

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 #21568 – Vaibhav Kolekar; 31 Jeffrey Pl., New Hyde Park; Section 8, Block 256, Lot 16; Zoned: Residence-A
Variance from § 70-29.B to construct a second-story addition that would make the house too big.

Whereas, an application (RBP23-000826, BZA24-000062) 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 23, 2024**, the appeal in the above-entitled matter was decided as follows:

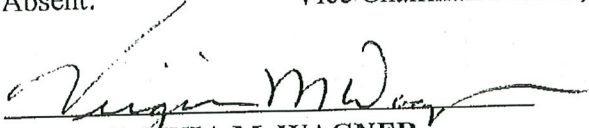
GRANTED of the dimension and in the location as shown on drawings prepared by Nicholas J. Pfluger, R.A. dated August 9, 2024 and revised through September 4, 2024 *as amended*.

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 Hernandez

Ayes: Member Goodsell, Member Hernandez, Acting Chairman Donatelli
Nays: None
Absent: Vice Chairman Francis, Chairman Mammina


VIRGINIA M. WAGNER
SECRETARY

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Board of Zoning Appeals

Town of North Hempstead

Rider (Findings of Fact for Appeal # 21568)

APPEAL #21568 – Vaibhav Kolekar; 31 Jeffrey Pl., New Hyde Park; Section 8, Block 256, Lot 16; Zoned: Residence-A

Variance from § 70-29.B to construct a second-story addition that would make the house too big.

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 finds that granting the requested variances will not produce an undesirable change in the character of the neighborhood or community. Per the revised plans, the variance sought under 70-29.B for gross floor area has been reduced approximately 97 s.f. to 3,297. This change in conjunction with the factors stated below, mitigate any negative impact to the neighborhood as a result of the proposed addition. The Board also notes that there are several other homes in the neighborhood (15 Jeffrey Place, 10 Jeffrey Place and 40 Jeffrey Place) with additions to split level homes similar to the one proposed as part of this application.
2. The Board finds that the benefit sought by the applicant could not be achieved by any other method which would not require a variance. The applicants wish to add a master bedroom suite to the residence. The configuration of the existing home is not conducive to adding a bedroom in any location other than the proposed additional floor. The total permitted lot coverage at the property is already at a maximum (in large part due to the existence of a large family room at the rear of the home), therefore, expanding the footprint of the home in order to add a bedroom to one of the existing floors would require a variance for excessive lot coverage even if it would result in the reduction in a variance for GFA.
3. Although the variance could be considered substantial, in this instance the Board does not find the substantiality of the variance to weigh in favor of denial. In making this

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determination the Board notes that the applicant revised the plans in an effort to reduce the substantiality of the GFA variance being requested.

4. The Board does not find that granting the requested variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood as the proposed addition is located within the footprint of the existing home and complies with all other dimensional requirements (height, setback, lot coverage etc.) of the code.
5. Although the alleged difficulty is self-created, this fact is not determinative.

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NOTICE OF DECISION

APPEAL #21597 - Feng Ren; 38 South Bayles Avenue; Port Washington; Section 5, Block 98, Lot 25; Zoned: Business-A/Industrial-B(reviewed as Residence-C)

Variances from §§70-49.B, 70-46.A, 70-208.F, 70-50.A and 70-231 to construct additions to a non-conforming dwelling that make the home too big and too tall, and will result in the expansion of a non-conforming dwelling, to construct a portico that is located too close to the street, and to legalize an attic with finished flooring and heat (not permitted).

Whereas, an application (RBP24-000709, RBP24-000775, BZA24-000105) 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 23, 2024**, the appeal in the above-entitled matter was decided as follows:

The variances sought under §§70-49.B, 70-46.A, 70-208.F and 70-231 to construct additions to a non-conforming dwelling that make the home too big and too tall and that will result in the expansion of a non-conforming dwelling and to legalize an attic with finished flooring and heat (not permitted), are withdrawn per the submission of revised plans and the variance sought under § 70-50.A to construct a portico that is located too close to the street is **GRANTED** of the dimension and in the location as shown on drawings prepared by Christopher Albert Eng, R.A. dated March 2024 and revised through October 10, 2024 *as amended*.

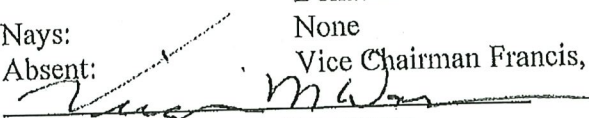
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Hernandez Seconded by: Member Goodsell

Ayes: Member Goodsell, Member Hernandez, Acting Chairman Donatelli

Nays: None

Absent: Vice Chairman Francis, Chairman Mammina


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NOTICE OF DECISION

APPEAL #21604 - Benedetta Vallone; 14 Shrub Hollow Road, Roslyn; Section 9, Block 623, Lot 11; Zoned: Residence-A

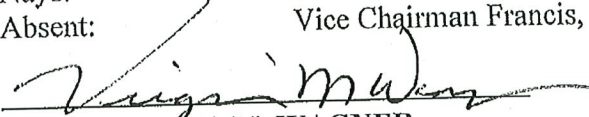
Variance from §70-102.C(5)(a) to legalize a swimming pool that is too close to the side and rear property lines and to legalize a swimming pool slide too close to the rear property line.

Whereas, an application (BP19-112414, BP19112416, BP19-112418, ARB24-000221, BZA24-000093) 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 23, 2024**, the appeal in the above-entitled matter was decided as follows:

DENIED with respect to the variance sought under §70-102.C(5)(a) to legalize a swimming pool slide too close to the rear property line and **GRANTED** with respect to the variance sought under §70-102.C(5)(a) to legalize a swimming pool that is too close to the side and rear property lines of the dimension and in the location as shown on drawings prepared by Andrew S. Braum, P.E. dated July 9, 2024.

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

Motioned by: Member Goodsell Seconded by: Member Hernandez
Ayes: Member Goodsell, Member Hernandez, Acting Chairman
Donatelli
Nays: None
Absent: Vice Chairman Francis, Chairman Mammina


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Board of Zoning Appeals

Town of North Hempstead

Rider (Findings of Fact for Appeal # 21604)

APPEAL #21604 - Benedetta Vallone; 14 Shrub Hollow Road, Roslyn; Section 9, Block 623, Lot 11; Zoned: Residence-A

Variance from §70-102.C(5)(a) to legalize a swimming pool that is too close to the side and rear property lines and to legalize a swimming pool slide too close to the rear property 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 Board finds the following:

1. The Board finds that granting the variance to allow the swimming pool to be located 8' 2" from the side property line could cause an undesirable change in the character of the neighborhood or community, where the applicant did not provide evidence of any other pools in the neighborhood that were nonconforming with respect to setback. However, the Board further finds that the fence surrounding the pool together with a row of evergreens located on the east side of the pool serve to screen the pool from view of the neighboring property and mitigates any dangerous conditions which may could be caused by the pool's location too close to the property line.
2. The Board finds that the benefit sought by the applicant could not be achieved by any other method which would not require a variance. The applicants engineer testified at the hearing that it would cost approximately \$75,000 to move the pool to a conforming location. Given this financial hardship, the Board finds that in this case, the benefit to the applicant to keep the pool in its current location outweighs the detriment to the health, safety and welfare of the neighborhood or community.
3. Although the variance could be considered substantial (18.4%), in this instance the Board does not find the substantiality of the variance to weigh in favor of denial. In making this determination the Board takes into consideration the facts stated in #1 and #2 above.

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4. In consideration of the facts stated in #1 and #2 above, the Board does not find that granting the requested variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood.
5. The applicant hired the pool contractor who installed the pool in the wrong location. Therefore, the difficulty could be considered self-created. However, the Board takes note of the fact that the applicant obtained the proper permits for the location of the pool and inspections were made of the pool before it was completed. It was not until the final survey was done that it was noticed that the pool was installed in the wrong location. The applicants did their best to comply with the requirements of the code and if it wasn't for the contractor's error, no variance would be required.
6. The Board finds that the requested variance to maintain a pool slide 7'1" from the rear property line could have a negative impact on the character of the neighborhood due to its height so close to the property line. Noise, privacy concerns and sight line impact could foreseeably result from having a slide within the rear yard setback. Additionally, the applicant did not provide any examples of other pool slides in the neighborhood that were within any setback required for inground pools. Additionally, the applicant has the alternative option of moving the slide to a conforming area or removing the slide altogether, which would still allow the applicant to enjoy the benefits of having a pool. In light of the foregoing, the Board finds the 29% variance to be substantial in magnitude, and the variance is clearly self-created.

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NOTICE OF DECISION

APPEAL #21610 - Meny & Valerie Elgadeh; 56 Station Road, Great Neck; Section 2, Block 353, Lot 17; Zoned: Residence-A
Variances from 70-29.C and 70-30.B to construct additions and a garage conversion that make a home too big and are located too close to the street (primary front yard).

Whereas, an application (RBP24-000651, BZA24-000121) 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 23, 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 James J. Stout, R.A. dated June 10, 2024.

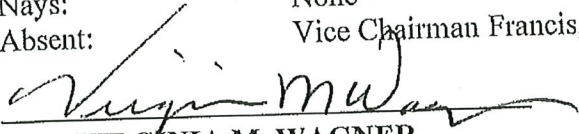
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Goodsell Seconded by: Member Hernandez

Ayes: Member Goodsell, Member Hernandez, Acting Chairman
Donatelli

Nays: None

Absent: Vice Chairman Francis, Chairman Mammina


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NOTICE OF DECISION

APPEAL #21611 - Sheldon & Marlene Millman; 39 Meadow Lane, Roslyn Heights; Section 7, Block M6, Lot 62; Zoned: Residence-B
Variances from §§70-40.C and 70-41.A to legalize a bay window that is located too close to the side property line and too close to the street.

Whereas, an application (RBP24-000833, BZA24-000119) 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 23, 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 Kurt A. Jacobs R.A. dated August 19, 2024 and revised through September 5, 2024.

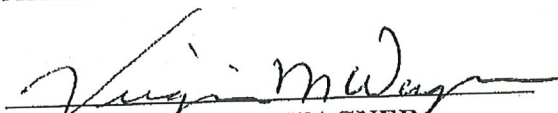
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Goodsell Seconded by: Member Hernandez

Ayes: Member Goodsell, Member Hernandez, Acting Chairman
Donatelli

Nays: None

Absent: Vice Chairman Francis, Chairman Mammina


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NOTICE OF DECISION

APPEAL #21612 – Perdita Permaul; 165 Elm St., Roslyn Heights (Historic District); Section 7, Block 29, Lot 37; Zoned: Residence-B
Variances § 70-100.2.C(1) & 70-41.A to legalize a deck located to close to the side property line.

Whereas, an application (RBP23-000137, BZA24-000124) 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 23, 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 16, 2023.

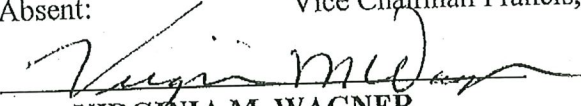
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Hernandez Seconded by: Member Goodsell

Ayes: Member Goodsell, Member Hernandez, Acting Chairman
 Donatelli

Nays: None

Absent: Vice Chairman Francis, Chairman Mammina


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NOTICE OF DECISION

APPEAL #21615 – NYU Langone; 1440 Northern Blvd., Manhasset; Section 3, Block 145, Lot 16; Zoned: Business-A
Conditional Use § 70-126(F) to construct interior alterations to a medical facility to add a café for staff, patients, and visitors.

Whereas, an application (CBP24-000238, BZA24-000120) 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 **October 23, 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 Sophie E. Buttiens, R.A. dated August 23, 2024 **SUBJECT TO THE CONDITIONS CONTAINED IN THE ATTACHED RIDER.**

SEE ATTACHED RIDER

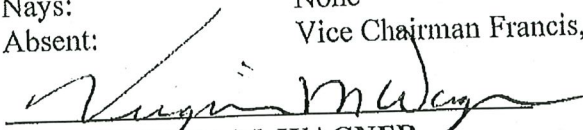
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Hernandez Seconded by: Member Goodsell

Ayes: Member Goodsell, Member Hernandez, Acting Chairman
Donatelli

Nays: None

Absent: Vice Chairman Francis, Chairman Mammina


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Board of Zoning Appeals

Town of North Hempstead

Rider to Appeal # 21615(Conditions)

APPEAL #21615 – NYU Langone; 1440 Northern Blvd., Manhasset; Section 3, Block 145, Lot 16; Zoned: Business-A
Conditional Use § 70-126(F) to construct interior alterations to a medical facility to add a café for staff, patients, and visitors.

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 12 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.
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

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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 #21618- Jeffrey Wilks (Schmackary's); 1044 Willis Avenue, Albertson; Section 7, Block 230, Lot 45; Zoned: Business-A
Conditional use §70-126.F to construct interior alterations to convert a vacant retail space to a food use.

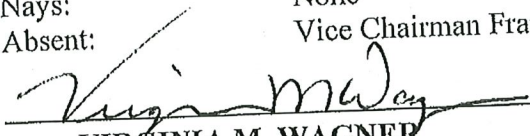
Whereas, an application (CBP24-000215, BZA24-000117) was filed with the Board of Zoning Appeals and a public hearing was held following due notice; and
Whereas, a review was undertaken pursuant to the State Environmental Quality Review Act, and the Board of Zoning Appeals hereby establishes itself as "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 **October 23, 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 Luigi Gileno, R.A. dated July 31, 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: Member Hernandez
Ayes: Member Goodsell, Member Hernandez, Acting Chairman
Donatelli
Nays: None
Absent: Vice Chairman Francis, Chairman Mammina


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Board of Zoning Appeals

Town of North Hempstead

Rider to Appeal # 21618(Conditions)

APPEAL #21618- Jeffrey Wilks (Schmackary's); 1044 Willis Avenue, Albertson; Section 7, Block 230, Lot 45; Zoned: Business-A

Conditional use §70-126.F to construct interior alterations to convert a vacant retail space to a food 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 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 12 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:
 - [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.
 - [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

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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 #21619 – Plaza 200 Associates, LLC (Champion Martial Arts); 200A Glen Cove Rd., Carle Place; Section 9, Block 663, Lot 16; Zoned: Industrial-B
Conditional Use § 70-187(P) for interior alterations to an existing commercial building to add a café to a martial arts studio.

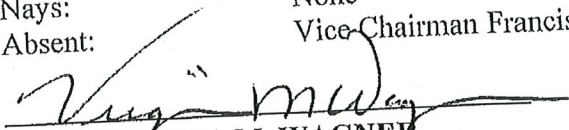
Whereas, an application (CBP24-000129, BZA24-000116) was filed with the Board of Zoning Appeals and a public hearing was held following due notice; and
Whereas, a review was undertaken pursuant to the State Environmental Quality Review Act, and the Board of Zoning Appeals hereby establishes itself as “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 **October 23, 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 Douglas R. Vaggi, R.A. dated May 6, 2024 and revised through June 10, 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: Member Hernandez
Ayes: Member Goodsell, Member Hernandez, Acting Chairman
Donatelli
Nays: None
Absent: Vice-Chairman Francis, Chairman Mammina


VIRGINIA M. WAGNER
SECRETARY

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Board of Zoning Appeals

Town of North Hempstead

Rider to Appeal # 21619(Conditions)

APPEAL #21619 – Plaza 200 Associates, LLC (Champion Martial Arts); 200A Glen Cove Rd., Carle Place; Section 9, Block 663, Lot 16; Zoned: Industrial-B Conditional Use § 70-187(P) for interior alterations to an existing commercial building to add a café to a martial arts studio.

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 0 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:
 - [5]. 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.
 - [6]. 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

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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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