

Town of North Hempstead

Chairman
David L. Mammìna, 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

AMENDED NOTICE OF DECISION

APPEAL #21290 – GP3533 Vernon Realty, LLC.; 1801 Gilford Avenue, New Hyde Park; Section 8, Block 181, Lot 48; Zoned Industrial-B

Variances §§ 70-103A, 70-103F, 70-103M, 70-191 and 70-192B to construct a two-story addition to an existing commercial building with not enough parking, not enough loading and unloading areas, parking within a front yard, covering too much of the lot, and located too close to a rear property line.

Whereas, an application (CBP21-000215, BZA22-000122) 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 **January 11, 2023** 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 Timothy Costello, R.A. dated August 16, 2021.

Whereas, at a meeting of the Board held on **January 8, 2025**, the Board amended its decision to reflect the reduced scale of the project which eliminates variances from §§ 70-103M, 70-191 and 70-192B and reduced the parking variance under § 70-103A; and

Whereas, that the variances granted under §§ 70-103A, 70-103F of the Town Code shall be of the dimension and in the location as shown on drawings prepared by Timothy John Costello, R.A. dated August 16, 2021 and revised through September 4, 2024.

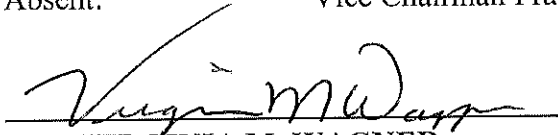
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The vote of the **BOARD OF ZONING APPEALS** was recorded at the January 11, 2023 meeting as follows:

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

The vote of the **BOARD OF ZONING APPEALS to amend the plans** was recorded at the January 8, 2025 meeting as follows:

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



VIRGINIA M. WAGNER
SECRETARY

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NOTICE OF DECISION

APPEAL #21621 - Theodore Katsihtis; 78 Hill Top Drive, Manhasset; Section 3, Block 221, Lot 9; Zoned: Residence-A

Variance from 70-29.B to construct an addition that makes a home too big.

Whereas, an application (RBP24-000924, BZA24-000133) 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 **January 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 Michael Edward Mallia dated September 17, 2024 and revised through December 3, 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 Donatelli

Ayes: Member Goodsell, Member Hernandez, Member Donatelli,
Chairman Mammina

Nays: None

Absent: Vice Chairman Francis

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

Rider (Findings of Fact for Appeal # 21621)

APPEAL #21621 - Theodore Katsihtis; 78 Hill Top Drive, Manhasset; Section 3, Block 221, Lot 9; Zoned: Residence-A

Variance from 70-29.B to construct an addition that makes a home 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. The community is comprised of larger homes, many of which have similar bedroom additions over the garage. The Board notes that the proposed addition meets all setback requirements, and does not trigger any other variances.
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. In making this determination the Board notes that the applicant reduced the size of the proposed bedroom at the Board's request.
3. The variance (5.9%) is not considered to be substantial.
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.
5. Although the alleged difficulty is self-created, this fact is not determinative.

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NOTICE OF DECISION

APPEAL #21629 – Kara Becker; 85 Ivy Way, Port Washington; Section 5, Block 72, Lot 244; Zoned: Residence-A

Variance § 70-202.1.C to construct retaining walls that are too tall.

Whereas, an application (RBP24-000855, RBP24-000943, BZA24-000140) 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 **January 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

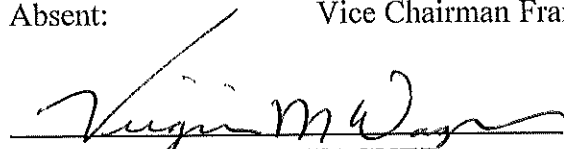
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Donatelli Seconded by: Member Goodsell

Ayes: Member Goodsell, Member Hernandez, Member Donatelli,
Chairman Mammina

Nays: None

Absent: Vice Chairman Francis


VIRGINIA M. WAGNER
SECRETARY

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Board of Zoning Appeals

Town of North Hempstead

Rider (Findings of Fact for Appeal # 21629)

APPEAL #21629 – Kara Becker; 85 Ivy Way, Port Washington; Section 5, Block 72, Lot 244; Zoned: Residence-A

Variance § 70-202.1.C to construct retaining walls that are too tall.

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

1. The Board finds that granting the requested variances will produce an undesirable change in the character of the neighborhood and will especially have an impact on the abutting properties to the north and west. Those neighbors would be faced with viewing a solid wall reaching heights along the side property line of almost 9 feet and along the rear property line of almost 8 feet. This negative effect is more pronounced with regard to the rear neighbor whose property sits at a much lower elevation than the subject property. The Board has viewed the photos submitted by the applicant, and disagrees that the rear neighbor does not have any view of the proposed wall. The Board finds that the significant rear slope up from the neighbor's property will exacerbate the looming appearance of the wall and could set a negative precedent for other properties in the area. The Board considered the letters from the neighbors consenting to the construction of the walls, but finds that the negative impact to the affected properties will remain long after the current occupants of those properties are no longer there. The Board also considered that the applicant seeks the retaining wall in order to level out the rear yard to create a safe place for their two children to play. However, in its review of the submitted plans, the Board has determined that the applicant can achieve the benefit it seeks and still comply with the provisions of the Town Code by creating a parallel step back wall design. This was confirmed to the Board during the hearing when the Applicant's contractor stated that the step backed design would work. Specifically, during the hearing the following exchange took place between the Applicant's representative and the Board Members:

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Acting Chairman Francis: Let's go back and revisit the step design. For one, is it feasible to do that, and two, how much would it be in terms of additional cost to do that?

Mr. Masone: It's very feasible to do it. As far as additional costs though? I mean, most of the wall is probably going to be reusable. Most of the material is probably gonna be reusable. It's just -- it's gonna probably end up being -- the wall will end up being two five-foot walls at that point.

Member Hernandez: You need a separate foundation for the other wall.

Mr. Masone: Correct. I mean, it's probably a 30 to 40 percent cost, you know, to terrace back the wall.

Acting Chairman Francis: That would also make it compliant with the law.

Additionally, the record shows that that the walls are only partially constructed, therefore creating a stepped back design would only affect certain portions of the walls. Therefore, instead of building a wall up to the current proposed heights, the walls could be easily constructed to the permitted 5 feet height, stepped back 5 feet and a second wall built to the remaining height required by Applicant. The Board recognizes that the Applicant would lose some useable portion of the yard by this design, however, in its review of the survey the Board notes that the Applicant has sufficient yard space to accommodate the play area for the children that the Applicant is seeking to achieve, while still complying with the zoning code. Specifically, the depth from the back of the house to rear property line is approximately 64 feet and the width of the rear yard is approximately 86 feet. Finally, the Board notes that although requested by the Board at the hearing, the applicant has not provided any information to indicate that there are other properties in the neighborhood where retaining walls of this height have been permitted and installed.

2. As stated above, the Board finds that the benefit sought by the applicant can be achieved by installing a compliant retaining wall. Although this may require the applicants to relocate the proposed sports court to another area of the property, there appears to be ample room on the property for this purpose. In fact, there may even be room to reposition the sports court in the same location but turned so that is oriented in an east-west direction. The Board also finds that while there may be some additional cost to the applicant to comply with the zoning requirement, such cost is minimal when compared to the impact noncompliant walls will have on the adjacent properties and the neighborhood.
3. The Board finds that the variance (2% - 75%) is substantial and that this factor, while not determinative, weighs in favor of denial.
4. The Board finds that granting the requested variance will have an adverse effect/impact on the physical or environmental conditions in the neighborhood. The retaining wall which is in excess of the permitted height will be 8.75' in height along the north-west side property line and 7.9' to 4.9' along the rear property line thus presenting, at its

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highest point, an 8.75' high wall to the neighboring property(s). This could deprive these neighboring properties of sunlight in areas closest to the wall.

5. The alleged difficulty is self-created since the applicant chooses to install a retaining wall which exceeds the permitted height. Though this fact not determinative, together with the criteria listed above, it weighs in favor of denial.

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NOTICE OF DECISION

APPEAL #21646 – RH 361, LLC; 1575-1595 Northern Blvd., Manhasset; Section 3, Block 181, Lot 402; Zoned: Business-A & Residence-B

Variances §§ 70-103(B), 70-103(O) & 70-132(A) to redevelop a commercial property with parking spaces that are too small, parking access aisles that are not wide enough, and a masonry wall within a required front yard too close to the street.

Whereas, an application (ACB24-000052, BZA24-000158) 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 **January 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 Dale E. Koch, P.E. dated July 15, 2021 and revised through November 14, 2024.

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,
Chairman Mammina

Nays: None

Absent: Vice Chairman Francis

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NOTICE OF DECISION

APPEAL #21649 – Michael Weiss; 58 Hewlett Ln., Flower Hill; Section 6, Block 58, Lot 114A; Zoned: Residence-AAA

Variance § 70-102.C(5)(a) to install pool equipment too close to the rear property line.

Whereas, an application (RBP24-000255, RBP24-000769, BZA24-000154) 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 **January 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 Christopher Albert Eng, R.A. dated March 13, 2024 and revised through September 4, 2024.

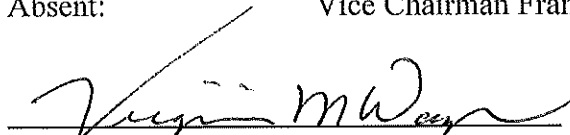
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Donatelli Seconded by: Member Hernandez

Ayes: Member Goodsell, Member Hernandez, Member Donatelli,
Chairman Mammina

Nays: None

Absent: Vice Chairman Francis


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NOTICE OF DECISION

APPEAL #21651 – Eric Chang; 10 Maple Ct., New Hyde Park; Section 8, Block 338, Lot 9; Zoned: Residence-C

Variances §§ 70-50.B & 70-52 to legalize additions to a home with a raised terrace that is located too close to a street, and an attached garage that is located too close to the rear property line.

Whereas, an application (BP19-109418, PAR22-000145, PRR24-000296, PAR24-000249, BZA24-000156) 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 **January 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 Philip J. Sutter, R.A. dated November 7, 2019 and revised through May 15, 2024.

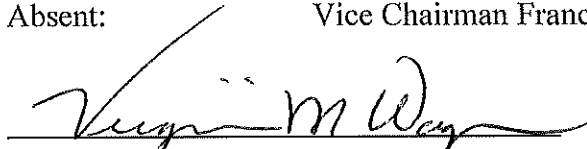
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Goodsell Seconded by: Member Donatelli

Ayes: Member Goodsell, Member Hernandez, Member Donatelli,
Chairman Mammìna

Nays: None

Absent: Vice Chairman Francis



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NOTICE OF DECISION

APPEAL #21652 - Afrina Zaman; 70 Chaffee Avenue, Albertson, Section 9, Block 62, Lot 1553; Zoned: Residence-C.

Variations from §§70-99.B, 70-99.C, 70-99.D & 70-99.G of the 1974 Town Code and variations from Article V – Section 5 and Article V – Section 9 of the 1937 Town Code to legalize additions built prior to 1938 that are too close to the front and side property lines and to legalize a detached garage built prior to 1985 that is too close to a residence building next door, and too close to the rear property line, primary front property line and secondary front property line.

Whereas, an application (BP19-109418, PAR22-000145, PRR24-000296, PAR24-000249, BZA24-000156) 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 **January 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 Norman C. Lok, P.E. dated April 25, 2024 and revised through September 19, 2024.

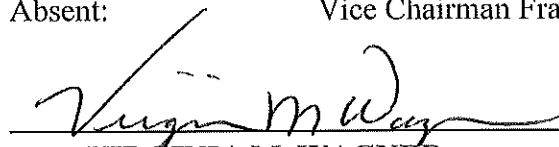
The vote of the **BOARD OF ZONING APPEALS** was recorded as follows:

Motioned by: Member Donatelli Seconded by: Member Goodsell

Ayes: Member Goodsell, Member Hernandez, Member Donatelli,
Chairman Mammìna

Nays: None

Absent: Vice Chairman Francis


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