

# Town of North Hempstead

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



*Vice Chairman*  
Leslie Francis, Esq.

*Members*  
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

### NOTICE OF DECISION

**APPEAL #21552- Edward Perlow; 2 Kent Road, New Hyde Park; Section 8, Block 294, Lot 20; Zoned: Residence-B**

Variance from §70-231 to legalize a professional office in a cellar (not permitted).

Whereas, an application (RBP21-000387, BZA23-000129) 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 **July 17, 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 Edward C. Hicks, R.A. dated May 5, 2024 **SUBJECT TO THE FOLLOWING CONDITIONS:**

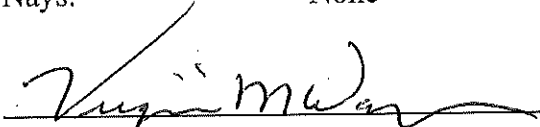
- 1. The cellar storage area shall be used for the storage of equipment and documents only. There shall be no storage of hazardous materials.*
- 2. There shall be no patient access to the cellar area.*

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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### NOTICE OF DECISION

**APPEAL #21560 – Tully-Willets Realty Co., LLC; 57 Seaview Blvd., Port Washington; Section 6, Block 89, Lot 18; Zoned: Modified Planned Industrial Park-MPIP**  
Variances from §§ 70-184.17.B(2) and 70-184.17.B(3) to construct a sign that is too large and too close to a property line.

**Whereas**, an application (SGP24-000080, CBP24-000096, BZA24-000052) 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 **July 17, 2024**, the appeal in the above-entitled matter was decided as follows:

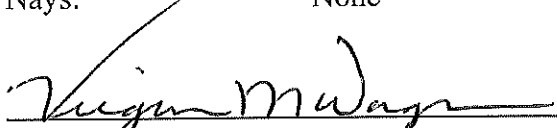
**GRANTED** of the dimension and in the location as shown on drawings prepared by Jere Murdoch, P.E. dated January 19, 2024 *as amended* and on a survey prepared by Michael K. Kowalik, L.S. dated November 10, 2022 and revised through November 21, 2022 *as annotated by the applicant*.

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,  
Vice Chairman Francis, Chairman Mammina

Nays: None

  
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## Board of Zoning Appeals

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### NOTICE OF DECISION

**APPEAL #21565 - Linda Ressa; 12 South Court, Port Washington; Section 5, Block C, Lot 100; Zoned: Residence-A**

Variances from §§70-30, 70-29, 70-101 and 70-100.2(K) to construct a new dwelling on an existing foundation which is too big, is located too close to the street, with a portico that is located too close to the street, and a generator that is located too far away from the home.

**Whereas**, an application (RBP24-000081, ARB24-000144, RBP24-000451, BZA24-000067) 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 **July 17, 2024**, the appeal in the above-entitled matter was decided as follows:

The request for a variance from **70-100.2(K)** to locate a generator too far away from the home was **WITHDRAWN** by the applicant at the hearing and, the variances sought under **§§70-30, 70-29, 70-101** to construct a new dwelling on an existing foundation which is too big, is located too close to the street with a portico that is located too close to the street, are **GRANTED** of the dimension and in the location as shown on drawings prepared by Paul Russo, A.I.A. dated May, 2024.

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

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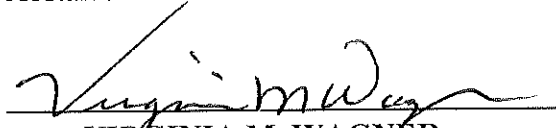
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Donatelli                      Seconded by: Member Goodsell

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

Nays: None

Abstain: Member Hernandez

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

**VIRGINIA M. WAGNER**  
**SECRETARY**

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# Board of Zoning Appeals

## Town of North Hempstead

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### Rider to Appeal # 21565(Findings of Fact)

**APPEAL #21565 - Linda Ressa; 12 South Court, Port Washington; Section 5, Block C, Lot 100; Zoned: Residence-A**

Variances from §§70-30, 70-29, 70-101 and 70-100.2(K) to construct a new dwelling on an existing foundation which is too big, is located too close to the street, with a portico that is located too close to the street, and a generator that is located too far away from the home.

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 Board finds the following:

### § 70-30 and 70-101

1. The Board finds there will be no undesirable change to the character of the neighborhood nor that a detriment to neighboring properties will occur as a result of granting the requested variances. The front yard setbacks from the street to the new home and portico are the same as the setbacks to the existing home and portico.
2. Since the applicants had already begun construction of the home when it was discovered that more extensive renovations were required (which triggered the necessity of the variances) due to severe rot and termite damage, the plans demonstrate the minimum variances necessary which will allow the applicant to achieve the benefit sought.
3. Although the requested front yard setback variance could be considered substantial (23% for the front yard setback to the home and 26% for the front yard setback to the portico), for the reason stated in #1 above, the board does not find the substantiality of this variance to weigh in favor of denial.

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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 Board finds that the difficulty is self-created because the applicant chooses to expand their home, however, this fact is not determinative. The Board also recognizes that the requirement of these variances was triggered by the fact that the construction is now considered a “new home” (because of the extent of renovations required) even though the setbacks of the home and the portico are the same as they were when the original building permits were issued.

#### § 70-29

1. The Board finds there will be no undesirable change to the character of the neighborhood nor that a detriment to neighboring properties will occur as a result of granting the requested variance. Given the oversized nature of the property (18,230 s.f. where only 8,500 s.f. is required) the applicant would be entitled to a bump up to the provisions of the R-AA zoning district where a home of up to 5,200 s.f. would be allowed. Additionally, the concerns expressed by the neighbors were not about the proposed additions to the home but about the generator which is now being relocated in order to comply with the code.
2. Since the applicants had already begun construction of the home when it was discovered that more extensive renovations were required (which triggered the necessity of the variances) due to severe rot and termite damage, the plans demonstrate the minimum variance necessary which will allow the applicant to achieve the benefit sought.
3. Although the requested GFA variance could be considered substantial (850 s.f. over what is permitted or a variance of 21%), for the reasons stated in #1 above, the board does not find the substantiality of the variance 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 Board finds that the difficulty is self-created because the applicant chooses to expand their home, however, this fact is not determinative. The Board also recognizes that the requirement of this variance was triggered by the fact that the construction is now considered a “new home” (because of the extent of renovations required) even though the size of home has not changed since the original permit was issued.

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### Board of Zoning Appeals

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### NOTICE OF DECISION

**APPEAL #21569 – Samuel & Iliana Pau; 158 Birchwood Dr., New Hyde Park; Section 9, Block 529, Lot 41; Zoned: Residence-C**  
Variances from §§ 70-100.2.A(4) & 70-100.2.A(4)(a) to construct fences exceeding the permitted height.

**Whereas**, an application (RFP24-000073, BZA24-000068) 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 **July 17, 2024**, the appeal in the above-entitled matter was decided as follows:

**DENIED** with respect to the variance sought under § 70-100.2A(4) to construct fencing (gates) which exceed the permitted height, **DENIED** with respect to the variance sought under § 70-100.2.A(4)(a) to construct fencing which exceeds the permitted height (along the east property line) and **GRANTED** with respect to the variance sought under § 70-100.2.A(4)(a) to construct fencing which exceeds the permitted height (along the west property line) of the dimension and in the location as shown on a survey prepared by John J. Toscano, LLS dated July 9, 2020 *as annotated by the applicant and as amended by the Board.*

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

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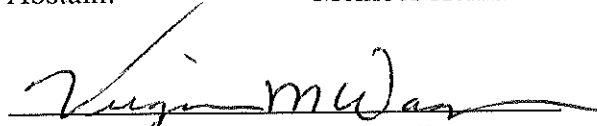
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Goodsell      Seconded by: Member Donatelli

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

Nays: None

Abstain: Member Hernandez

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

**VIRGINIA M. WAGNER  
SECRETARY**

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# Board of Zoning Appeals

## Town of North Hempstead

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### Rider to Appeal # 21569(Findings of Fact)

**APPEAL #21569 – Samuel & Iliana Pau; 158 Birchwood Dr., New Hyde Park; Section 9, Block 529, Lot 41; Zoned: Residence-C**

Variances from §§ 70-100.2.A(4) & 70-100.2.A(4)(a) to construct fences exceeding the permitted height.

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 Board finds the following:

1. The Board has taken into consideration the fact that the western property line of the subject property borders the rear lot line of the neighboring property and therefore, the neighbor would be entitled to erect a 6' fence in this location without a variance (note: a variance to erect a 6' fence along this lot line was issued under appeal #18644 to the adjacent property in 2009).
2. With respect to the requested fencing along the eastern property line and the gates, the Board finds that the applicant did not demonstrate that compliant fencing in these locations together with natural screening would not accomplish the same benefit. The Board further finds that the applicant's alleged difficulty is not related to the property itself, but rather due to the personal circumstances of the applicant. The Board is mindful that granting these variances 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.

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## Board of Zoning Appeals

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### NOTICE OF DECISION

**APPEAL #21570 – Manhasset Northern Enterprises, LLC; 999-1009 Northern Blvd., Manhasset; Section 2, Block 189, Lot 27; Zoned: Business-A/Residence-C**  
Conditional Use § 70-126.D and variance from §§ 70-103(O) and 70-231 to permit the interior alteration to a commercial building for the sale, storage and parking of automobiles for sale (a conditional use) with parking spaces that are too small.

**Whereas**, an application (CBP24-000013, CBP24-000061, BZA24-000064) 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 **July 17, 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 Giovanni Arce, R.A. dated September 11, 2014 and revised through March 1, 2024  
**SUBJECT TO THE FOLLOWING CONDITIONS:**

- 1. There shall be no test driving of vehicles permitted on residential streets.*
- 2. There shall be no delivery of vehicles to the site by tractor trailer trucks.*

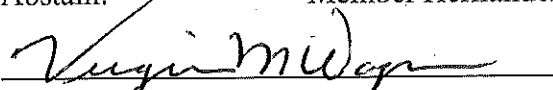
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Donatelli                      Seconded by: Member Goodsell

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

Nays: None

Abstain: Member Hernandez

  
\_\_\_\_\_  
**VIRGINIA M. WAGNER**  
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## Board of Zoning Appeals

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(516) 869-7667  
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### NOTICE OF DECISION

**APPEAL #21571 – Port Land Development Corp.; 510 Plandome Rd., Manhasset; Section 3, Block 69, Lot 61; Zoned: Business-A/Residence-B**  
Conditional Use §70-126(A) and variance from §70-103(A)(1) to expand an existing food use (a conditional use) with not enough off-street parking.

**Whereas**, an application (CBP24-000050, BZA24-000049) 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 **July 17, 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 Edward Paul Butt, R.A. dated November 16, 2023 and revised through March 12, 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:

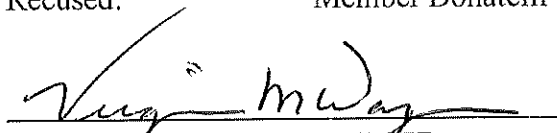
Motioned by: Member Goodsell                      Seconded by: Vice Chairman Francis

Ayes: Member Goodsell, Vice Chairman Francis  
Chairman Mammina

Nays: None

Abstain: Member Hernandez

Recused: Member Donatelli

  
VIRGINIA M. WAGNER  
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# Board of Zoning Appeals

## Town of North Hempstead

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### Rider to Appeal # 21571(Conditions)

**APPEAL #21571 – Port Land Development Corp.; 510 Plandome Rd., Manhasset; Section 3, Block 69, Lot 61; Zoned: Business-A/Residence-B**

Conditional Use §70-126(A) and variance from §70-103(A)(1) to expand an existing food use (a conditional use) with not enough off-street 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 38 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.

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### NOTICE OF DECISION

**APPEAL #21576 - Daniel & Shari Ross; 36 Oxford Boulevard, Great Neck, Section 2, Block 152, Lot 6; Zoned: Residence-A**  
Variance from §70-30.B to construct an addition that is located too close to the street.

**Whereas**, an application (RBP24-000352 BZA24-000071) 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 **July 17, 2024**, the appeal in the above-entitled matter was decided as follows:

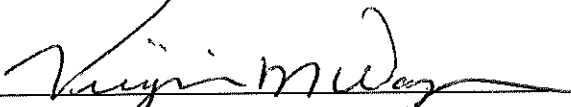
**GRANTED** of the dimension and in the location as shown on drawings prepared by Michael Jason Duignan, R.A. dated April 10, 2024.

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

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### NOTICE OF DECISION

**APPEAL #21577 – Andrew Candres; 49 Shadyside Ave., Port Washington; Section 4, Block 17, Lot 17; Zoned: Residence-B**

Variations from §§ 70-41(A) & 7-40(A) to construct a second story addition too close to a side property line and too close to a street.

**Whereas**, an application (RBP24-000345 BZA24-000072) 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 **July 17, 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 Janice Lynn Miller, R.A. dated April 7, 2024 and revised through May 14, 2024.

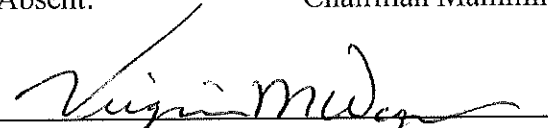
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

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 #21578 - Michele P. Johnson; 118 Huntington Road, Port Washington; Section 5, Block 63, Lot 25; Zoned: Residence-A**

Variance from § 70-101.B to legalize a front porch that is located too close to the street.

**Whereas**, an application (BP05-102764, RBP24-000086, BZA24-000077) 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 **July 17, 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 Donald Alberto, R.A. dated February 22, 2024 and revised through March 22, 2024.

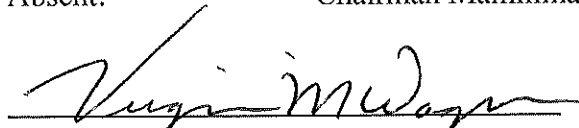
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

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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