

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

CALENDAR FOR JUNE 8, 2022

RESIDENTIAL CALENDAR

APPEAL #21239- Xiu Qing Luo; 15 Second Avenue, Westbury; Section 11, Block 109, Lot 360; Zoned: Residence-C/New Cassel Overlay District
Variances from §70-100.2(A)(2) to legalize fencing in a front yard.

APPEAL #21233 – Eva Sehic; 118 Quaker Ridge Rd., Manhasset, Section 3, Block 145, Lot 101; Zoned Residence-A
Special exception under § 70-229.A to legalize an addition that is not in compliance with prior BZA Appeal #15145.

APPEAL #21234 - Gus Chimos; 49 Chapel Road, Manhasset; Section 3, Block 221, Lot 38; Zoned: Residence-A
Variances from §70-30.B to legalize an addition that is too close to the street (both primary and secondary front yards)

APPEAL #21235 - Gene D'Alessandro; 2 Preston Street, Port Washington, Section 5, Block 43, Lot 31; Zoned: Residence-C
Variance from §70-50.B to legalize an enclosed porch that is too close to the street (both primary and secondary front yards)

APPEAL #21228 - Richard Schefer; 144 Luquer Road, Port Washington; Section 5, Block 76, Lot 435; Zoned Residence-B
Variance from §70-39.C to legalize additions that are too big.

APPEAL #21212 – Marco Barrera; 24 Fairview Ave., Port Washington, Section 6, Block 10, Lot 876; Zoned Residence-C
Variance from § 70-50.B to construct additions and a portico to an existing home that would be too close to the street.

APPEAL #21236 - Jenny Cheung; 124 Hillturn Avenue, Roslyn Heights; Section 7, Block M7, Lot 36; Zoned: Residence-B
Variances from §§70-40.A and 70-208.F. to legalize the front façade of a non-conforming dwelling that is too close to the street.

APPEAL #21237 – Faiza Zafar; 47 Winthrop St., New Hyde Park, Section 8, Block 327, Lot 20; Zoned Residence-C

Variances from §§ 70-49(B), 70-50(A), 70-50(B) and 70-101(H) to construct additions that will make the house too big, and are located too close to the street (both primary and secondary front yards) and to place 2 A/C units in the front yard too close to the street (secondary front yard).

APPEAL #21240 - David Geary; 8 Park Avenue, Garden City Park; Section 33, Block 133, Lot 1; Zoned: Residential-C

Variances from §§70-50.C, 70-51.B, 70-100.2(H), 70-100.2(4)(a)[5], and 70-100.2.A(2) to legalize fencing that is too tall along the side property line, to legalize fencing located in a secondary front yard (not permitted), to construct additions that are too close to the side property line and the street, to construct a porch that is too close to the street and to locate 2 A/C units that are too close to the side property line.

COMMERCIAL CASES

APPEAL #21241 – Northwell Health Signs; 300 Community Dr., Manhasset, Section 3, Block E, Lot 1108; Zoned Hospital District

Variance from § 70-196.D to erect more than one hospital identification sign on a lot with the sign being larger than permitted.

APPEAL #21224 - Tony Parmar; 8 Carey Place, Port Washington; Section 4, Block 36, Lot 175; Zoned Business-A

Conditional use 70-126.D and variances from §§70-103.A, 70-103.F, 70-103.M, 70-103.O, 70-125, and 70-134 to construct a new warehouse (not a permitted use) to store automobiles (a conditional use) that is too close to the rear property line on a vacant lot with not enough parking & loading zones, parking within a front yard and a drive aisle that is too narrow.

APPEAL #21242 - Country Glen, LLC (O2 BBQ); 125 Old Country Road, Carle Place; Section 9, Block 670, Lot 27; Zoned: Industrial-B

Conditional use §70-187.P to construct interior alterations to convert a vacant retail space to a restaurant.

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NOTICE OF DECISION

**APPEAL #21168 – Prateek Nigam; 79 Carriage Rd., Roslyn, Section 9, Block 652, Lot 16;
Zoned Residence-A**

Variances from §§ 70-29.B & 70-28 to construct additions that are too big and cover too much of the lot.

Whereas, an application (FILE #20-257982, BZA21-000010) 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 **June 8, 2022**, the appeal in the above entitled matter was decided as follows:

DENIED

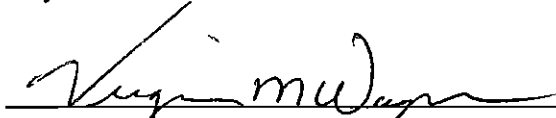
**IN REACHING THIS DETERMINATION, THE BOARD CONSIDERED THE
FACTORS SET FORTH IN THE ATTACHED FINDINGS OF FACT**

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

Motioned by: Member Donatelli 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 # 21168 (Findings of Fact)

APPEAL #21168 – Prateek Nigam; 79 Carriage Rd., Roslyn, Section 9, Block 652, Lot 16; Zoned Residence-A

Variances from §§ 70-29.B & 70-28 to construct additions that are too big and cover too much of the lot.

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 the potential detriment to the health safety and welfare of the neighborhood of granting these variances, outweighs the benefit to the applicant. The existing home already exceeds the gross floor area restrictions of the Town Code by 55 square feet. Granting the requested variances to permit the existing home to be enlarged even further would have a negative impact on the surrounding neighborhood. This determination is supported by the fact that the applicant has not demonstrated that any other homes in the neighborhood are as large as the home would be if the variances were granted. 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 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 that there is no other way for the applicant to achieve the benefit of the larger home without the necessity of the requested variances. However, given the analysis as set forth in these findings the Board finds that this factor is outweighed by the detriment to the neighborhood that would result if these variances were granted.

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3. The applicant seeks to expand their home to 3,687 square feet which is 460 s.f. larger than permitted under § 70-29.B of the Town Code. The Board finds this variance to be significantly greater than the permissible GFA permitted by the Town Code. In light of the lack of evidence presented at the hearing to show other similar oversized homes in the neighborhood, the Board finds the variance to be substantial.
4. The Board finds that granting the requested variances, which will result in a larger home and greater lot coverage, could potentially result in a negative impact to the physical or environmental conditions in the neighborhood by resulting in an increase in impervious surfaces on the property. This will in turn increase stormwater runoff and could impact the surrounding properties.
5. The difficulty is self-created because the applicant chooses to enlarge an already non-conforming home in a manner which does not conform to the Town Code.

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NOTICE OF DECISION

APPEAL #21174 – Anthony Branchinelli; 36 Soundview Crest, Manhasset, Section 3, Block 204, Lot 12; Zoned Residence-A (bumped-up to Residence-AA)

Variances from §§ 70-21(A), & 70-16(A) to construct a roofed-over car port that is too close to the side property line and does not provide enough total side yard space, a roofed-over patio that does not provide enough total side yard space, and construction of a widow's walk that is too high.

Whereas, an application (FILE #21-011934 BZA21-000051) 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 **June 8, 2022**, the appeal in the above-entitled matter was decided as follows:

GRANTED with respect to the variances sought under §§ 70-21(A), & 70-16(A) to construct a a roofed-over patio that does not provide enough total side yard space and to construct a widow's walk that is too high of the dimension and in the location as shown on drawings prepared by Keith R. Kellner, R.A. dated August 6, 2021 and revised through May 21, 2022 *as amended*. The variance sought under § 70-16(A) to construct a roofed-over car port that is too close to the side property line and does not provide enough total yard space, was **WITHDRAWN** by the applicant as shown on the revised plans.

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

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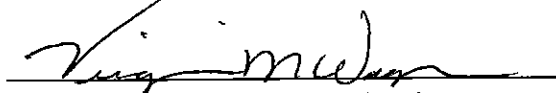
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Vice Chairman Francis Seconded by: Member Goodsell

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

Nays: None

Recused: Member Hernandez



VIRGINIA M. WAGNER
SECRETARY

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Board of Zoning Appeals

Town of North Hempstead

Rider to Appeal # 21174 (Findings of Fact)

APPEAL #21174 – Anthony Branchinelli; 36 Soundview Crest, Manhasset, Section 3, Block 204, Lot 12; Zoned Residence-A (bumped-up to Residence-AA)

Variances from §§ 70-21(A), & 70-16(A) to construct a roofed-over car port that is too close to the side property line and does not provide enough total side yard space, a roofed-over patio that does not provide enough total side yard space, and construction of a widow's walk 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 the benefit to the applicant in granting the requested variances (*variance sought under § 70-16(A) for the carport was withdrawn*) outweighs the potential detriment to the health safety and welfare of the neighborhood. By the submission of revised plans, the applicant reduced the magnitude of the requested variances (the side yard setback to the roofed over patio was increased to 17'4" and the proposed carport was eliminated thereby reducing the required variance for insufficient aggregate side yard setback to approximately 8' (34'3" where 42' is required)). Given the oversized nature of the property the Board does not find that the variance for aggregate side yard setback, nor the minimal height variance required for the widows walk, will have an adverse impact on the surrounding neighborhood.
2. The Board finds that there is no other way for the applicant to achieve the benefit sought (to construct a covered patio and decorative widows walk) without the necessity of the requested variances.
3. As stated in #1 above, the Board finds that the requested variances are not substantial.

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4. Given the oversized nature of the property the Board finds that granting the requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.
5. The difficulty is self-created because the applicant chooses to enlarge their home. However, this fact is not determinative.

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NOTICE OF DECISION

APPEAL #21175 – Yifan Wen & Jenny Tsui; 138 Rockcrest Rd., Manhasset, Section 3, Block 223, Lot 9; Zoned Residence-A

Variances from §§ 70-100.1(A) & 70-100.2(D) to construct a pergola, outdoor kitchen, BBQ and fireplace in a side yard, and the fireplace being too tall.

Whereas, an application (FILE #21-007825, BZA21-000050) 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 **June 8, 2022**, the appeal in the above entitled matter was decided as follows:

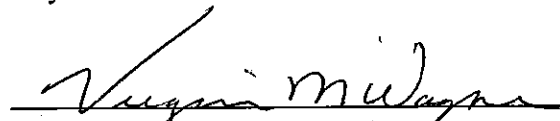
GRANTED of the dimension and in the location as shown on drawings prepared by Timothy John Costello, R.A. dated March 25, 2020 and revised through May 22, 2022 *as amended*.

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


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NOTICE OF DECISION

APPEAL #21219 - Shapali, Inc. D/B/A North Star Market; 600 Hillside Avenue, New Hyde Park; Section 8, Block 9, Lot 1; Zoned: Business-A
Conditional use §70-126.F to convert a vacant commercial space to a grocery store (a conditional use).

Whereas, an application (FILE #21-012590, BZA22-000039 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 **June 8, 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 Emilio Susa, R.A. dated November 1, 2021 and revised through January 27, 2022
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

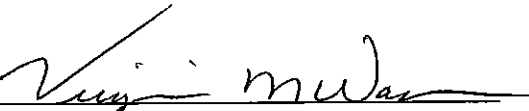
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The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

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

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Board of Zoning Appeals

Town of North Hempstead

Rider #1 to Appeal # 21219 (Findings of Fact)

APPEAL #21219 - Shapali, Inc. D/B/A North Star Market; 600 Hillside Avenue, New Hyde Park; Section 8, Block 9, Lot 1; Zoned: Business-A

Conditional use §70-126.F to convert a vacant commercial space to a grocery store (a conditional use).

The Board is familiar with the subject property and surrounding area based upon personal inspection. The Board has given a great deal of consideration to the evidence presented at the hearing, including but not limited to, testimony, proposed plans, and a traffic generation report. The Board notes that this evidence also includes letters and testimony from several neighbors opposing the application and a response from the applicant addressing the concerns raised in these letters.

This is an appeal for a Conditional Use under §70-126.F to convert a vacant commercial space to a grocery store (a conditional use).

Pursuant to Section 70-225.B of the Code, this Board is empowered to grant conditional use permits to applicants. In so doing, the Board shall consider the following general standards under 70-225.B(1): (a) the purposes of zoning as set forth in the Town Law of the State of New York and uses permitted in the district in which the property is located; (b) whether the proposed use is of such character, size, location, design and site layout as to be appropriate to and in harmony with the surrounding properties; (c) whether the proposed use will provide a desirable service, facility or convenience to the area or otherwise contribute to the proper growth and development of the community and to its general welfare; (d) whether the proposed use will be hazardous, conflicting or incongruous to the immediate neighborhood by reason of excessive traffic, assembly of person or vehicles, proximity to travel routes or congregations of children or pedestrians; (e) whether the proposed use will be of such nature as to be objectionable to nearby residential dwellings by reason of noise, lights, vibration or other factors of impact; (f) whether the proposed use will be a harmonious use in the district in which it is to be situated and not hinder or discourage the appropriate use and development of adjacent uses or impair the value thereof; (g) in addition to the foregoing, the location and size of a proposed use in an business or industrial district, the nature and intensity of the operations proposed, the site layout and its relation to access streets shall be considered by the board having jurisdiction of the application to determine whether the vehicular traffic resulting from such use will be more hazardous than the normal traffic of the district, taking into account such factors as street intersection, traffic flow, sight distances and pedestrian traffic.

The Board finds the following with respect to the criteria set forth under § 70-225.B(1):

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- (a) The proposed use of the site for a grocery store is consistent with the purposes of zoning as set forth in the Town Law of the State of New York with respect to the proposed "use" as it is considered a conditional use within the Business-A zoning district.
- (b) The Board finds that the proposed use is of such character, size, location, design and site layout as to be appropriate to and in harmony with the surrounding properties.
- (c) The Board finds that the proposed use would provide a desirable facility (a grocery store selling specialty goods) within the Town.
- (d) The Board finds that the proposed use would not be hazardous, conflicting or incongruous to the immediate neighborhood by reason of excessive traffic, assembly of person or vehicles, proximity to travel routes or congregations of children or pedestrians. This determination is supported by the applicant's traffic report prepared by R&M Engineering dated May 20, 2022 and by the testimony of the applicant's traffic expert Wayne A. Muller, P.E. at the public hearing. Although the neighbors testified at the hearing that the project would have an adverse impact on traffic conditions in the neighborhood, the generalized concerns of the neighbors were not supported by any expert testimony or the evidence submitted into the record for this appeal.
- (e) The Board finds that the proposed use will not be of such nature as to be objectionable to nearby residential dwellings due to noise, lights, vibration or other factors of impact. It is anticipated that planting additional trees within the landscape buffer, as required by a condition of this Notice of Decision, will serve to mitigate impacts from these factors.
- (f) For the reasons stated above, the proposed use is considered to be harmonious within the district and will not hinder or discourage the appropriate use and development of adjacent uses or impair the value thereof.
- (g) As stated above, based on the traffic study prepared by R&M Engineering dated May 20, 2022 and based on the testimony of the applicant's traffic expert Wayne A Muller, P.E. at the public hearing, no impacts are anticipated as a result of increased traffic or as a result of traffic flow in and out of the project site.

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Board of Zoning Appeals

Town of North Hempstead

Rider #2 to Appeal # 21219 (Conditions)

APPEAL #21219 - Shapali, Inc. D/B/A North Star Market; 600 Hillside Avenue, New Hyde Park; Section 8, Block 9, Lot 1; Zoned: Business-A

Conditional use §70-126.F to convert a vacant commercial space to a grocery store (a conditional use).

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 0 as depicted on the drawings prepared by Emilio Susa, R.A. dated November 1, 2021 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.
8. Applicant shall plant a staggered row of arborvitae within the 15' landscape buffer. The arborvitae shall be planted 4.0' on center.
9. Applicant shall provide irrigation to the arborvitae in a manner which is sufficient to maintain the health of the vegetation.

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NOTICE OF DECISION

APPEAL #21226 – Aren Tung; 26 Avenue A, Port Washington, Section 4, Block 36, Lot 308; Zoned Residence-C

Appeal for Determination that the Building Department erred in not recognizing a previously issued Certificate of Existing Use.

Whereas, an application (FILE #21-010307, BZA22-000049) 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 **June 8, 2022**, the appeal in the above-entitled matter was decided as follows:

The applicants request for a determination to review the decision of the Building Official is **GRANTED** (the Certificate of Existing Use issued by the Building Department for a two-family dwelling dated February 3, 1993 is Valid) of the dimension and in the location as shown on drawings prepared by Kurt A. Jacobs, R.A. dated August 24, 2021.

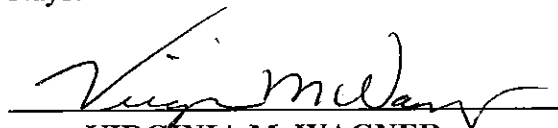
IN REACHING THIS DETERMINATION, THE BOARD CONSIDERED THE FACTORS SET FORTH IN THE ATTACHED FINDINGS OF FACT

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

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Board of Zoning Appeals

Town of North Hempstead

Findings of Fact for Appeal # 21226

APPEAL #21226 – Aren Tung; 26 Avenue A, Port Washington, Section 4, Block 36, Lot 308; Zoned Residence-C

Appeal for Determination that the Building Department erred in not recognizing a previously issued Certificate of Existing Use.

The Board finds that the Building Official erred in not recognizing the previously issued Certificate of Existing Use for this dwelling as a two-family dwelling based on the information provided in the record for this appeal. In making this determination the Board considered a number of documents submitted on the record in support of this application including, but not limited to the following:

1. The Certificate of Existing Use dated February 3, 1993 which states that the dwelling is a “two family dwelling”. This certificate was provided by the applicant as part of the application to the Board of Zoning Appeals and was also re-introduced into the record at the hearing held on May 25, 2022. A copy of this Certificate is also contained in the Building Department files.
2. A letter from James David, Records Access Officer with the Nassau County Department of Assessment, dated April 11, 2022 which states that lot 308 was apportioned from lot group 208-308 in March 1988.

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NOTICE OF DECISION

APPEAL #21232 – Michael Tobias; 111 Magnolia Ave., Westbury, Section 11, Block 141, Lot 37; Zoned Industrial-B

Variances from §§ 70-103A, 70-190, 70-192(A), and 70-203(U)(3)(h) to construct a new building for use as a micro-fulfillment distribution warehouse with not enough parking, the building being taller than permitted, a vehicle entrance door too close to the street, and construction of a ramp to a below-grade parking structure that is too steep.

Whereas, an application (FILE #21-013246, BZA22-000048) 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 **June 8, 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 Douglas R. Guilfoyle, R.A. dated November 1, 2021 and revised through February 18, 2022.

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

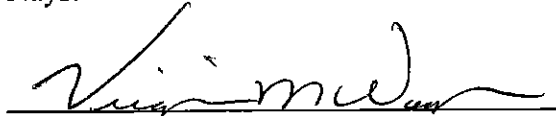
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The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Vice Chairman Francis Seconded by: Member Donatelli

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

Nays: None

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

VIRGINIA M. WAGNER
SECRETARY

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Board of Zoning Appeals

Town of North Hempstead

Rider to Appeal #21232 (Findings of Fact)

APPEAL #21232 – Michael Tobias; 111 Magnolia Ave., Westbury, Section 11, Block 141, Lot 37; Zoned Industrial-B

Variances from §§ 70-103A, 70-190, 70-192(A), and 70-203(U)(3)(h) to construct a new building for use as a micro-fulfillment distribution warehouse with not enough parking, the building being taller than permitted, a vehicle entrance door too close to the street, and construction of a ramp to a below-grade parking structure that is too steep.

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 variances from §§ 70-103A, 70-190, 70-192(A), and 70-203(U)(3)(h) will not result in an undesirable change to the character of the neighborhood nor will there be a detriment to nearby properties. In making this determination the Board has considered the objections raised in a letter submitted by Roger Pierro, Jr., Esq. (representing several business owners in the area) as well as the testimony of Mr. Pierro at the hearing held on May 25, 2022. Mr. Pierro asserts that the if the Board were to grant the requested variances there would be an adverse impact on traffic conditions in the neighborhood and that the traffic would have an adverse impact on the businesses in the area. These allegations were not supported by expert testimony or by any evidence submitted into the record for this appeal. The use of the property as a micro-fulfillment distribution center is a permitted use of the property and the traffic associated with this use will not be exacerbated by the requested variances. In addition, Wayne A. Muller, P.E. of R&M Engineering testified at the public hearing that granting the requested variances will not have an impact on the surrounding neighborhood and that there would be no traffic impacts as a result of the use of the property as a micro-fulfillment distribution center. The Board also takes into consideration the parking study prepared by R&M Engineering dated April 1, 2022

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which was submitted with the application. This study concluded that there would be adequate parking available on-site and within the area and that granting the requested variances would not have a "deleterious effect on the parking situation within the surrounding area".

2. The Board finds that the benefit to the applicant to construct a micro-fulfillment distribution warehouse could not be achieved without the requested variances. In making this determination the Board notes the prior uses of the site which required variances for insufficient parking. The proposed building with below grade parking accommodates more on-site parking than the prior uses of the site. Therefore, the Board finds that there will be an improvement in the parking conditions at the site.
3. The Board does not find the requested variances to be substantial. The parking variance will allow for 22 parking spaces where 25 are required which the Board does not find to be substantial. The height variance being requested is specifically to allow the staircase bulkhead in order to provide access to the roof. The Board does not find this request to be substantial. The vehicular entrance doors will be setback 13' where 18' is required. The Board does not find this request to be substantial when taking into consideration the placement of the building on the site and the necessity to maximize the footprint of the building. The variance requested for the slope of the access ramp is necessary to maintain the height of the building (which only exceeds permitted height due to a staircase bulkhead) and is constrained by the size and layout of the property, therefore the Board finds the variance is not substantial.
4. The Board does not find that the requested variances will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district given the industrial land uses of the surrounding properties. The Board does not agree with Mr. Pierro's assertion that vehicles from surrounding businesses will be left to idle while waiting for the applicant's vans to pull into the below grade parking area given the number of vans and the availability of those vans to pull into the designated parking area.
5. The difficulty is self-created because the applicant chooses to develop the property with a building which does not conform with the requirements of the Town Code. However, the Board does not find this fact to be determinative.

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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 #21233 – Eva Sehic; 118 Quaker Ridge Rd., Manhasset, Section 3, Block 145, Lot 101; Zoned Residence-A

Special exception under § 70-229.A to legalize an addition that is not in compliance with prior BZA Appeal #15145.

Whereas, an application (FILE #21-004459, BZA22-000059) 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 **June 8, 2022**, the appeal in the above-entitled matter was decided as follows:

GRANTED with respect to the Special Exception sought under § 70-229.A and granted **SUA SPONTE** under § 70-31A (too close to the side property line) to legalize an addition that is not in compliance with prior BZA Appeal #15145 of the dimension and in the location as shown on drawings prepared by Anthony Hatzioannou, R.A. dated April 23, 2020 and revised through August 18, 2021 **SUBJECT TO THE FOLLOWING CONDITION:**

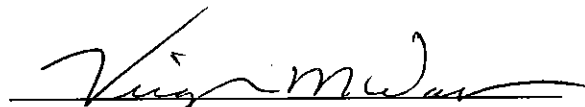
Applicant shall maintain vegetation (hedges) on the eastern side of the property in a manner which screens the addition from the neighboring properties.

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

Motioned by: Member Hernandez Seconded by: Member Donatelli

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

Nays: None


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Vice Chairman
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Members
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Town of North Hempstead



Board of Zoning Appeals

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NOTICE OF DECISION

**APPEAL #21234 - Gus Chimos; 49 Chapel Road, Manhasset; Section 3, Block 221, Lot 38;
Zoned: Residence-A**

Variances from §70-30.B to legalize an addition that is too close to the street (both primary and secondary front yards)

Whereas, an application (FILE #15-192054, BZA22-000060) 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 **June 8, 2022**, the appeal in the above-entitled matter was decided as follows:

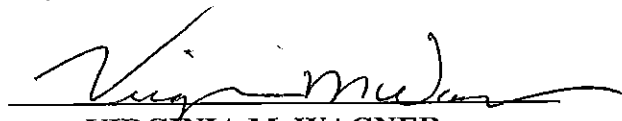
GRANTED of the dimension and in the location as shown on drawings prepared by Jerry Ciccari, R.A. dated February 10, 2022 and revised through March 10, 2022.

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

Motioned by: Member Hernandez Seconded by: Member Goodsell

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

Nays: None


VIRGINIA M. WAGNER
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Vice Chairman
Leslie Francis, Esq.

Members
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Jay Hernandez
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Town of North Hempstead



Board of Zoning Appeals

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NOTICE OF DECISION

APPEAL #21236 - Jenny Cheung; 124 Hillturn Avenue, Roslyn Heights; Section 7, Block M7, Lot 36; Zoned: Residence-B

Variances from §§70-40.A and 70-208.F. to legalize the front façade of a non-conforming dwelling that is too close to the street.

Whereas, an application (FILE #21-014191, BZA22-000056) 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 **June 8, 2022**, the appeal in the above-entitled matter was decided as follows:

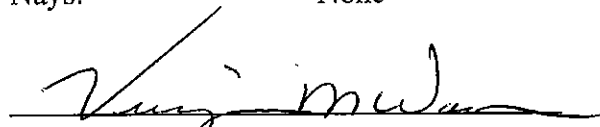
GRANTED of the dimension and in the location as shown on drawings prepared by Neil Bruce Schmilkin, R.A. dated December 8, 2021 and revised through February 24, 2022 and on a survey prepared by Russell H. Lewis dated July 7, 2021.

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


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Vice Chairman
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Members
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Jay Hernandez
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Town of North Hempstead



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NOTICE OF DECISION

APPEAL #21237 – Faiza Zafar; 47 Winthrop St., New Hyde Park, Section 8, Block 327, Lot 20; Zoned Residence-C

Variances from §§ 70-49(B), 70-50(A), 70-50(B) and 70-101(H) to construct additions that will make the house too big, and are located too close to the street (both primary and secondary front yards) and to place 2 A/C units in the front yard too close to the street (secondary front yard).

Whereas, an application (FILE #21-011405, BZA22-000061) 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 **June 8, 2022**, the appeal in the above-entitled matter was decided as follows:

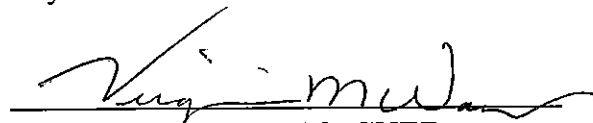
GRANTED of the dimension and in the location as shown on drawings prepared by James J. Stout, R.A. dated September 7, 2021.

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


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Vice Chairman
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Members
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Jay Hernandez
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Town of North Hempstead



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NOTICE OF DECISION

APPEAL #21240 - David Geary; 8 Park Avenue, Garden City Park; Section 33, Block 133, Lot 1; Zoned: Residential-C

Variances from §§70-50.C, 70-51.B, 70-100.2(H), 70-100.2(4)(a)[5], and 70-100.2.A(2) to legalize fencing that is too tall along the side property line, to legalize fencing located in a secondary front yard (not permitted), to construct additions that are too close to the side property line and the street, to construct a porch that is too close to the street and to locate 2 A/C units that are too close to the side property line.

Whereas, an application (FILE #22-000572, BZA22-000052) 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 **June 8, 2022**, the appeal in the above-entitled matter was decided as follows:

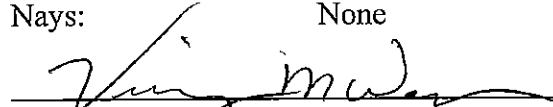
DENIED with respect to the variances sought under §§ 70-100.2(4)(a)[5], and 70-100.2.A(2) to legalize fencing that is too tall along the side property line and to legalize fencing located in a secondary front yard (not permitted) and **GRANTED** with respect to the variances sought under §§70-50.C, 70-51.B & 70-100.2 (H) for the construction of additions that are too close to the side property line and the street, to construct a porch that is too close to the street and to locate 2 A/C units that are too close to the side property line of the dimension and in the location as shown on drawings prepared by Leo Joseph Pyzynski, R.A. dated June 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


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Jay Hernandez
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NOTICE OF DECISION

APPEAL #21241 – Northwell Health Signs; 300 Community Dr., Manhasset, Section 3, Block E, Lot 1108; Zoned Hospital District

Variance from § 70-196.D to erect more than one hospital identification sign on a lot with the sign being larger than permitted.

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 **June 8, 2022**, the appeal in the above-entitled matter was decided as follows:

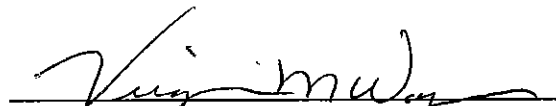
GRANTED of the dimension and in the location as shown on drawings prepared by Sign Plan American/Interstate Signcrafters dated August 18, 2020 and a Site Plan prepared by Neil Alan Greenblatt, P.E. dated April 24, 2020.

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

Motioned by: Member Hernandez Seconded by: Vice Chairman Francis

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

Nays: None


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Town of North Hempstead



Board of Zoning Appeals

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NOTICE OF DECISION

APPEAL #21242 - Country Glen, LLC (O2 BBQ); 125 Old Country Road, Carle Place; Section 9, Block 670, Lot 27; Zoned: Industrial-B
Conditional use §70-187.P to construct interior alterations to convert a vacant retail space to a restaurant.

Whereas, an application (FILE #22-001730, BZA22-000051) 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 **June 8, 2022**, the appeal in the above-entitled matter was decided as follows:

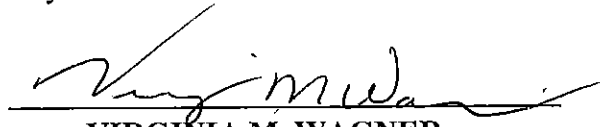
GRANTED of the dimension and in the location as shown on drawings prepared by Mark Elliot Wittenberg, R.A. dated November 11, 2021 and revised through February 1, 2022.

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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Board of Zoning Appeals

Town of North Hempstead

Rider to Appeal # 21242

**APPEAL #21242 - Country Glen, LLC (O2 BBQ); 125 Old Country Road, Carle Place;
Section 9, Block 670, Lot 27; Zoned: Industrial-B**

Conditional use §70-187.P to construct interior alterations to convert a vacant retail space to a restaurant.

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 165 as depicted on the drawings prepared by Mark Elliot Wittenberg, R.A. dated November 6, 2021 and revised through February 1, 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:

- [3]. 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.

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- [4]. The addition or removal of counter/kiosk service for the placement of a food order.
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.

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