. In making this determination the Board has considered the fact that the subject area where the home is located was upzoned from the Residence-B zoning district to the Residence-A zoning district. Under the provisions of § 70-29.D of the Town Code, homes which were affected by the aforementioned upzoning were granted relief from the gross floor area restrictions of the Residence-A zone to allow up to 2,700 s.f. if the "building" complied with all other applicable zoning restrictions in the Town Code. Here, but for the fact that the existing home is .5' shy of the required 10' side yard setback requirement and 1.8' shy of the required 35' front yard setback requirement of the R-A zoning district, the proposed additions would be entitled to relief as a matter of right under § 70-29.D of the Code and a variance for gross floor area would not be required. The Board finds that the de minimis nature of the deviations weigh in favor of the applicant where granting the gross floor area variance will not constitute a significant departure from the general purpose of the Town Code. The Board further finds that granting the requested variance will not produce an undesirable change in the character of the neighborhood or be a detriment to nearby properties.
2. The Board finds that the benefit being to the applicant of having a useable family room cannot be achieved by another feasible method.

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3. The requested variance is not substantial in light of the neighborhood being up-zoned together with the provisions of 70-29.D.
4. The requested variance will not have an adverse impact on the physical or environmental conditions in the neighborhood. Due to the size of the property, a proposed gross floor area of under 2700 sq. ft, and conformance with all setback requirements of the R-A zoning district except for a de minimis intrusion into the side and front-yard setbacks, the Board finds that there will be no significant adverse effects to adjacent properties or the surrounding neighborhood as a result of granting the variance.
5. The alleged difficulty is self-created, however, this fact is not determinative

Given the unique circumstances of this application, as set forth above, the Board grants the relief requested under 70-29.B to construct an addition and a bay window that are too large.

THIS IS NOT A BUILDING PERMIT

Chairman
David L. Mammina, A.I.A.

Vice Chairman
Leslie Francis, Esq.

Members
Daniel Donatelli, Esq.
Jay Hernandez
Patricia A. Goodsell, Esq.

Town of North Hempstead



Board of Zoning Appeals

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

NOTICE OF DECISION

APPEAL #21203 – Eric Schaffer & Nancy Resiman; 73 Summit Rd., Port Washington, Section 6, Block 82, Lot 43; Zoned Residence-A

Appeal for Determination or in the alternative Variances from §§ 70-30(B), 70-100.2(H) & 70-101(H) to construct additions and a raised terrace that are too close to a street and to legalize AC units that are in a front yard and too close to a street.

Whereas, an application (FILE #21-008885, BZA22-000027) 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 **April 6, 2022**, the appeal in the above-entitled matter was decided as follows:

The **appeal for determination to review the decision of the building official is DENIED as moot** and the variances sought under §§ 70-30(B), 70-100.2(H) & 70-101(H) are **GRANTED** of the dimension and in the location as shown on drawings prepared by Robert Barbach, R.A. dated July 26, 2021 and revised through January 10, 2022
SUBJECT TO THE FOLLOWING CONDITION:

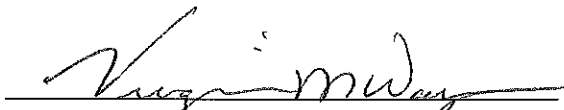
The A/C units shall be screened from view with evergreen plants/shrubs.

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

Motioned by: Member Donatelli Seconded by: Member Hernandez

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

Nays: None


VIRGINIA M. WAGNER
SECRETARY

THIS IS NOT A BUILDING PERMIT

Chairman
David L. Mammina, A.I.A.

Vice Chairman
Leslie Francis, Esq.

Members
Daniel Donatelli, Esq.
Jay Hernandez
Patricia A. Goodsell, Esq

Town of North Hempstead



Board of Zoning Appeals

210 Plandome Road
Manhasset, NY 11030
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NOTICE OF DECISION

APPEAL #21204 – Lincy Lukose; 90 Aster Dr., New Hyde Park, Section 8, Block 305, Lot 11; Zoned Residence-B

Variances from §§ 70-40(A), 70-41(A), 70-100.1(A) & 70-101(B) to construct a second-story addition that is too close to the street and too close to the side property line, a rear one-story addition that is too close to the side property line, an open porch that is too close to the street, and a garage which is located within the front yard (not permitted).

Whereas, an application (FILE #21-009831, BZA22-000019) 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 **April 6, 2022**, the appeal in the above-entitled matter was decided as follows:

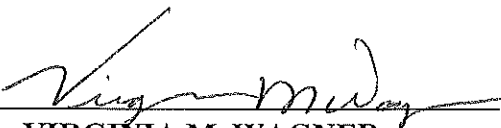
GRANTED of the dimension and in the location as shown on drawings prepared by Joseph Romandetto, R.A. dated November 29, 2021.

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

Motioned by: Member Goodsell Seconded by: Member Donatelli

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

Nays: None


VIRGINIA M. WAGNER
SECRETARY

THIS IS NOT A BUILDING PERMIT

Chairman
David L. Mammina, A.I.A.

Vice Chairman
Leslie Francis, Esq.

Members
Daniel Donatelli, Esq.
Jay Hernandez
Patricia A. Goodsell, Esq.

Town of North Hempstead



Board of Zoning Appeals

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Manhasset, NY 11030
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NOTICE OF DECISION

APPEAL #21205 - Matthew Tittler; 303 Curtis Avenue, Carle Place; Section 10, Block 35, Lot 92; Zoned: Residence-C (Up-zoned to Residence-B)
Variances §§70-39.B, 70-40.C, 70-41.A & 70-41.A(1)(e) to construct an addition that is too large, is located too close to the side property line and the street and with smaller than required total side yards.

Whereas, an application (FILE #21-000664, BZA22-000026) 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 **April 6, 2022**, the appeal in the above-entitled matter was decided as follows:

DENIED

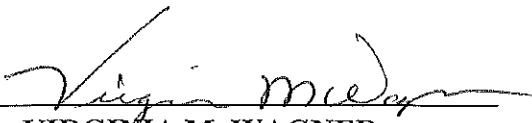
IN REACHING THIS DETERMINATION, THE BOARD CONSIDERED THE FACTORS SET FORTH IN THE ATTACHED FINDINGS OF FACT

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

Motioned by: Vice Chairman Francis Seconded by: Member Donatelli

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

Nays: None


VIRGINIA M. WAGNER
SECRETARY

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Board of Zoning Appeals

Town of North Hempstead

Rider to Appeal # 21205 (Findings of Fact)

APPEAL #21205 - Matthew Tittler; 303 Curtis Avenue, Carle Place; Section 10, Block 35, Lot 92; Zoned: Residence-C (Up-zoned to Residence-B)

Variances §§70-39.B, 70-40.C, 70-41.A & 70-41.A(1)(e) to construct an addition that is too large, is located too close to the side property line and the street and with smaller than required total side yards.

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. As this Board is entrusted with safeguarding the character of the neighborhood in accordance with Town Law and the Town's zoning laws, the Board finds that the character of this residential district will be negatively impacted by enlarging a home which already exceeds the gross floor area "GFA" permitted by the Code for this district¹. In making this determination the Board considered that the proposed addition to the applicant's colonial style home, which is already one of the largest homes in the neighborhood, is not in keeping with the surrounding neighborhood which is comprised primarily of smaller cape cod style homes.
2. The applicant seeks the subject variances in order to create a fourth bedroom/office. The Board finds that the applicant has not adequately explored other options for creating additional space within the home which would not require a variance.

¹ According to the Notice of Disapproval dated February 25, 2022, prior applications to expand the home which qualified for consideration under the "bump-up" provisions of the Code (R-C zoning district to R-B zoning district) already resulted in the home being oversized with respect to the gross floor area requirements of either zoning district.

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3. The proposed addition would exceed the permitted GFA by 524.08 s.f.. The Board finds that this request is substantial. In making this determination the Board also notes that the existing home, which is 3,316.2 s.f., already exceeds the gross floor area permitted by Code (3,130.35 s.f.) by 185.85 s.f..
4. The difficulty is self-created as the applicant purchased a home which already exceeded the GFA permitted by Code and now seeks to expand this home even further which necessitates variances.

In weighing the aforementioned factors, the Board finds that the detriment to the health, safety and welfare of the neighborhood and community outweighs the benefit the applicant would receive if the variances were granted and therefore the variances sought under §§70-39.B, 70-40.C, 70-41.A & 70-41.A(1)(e) are DENIED.

THIS IS NOT A BUILDING PERMIT

Chairman
David L. Mammina, A.I.A.

Vice Chairman
Leslie Francis, Esq.

Members
Daniel Donatelli, Esq.
Jay Hernandez
Patricia A. Goodsell, Esq.

Town of North Hempstead



Board of Zoning Appeals

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

NOTICE OF DECISION

APPEAL #21206- Esther Francine Guastello; 37 Emerson Court, Westbury; Section 10, Block 163, Lot 22; Zoned: Residence-C

Variances from §§70-103.C(2)(a)[5] and 70-100.2(A)(4) to legalize pool fencing forward of the rear building line and within a side yard and to legalize the same fencing which is considered too tall along a side yard and too tall facing the street.

Whereas, an application (FILE #20-249004, BZA22-000021) 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 **April 6, 2022**, the appeal in the above-entitled matter was decided as follows:

GRANTED of the dimension and in the location as shown on a survey prepared by Barrett Bonacci & Van Weele, P.C. dated February 10, 2021 *as annotated by the applicant*.

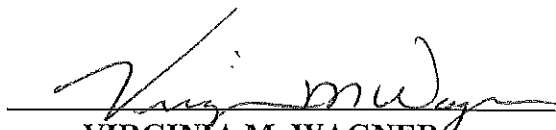
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Donatelli Seconded by: Member Hernandez

Ayes: Member Goodsell, Member Hernandez, Member Donatelli,
Chairman Mammina

Nays: None

Absent: Vice Chairman Francis


VIRGINIA M. WAGNER
SECRETARY

THIS IS NOT A BUILDING PERMIT

Chairman
David L. Mammina, A.I.A.

Vice Chairman
Leslie Francis, Esq.

Members
Daniel Donatelli, Esq.
Jay Hernandez
Patricia A. Goodsell, Esq

Town of North Hempstead



Board of Zoning Appeals

210 Plandome Road
Manhasset, NY 11030
(516) 869-7667
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NOTICE OF DECISION

APPEAL #21208 – The Edelson Property Group, LLC; 158 Main St., Port Washington, Section 5, Block 37, Lot 820; Zoned Business-B

Conditional Use §70-139(A) and variance from §70-103(A) to construct interior alterations to convert a retail space to an ice cream shop (a conditional use) with not enough parking.

Whereas, an application (FILE #22-001045, BZA22-000025) 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 **April 6, 2022**, 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 Luigi Gileno, R.A. dated January 19, 2022 and revised through January 27, 2022 **SUBJECT TO THE CONDITIONS CONTAINED IN THE ATTACHED RIDER**

SEE ATTACHED RIDER

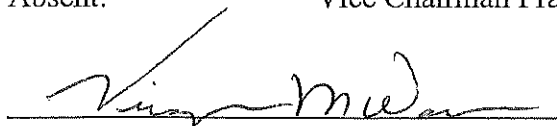
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Donatelli Seconded by: Member Hernandez

Ayes: Member Goodsell, Member Hernandez, Member Donatelli,
Chairman Mammina

Nays: None

Absent: Vice Chairman Francis



VIRGINIA M. WAGNER
SECRETARY

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Board of Zoning Appeals

Town of North Hempstead

Rider to Appeal # 21208

APPEAL #21208 – The Edelson Property Group, LLC; 158 Main St., Port Washington, Section 5, Block 37, Lot 820; Zoned Business-B

Conditional Use §70-139(A) and variance from §70-103(A) to construct interior alterations to convert a retail space to an ice cream shop (a conditional use) with not enough parking.

1. That the applicant shall install and maintain a suitable refrigerated garbage locker within the building. There shall be no outdoor storage of putrescible waste generated by the proposed restaurant at any time. The applicant shall arrange for indoor carry-out pick-up with a licensed sanitation collector and shall forward a copy of the contract to the Building Official prior to approval and/or issuance of a Place of Assembly or Place of Public Assembly License, as defined in the Town Code, and at every subsequent inspection following the issuance of said Place of Assembly or Place of Public Assembly License. All pick-up of sanitation shall be performed after 8:00 a.m.
2. That all exterior doors (with the exception of the primary customer entrance door) shall be of solid construction in a material permitted under the New York State Fire Prevention and Building Code, shall be equipped with self-closing hardware, and shall remain closed at all times except for ingress and egress.
3. At no time may the number of seats on the premises exceed 28 as depicted on the drawings prepared by Luigi Gileno, R.A. dated January 19, 2022 and revised through January 27, 2022. For purposes of this condition, a seat is defined as any place on the premises where a patron may sit and be served, whether or not a person is seated there. A table set up with four chairs counts as four seats. The conditional use permit and/or variance set forth herein shall continue only for so long as there is compliance with this condition. If at any time the applicant is not in compliance with this condition, then the conditional use permit shall terminate, and the applicant must make a new application to the Board in order to continue the restaurant use.
4. That the applicant shall obtain a Place of Assembly or Place of Public Assembly License, if applicable, as defined in the Town Code, from the Building Department prior to the issuance of a Certificate of Occupancy or Completion.
5. That the applicant shall comply with all laws, ordinances, rules and regulations of all public authorities having jurisdiction over the premises and that no Certificate of Occupancy or Completion shall be issued until absolute compliance has been proven to the Commissioner of the Buildings.
6. That the applicant and or its successor shall comply with Code §70-225B(7)(a). Any restaurant or retail food use must apply to the board of Zoning and Appeals if any of the following occurs:
 - [1]. an increase in the size of an approved kitchen by 20% of floor area of said kitchen, or 250 square feet, whichever is less, inclusive of prep areas, is proposed.
 - [2]. The addition or removal of counter/kiosk service for the placement of a food order.

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7. That the conditional use permit set forth herein shall continue only for so long as there is compliance with these conditions. If at any time the applicant is not in compliance with these conditions, then the conditional use permit shall terminate, and applicant must make a new application to this Board in order to continue the premises as a restaurant/food use.

THIS IS NOT A BUILDING PERMIT

Chairman
David L. Mammìna, A.I.A.

Vice Chairman
Leslie Francis, Esq.

Members
Daniel Donatelli, Esq.
Jay Hernandez
Patricia A. Goodsell, Esq.

Town of North Hempstead



Board of Zoning Appeals

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

NOTICE OF DECISION

APPEAL #21210 – Van Buren Properties III, LLC/Gun Hill Triangle Realty Corp./Empire Car Rental/Hitch King; 1850 Imperial Ave., New Hyde Park, Section 8, Block 193, Lots 4-11, 47, 25-31; Zoned Industrial-B

Variances from §§ 70-103(A) and 70-212.B to legalize interior alterations to convert a warehouse into an auto body repair shop with not enough parking and outdoor storage that is too close to the street, takes up too much of the lot, and will not be screened from view.

Whereas, an application (FILE #19-234171, BZA21-106822) 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 **April 6, 2022**, 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 Joseph Romandetto, R.A. dated November 29, 2021 **SUBJECT TO THE CONDITIONS CONTAINED IN THE ATTACHED RIDER.**

SEE ATTACHED RIDER

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

THIS IS NOT A BUILDING PERMIT

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 Hernandez, Member Donatelli,
 Vice Chairman Francis, Chairman Mammina

Nays: None

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

VIRGINIA M. WAGNER
SECRETARY

THIS IS NOT A BUILDING PERMIT

Board of Zoning Appeals

Town of North Hempstead

Rider #1 to Appeal # 21210 (Conditions)

APPEAL #21210 – Van Buren Properties III, LLC/Gun Hill Triangle Realty Corp./Empire Car Rental/Hitch King; 1850 Imperial Ave., New Hyde Park, Section 8, Block 193, Lots 4-11, 47, 25-31; Zoned Industrial-B

Variances from §§ 70-103(A) and 70-212.B to legalize interior alterations to convert a warehouse into an auto body repair shop with not enough parking and outdoor storage that is too close to the street, takes up too much of the lot, and will not be screened from view.

1. No rental vans shall be parked on Imperial Avenue.
2. Parking spaces for visitor parking shall be clearly marked.

THIS IS NOT A BUILDING PERMIT

Board of Zoning Appeals

Town of North Hempstead

Rider #2 to Appeal # 21210 (Findings of Fact)

APPEAL #21210 – Van Buren Properties III, LLC/Gun Hill Triangle Realty Corp./Empire Car Rental/Hitch King; 1850 Imperial Ave., New Hyde Park, Section 8, Block 193, Lots 4-11, 47, 25-31; Zoned Industrial-B

Variances from §§ 70-103(A) and 70-212.B to legalize interior alterations to convert a warehouse into an auto body repair shop with not enough parking and outdoor storage that is too close to the street, takes up too much of the lot, and will not be screened from view.

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. Due to the location of the subject property at the end of a dead-end street and adjacent to properties which appear to be utilized as a sand mine and vehicle /truck storage, the Board does not find that granting the requested variances will have an adverse impact on the neighboring properties or neighborhood.

THIS IS NOT A BUILDING PERMIT