

Town of North Hempstead

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

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



Board of Zoning Appeals

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

TO: TOWN CLERK
FROM: Virginia Wagner, Secretary
CC: Building Dept.
DATE: May 15, 2024
RE: BZA Decisions for May 8, 2024

Appeal No.	Name	Sec.	Blk.	Lots
21519	Jorge Pariona	11	165	21
21536	Joseph Romain	11	27	27
21539	Wayne King	5	52	15
21540	Akira & Yasuko Yamaguchi	5	99	310
21541	Jeffrey Laureano	7	H	518
21543	Richard & Alba Pagan	8	308	14
21544	Julian Mejias	9	112	14
21547	JNP Holdings Inc. (Jonathan's Restaurant)	9	612	50
21548	Rike Tech Associates, LLC (Uno Mexican Grill)	10	19	28

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NOTICE OF DECISION

APPEAL #21519 - Jorge Pariona; 847 First Avenue, Westbury; Section 11, Block 165, Lot 21; Zoned: Residence-C

Variations from §§70-103.A(1), 70-103.B, 70-208.F, and 70-202.2(C)(1) to legalize a garage conversion on an existing non-conforming property with not enough parking on site, a parking space that is too small, and an increase in the size of the driveway and front yard paving without a reasonable method of retaining additional stormwater on the property.

Whereas, an application (RBP22-000150, BP17-106824, BZA24-000009) 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 **May 8, 2024**, the appeal in the above-entitled matter was decided as follows:

The variance sought under § 70-202.C to legalize a driveway without a reasonable method of retaining additional stormwater on the property was **WITHDRAWN** and the variations sought under §§70-103.A(1), 70-103.B, 70-208.F to legalize a garage conversion on an existing non-conforming property with not enough parking on site and parking spaces that are too small are **GRANTED** of the dimension and in the location as shown on drawings prepared by Patrick Henri Latortue, A.I.A. dated August 26, 2022 and revised through April 14, 2024.

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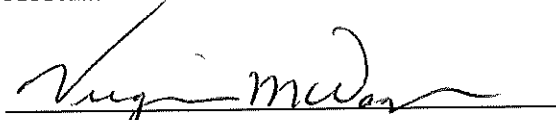
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Hernandez Seconded by: Member Goodsell

Ayes: Member Goodsell, Member Hernandez, Member Donatelli,
Acting Chairman Francis

Nays: None

Absent: Chairman Mammina



VIRGINIA M. WAGNER
SECRETARY

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NOTICE OF DECISION

APPEAL #21536 - Joseph Romain; 176 Rushmore Street, Westbury, Section 11, Block 27, Lot 27; Zoned: Residence-C/New Cassel Overlay District
Variance from §70-100.2(A)(4) to legalize fencing that is too tall and located in a front yard past the front building line.

Whereas, an application (RFP223-000080, BZA24-000025) 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 **May 8, 2024**, 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

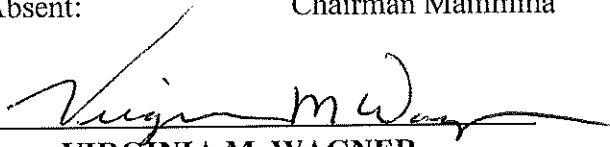
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Donatelli Seconded by: Member Goodsell

Ayes: Member Goodsell, Member Hernandez, Member Donatelli,
Acting Chairman Francis

Nays: None

Absent: Chairman Mammina


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Board of Zoning Appeals

Town of North Hempstead

Rider (Findings of Fact for Appeal # 21536)

APPEAL #21536 - Joseph Romain; 176 Rushmore Street, Westbury, Section 11, Block 27, Lot 27; Zoned: Residence-C/New Cassel Overlay District

Variance from §70-100.2(A)(4) to legalize fencing that is too tall and located in a front yard past the front building 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. 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, in weighing the above criteria the finds the following:

1. The applicant did not demonstrate that a compliant fence in this location would not accomplish the same benefit.
2. The applicant did not demonstrate that the alleged difficulty was related to the property itself and not due to the personal circumstances of the applicant.
3. Granting this variance would set a precedent for granting similar variances throughout the neighborhood and could undermine the goals and intentions of the Town Board when establishing the maximum fence height limitations of the code.
4. The difficulty is self-created in that the applicant seeks to maintain fences that he installed in violation of the Town Code. Although this fact is not determinative, the Board finds it weighs in favor of denial.

The Board finds that the applicant has not sustained their burden of proof for the issuance of the requested variance and therefore, the variance sought under § 70-100.2.A(4) is **DENIED**.

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NOTICE OF DECISION

APPEAL #21539 - Wayne King (29 Bayview, LLC); 29 Bayview Avenue, Port Washington; Section 5, Block 52, Lot 15; Zoned: Residence-A

Variance from §70-100.2(K) to legalize 2 generators that are located too far away from a home.

Whereas, an application (RPG23-000634, BZA24-000039) was filed with the Board of Zoning Appeals and a public hearing was held following due notice. That at a meeting of the Board held on **May 8, 2024**, the appeal in the above-entitled matter was decided as follows:

GRANTED of the dimension and in the location as shown on plans submitted with the application dated December 1, 2024, and revised through March 22, 2024 *as annotated by the Board* **SUBJECT TO THE FOLLOWING CONDITION:**

Arborvitae shall be installed to the south of the generators (as shown on the annotated plan) to screen the generators from view.

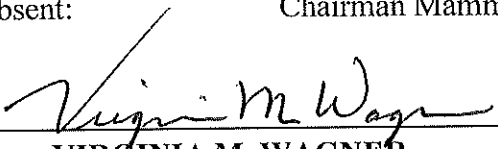
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Donatelli Seconded by: Member Hernandez

Ayes: Member Goodsell, Member Hernandez, Member Donatelli,
Acting Chairman Francis

Nays: None

Absent: Chairman Mammina



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NOTICE OF DECISION

APPEAL #21540 – Akira & Yasuko Yamaguchi; 19 S. Bayles Ave., Port Washington; Section 5, Block 99, Lot 310; Zoned: Business-A

Variations from §§ 70-100.1B & 70-100.1A (under 70-208K reviewed in accordance with R-C district) to legalize a detached garage that is located too close to the rear property line and that is too tall.

Whereas, an application (BP96-100105, ARB23-000434, BZA24-000038) was filed with the Board of Zoning Appeals and a public hearing was held following due notice. That at a meeting of the Board held on **May 8, 2024**, the appeal in the above-entitled matter was decided as follows:

GRANTED of the dimension and in the location as shown on plans prepared by Donald Alberto, R.A. dated November 6, 2023 **SUBJECT TO THE FOLLOWING CONDITION:**

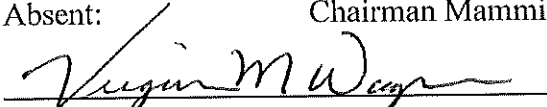
This appeal supersedes appeal #15554 and any conditions contained in the prior appeal are deemed null and void.

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,
Acting Chairman Francis

Nays: None
Absent: Chairman Mammina


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NOTICE OF DECISION

APPEAL #21541 – Jeffrey Laureano; 126 St. Marks Pl., Roslyn Heights; Section 7, Block H, Lot 518; Zoned: Residence-C

Variations from §§ 70-209(A) & 70-100.1(B) to legalize a pre-existing non-conforming garage that has been damaged more than 50% that would not be in compliance with the Town Code and that is located too close to the side property line.

Whereas, an application (ARB24-000080, RBP22-000553, BZA24-000036) was filed with the Board of Zoning Appeals and a public hearing was held following due notice. That at a meeting of the Board held on **May 8, 2024**, 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 Gaby Tchilinguirian, R.A. dated March 2023.

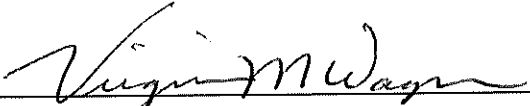
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Donatelli Seconded by: Member Hernandez

Ayes: Member Goodsell, Member Hernandez, Member Donatelli,
Acting Chairman Francis

Nays: None

Absent: Chairman Mammìna



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NOTICE OF DECISION

APPEAL #21543 - Richard & Alba Pagan; 95 Primrose Drive, New Hyde Park, Section 8, Block 308, Lot 14; Zoned: Residence-B

Variance from §70-42.6 to legalize an expanded driveway (paving) that covers too much of the front yard.

Whereas, an application (RBP23-000240, BZA24-000031) was filed with the Board of Zoning Appeals and a public hearing was held following due notice. That at a meeting of the Board held on **May 8, 2024**, the appeal in the above-entitled matter was decided as follows:

GRANTED of the dimension and in the location as shown on drawings prepared by Mark Anthony Munisteri, R.A. dated February 22, 2023 and revised through July 5, 2023
SUBJECT TO THE FOLLOWING CONDITION:

The applicant shall comply with the requirements for stormwater retention on the driveway

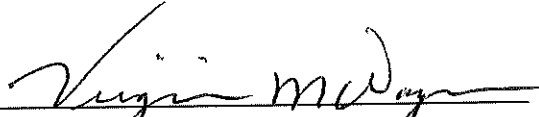
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Goodsell Seconded by: Member Hernandez

Ayes: Member Goodsell, Member Hernandez, Member Donatelli,
Acting Chairman Francis

Nays: None

Absent: Chairman Mammina


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NOTICE OF DECISION

**APPEAL #21544 - Julian Mejias; 132 Bethel Rd., Albertson; Section 9, Block 112, Lot 14;
Zoned: Residence-C**

Variance from § 70-51.H to legalize a cellar entrance within four feet of a side property line that does not have horizontal grating.

Whereas, an application (BP11-118083, BP13-109368 BZA24-000030) was filed with the Board of Zoning Appeals and a public hearing was held following due notice. That at a meeting of the Board held on **May 8, 2024**, 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 Peter David Ruppert, P.E. dated September 17, 2022 *as annotated by the Board* SUBJECT TO THE FOLLOWING CONDITION:

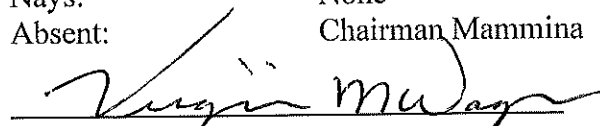
A self-closing gate shall be installed at the entrance to the outside stairwell

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,
Acting Chairman Francis

Nays: None
Absent: Chairman Mammìna


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NOTICE OF DECISION

APPEAL #21547 – JNP Holdings Inc. (Jonathan’s Restaurant); 3000 Jericho Tpke., New Hyde Park; Section 9, Block 612, Lot 50; Zoned: Business-A
Variance § 70-196(J)(1)(b) to legalize wall signs that are too tall and too big.

Whereas, an application (SGP24-000016, SGP24-000035, BZA24-000040) was filed with the Board of Zoning Appeals and a public hearing was held following due notice. That at a meeting of the Board held on **May 8, 2024**, 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 Enik Mehmeti, R.A. dated January 18, 2024.

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,
Acting Chairman Francis

Nays: None

Absent: Chairman Mammìna

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

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NOTICE OF DECISION

APPEAL #21548 – Rike Tech Associates, LLC (Uno Mexican Grill); 490 Westbury Ave., Carle Place; Section 10, Block 19, Lot 28; Zoned: Business-B
Conditional Use §70-126(A) and Variance from § 70-103(A)(1) to operate a new restaurant, a conditional use, with not enough parking.

Whereas, an application (CBP23-000234, BZA24-000008) was filed with the Board of Zoning Appeals and a public hearing was held following due notice. That at a meeting of the Board held on **May 8, 2024**, 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 Syed Rizvi, P.E. dated March 25, 2024 **SUBJECT TO THE CONDITIONS CONTAINED IN THE ATTACHED RIDER.**

SEE ATTACHED RIDER

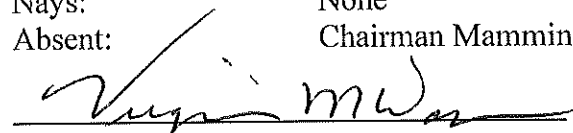
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Hernandez Seconded by: Member Donatelli

Ayes: Member Goodsell, Member Hernandez, Member Donatelli,
Acting Chairman Francis

Nays: None

Absent: Chairman Mammina


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Board of Zoning Appeals

Town of North Hempstead

Rider to Appeal # 21548(Conditions)

APPEAL #21548 – Rike Tech Associates, LLC (Uno Mexican Grill); 490 Westbury Ave., Carle Place; Section 10, Block 19, Lot 28; Zoned: Business-B

Conditional Use §70-126(A) and Variance from § 70-103(A)(1) to operate a new restaurant, 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 the issuance of a Certificate of Occupancy or Certificate of Completion. 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 **50** or the maximum occupancy of the building as permitted by the Place of Public Assembly license, whichever is less. 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, if applicable, the applicant shall obtain a Place of Assembly or Place of Public Assembly License, 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. All take-out/delivery services (i.e. Uber Eats, Door Dash etc.) visiting the restaurant shall park in the parking lot and not in the street.

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