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APPLICATION FOR ZONING VARIANCE
IN THE MATTER OF
5T DEVELOPERS LLC
357 Argyle Road
Applicant.

200 Cedarhurst Avenue
Cedarhurst, New York

January 12, 2023
7:02 p.m.

B E F O R E
MEIR KRENGEL, Chairman
SHIFRA EDELMAN, Board Member
JARED CLARK, Board Member
DAVID SHTEIERMAN, Board Member
MICHAEL BLEIBERG, Board Member
YOEL GOLDFEDER, Village Attorney
WAYNE YARNELL, Supt. Bldg. Dept.

1 Proceedings - 5T Developers LLC

2 CHAIRMAN KRENGEL: Good evening. The
3 first case on the calendar tonight originally
4 assigned Case Number 26 of 2022 has been
5 reassigned Case Number 1 of 2023 and is the
6 application of 5 Town Developers LLC, the
7 applicant of a property known as 357 Argyle
8 Road, designated Section 39/Block 338/Lot 66
9 in an R1 Zone. The applicant proposes
10 construction of a one-family -- FEMA-compliant
11 one-family residence.

12 The applicant seeks variances from
13 Cedarhurst Code Section 265-42.A, character of
14 roofs, 265-41.A, side yards, and 265-8, garage
15 required. This Board has determined that the
16 application is a Type II action pursuant to
17 Section 617.3 of the New York State Department
18 of Environmental Control Regulations and does
19 not require an Environmental Impact Statement.
20 The village attorney will now read a statement
21 into the record.

22 MR. GOLDFEDER: Mr. Chairman, members of
23 the Board, for the record, we have been
24 provided with proof of the mailing and
25 publication in the local newspaper of record,

Proceedings - 5T Developers LLC

1
2 variance to construct a one-family house,
3 FEMA-compliant, from a house that was not
4 FEMA-compliant before and also it was most of
5 our -- it was difficult to amend that house or
6 renovate that house to get what we needed to
7 put into the house.

8 So we decided to raise the house and
9 build a new house and the new house that we
10 want to build as you see on the rendering is a
11 two-story FEMA-compliant 6 feet above the
12 average crown of the road to meet the free
13 board elevation of location 10 and the house
14 complies with height being 33 feet above the
15 crown of the road or top of curb. The top of
16 curb, crown of the road is basically the same
17 elevation.

18 CHAIRMAN KRENGEL: Just for the record,
19 this house is in the flood zone, correct?

20 MR. CAPOBIANCO: The house is in the
21 flood zone and presently on a substandard size
22 lot of 45 by 100. The house presently does
23 not have a garage. It has a detached --
24 actually no detached garage. It has a
25 swimming pool in the backyard which will be

Proceedings - 5T Developers LLC

1 removed and filled in. The new house will be
2 a FEMA-compliant house built on a new
3 foundation. However, we are seeking relief of
4 the side yard aggregate. The side yard
5 aggregate which is required to be 16 feet
6 generally for a 60-by-100 lot but when you
7 have a substandard sized lot, we are saving
8 6.17 and 6.0 side yard, which would be an
9 average of 12.17. And when you take the
10 percentage of the width of the lot, if you
11 take the 60-foot wide lot that has a 16-foot
12 side yard aggregate, that would be -- .27
13 times the width of the lot would be 16. And
14 .2 -- .27 times the 45-foot-wide lot would be
15 the same ratio of percentage of the side yard
16 aggregate and that would be 12.17. So we
17 maintain the 12.17 in lieu of the 16, so
18 that's what we are seeking relief of.

19
20 Also we are seeking relief of having a
21 one-car garage, one-family because on that
22 block, the house never had one-car garage
23 before. And they certainly would rather have
24 room in the house and they don't need a
25 one-car garage. And there are several houses

1 Proceedings - 5T Developers LLC

2 on that block now and on Lincoln as you extend
3 further down that don't have garages on that
4 size lot.

5 And the other relief we are looking for
6 is when you look at the architectural
7 rendering, the roof in the middle we brought
8 to a flat area of 8 by 15, which is 120 square
9 feet in size. The reason for that is to
10 create a better roof slope on the side to give
11 it a better architectural appearance that it
12 didn't look too flat from that angle when you
13 look up. But it's only 120 square feet at
14 which the village allows 240 for a one-story
15 height to be a flat roof, but in this case
16 it's on the second floor.

17 So basically we are looking for these
18 three variances, which is the garage, the side
19 yard aggregate, and the flat roof and hope the
20 Board allows for the client.

21 CHAIRMAN KRENGEL: The reason you don't
22 want to put a garage is because it's in the
23 flood zone?

24 MR. CAPOBIANCO: The garage in the back
25 would not work because it's too narrow a lot

1 Proceedings - 5T Developers LLC

2 and yes and since the house never had a garage
3 before, we want to maintain.

4 CHAIRMAN KRENGEL: If you had to build a
5 garage, would you be afraid of infiltration?
6 If you had to build a garage, would you be
7 afraid of water infiltration based on the
8 water table?

9 MR. CAPOBIANCO: Yes. The water, yes.
10 That's basically the application.

11 CHAIRMAN KRENGEL: Okay. Thank you.
12 Thank you. Anybody on the Board have any
13 questions?

14 MR. SHTEIERMAN: No.

15 CHAIRMAN KRENGEL: Anybody in the
16 audience have any questions for or against
17 this application? We will take a vote.

18 MR. SHTEIERMAN: Approved.

19 MR. CLARK: Approved.

20 MR. BLEIBERG: Approved.

21 MS. EDELMAN: Approved.

22 CHAIRMAN KRENGEL: Approved.

23 MR. CAPOBIANCO: Thank you.

24 (Time noted: 7:08 p.m.)

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Proceedings - 5T Developers LLC

C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF QUEENS)

I, YAFFA KAPLAN, a Notary Public
within and for the State of New York, do
hereby certify that the foregoing record of
proceedings is a full and correct
transcript of the stenographic notes taken
by me therein.

IN WITNESS WHEREOF, I have hereunto
set my hand this 29th day of January,
2023.

YAFFA KAPLAN

1	7:08 [1] - 7:24	brought [1] - 6:7	Dept [1] - 1:22	General [1] - 3:6
1 [1] - 2:5	8	built [4] - 4:9, 4:10, 7:4, 7:6	designated [1] - 2:8	generally [1] - 5:7
10 [1] - 4:13	8 [1] - 6:8	built [1] - 5:3	detached [2] - 4:23, 4:24	given [1] - 3:19
100 [1] - 4:22	809 [1] - 3:7	C	determined [1] - 2:15	GOLDFEDER [2] - 1:21, 2:22
12 [1] - 1:12	A	calendar [1] - 2:3	DEVELOPERS [1] - 1:5	H
12.17 [3] - 5:10, 5:17, 5:18	accordingly [1] - 3:3	capobianco [1] - 3:22	Developers [1] - 2:6	hand [1] - 8:14
120 [2] - 6:8, 6:13	action [1] - 2:16	CAPOBIANCO [5] - 3:23, 4:20, 6:24, 7:9, 7:23	difficult [1] - 4:5	hear [1] - 3:5
15 [1] - 6:8	affidavit [1] - 3:8	Capobianco [1] - 3:24	Doughty [1] - 3:24	hearing [1] - 3:2
159 [1] - 3:24	afraid [2] - 7:5, 7:7	car [3] - 5:21, 5:22, 5:25	down [1] - 6:3	height [2] - 4:14, 6:15
16 [3] - 5:6, 5:14, 5:18	aggregate [5] - 5:5, 5:6, 5:13, 5:17, 6:19	case [2] - 2:3, 6:15	duly [1] - 3:8	hereby [1] - 8:9
16-foot [1] - 5:12	agreement [1] - 3:16	Case [2] - 2:4, 2:5	E	hereunto [1] - 8:13
2	allows [2] - 6:14, 6:20	Cedarhurst [5] - 1:9, 1:10, 2:13, 3:13, 3:17	EDELMAN [2] - 1:17, 7:21	hope [1] - 6:19
2 [1] - 5:15	amend [1] - 4:5	certainly [1] - 5:23	elevation [2] - 4:13, 4:17	house [17] - 4:2, 4:3, 4:5, 4:6, 4:7, 4:8, 4:9, 4:13, 4:19, 4:20, 4:22, 5:2, 5:3, 5:22, 5:24, 7:2
200 [1] - 1:9	angle [1] - 6:12	certify [1] - 8:9	employed [1] - 3:12	houses [1] - 5:25
2022 [2] - 2:4, 3:8	appeal [1] - 3:5	Chairman [3] - 1:16, 2:22, 3:21	employees [1] - 3:14	I
2023 [3] - 1:12, 2:5, 8:15	appearance [1] - 6:11	CHAIRMAN [8] - 2:2, 3:22, 4:18, 6:21, 7:4, 7:11, 7:15, 7:22	entities [1] - 3:11	Il [1] - 2:16
22 [1] - 3:7	applicant [5] - 1:7, 2:7, 2:9, 2:12, 3:9	character [1] - 2:13	Environmental [2] - 2:18, 2:19	Impact [1] - 2:19
240 [1] - 6:14	APPLICATION [1] - 1:3	CLARK [2] - 1:18, 7:19	evening [2] - 2:2, 3:23	IN [2] - 1:4, 8:13
26 [1] - 2:4	application [6] - 2:6, 2:16, 3:12, 3:20, 7:10, 7:17	client [1] - 6:20	executed [1] - 3:9	infiltration [2] - 7:5, 7:7
265-41.A [1] - 2:14	approved [5] - 7:18, 7:19, 7:20, 7:21, 7:22	Code [1] - 2:13	extend [1] - 6:2	involved [1] - 3:11
265-42.A [1] - 2:13	architect [1] - 3:24	collusion [1] - 3:8	F	Inwood [1] - 3:25
265-8 [1] - 2:14	architectural [2] - 6:6, 6:11	Commission [2] - 3:18, 3:19	family [4] - 2:10, 2:11, 4:2, 5:21	J
27 [2] - 5:13, 5:15	area [1] - 6:8	compliant [5] - 2:10, 4:3, 4:4, 4:11, 5:3	feet [5] - 4:11, 4:14, 5:6, 6:9, 6:13	January [2] - 1:12, 8:14
29th [1] - 8:14	Argyle [2] - 1:6, 2:7	complies [1] - 4:14	FEMA [5] - 2:10, 4:3, 4:4, 4:11, 5:3	JARED [1] - 1:18
3	assigned [1] - 2:4	conflict [1] - 3:15	FEMA-compliant [5] - 2:10, 4:3, 4:4, 4:11, 5:3	John [1] - 3:23
33 [1] - 4:14	attorney [1] - 2:20	connected [1] - 3:12	filled [1] - 5:2	jurisdiction [2] - 3:3, 3:5
338/Lot [1] - 2:8	Attorney [1] - 1:21	consideration [1] - 3:20	first [1] - 2:3	K
357 [2] - 1:6, 2:7	audience [1] - 7:16	constitute [1] - 3:14	flat [4] - 6:8, 6:12, 6:15, 6:19	KAPLAN [2] - 8:7, 8:18
39/Block [1] - 2:8	Avenue [1] - 1:9	construct [1] - 4:2	floor [1] - 6:16	known [1] - 2:7
4	average [2] - 4:12, 5:10	construction [1] - 2:10	FOR [1] - 1:3	KRENGEL [9] - 1:16, 2:2, 3:22, 4:18, 6:21, 7:4, 7:11, 7:15, 7:22
45 [1] - 4:22	B	Control [1] - 2:18	foregoing [1] - 8:9	L
45-foot-wide [1] - 5:15	backyard [1] - 4:25	correct [2] - 4:19, 8:10	foundation [1] - 5:4	law [2] - 3:3, 3:15
5	based [1] - 7:7	COUNTY [1] - 8:5	free [1] - 4:12	Law [1] - 3:7
5 [1] - 2:6	better [2] - 6:10, 6:11	County [2] - 3:17, 3:18	full [1] - 8:10	lieu [1] - 5:18
5T [1] - 1:5	between [1] - 3:16	create [1] - 6:10	G	Lincoln [1] - 6:2
6	Bldg [1] - 1:22	crown [3] - 4:12, 4:15, 4:16	garage [12] - 2:14, 4:23, 4:24, 5:21, 5:22, 5:25, 6:18, 6:22, 6:24, 7:2, 7:5, 7:6	LLC [2] - 1:5, 2:6
6 [1] - 4:11	BLEIBERG [2] - 1:20, 7:20	curb [2] - 4:15, 4:16	garages [1] - 6:3	local [1] - 2:25
6.0 [1] - 5:9	block [2] - 5:22, 6:2	D	garage [12] - 2:14, 4:23, 4:24, 5:21, 5:22, 5:25, 6:18, 6:22, 6:24, 7:2, 7:5, 7:6	location [1] - 4:13
6.17 [1] - 5:9	Board [10] - 1:17, 1:18, 1:19, 1:20, 2:15, 2:23, 3:5, 3:21, 6:20, 7:12	Daniel [1] - 3:9	garage [12] - 2:14, 4:23, 4:24, 5:21, 5:22, 5:25, 6:18, 6:22, 6:24, 7:2, 7:5, 7:6	look [3] - 6:6, 6:12,
60-by-100 [1] - 5:7	board [1] - 4:13	DAVID [1] - 1:19	garage [12] - 2:14, 4:23, 4:24, 5:21, 5:22, 5:25, 6:18, 6:22, 6:24, 7:2, 7:5, 7:6	
60-foot [1] - 5:12	Boulevard [1] - 3:24	decided [1] - 4:8	garages [1] - 6:3	
617.3 [1] - 2:17		Department [1] - 2:17		
66 [1] - 2:8				
7				
7:02 [1] - 1:13				

6:13
looking [2] - 6:5, 6:17

M

mailing [1] - 2:24
maintain [2] - 5:18, 7:3
MATTER [1] - 1:4
meet [1] - 4:12
MEIR [1] - 1:16
Member [4] - 1:17, 1:18, 1:19, 1:20
members [2] - 2:22, 3:21
MICHAEL [1] - 1:20
middle [1] - 6:7
most [1] - 4:4
MR [10] - 2:22, 3:23, 4:20, 6:24, 7:9, 7:14, 7:18, 7:19, 7:20, 7:23
MS [1] - 7:21
Municipal [1] - 3:7

N

narrow [1] - 6:25
Nassau [2] - 3:17, 3:18
necessary [1] - 3:4
need [1] - 5:24
needed [1] - 4:6
never [2] - 5:22, 7:2
NEW [1] - 8:3
New [4] - 1:10, 2:17, 3:6, 8:8
new [4] - 4:9, 5:2, 5:3
newspaper [1] - 2:25
non [1] - 3:8
non-collusion [1] - 3:8
Notary [1] - 8:7
noted [1] - 7:24
notes [1] - 8:11
notice [1] - 3:19
notices [1] - 3:2
November [1] - 3:7
Number [2] - 2:4, 2:5

O

obtained [1] - 3:4
OF [3] - 1:4, 8:3, 8:5
officers [1] - 3:13
one [8] - 2:10, 2:11, 4:2, 5:21, 5:22, 5:25, 6:14
one-car [3] - 5:21, 5:22, 5:25

one-family [4] - 2:10, 2:11, 4:2, 5:21
one-story [1] - 6:14
originally [1] - 2:3

P

p.m [2] - 1:13, 7:24
parties [1] - 3:4
percentage [2] - 5:11, 5:16
persons [1] - 3:11
Pinchasov [1] - 3:9
Planning [2] - 3:18, 3:19
pool [1] - 4:25
presently [2] - 4:21, 4:22
proceedings [1] - 8:10
proof [1] - 2:24
property [1] - 2:7
proposes [1] - 2:9
provided [1] - 2:24
Public [1] - 8:7
publication [1] - 2:25
Pursuant [1] - 3:16
pursuant [2] - 2:16, 3:6
put [2] - 4:7, 6:22

Q

QUEENS [1] - 8:5
questions [2] - 7:13, 7:16

R

R1 [1] - 2:9
raise [1] - 4:8
rather [1] - 5:23
ratio [1] - 5:16
read [1] - 2:20
reason [2] - 6:9, 6:21
reassigned [1] - 2:5
record [5] - 2:21, 2:23, 2:25, 4:18, 8:9
Regulations [1] - 2:18
relief [4] - 5:4, 5:19, 5:20, 6:5
removed [1] - 5:2
rendering [2] - 4:10, 6:7
renovate [1] - 4:6
require [1] - 2:19
required [3] - 2:15, 3:2, 5:6
residence [1] - 2:11
road [3] - 4:12, 4:15, 4:16

Road [2] - 1:6, 2:8
roof [4] - 6:7, 6:10, 6:15, 6:19
roofs [1] - 2:14
room [1] - 5:24

S

saving [1] - 5:8
second [1] - 6:16
Section [4] - 2:8, 2:13, 2:17, 3:7
see [1] - 4:10
seeking [4] - 3:25, 5:4, 5:19, 5:20
seeks [1] - 2:12
set [1] - 8:14
several [1] - 5:25
SHIFRA [1] - 1:17
SHTEIEMAN [3] - 1:19, 7:14, 7:18
side [8] - 2:14, 5:5, 5:9, 5:13, 5:16, 6:10, 6:18
size [3] - 4:21, 6:4, 6:9
sized [1] - 5:8
slope [1] - 6:10
square [2] - 6:8, 6:13
ss [1] - 8:4
State [3] - 2:17, 3:6, 8:8
STATE [1] - 8:3
Statement [1] - 2:19
statement [1] - 2:20
stenographic [1] - 8:11
story [2] - 4:11, 6:14
substandard [2] - 4:21, 5:8
Supt [1] - 1:22
swimming [1] - 4:25

T

table [1] - 7:8
THE [1] - 1:4
therein [1] - 8:12
thereof [1] - 3:21
three [1] - 6:18
tonight [1] - 2:3
top [2] - 4:15
Town [1] - 2:6
transcript [1] - 8:11
two [1] - 4:11
two-story [1] - 4:11
Type [1] - 2:16

U

under [1] - 3:15

up [1] - 6:13

V

variance [1] - 4:2
VARIANCE [1] - 1:3
variances [2] - 2:12, 6:18
Village [3] - 1:21, 3:13, 3:17
village [2] - 2:20, 6:14
vote [1] - 7:17

W

waived [1] - 3:20
water [3] - 7:7, 7:8, 7:9
WAYNE [1] - 1:22
wherein [1] - 3:10
WHEREOF [1] - 8:13
wide [1] - 5:12
width [2] - 5:11, 5:14
WITNESS [1] - 8:13

Y

YAFFA [2] - 8:7, 8:18
yard [6] - 5:5, 5:9, 5:13, 5:16, 6:19
yards [1] - 2:14
YARNELL [1] - 1:22
YOEL [1] - 1:21
YORK [1] - 8:3
York [4] - 1:10, 2:17, 3:6, 8:8

Z

zone [3] - 4:19, 4:21, 6:23
Zone [1] - 2:9
ZONING [1] - 1:3

1
2
3
4
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APPLICATION FOR ZONING VARIANCE
IN THE MATTER OF
AARON AND LIAT LERNER
226 Centre Street
Applicant.

200 Cedarhurst Avenue
Cedarhurst, New York

January 12, 2023
7:09 p.m.

B E F O R E
MEIR KRENGEL, Chairman
SHIFRA EDELMAN, Board Member
JARED CLARK, Board Member
DAVID SHTEIERMAN, Board Member
MICHAEL BLEIBERG, Board Member
YOEL GOLDFEDER, Village Attorney
WAYNE YARNELL, Supt. Bldg. Dept.

Proceedings - Lerner

1
2 CHAIRMAN KRENGEL: Go straight to the
3 next case. Second case on the calendar today
4 was originally assigned Case Number 27 of 2022
5 and has been reassigned Case Number 2 of 2023.
6 It's the application of Aaron and Liat Lerner,
7 the applicant of a property known as 226
8 Centre Street, designated Section 39/Block
9 423/Lot 152 in an R1 Zone. The applicant
10 proposes a two-story addition and interior
11 renovation.

12 The applicant seeks variances from
13 Cedarhurst Code Section 265-41.A, side yards.
14 This Board has determined that the application
15 is a Type II action pursuant to Section 617.3
16 of the New York State Department of
17 Environmental Control Regulations and does not
18 require an Environmental Impact Statement.
19 The village attorney will now read a statement
20 into the record.

21 MR. GOLDFEDER: Mr. Chairman, members of
22 the Board, for the record, we have been
23 provided with proof of the mailing and
24 publication in the local newspaper of record,
25 of all notices of this hearing as required by

Proceedings - Lerner

1
2 law. Accordingly, jurisdiction has been
3 obtained over all necessary parties, and this
4 Board has jurisdiction to hear this appeal.

5 Pursuant to New York State General
6 Municipal Law Section 809, on December 5,
7 2022, a non-collusion affidavit has been duly
8 executed by the applicant, Aaron Lerner,
9 wherein he stated that there are no other
10 persons or entities involved in this
11 application that are employed by or connected
12 to the Village of Cedarhurst, its officers, or
13 employees, which would in any way constitute a
14 conflict under the law.

15 Pursuant to an agreement between the
16 Village of Cedarhurst and Nassau County
17 Planning Commission, the Nassau County
18 Planning Commission has been given notice of
19 this application and has waived consideration
20 thereof. Mr. Chairman, members of the Board.

21 CHAIRMAN KRENGEL: Will the applicant or
22 its representative please step forward? State
23 your name and address.

24 MR. NEUWIRTH: Good evening. My name is
25 Samuel Neuwirth representing Mr. and

Proceedings - Lerner

1
2 Mrs. Aaron Lerner, owners of 226 Centre
3 Street. The Lerner's are a young growing
4 family looking to expand their house to
5 accommodate their growing family. They would
6 like to add another level to their existing
7 split level. They would like to add another
8 story on top of their existing one-story.
9 Thus concluding going out, going toward the
10 front and rear yards. By doing this, it would
11 trigger side yard setback and aggregate
12 variances. We are not going past what's
13 existing. We are just continuing existing
14 noncompliant side yards.

15 CHAIRMAN KRENGEL: So existing house is
16 15 and -- 15 and a quarter, 15 feet and a
17 quarter of an inch aggregate?

18 MR. NEUWIRTH: Correct.

19 CHAIRMAN KRENGEL: And 7 feet, 8 and a
20 half on one side and 7 feet, 3 quarters on the
21 other side?

22 MR. NEUWIRTH: Correct.

23 CHAIRMAN KRENGEL: You are just keeping
24 that in line, no other variances requested,
25 nothing else happening.

Proceedings - Lerner

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MR. NEUWIRTH: Yes, exactly.

CHAIRMAN KRENGEL: Okay. Anybody on the Board have any questions on this? Anybody in the audience? Any questions or comments for or against? We will take a vote now.

MS. EDELMAN: Approved.

MR. BLEIBERG: Approved.

MR. SHTEIERMAN: Approved.

MR. CLARK: Approved.

CHAIRMAN KRENGEL: Approved.

MR. NEUWIRTH: Thank you very much.

(Time noted: 7:12 p.m.)

Proceedings - Lerner

C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF QUEENS)

I, YAFFA KAPLAN, a Notary Public within and for the State of New York, do hereby certify that the foregoing record of proceedings is a full and correct transcript of the stenographic notes taken by me therein.

IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of January, 2023.

YAFFA KAPLAN

1	4:17 agreement [1] - 3:15 AND [1] - 1:5 appeal [1] - 3:4 applicant [6] - 1:7, 2:7, 2:9, 2:12, 3:8, 3:21 APPLICATION [1] - 1:3 application [4] - 2:6, 2:14, 3:11, 3:19 approved [4] - 5:7, 5:9, 5:10, 5:11 Approved [1] - 5:8 assigned [1] - 2:4 attorney [1] - 2:19 Attorney [1] - 1:21 audience [1] - 5:5 Avenue [1] - 1:9	correct [3] - 4:18, 4:22, 6:10 County [2] - 3:16, 3:17 COUNTY [1] - 6:5	I	N	
2	B	D	II [1] - 2:15 Impact [1] - 2:18 IN [2] - 1:4, 6:13 inch [1] - 4:17 interior [1] - 2:10 involved [1] - 3:10	name [2] - 3:23, 3:24 Nassau [2] - 3:16, 3:17 necessary [1] - 3:3 NEUWIRTH [5] - 3:24, 4:18, 4:22, 5:2, 5:12 Neuwirth [1] - 3:25 New [4] - 1:10, 2:16, 3:5, 6:8 NEW [1] - 6:3 newspaper [1] - 2:24 next [1] - 2:3 non [1] - 3:7 non-collusion [1] - 3:7 noncompliant [1] - 4:14 Notary [1] - 6:7 noted [1] - 5:13 notes [1] - 6:11 nothing [1] - 4:25 notice [1] - 3:18 notices [1] - 2:25 Number [2] - 2:4, 2:5	
3	C	E	J	K	
3 [1] - 4:20 39/Block [1] - 2:8	between [1] - 3:15 Bldg [1] - 1:22 BLEIBERG [2] - 1:20, 5:8 Board [9] - 1:17, 1:18, 1:19, 1:20, 2:14, 2:22, 3:4, 3:20, 5:4	EDELMAN [2] - 1:17, 5:7 employed [1] - 3:11 employees [1] - 3:13 entities [1] - 3:10 Environmental [2] - 2:17, 2:18 evening [1] - 3:24 exactly [1] - 5:2 executed [1] - 3:8 existing [5] - 4:6, 4:8, 4:13, 4:15 expand [1] - 4:4	January [2] - 1:12, 6:14 JARED [1] - 1:18 jurisdiction [2] - 3:2, 3:4	KAPLAN [2] - 6:7, 6:18 keeping [1] - 4:23 known [1] - 2:7 KRENGEL [8] - 1:16, 2:2, 3:21, 4:15, 4:19, 4:23, 5:3, 5:11	
4	F	G	L	O	
423/Lot [1] - 2:9	calendar [1] - 2:3 case [2] - 2:3 Case [2] - 2:4, 2:5 Cedarhurst [5] - 1:9, 1:10, 2:13, 3:12, 3:16 Centre [3] - 1:6, 2:8, 4:2 certify [1] - 6:9 Chairman [3] - 1:16, 2:21, 3:20 CHAIRMAN [7] - 2:2, 3:21, 4:15, 4:19, 4:23, 5:3, 5:11 CLARK [2] - 1:18, 5:10 Code [1] - 2:13 collusion [1] - 3:7 comments [1] - 5:5 Commission [2] - 3:17, 3:18 concluding [1] - 4:9 conflict [1] - 3:14 connected [1] - 3:11 consideration [1] - 3:19 constitute [1] - 3:13 continuing [1] - 4:13 Control [1] - 2:17	family [2] - 4:4, 4:5 feet [3] - 4:16, 4:19, 4:20 FOR [1] - 1:3 foregoing [1] - 6:9 forward [1] - 3:22 front [1] - 4:10 full [1] - 6:10	General [1] - 3:5 given [1] - 3:18 GOLDFEDER [2] - 1:21, 2:21 growing [2] - 4:3, 4:5	Law [1] - 3:6 law [2] - 3:2, 3:14 LERNER [1] - 1:5 Lerner [3] - 2:6, 3:8, 4:2 Lerners [1] - 4:3 level [2] - 4:6, 4:7 LIAT [1] - 1:5 Liat [1] - 2:6 line [1] - 4:24 local [1] - 2:24 looking [1] - 4:4	obtained [1] - 3:3 OF [3] - 1:4, 6:3, 6:5 officers [1] - 3:12 one [2] - 4:8, 4:20 one-story [1] - 4:8 originally [1] - 2:4 owners [1] - 4:2
5	M	H	M	P	
5 [1] - 3:6	CHAIRMAN [7] - 2:2, 3:21, 4:15, 4:19, 4:23, 5:3, 5:11 CLARK [2] - 1:18, 5:10 Code [1] - 2:13 collusion [1] - 3:7 comments [1] - 5:5 Commission [2] - 3:17, 3:18 concluding [1] - 4:9 conflict [1] - 3:14 connected [1] - 3:11 consideration [1] - 3:19 constitute [1] - 3:13 continuing [1] - 4:13 Control [1] - 2:17	half [1] - 4:20 hand [1] - 6:14 hear [1] - 3:4 hearing [1] - 2:25 hereby [1] - 6:9 hereunto [1] - 6:13 house [2] - 4:4, 4:15	mailing [1] - 2:23 MATTER [1] - 1:4 MEIR [1] - 1:16 Member [4] - 1:17, 1:18, 1:19, 1:20 members [2] - 2:21, 3:20 MICHAEL [1] - 1:20 MR [9] - 2:21, 3:24, 4:18, 4:22, 5:2, 5:8, 5:9, 5:10, 5:12 MS [1] - 5:7 Municipal [1] - 3:6	p.m [2] - 1:13, 5:13 parties [1] - 3:3 past [1] - 4:12 persons [1] - 3:10 Planning [2] - 3:17, 3:18 proceedings [1] - 6:10 proof [1] - 2:23 property [1] - 2:7 proposes [1] - 2:10 provided [1] - 2:23 Public [1] - 6:7 publication [1] - 2:24 Pursuant [1] - 3:15 pursuant [2] - 2:15, 3:5	
6	A	I	M	Q	
617.3 [1] - 2:15	Aaron [2] - 2:6, 3:8 AARON [1] - 1:5 aaron [1] - 4:2 accommodate [1] - 4:5 accordingly [1] - 3:2 action [1] - 2:15 add [2] - 4:6, 4:7 addition [1] - 2:10 address [1] - 3:23 affidavit [1] - 3:7 aggregate [2] - 4:11,	DAVID [1] - 1:19 December [1] - 3:6 Department [1] - 2:16 Dept [1] - 1:22 designated [1] - 2:8 determined [1] - 2:14 duly [1] - 3:7	January [2] - 1:12, 6:14 JARED [1] - 1:18 jurisdiction [2] - 3:2, 3:4	quarter [2] - 4:16, 4:17 quarters [1] - 4:20	

QUEENS [1] - 6:5
questions [2] - 5:4,
 5:5

R

R1 [1] - 2:9
read [1] - 2:19
rear [1] - 4:10
reassigned [1] - 2:5
record [4] - 2:20, 2:22,
 2:24, 6:9
Regulations [1] - 2:17
renovation [1] - 2:11
representative [1] -
 3:22
representing [1] -
 3:25
requested [1] - 4:24
require [1] - 2:18
required [1] - 2:25

S

Samuel [1] - 3:25
second [1] - 2:3
Section [4] - 2:8, 2:13,
 2:15, 3:6
seeks [1] - 2:12
set [1] - 6:14
setback [1] - 4:11
SHIFRA [1] - 1:17
SHTEIERMAN [2] -
 1:19, 5:9
side [5] - 2:13, 4:11,
 4:14, 4:20, 4:21
split [1] - 4:7
ss [1] - 6:4
state [1] - 3:22
STATE [1] - 6:3
State [3] - 2:16, 3:5,
 6:8
Statement [1] - 2:18
statement [1] - 2:19
stenographic [1] -
 6:11
step [1] - 3:22
story [3] - 2:10, 4:8
straight [1] - 2:2
Street [3] - 1:6, 2:8,
 4:3
Supt [1] - 1:22

T

THE [1] - 1:4
therein [1] - 6:12
thereof [1] - 3:20
today [1] - 2:3
top [1] - 4:8

toward [1] - 4:9
transcript [1] - 6:11
trigger [1] - 4:11
two [1] - 2:10
two-story [1] - 2:10
Type [1] - 2:15

U

under [1] - 3:14

V

VARIANCE [1] - 1:3
variances [3] - 2:12,
 4:12, 4:24
Village [3] - 1:21,
 3:12, 3:16
village [1] - 2:19
vote [1] - 5:6

W

waived [1] - 3:19
WAYNE [1] - 1:22
wherein [1] - 3:9
WHEREOF [1] - 6:13
WITNESS [1] - 6:13

Y

YAFFA [2] - 6:7, 6:18
yard [1] - 4:11
yards [3] - 2:13, 4:10,
 4:14
YARNELL [1] - 1:22
YOEL [1] - 1:21
YORK [1] - 6:3
York [4] - 1:10, 2:16,
 3:5, 6:8
young [1] - 4:3

Z

Zone [1] - 2:9
ZONING [1] - 1:3

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
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APPLICATION FOR ZONING VARIANCE
IN THE MATTER OF
ELENA AND AVRAHAM SCHWARTZ
396 Barnard Avenue
Applicant.

200 Cedarhurst Avenue
Cedarhurst, New York

January 12, 2023
7:13 p.m.

B E F O R E
MEIR KRENGEL, Chairman
SHIFRA EDELMAN, Board Member
JARED CLARK, Board Member
DAVID SHTEIERMAN, Board Member
MICHAEL BLEIBERG, Board Member
YOEL GOLDFEDER, Village Attorney
WAYNE YARNELL, Supt. Bldg. Dept.

Proceedings - Schwartz

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2 CHAIRMAN KRENGEL: Straight to the next
3 case. The third case this evening again was
4 originally assigned the case in 2022, number
5 28. Has been reassigned Case Number 3 of
6 2023. The application of Elana Schwartz, the
7 application of a property known as 396 Barnard
8 Avenue and designated Section 39/Block 189/Lot
9 119 in an R1 Zone. The applicant proposes a
10 two-story front and rear addition and interior
11 renovation.

12 The applicant seeks variances from
13 Cedarhurst Code Section 265-38.C, building
14 area, 265-40.A, front yards. This Board has
15 determined that the application is a Type II
16 action pursuant to Section 617.3 of the New
17 York State Department of Environmental Control
18 Regulations and does not require an
19 Environmental Impact Statement. The village
20 attorney will now read a statement into the
21 record.

22 MR. GOLDFEDER: Mr. Chairman, members of
23 the Board, for the record, we have been
24 provided with proof of the mailing and
25 publication in the local newspaper of record,

Proceedings - Schwartz

1
2 of all notices of this hearing as required by
3 law. Accordingly, jurisdiction has been
4 obtained over all necessary parties, and this
5 Board has jurisdiction to hear this appeal.

6 Pursuant to New York State General
7 Municipal Law Section 809, on October 14,
8 2022, a non-collusion affidavit has been duly
9 executed by the applicants, Elana Schwartz and
10 Avraham Schwartz, wherein they stated that
11 there are no other persons or entities
12 involved in this application that are employed
13 by or connected to the Village of Cedarhurst,
14 its officers, or employees, which would in any
15 way constitute a conflict under the law.

16 Pursuant to an agreement between the
17 Village of Cedarhurst and Nassau County
18 Planning Commission, the Nassau County
19 Planning Commission has been given notice of
20 this application and has waived consideration
21 thereof. Mr. Chairman, members of the Board.

22 CHAIRMAN KRENGEL: Will the applicant or
23 its representative please step forward?

24 MR. SCHEER: Good evening. Andrew
25 Scheer, 391 Garfield Avenue, West Hempstead,

Proceedings - Schwartz

1
2 New York 11552. I am here on behalf of Mr.
3 and Mrs. Schwartz doing an addition to their
4 house. And the variances that are required of
5 are building area that exceed the 30 percent,
6 and also front yard which exceeds less than
7 the 25 feet that are required in the front
8 yard.

9 The front, the lot coverage in the
10 current house, which includes deck and porch,
11 front deck -- front porch and rear deck is
12 currently 34.48 percent, and the proposed
13 addition is actually going to be less than
14 that. It's 33.96. We are removing those, and
15 they are going to be additions to the front
16 and rear additions in place of that.

17 The front yard setback which is
18 currently allowed at 25 feet, currently to the
19 porch in the front, it's 19 foot 7 inches.
20 And we are requesting 22 foot 8 inches, a
21 little further back from the current porch,
22 but less than the allowable 25 feet. Those
23 are the variances we are requesting and we
24 respectfully request --

25 CHAIRMAN KRENGEL: So both variances are

1 Proceedings - Schwartz

2 being diminished as we would say?

3 MR. SCHEER: Correct, yes. That's true,
4 yes.

5 MS. EDELMAN: So essentially you are
6 just building up, enclosing the --

7 MR. SCHEER: On the porch on the deck.

8 MS. EDELMAN: You are reducing it
9 slightly?

10 MR. SCHEER: Slightly reducing it.

11 CHAIRMAN KRENGEL: The reason you have
12 to go for a variance is because it's still --
13 you are making a change and it's still
14 noncompliant?

15 MR. SCHEER: Different, right.

16 CHAIRMAN KRENGEL: Any questions in this
17 case on the Board? No. Anybody in the
18 audience have any comments for or against? I
19 make a motion to approve this.

20 MR. SHTEIERMAN: Approved.

21 MS. CLARK: Approved.

22 MR. BLEIBERG: Approved.

23 MS. EDELMAN: Approved.

24 CHAIRMAN KRENGEL: Approved. Thank you
25 very much. We will take a five-minute break,

Proceedings - Schwartz

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come right back.

(Time noted: 7:16 p.m.)

Proceedings - Schwartz

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C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF QUEENS)

I, YAFFA KAPLAN, a Notary Public
within and for the State of New York, do
hereby certify that the foregoing record of
proceedings is a full and correct
transcript of the stenographic notes taken
by me therein.

IN WITNESS WHEREOF, I have hereunto
set my hand this 29th day of January,
2023.

YAFFA KAPLAN

1

11552 [1] - 4:2
119 [1] - 2:9
12 [1] - 1:12
14 [1] - 3:7
189/Lot [1] - 2:8
19 [1] - 4:19

2

200 [1] - 1:9
2022 [2] - 2:4, 3:8
2023 [3] - 1:12, 2:6, 7:16
22 [1] - 4:20
25 [3] - 4:7, 4:18, 4:22
265-38.C [1] - 2:13
265-40.A [1] - 2:14
28 [1] - 2:5
29th [1] - 7:15

3

3 [1] - 2:5
30 [1] - 4:5
33.96 [1] - 4:14
34.48 [1] - 4:12
39/Block [1] - 2:8
391 [1] - 3:25
396 [2] - 1:6, 2:7

6

617.3 [1] - 2:16

7

7 [1] - 4:19
7:13 [1] - 1:13
7:16 [1] - 6:3

8

8 [1] - 4:20
809 [1] - 3:7

A

accordingly [1] - 3:3
action [1] - 2:16
addition [3] - 2:10, 4:3, 4:13
additions [2] - 4:15, 4:16
affidavit [1] - 3:8
agreement [1] - 3:16
allowable [1] - 4:22
allowed [1] - 4:18
AND [1] - 1:5

Andrew [1] - 3:24
appeal [1] - 3:5
applicant [4] - 1:7, 2:9, 2:12, 3:22
applicants [1] - 3:9
APPLICATION [1] - 1:3
application [5] - 2:6, 2:7, 2:15, 3:12, 3:20
approve [1] - 5:19
approved [5] - 5:20, 5:21, 5:22, 5:23, 5:24
area [2] - 2:14, 4:5
assigned [1] - 2:4
attorney [1] - 2:20
Attorney [1] - 1:21
audience [1] - 5:18
Avenue [4] - 1:6, 1:9, 2:8, 3:25
Avraham [1] - 3:10
AVRAHAM [1] - 1:5

B

Barnard [2] - 1:6, 2:7
behalf [1] - 4:2
between [1] - 3:16
Bldg [1] - 1:22
BLEIBERG [2] - 1:20, 5:22
Board [9] - 1:17, 1:18, 1:19, 1:20, 2:14, 2:23, 3:5, 3:21, 5:17
break [1] - 5:25
building [3] - 2:13, 4:5, 5:6

C

case [4] - 2:3, 2:4, 5:17
Case [1] - 2:5
Cedarhurst [5] - 1:9, 1:10, 2:13, 3:13, 3:17
certify [1] - 7:10
Chairman [3] - 1:16, 2:22, 3:21
CHAIRMAN [6] - 2:2, 3:22, 4:25, 5:11, 5:16, 5:24
change [1] - 5:13
CLARK [2] - 1:18, 5:21
Code [1] - 2:13
collusion [1] - 3:8
comments [1] - 5:18
Commission [2] - 3:18, 3:19
conflict [1] - 3:15

connected [1] - 3:13
consideration [1] - 3:20
constitute [1] - 3:15
Control [1] - 2:17
correct [2] - 5:3, 7:11
County [2] - 3:17, 3:18
COUNTY [1] - 7:6
coverage [1] - 4:9
current [2] - 4:10, 4:21

D

DAVID [1] - 1:19
deck [4] - 4:10, 4:11, 5:7
Department [1] - 2:17
Dept [1] - 1:22
designated [1] - 2:8
determined [1] - 2:15
different [1] - 5:15
diminished [1] - 5:2
duly [1] - 3:8

E

EDELMAN [4] - 1:17, 5:5, 5:8, 5:23
Elana [2] - 2:6, 3:9
ELENA [1] - 1:5
employed [1] - 3:12
employees [1] - 3:14
enclosing [1] - 5:6
entities [1] - 3:11
Environmental [2] - 2:17, 2:19
essentially [1] - 5:5
evening [2] - 2:3, 3:24
exceed [1] - 4:5
exceeds [1] - 4:6
executed [1] - 3:9

F

feet [3] - 4:7, 4:18, 4:22
five [1] - 5:25
five-minute [1] - 5:25
foot [2] - 4:19, 4:20
FOR [1] - 1:3
foregoing [1] - 7:10
forward [1] - 3:23
front [10] - 2:10, 2:14, 4:6, 4:7, 4:9, 4:11, 4:15, 4:17, 4:19
full [1] - 7:11

G

Garfield [1] - 3:25

General [1] - 3:6
given [1] - 3:19
GOLDFEDER [2] - 1:21, 2:22

H

hand [1] - 7:15
hear [1] - 3:5
hearing [1] - 3:2
Hempstead [1] - 3:25
hereby [1] - 7:10
hereunto [1] - 7:14
house [2] - 4:4, 4:10

I

II [1] - 2:15
Impact [1] - 2:19
IN [2] - 1:4, 7:14
inches [2] - 4:19, 4:20
includes [1] - 4:10
interior [1] - 2:10
involved [1] - 3:12

J

January [2] - 1:12, 7:15
JARED [1] - 1:18
jurisdiction [2] - 3:3, 3:5

K

KAPLAN [2] - 7:8, 7:19
known [1] - 2:7
KRENGEL [7] - 1:16, 2:2, 3:22, 4:25, 5:11, 5:16, 5:24

L

Law [1] - 3:7
law [2] - 3:3, 3:15
less [3] - 4:6, 4:13, 4:22
local [1] - 2:25

M

mailing [1] - 2:24
MATTER [1] - 1:4
MEIR [1] - 1:16
Member [4] - 1:17, 1:18, 1:19, 1:20
members [2] - 2:22, 3:21
MICHAEL [1] - 1:20

minute [1] - 5:25
motion [1] - 5:19
MR [8] - 2:22, 3:24, 5:3, 5:7, 5:10, 5:15, 5:20, 5:22
MS [4] - 5:5, 5:8, 5:21, 5:23
Municipal [1] - 3:7

N

Nassau [2] - 3:17, 3:18
necessary [1] - 3:4
New [5] - 1:10, 2:16, 3:6, 4:2, 7:9
NEW [1] - 7:4
newspaper [1] - 2:25
next [1] - 2:2
non [1] - 3:8
non-collusion [1] - 3:8
noncompliant [1] - 5:14
Notary [1] - 7:8
noted [1] - 6:3
notes [1] - 7:12
notice [1] - 3:19
notices [1] - 3:2
number [1] - 2:4
Number [1] - 2:5

O

obtained [1] - 3:4
October [1] - 3:7
OF [3] - 1:4, 7:4, 7:6
officers [1] - 3:14
originally [1] - 2:4

P

p.m [2] - 1:13, 6:3
parties [1] - 3:4
percent [2] - 4:5, 4:12
persons [1] - 3:11
place [1] - 4:16
Planning [2] - 3:18, 3:19
porch [5] - 4:10, 4:11, 4:19, 4:21, 5:7
proceedings [1] - 7:11
proof [1] - 2:24
property [1] - 2:7
proposed [1] - 4:12
proposes [1] - 2:9
provided [1] - 2:24
Public [1] - 7:8
publication [1] - 2:25
Pursuant [1] - 3:16

pursuant [2] - 2:16,
3:6

Q

QUEENS [1] - 7:6

questions [1] - 5:16

R

R1 [1] - 2:9

read [1] - 2:20

rear [3] - 2:10, 4:11,
4:16

reason [1] - 5:11

reassigned [1] - 2:5

record [4] - 2:21, 2:23,
2:25, 7:10

reducing [2] - 5:8,
5:10

Regulations [1] - 2:18

removing [1] - 4:14

renovation [1] - 2:11

representative [1] -
3:23

request [1] - 4:24

requesting [2] - 4:20,
4:23

require [1] - 2:18

required [3] - 3:2, 4:4,
4:7

respectfully [1] - 4:24

S

SCHEER [5] - 3:24,
5:3, 5:7, 5:10, 5:15

Scheer [1] - 3:25

Schwartz [4] - 2:6,
3:9, 3:10, 4:3

SCHWARTZ [1] - 1:5

Section [4] - 2:8, 2:13,
2:16, 3:7

seeks [1] - 2:12

set [1] - 7:15

setback [1] - 4:17

SHIFRA [1] - 1:17

SHTEIERMAN [2] -
1:19, 5:20

slightly [2] - 5:9, 5:10

ss [1] - 7:5

State [3] - 2:17, 3:6,
7:9

STATE [1] - 7:4

Statement [1] - 2:19

statement [1] - 2:20

stenographic [1] -
7:12

step [1] - 3:23

still [2] - 5:12, 5:13

story [1] - 2:10

straight [1] - 2:2

Supt [1] - 1:22

T

THE [1] - 1:4

therein [1] - 7:13

thereof [1] - 3:21

third [1] - 2:3

transcript [1] - 7:12

true [1] - 5:3

two [1] - 2:10

two-story [1] - 2:10

Type [1] - 2:15

U

under [1] - 3:15

up [1] - 5:6

V

VARIANCE [1] - 1:3

variance [1] - 5:12

variances [4] - 2:12,
4:4, 4:23, 4:25

Village [3] - 1:21,
3:13, 3:17

village [1] - 2:19

W

waived [1] - 3:20

WAYNE [1] - 1:22

West [1] - 3:25

wherein [1] - 3:10

WHEREOF [1] - 7:14

WITNESS [1] - 7:14

Y

YAFFA [2] - 7:8, 7:19

yard [3] - 4:6, 4:8, 4:17

yards [1] - 2:14

YARNELL [1] - 1:22

YOEL [1] - 1:21

YORK [1] - 7:4

York [5] - 1:10, 2:17,
3:6, 4:2, 7:9

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Zone [1] - 2:9

ZONING [1] - 1:3

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APPLICATION FOR ZONING VARIANCE

IN THE MATTER OF

SAMUEL AND CIVIA LOWINGER
496 Arbuckle Avenue

Applicant.

200 Cedarhurst Avenue
Cedarhurst, New York

January 12, 2023
7:18 p.m.

B E F O R E

MEIR KRENGEL, Chairman

SHIFRA EDELMAN, Board Member

JARED CLARK, Board Member

DAVID SHTEIERMAN, Board Member

MICHAEL BLEIBERG, Board Member

YOEL GOLDFEDER, Village Attorney

WAYNE YARNELL, Supt. Bldg. Dept.

Proceedings - Lowinger

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2 CHAIRMAN KRENGEL: Fourth case on the
3 calendar tonight originally assigned Case
4 Number 29 of 2022 has been reassigned Case
5 Number 4 of 2023 and is the application of
6 Samuel and Civia Lowinger, the applicant of a
7 property known as 496 Arbuckle Avenue and
8 designated Section 39/Block 179/Lot 26 in an
9 R1 Zone. The applicant proposes a detached
10 one-car garage.

11 The applicant seeks a variance from
12 Cedarhurst Code Section 265-8.A, garages
13 required. This Board has determined that the
14 application is a Type II action pursuant to
15 Section 617.3 of the New York State Department
16 of Environmental Control Regulations and does
17 not require an Environmental Impact Statement.
18 The village attorney will now read a statement
19 into the record.

20 MR. GOLDFEDER: Mr. Chairman, members of
21 the Board, for the record, we have been
22 provided with proof of the mailing and
23 publication in the local newspaper of record,
24 of all notices of this hearing as required by
25 law. Accordingly, jurisdiction has been

1 Proceedings - Lowinger

2 obtained over all necessary parties, and this
3 Board has jurisdiction to hear this appeal.

4 Pursuant to New York State General
5 Municipal Law Section 809, on December 19,
6 2022, a non-collusion affidavit has been duly
7 executed by the applicant, Samuel Lowinger,
8 wherein he stated that there are no other
9 persons or entities involved in this
10 application that are employed by or connected
11 to the Village of Cedarhurst, its officers, or
12 employees, which would in any way constitute a
13 conflict under the law.

14 Pursuant to an agreement between the
15 Village of Cedarhurst and Nassau County
16 Planning Commission, the Nassau County
17 Planning Commission has been given notice of
18 this application and has waived consideration
19 thereof.

20 CHAIRMAN KRENGEL: Will the applicant or
21 its representative please step forward?

22 MR. FLAUM: Hi, good evening. My name
23 is Shmuel Flaum, applicant architect on behalf
24 of the owners, Mr. And Mrs. Lowinger. Good
25 evening, Chairman and members of the Board. I

Proceedings - Lowinger

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2 am here on behalf of the owner. We are
3 seeking a variance to put a detached garage on
4 the left side of the property, more
5 specifically in the northwest corner of the
6 property. And this garage has had a storied
7 history so I will go through a little
8 backstory --

9 CHAIRMAN KRENGEL: I don't think we need
10 the history of the garage.

11 MR. FLAUM: No? Fine. So we are
12 seeking to get a variance for the attached
13 garage. There are two variance being sought.
14 One is a side yard variance where typically a
15 garage has to be 2 feet off the side yard
16 where we are proposing a 2-foot offset but the
17 issue is that we are forward of the 45-foot
18 required setback that is required for the
19 attached accessory structure like a garage.
20 We are seeking a variance to be 17 feet from
21 the frontage of the property, which will allow
22 us to make the best of the lot size.

23 The lot is oversized for a typical lot.
24 Typically you will have 6,000 square foot lot.
25 This is 10,000 and the homeowner would like

Proceedings - Lowinger

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2 preserve as much of the backyard for his
3 children and entertainment purposes.

4 Currently has a play set and he would like to
5 build a paver patio situation for outdoor
6 hosting and entertainment.

7 There are also currently two trees on
8 the left side, and we gesticulated putting the
9 garage further back, but it would necessitate
10 cutting down a bunch of these trees along the
11 way. It didn't make sense to sit there
12 destroying all the landscaping when the garage
13 will be minimally used, if at all, simply
14 because they currently park on the other side.

15 However, we have proposed relocating
16 that curb cut to the right side of the house
17 versus the left side of the house. This will
18 enable them to do more planting in front and
19 minimize the amount of paving you have close
20 to each other. So again and the variance
21 where the detached garage and the front yard
22 setback that is involved in putting the garage
23 forward to maximize the backyard area. Does
24 the Board have any questions?

25 CHAIRMAN KRENGEL: So the obvious

Proceedings - Lowinger

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2 question is if we went back X amount of feet,
3 you are proposing a very, very small setback
4 on a very large property.

5 MR. GOLDFEDER: So the question is, you
6 know, put aside the fact that it's a 45-foot
7 setback requirement because it's a garage.
8 How do you justify going below the 25-foot
9 setback requirement even closer than the house
10 itself from the street?

11 MR. FLAUM: So the simple answer is that
12 setting it back 25 feet versus 17 feet really
13 has no bearing on --

14 MR. GOLDFEDER: It does have a bearing.
15 Let's be honest. This Board looks at the
16 character of the neighborhood, so if you drive
17 down the street and every house is set back 25
18 feet, how do you justify putting a structure
19 within that space when every other house on
20 the street has at least that setback for their
21 primary structure?

22 CHAIRMAN KRENGEL: Including this house.

23 MR. GOLDFEDER: Forget about ancillary
24 structures. Their primary structure is 25
25 feet.

Proceedings - Lowinger

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2 MR. FLAUM: So the detached garage is a
3 one-story structure; it's not a two-story
4 structure. It's not much bigger than the car
5 itself. So cars can park in driveways closer
6 than 25 feet; nobody calls them an
7 obstruction, but that being said, it's in the
8 side yard setback and it's going to be
9 planting around it. So it won't just be like
10 a sore thumb sticking out in the middle of
11 nowhere. The intention is to make the best of
12 the situation and try to landscape it as much
13 as possible. I understand the concern of the
14 Board, but we have actually spoken to the
15 neighbor who has no issue --

16 CHAIRMAN KRENGEL: We have the letter.

17 MR. FLAUM: Who has no issue with it and
18 I do understand it sets a precedent, but this
19 lot is not typical and it's oversized.

20 CHAIRMAN KRENGEL: Let's go off the
21 record.

22 (Discussion off the record.)

23 CHAIRMAN KRENGEL: Back on the record.
24 So the applicant is proposing a garage 17 feet
25 back from the front yard from the front

Proceedings - Lowinger

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2 property line where the code requires 45 feet.
3 I would like to make a proposal to amend that
4 to grant a variance allowing him to have the
5 garage 25 feet from the property line, which
6 would be in line with the house. The exact
7 location could be determined and approved by
8 the Building Department, and I will make a
9 motion to approve 25-foot setback instead of
10 the 45. Second the motion?

11 MR. SHTEIERMAN: Second the motion.

12 Approved as modified.

13 MS. EDELMAN: Approved.

14 MR. BLEIBERG: Approved as modified.

15 MR. CLARK: Approved.

16 CHAIRMAN KRENGEL: Approved as modified.
17 Assuming that the garage is built as approved,
18 the garage must also be compliant with Section
19 R-302 of the residential code of fire
20 resistant construction. All curb cuts and
21 landscaping or fencing higher than 3 feet must
22 go before the Cedarhurst Architectural Review
23 Board for their approval. The application is
24 approved as modified.

25 MR. FLAUM: Thank you very much.

Proceedings - Lowinger

(Exhibit A, Letter of support, marked
for identification, as of this date.)

(Time noted: 7:30 p.m.)

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Proceedings - Lowinger

C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF QUEENS)

I, YAFFA KAPLAN, a Notary Public
within and for the State of New York, do
hereby certify that the foregoing record of
proceedings is a full and correct
transcript of the stenographic notes taken
by me therein.

IN WITNESS WHEREOF, I have hereunto
set my hand this 29th day of January,
2023.

YAFFA KAPLAN

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----- EXHIBITS -----

EXHIBITS FOR ID.

A Letter of support 9