

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 OCTOBER 26, 2022

RESIDENTIAL CALENDAR

APPEAL #21299 – Benjamin Wang; 38 South Drive, Manhasset, Section 3, Block 91, Lot 5; Zoned Residence-B

Variances from § 70-100.2.A(2) to construct pool barrier fencing in secondary front yard forward of the effective building line.

APPEAL #21260 – Anastasios Christoforidis; 76 Avenue C, Port Washington, Section 4, Block 25, Lot 249; Zoned Residence-B

Variance from § 70-100.1.A to legalize a gazebo located within in a side yard (not permitted).

REQUEST FOR ADJOURNMENT

APPEAL #21300 - Melissa Faraguna; 11 Herbert Drive, New Hyde Park; Section 9, Block 558, Lot 4; Zoned: Residence-C

Variances from §§70-51.A and 70-101.B to construct additions that are too close to the side property line and with less than the required total side yards and to construct a portico that is too close to the street.

COMMERCIAL CALENDAR

APPEAL #20995.A - Lucid Group, USA, Inc.; 1950 Northern Boulevard, Manhasset; Section 3, Block 219, Lot 9; Zoned Business-A

Special exception §70-229.A to amend a conditional use under §70-126.D to relocate transformers and other electrical equipment for electric vehicle charging, and to relocate parking spaces for the charging of electric vehicles along with the electric vehicle charging station units not in compliance with prior Appeal #20995.

APPEAL #21281 – 12 Irma Ave Realty, LLC; 12 Irma Ave., Port Washington; Section 5, Block D, Lots 509(I) and 510(J); Zoned Business-B

Conditional Use § 70-139J(1) and Variances from §§ 70-142(B), 70-143(B), 70-103(A)(1), 70-103(B) and 70-103(Q)(1) to build a new four-story multi-family senior living facility (a conditional use) that exceeds the number of stories permitted, on a lot that is too small, that is too close to a street, that has too many units based on the lot area, with not enough parking spaces, parking spaces that are too small, and parking spaces located within the required side and rear setbacks.

REQUEST FOR ADJOURNMENT TO NOVEMBER 9, 2022

APPEAL #21301 – Floral Park Centre Fire Co # 1; 94 McKee St., Floral Park, Section 8, Block 78, Lot 13; Zoned Residence-C

Variances from § 70-48, 70-49(B), 70-50(A), and 70-51(C) to construct an addition to an existing fire house that would cover too much of the lot, would be too big, would be too close to the street and too close to the side property line.

Town of North Hempstead

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Board of Zoning Appeals

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TO: TOWN CLERK
FROM: Virginia Wagner, Secretary
CC: Building Dept.
DATE: November 2, 2022
RE: BZA Decisions for October 26, 2022

Appeal No.	Name	Sec.	Blk.	Lots
21263	Thomas Roccotagliata	7	68	23
21285	Hareesh Shah	7	268	20
21293	Xiaoduo Liu	2	51	13
21296	Clarence Domingo	8	209	38

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NOTICE OF DECISION

APPEAL #21263 – Thomas Roccotagliata; 100 Linden St., Roslyn Heights, Section 7, Block 68, Lot 23; Zoned Residence-C

Variances from §§ 70-50.B, 70-101.H, 70-100.1.F, 70-208.F, 70-231, 70-100.2.A(2), & 70-100.2.A(4)(a)[5] to legalize a one-story open porch too close to a street, A/C condensers too close to a street, a non-conforming detached garage too close to a side property line, a detached garage that is too big (exceeds the permitted depth), fencing located within the front yard, and fencing that is too tall.

Whereas, an application (RBP22-000065, RBP22-000066, RPH22-000025, RFP22-000009, BZA22-000090) 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 **October 26, 2022**, the appeal in the above-entitled matter was decided as follows:

DENIED with respect to the variances requested under §§ 70-100.2.A(2), & 70-100.2.A(4)(a)[5] to legalize fencing located within the front yard and fencing that is too tall, and **GRANTED** with respect to the variances requested under §§ 70-50.B, 70-101.H, 70-100.1.F, 70-208.F and 70-231 to legalize a one-story open porch too close to a street, A/C condensers too close to a street, a non-conforming detached garage too close to a side property line, and a detached garage that is too big (exceeds the permitted depth), of the dimension and in the location as shown on drawings prepared by Mark Vincent Kruse, R.A. dated June 23, 2020 and revised through January 17, 2022 and on a survey prepared by Frank Galluzzo, LLS dated November 14, 2018 and revised through March 31, 2020.

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

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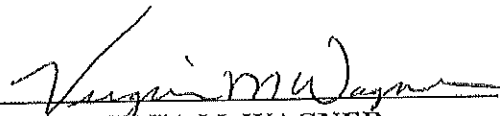
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Donatelli Seconded by: Vice Chairman Francis

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

Nays: None

Absent: Member Hernandez



VIRGINIA M. WAGNER
SECRETARY

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Board of Zoning Appeals

Town of North Hempstead

Findings of Fact for Appeal # 21263

APPEAL #21263 – Thomas Roccotagliata; 100 Linden St., Roslyn Heights, Section 7, Block 68, Lot 23; Zoned Residence-C

Variances from §§ 70-50.B, 70-101.H, 70-100.1.F, 70-208.F, 70-231, 70-100.2.A(2), & 70-100.2.A(4)(a)[5] to legalize a one-story open porch too close to a street, A/C condensers too close to a street, a non-conforming detached garage too close to a side property line, a detached garage that is too big (exceeds the permitted depth), fencing located within the front yard, and fencing that is too tall.

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, and a review of Building Department files, the Board finds the following with respect to these criteria:

Variances sought under §§ 70-50.B, 70-101.H, 70-100.1.F, 70-208.F, 70-231

1. The location of this older home towards the northwestern corner of this oversized lot¹, and the location of the detached garage in the side yard, contribute towards the uniqueness and character of this property. Therefore, the Board finds that granting the requested variances to legalize the one-story open porch and the detached garage will not result in an undesirable change to the character of the neighborhood nor will there be a detriment to neighboring properties. The width of the porch is in line with the house which has an existing nonconforming setback. There was no further deviation in the setback of the nonconforming garage, and the addition to the garage could be considered *de minimus*. The Board also finds that there will be no undesirable change to the character of the neighborhood as a result of granting the variance sought under 70-101.H to legalize the A/C units in the front yard because these small units are screened from view by bushes.

¹ The property is 12,000 s.f. where the minimum lot area requirement of the R-C zoning district is only 6,000 s.f.

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2. Since the applicant is proposing to legalize structures which have already been built, there is no alternative other than the requested variances which would achieve the benefit sought which would not require variances.
3. The Board finds that the variance sought under 70-231 could be considered *de minimus* as the garage only exceeds the permitted depth by 0.8'. The Board also finds that although the garage does not comply with the setback requirement of 70-100.1F, it meets the minimum required setback for accessory structures (3') as set forth in Section 70-100.1 for structures which are located within the rear yard. In this instance, the primary front yard of this property is along Jane Street for zoning purposes, however, the front of the home is actually located on Linden Street. Therefore, the yard opposite Linden Street could have at one time been considered the rear yard and for this reason the Board does not find this variance to be substantial. In this instance, and for the reasons stated above, the Board does not find the substantiality of the variances requested under 70-101.H and 70-50.B to weigh in favor of denial.
4. The Board finds that granting the requested variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The difficulty is self-created since the applicant is proposing to legalize structures which were built without the benefit of a permit, however, this fact by itself is not determinative.

Variances sought under §§70-100.2.A(2), & 70-100.2.A(4)(a)[5]

1. The Board finds that granting the variances sought under the above referenced Code sections in order to allow a fence in the front yard and a fence which exceeds the permitted height would have a negative impact on the character of the neighborhood where fencing in the front yard and fencing that exceeds permitted height is atypical. Moreover, given that the applicant did not demonstrate a need for the requested variances, the Board also finds that granting these variances could set a negative precedent for granting similar variances to allow fences which do not comply with the Town Code which would alter the character of the neighborhood.
2. Since the applicant is proposing to legalize a fence which has already been built, there is no alternative other than the requested variances which would achieve the benefit sought (to legalize a fence without modification) which would not require variances. However, the Board finds that the benefit of having a fence on this property can be achieved by the modification of the fence to comply with the requirements of the Town Code.
3. The Board finds that the variances could be considered substantial since fences are not allowed in the front yard and the fence is located within the front yard. The existing fence is 6' high where only 4' is permitted. While this variance by itself could be considered

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substantial, in this instance the Board finds the deviation is exacerbated because a portion of the 6' fence is also located within the front yard.

4. The Board finds that granting the requested variances would not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. However, for the reasons stated above and below the Board denies the variances requested under these sections of the Code.
5. The difficulty is self-created since the applicant is proposing to legalize a fence which was built without the benefit of a permit, however, this fact by itself is not determinative.

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NOTICE OF DECISION

APPEAL #21285 - Haresh Shah; 27 Sunset Road West, Albertson; Section 7, Block 268, Lot 20; Zoned: Residence-B
Variance from §70-100.2(A)(4) to install fencing that is too tall.

Whereas, an application (RFP22-000256, BZA22-000115) 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 **October 26, 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

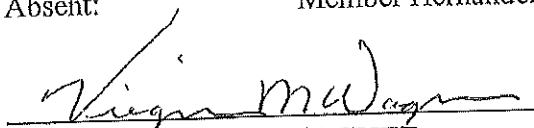
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Donatelli Seconded by: Vice Chairman Francis

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

Nays: None

Absent: Member Hernandez


VIRGINIA M. WAGNER
SECRETARY

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Board of Zoning Appeals

Town of North Hempstead

Findings of Fact for Appeal # 21285

APPEAL #21285 - Haresh Shah; 27 Sunset Road West, Albertson; Section 7, Block 268,
Lot 20; Zoned: Residence-B
Variance from §70-100.2(A)(4) to install fencing that is too tall.

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. The Board finds that permitting a 6' fence return is not in keeping with the character of the neighborhood which is comprised primarily of properties with either no fencing or compliant fencing. The applicant expressed the desire to have privacy which the Board finds can be achieved by some other method such as the addition of shrubbery in front of a compliant fence return. The Board also finds that the need for this variance is self-created due to the installation of the non-compliant fencing without the benefit of a permit. The Board is cognizant of the fact that permitting a 6' fence where a 4' fence is allowed would create a negative precedent for granting similar variances to allow fences which do not comply with the Town Code, which would have the effect of altering the character of the neighborhood. The Board does not give credence to the applicant's argument that the 6' fence is required for continuity.

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NOTICE OF DECISION

APPEAL #21293 - Xiaoduo Liu; 77 Nassau Road, Great Neck; Section 2, Block 51, Lot 13;
Zoned: Residence-C
Variances from §§70-50.B and 70-208.F to construct an addition on a non-conforming building that is too close to the street (secondary front lot line)

Whereas, an application (RBP22-000548, BZA22-000117) 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 **October 26, 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 Xiu Chen, P.E. dated June 27, 2022 and revised through August 13, 2022.

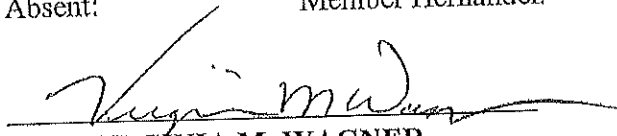
IN REACHING THIS DETERMINATION, THE BOARD CONSIDERED THE FACTORS SET FORTH IN THE ATTACHED FINDINGS OF FACT

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

Motioned by: Member Goodsell Seconded by: Member Donatelli

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

Nays: None
Absent: Member Hernandez


VIRGINIA M. WAGNER
SECRETARY

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Board of Zoning Appeals

Town of North Hempstead

Findings of Fact for Appeal # 21293

APPEAL #21293 - Xiaoduo Liu; 77 Nassau Road, Great Neck; Section 2, Block 51, Lot 13;
Zoned: Residence-C

Variances from §§70-50.B and 70-208.F to construct an addition on a non-conforming building that is too close to the street (secondary front lot line).

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. The Board finds that granting the variances sought by the applicant to allow construction of an addition that will be too close to a street (secondary front lot line) on an existing non-conforming home, are the minimum variances necessary which will achieve the benefit to the applicant. The Board finds there will be minimal impact to the character of the neighborhood where the addition is not encroaching any further into the existing nonconforming side-yard setback, and the addition is in the rear of the home where it is not visible from the front street. Moreover, the Board is cognizant of the fact that the proposed addition does not trigger any other variances and is within permitted gross floor area requirements. *

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- The Board notes that a variance under Appeal No. 18675 dated October 21, 2009 for a GFA variance, granted to a prior homeowner, was never constructed, has lapsed and is no longer of any force and effect.

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NOTICE OF DECISION

APPEAL #21296- Clarence Domingo; 88 Greenway, New Hyde Park; Section 8, Block 209, Lot 38; Zoned: Residence-A

Variance from §70-100.2(A)(4)(b) to legalize fencing that is too tall.

Whereas, an application (RFP22-000226, BZA22-000124) 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 **October 26, 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 Chuandong Hao, R.A. dated February 12, 2018.

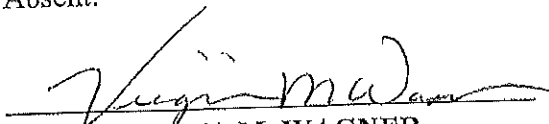
IN REACHING THIS DETERMINATION, THE BOARD CONSIDERED THE FACTORS SET FORTH IN THE ATTACHED FINDINGS OF FACT

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

Motioned by: Member Goodsell Seconded by: Member Donatelli

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

Nays: None
Absent: Member Hernandez


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Board of Zoning Appeals

Town of North Hempstead

Findings of Fact for Appeal # 21296

APPEAL #21296- Clarence Domingo; 88 Greenway, New Hyde Park; Section 8, Block 209, Lot 38; Zoned: Residence-A

Variance from §70-100.2(A)(4)(b) to legalize fencing that is too tall.

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. The Board finds that granting the variances sought by the applicant to allow fencing along a side yard that is too tall is the minimum variance necessary which will achieve the benefit of the applicant. In making this determination the Board notes that a portion of the fence is located along the side property line of the subject property that abuts the rear property line of the property to the north. That rear property owner would be able to put up a 6 ft. fence along that portion as of right. In addition, a significant portion of the fence along the southern property line was approved as part of a prior variance. The Board finds that to require the applicant to remove the 6' fence and to install a compliant 5' fence would have a negative visual impact because it would draw attention to the step down in fence height in the middle of the fence run. The requested variances would allow the applicant to have uniformity in the fence height between the areas which are noted above.

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