

Town of North Hempstead

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



Vice Chairman
Leslie Francis, Esq.

Board of Zoning Appeals

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

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

NOTICE OF DECISION

APPEAL #21564 – Julian & Brenda Bailey; 111 Village Rd., Manhasset; Section 3, Block 183, Lot 2; Zoned: Residence-A

Variations from §§ 70-29.C & 70-30.C to construct additions that would make the house too big and are located too close to a street.

Whereas, an application (RBP24-000355, BZA24-000066) 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 **November 6, 2024**, the appeal in the above-entitled matter was decided as follows:

The variance sought under § 70-29.C to construct additions that would make the house too big is **DENIED** and the variance sought under § 70-30.C to construct additions that are located too close to the street is **GRANTED** of the dimension and in the location as shown on drawings prepared by Edward P. Butt, R.A. dated August 31, 2023, and revised through May 2, 2024.

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 Hernandez Seconded by: Member Goodsell

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

Nays: None

Absent: Chairman Mammina

VIRGINIA M. WAGNER
SECRETARY

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Board of Zoning Appeals

Town of North Hempstead

Rider to Appeal #21564 (Findings of Fact)

APPEAL #21564 – Julian & Brenda Bailey; 111 Village Rd., Manhasset; Section 3, Block 183, Lot 2; Zoned: Residence-A

Variances from §§ 70-29.C & 70-30.C to construct additions that would make the house too big and are located too close to a street.

Under Section 267-b of the Town Law, the Board is empowered to grant area variances in cases where the benefit to the applicant outweighs the detriment to the health, safety and welfare of the neighborhood or community. The Board is also required to grant the *minimum* variance necessary. In making such determination the Board shall also consider: 1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; 2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; 3) whether the requested area variance is substantial; 4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and 5) whether the alleged difficulty was self-created. After careful consideration of the facts presented during the hearing, personal observations of the site and surrounding area, a review of documents submitted by the applicant and the applicant's architect subsequent to the hearing, a review of Building Department files, and a review of the Town Code as it pertains to development of this property, the Board finds the following with respect to these criteria:

§ 70-29C

1. With respect to the variance requested under 70-29C the Board finds that the home as constructed would exceed the size permitted by the Zoning Code (by 312.46 s.f.) and as such would affect neighboring properties and the overall character of the neighborhood. The neighborhood is characterized by a mixture of smaller and larger homes on lots similar in size to the subject property (12,000 s.f. lot). The property to the immediate east of the subject property at 121 Village Road is 12,000 s.f. (the same as the subject property) and is developed with a home which is 3,998 s.f. and is therefore compliant with the maximum 4,000 s.f. gross floor area limitation. The property to the immediate west of the subject property at 99 Village Rd. is 16,134 s.f. and therefore, development on this property is allowed to comply with the restrictions of the R-AA zoning district. The home on this property is 4,978.25 s.f. which complies with the 31% maximum allowable GFA for this site. The home directly across the street from the subject property is 12,000 s.f. (the same as the subject property) and is developed with a home which is 1,906 s.f. (well under the 4,000 s.f. permitted maximum). Throughout the immediate neighborhood the Board has found no evidence of homes built which exceed the gross floor area permitted by Code. In addition, the applicant provided no evidence of any homes in this neighborhood which exceed the gross floor area permitted by code or which received variances from this Board.

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The Board finds that granting the requested variances would not only be out of character with the surrounding neighborhood but would set a precedent for granting similar variances which would, over time, result in a change in the character of the neighborhood. The Board finds this factor to be especially compelling given the fact that alternatives to the variance exist where the applicant could achieve the same benefit without the necessity of the variance (see below).

2. The Board has taken into consideration the applicant's explanation as to why the variances from GFA are needed (including the lack of a basement and attic area for storage). However, the applicants are including a 440 s.f. cellar under the new garage which could be used for storage. In addition, the plans submitted by the applicant show the relocation of the home's mechanical equipment to the new basement area effectively opening up space for storage in the upstairs level. The Board also finds that the proposed design of the home does not make an efficient use of space and could be reconsidered to eliminate some of the excess GFA. At the conclusion of the hearing the record was closed. However, at the applicant's request the Board re-opened the record to allow the submission of additional information in support of their appeal. The Board also allowed the applicant an opportunity to revise their plans to reduce the total amount of GFA being proposed. The applicant submitted a letter further explaining their need for the variances and their intentions for redeveloping the property. The applicant's architect also submitted a plan depicting the existing floor area of the home along with a breakdown of the areas to be removed and the areas to be added. The applicants chose not to revise their plans. In summary, the Board finds that the requested GFA variance is NOT the minimum variance necessary and adequate for the applicants to meet their needs while preserving the character of the neighborhood.
3. The Board finds the requested variance of 312.46 s.f., which represents a variance of 7.81% is substantial both numerically and in magnitude given its potential negative impact to the neighborhood.
4. The Board finds that granting the requested variance 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 in that the applicant seeks to renovate and expand their home in a way that will require variances. Although this fact is not determinative, the Board finds it weighs in favor of denial.

§ 70-30.C

1. The front yard variance is required in order to fill in a corner of the home to square off the area of the proposed kitchen. Given the width of this area is only 4.6 feet facing the street, the Board does not find that granting the variance sought under § 70-30.C of the Code would produce an

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undesirable change in the character of the neighborhood or that a detriment to nearby properties would occur.

2. The applicant would not be able to square off the new kitchen without this variance and therefore, there is no alternative that would achieve the same benefit for the applicant.
3. The variance represents a variance of approximately 9% which could be considered substantial. However, for the reasons stated in #1 above, the Board does not find this fact to weigh in favor of denial.
4. The Board does not find that granting this variance would 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 applicants choose to reconstruct their home in a way which requires variances. However, this fact alone is not determinative.

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Board of Zoning Appeals

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NOTICE OF DECISION

APPEAL #21600 – Srikanth Nukala; 25 Kalda Ave., New Hyde Park; Section 8, Block K09, Lot 4; Zoned: Residence-C

Variances §§ 70-51.A & 70-101.B to legalize a roof/overhang that is too close to the side property line and too close to the front property line and to legalize a roofed over porch that is too close to the front property line.

Whereas, an application (RBP22-000134, RBP24-000465, BZA24-000112) 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 **November 6, 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 Hooshang Nejathaim, P.E. dated May 10, 2024.

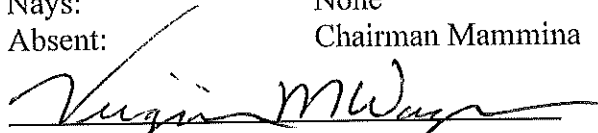
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Goodsell Seconded by: Member Donatelli

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

Nays: None

Absent: Chairman Mammina


VIRGINIA M. WAGNER
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NOTICE OF DECISION

APPEAL #21607 – Mucha Realty, Inc. (Town Animal Hospital of Manhasset); 260 Plandome Rd, Manhasset; Section 3, Block 79, Lot 1; Zoned: Business-B
Conditional Use § 70-139(C) to construct interior alterations to an existing commercial building for use as an animal hospital (a conditional use).

Whereas, an application (CBP24-000166, BZA24-000096) 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 **November 6, 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 Frank Genese, R.A. dated June 5, 2024 and revised through July 23, 2024 **SUBJECT TO THE CONDITIONS CONTAINED IN THE ATTACHED RIDER.**

SEE ATTACHED RIDER

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

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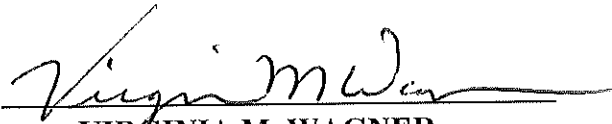
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Hernandez Seconded by: Member Donatelli

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

Nays: None

Absent: Chairman Mammina



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Board of Zoning Appeals

Town of North Hempstead

Rider to Appeal #21607 (Conditions)

APPEAL #21607 – Mucha Realty, Inc. (Town Animal Hospital of Manhasset); 260 Plandome Rd, Manhasset; Section 3, Block 79, Lot 1; Zoned: Business-B Conditional Use § 70-139(C) to construct interior alterations to an existing commercial building for use as an animal hospital (a conditional use).

1. There shall be no separate boarding service provided.
2. Overnight boarding of animals shall be restricted to those animals who require monitoring due to medical procedures.
3. No animals shall be left overnight unattended.
4. No lighting shall be directed towards residential areas.

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Board of Zoning Appeals

Town of North Hempstead

Rider to Appeal #21607 (Findings of Fact)

APPEAL #21607 – Mucha Realty, Inc. (Town Animal Hospital of Manhasset); 260 Plandome Rd, Manhasset; Section 3, Block 79, Lot 1; Zoned: Business-B
Conditional Use § 70-139(C) to construct interior alterations to an existing commercial building for use as an animal hospital (a conditional use).

This is an appeal for a Conditional Use under §70-139(C) to convert a vacant commercial space to an animal hospital.

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

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

- (a) The property is located within the Business-B Zoning District which in accordance with Section § 70-139(C) of the Town Code permits, inter alia, an animal hospital as a conditional use requiring approval by the Board of Zoning Appeals. Given its location entirely within the Business B zoning district, the Board finds that the proposed use of the

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site for an animal hospital is consistent with the purposes of zoning as set forth in the Town Law of the State of New York and is consistent with the other permitted uses and uses permitted by conditional use approval within this zoning district.

- (b) The Board finds that the proposed use is of such character, size, location, design and site layout as to be appropriate to and in harmony with the surrounding properties. The Board notes that no variances are required for the proposed use.
- (c) The Board finds that the proposed animal hospital will provide a desirable service and will contribute to the proper growth and development of the community. The Board notes that an existing animal hospital located down the road from the subject site provides boarding services and emergency care which will be not offered by the new proposed animal hospital.
- (d) The Board does not find that the proposed use will be hazardous, conflicting or incongruous to the immediate neighborhood by reason of excessive traffic, assembly of person or vehicles, proximity to travel routes or congregations of children or pedestrians. As compared to other permitted uses within the Business B zoning district, the proposed animal hospital will not generate a significant amount of traffic (approximately 9.57 to 10.2 trips during the peak hour according to the ITE Manual 9th Edition for Land Use Code 640 (Animal Hospital/Veterinary Clinic). The proposed animal hospital is compliant with the parking requirements as set forth in 70-103 of the Town Code. Given the Plandome Road address of the site, it is anticipated that most traffic will enter via Plandome Road.
- (e) The Board finds that the proposed use will not be of such nature as to be objectionable to nearby residential dwellings due to noise, lights, vibration or other factors of impact. Due to the natural constraints of the site, which does not have a basement, the applicant is only proposing to maintain 5 cages for animals recovering from treatment if necessary. Because there will be a limited number of animals on the premises at any one time, and no boarding, it is anticipated that any barking heard outside the building will be kept to a minimum. The Board also notes that the building is bordered by commercial properties to the north and south and Plandome Road and the Manhasset train station parking lot across the street to the west. The residential neighborhood to the east is buffered by a parking lot and street.
- (f) For the reasons stated above, the proposed use is considered to be harmonious within the district and will not hinder or discourage the appropriate use and development of adjacent uses or impair the value thereof.
- (g) As stated above, no impacts are anticipated as a result of increased traffic or as a result of traffic flow or movements.

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NOTICE OF DECISION

APPEAL #21622 - Scott Harford; 20 Pepperday Avenue, Port Washington; Section 4, Block 25, Lot 18; Zoned: Residence-B

Variance from §70-100.1(A) to relocate a shed in a side yard (not a permitted location).

Whereas, an application (RBP24-000708, BZA24-000131) 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 **November 6, 2024**, the appeal in the above-entitled matter was decided as follows:

GRANTED of the dimension and in the location as shown on drawings submitted with the application.

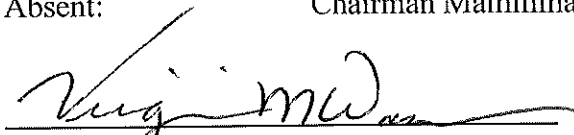
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Donatelli Seconded by: Member Hernandez

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

Nays: None

Absent: Chairman Mammìna


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NOTICE OF DECISION

APPEAL #21627 - 1025 II LLC; 1025 Old Country Road, Westbury; Section 11, Block 80, Lot 92; Zoned: Industrial-B

Variations from §§70-103.A(1), 70-103.B and 70-103.O to construct parking lot alterations with not enough onsite parking, parking spaces that are too small, and drive aisles that are too small.

Whereas, an application (CBP23-000208, BZA24-000115) 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 **November 6, 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 Wayne A. Muller, P.E. dated August 30, 2023, and revised through May 30, 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,
Vice Chairman Francis

Nays: None

Absent: Chairman Mammina

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