

May 8, 2023

To the Members of the TONH Board of Zoning Appeals:

Please take notice of our opposition to any approval of [Appeal # 21382](#) where 55 Bayview Realty dba as Schmitt's Auto Repair & Body Shop.

The appeal is on the BZA calendar for May 10, 2023, 10:00am.

Town & Applicant Negligence—Residents were denied proper notice as required by law

It is unconscionable that the residents were not properly notified of this appeal as per law, thereby diminishing the amount of time for residents to address the appeal.

- Wrong address posted to legal notices, thus delaying resident's response
- Delayed and or unreceived notices from applicants attorney
Cristina Robino has not received notification from the applicant, and resides within the required distance for notification by mail. How many others have not received notice?
- The Town and the applicant has had months to prepare while the residents are afforded 10 days due to the aforementioned missteps.
- Residents have insufficient time to read and review documents

Opening Statement

Appeal for determination on variances – Appeal should be denied.

The local residents are in opposition to any approvals of Appeal # 21382 as is evident by the over 100 resident signatures included at the end of this opposition letter.

The Bayview Civic Association Executive Board has unanimously opposed any approvals of Appeal #21382.

The business at 55 bayview Avenue (dba Schmitt's) has regularly engaged in **Self help** and should not be rewarded for thwarting the law by:

- Conducting an auto body shop without proper authorization
- Building a paint spray booth and paint mixing room with an industrial exhaust system without permit or Certificate of Occupancy, contrary to code §70-146.3C
- Regularly exceeds the allowable stall count by 300% by storing 30 to 40 cars on the property, including wrecked vehicles that are in need of auto body repair, and doing so during the business day, overnight, weekends and sometimes for many more days in violation of §70-146.3 C (3).
- ([See violations in criminal court filing link](#)- enter case Identifier number CR-300011-22NH)
 - Code §70-222(A) Viol. Violation of Certificate of Occupancy
 - Code §02-23 (A) Misd. Penalties for violations of certain stat law
 - Code §70-220 (A) Viol. Permits for work, alteration, or maintenance of building or structure
 - Code §70-229 (A) Viol. Compliance with provisions
 - Code §70-220 (A) Viol. Permits for work, alteration, or maintenance of building or structure

The business has been operating in violation of code §70-140 C Special uses. Not only does this business have a negative impact on the character, harmony, and property values of this mostly residential area, but it is objectionable to surrounding properties by reason of excessive noise, exhaust, light, etc. It presents hazardous environmental, fire and traffic conditions and is incongruous with the immediate neighborhood that are lined with beautiful homes where children and families walk to town, to schools,

and to Plandome Rd shopping. It does not provide an essential service to the community. Such egregious operations are expected to continue and worsen should the Appeal be approved.

The applicant's claims of hardship on page 8 of the BZA pdf states that the auto repair service has “forced them to explore other parts of the business to remain in the black” does not bear out.

- Applicant illegally built a paint spray booth and mixing room w/ huge ventilation system. Assuming it has the proper fire suppression, heating and downdraft ventilation, isn't the cost in excess of [\\$50,000](#) and can cost considerably more?
Such equipment is built for one thing only, painting cars and parts of cars! This type of equipment is not needed for what he claims it will be used for: ceramic coating and vinyl wrapping (see [professional opinion letter](#)).
- The applicant approached a resident petitioner on May 6, 2023 and admitted that he is in the process of buying the MPD parking lot on Locust Pl. AND he is thinking about buying the Citibank property on Bayview Ave.

It seems clear to the residents that a hardship likely doesn't exist for the applicant and that he is well funded.

The auto body shop was not sought out by surrounding residents and as such residents shouldn't have to accommodate any “risk” in purchasing this property/business because of a poor business decision; he knowingly acquired the business and was aware of the business residing in a Business B zone.

No remedy suggested by the applicant should be trusted based on their prior bad acts, weak defense on appeal, and continued disregard for the law.

It is our assertion that the Appeal should be denied and that no variance to continue as an auto body shop with reduced stall space be granted. The paint-booth/mixing room and extensive exhaust system are industrial in nature and do not comply with existing zoning and should be removed. To approve this Appeal and the type of equipment would set a dangerous precedent. The Business-B restrictions should remain intact to protect the character, harmony, safety, well-being and property of this predominantly residential area.

Outlined below are our opposition points to granting the Appeal:

B. Whether the proposed use is of such character, size, location, design and site layout has to be appropriate to and in harmony with the surrounding properties.

The applicant's engineer states on p22 of the BZA pdf that “The granting of this application will not create an undesirable change in the character of the neighborhood or a detriment to nearby properties.” He also states “The use of this property since 1949 was for motor vehicle repair shop.” He also states “the proposed application will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.” The applicant narrative on p7 of town doc also states: “They are not bringing cars involved in accidents”.

The Appeal to continue as an auto body shop is inappropriate to the character and harmony of the abutting and surrounding properties which are predominantly well-kept suburban residential homes. It presents hazardous conditions and is incongruous with the immediate neighborhood

that are lined with beautiful homes where children and families walk to town, to schools, and to Plandome Rd shopping.

- **The applicant's business is indicative of an industrial zone, not Business-B.**
- Current zoning permits auto repair services, not an auto body shop with an illegally built paint booth and paint mixing room, industrial exhaust systems, and proposed additional stalls.
- The spray booth and accompanying exhaust system located on the rooftop of the shop are designed to expel the hazardous fumes and materials. The exhaust will blow onto pedestrians and into yards where children play and vegetables are grown. The exhaust system is huge and can be seen from the street and from abutting homes. It also obstructs sky view and reflects into homes and creates significant glare.
- The applicant's business regularly parks and stores 30-40 cars out in the open. This is 300% of what is allowed by code.
- These often include wrecks in need of body work, often for days, and are not vehicles in working order needing engine repair. This violates Zoning Code, Article XVII, § 70-146.3 C-3.
- The applicant regularly has tow trucks and flatbeds deliver wrecks and other cars, blocking the sidewalks and major arteries that provide access in and out of town, to the middle school and highschool and to Plandome Rd shopping. It creates traffic jams and hazardous conditions for pedestrians, drivers, and the fire department which resides directly across this property.
- The applicant's business stores well in excess of four vehicles on their lot overnight, often more than 30 vehicles a night. This violates Zoning Code, Article XVII, § 70-146.3 C-3.
- The applicant's business stores auto parts used in their business outside an enclosed building, including used oil, car parts, tires, etc. Noncompliant with Town of North Hempstead Zoning Code, Article XVII, § 70-146.3 C-3.
- No resident wants to look out at the volume of parked and wrecked cars, nor the huge exhaust system or have to deal with the environmental effects and fire hazard of such a business.
- Are there additional violations of the town's code 28 including storage of car parts and improper storage of industrial materials?
- To believe that the applicant would adhere to any variance is naive, based on prior and continued bad acts ([see criminal court filing link](#)- enter Case Identifier number CR-300011-22NH) and continuing violations.
- To maintain the character and harmony of the surrounding properties, current zoning needs to remain intact and the Appeal denied. Residents pay for this protection through their ownership and high taxes.
- The immediate residential area can only support an auto repair shop with a small amount of cars that don't require auto body/collision repair or storage/parking of said cars beyond a single day.

The engineer also admits on pg 22 of the BZA pdf, that "the subject site requires 12 parking spaces. The proposed design provides 17 parking spaces exceeding the requirements set forth by the Town Code." and states that " the proposed application will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district."

The building and property size currently allows 12 parking stalls. On any given day there are 30 to 40 cars—including wrecks awaiting auto body repair, not auto repairs.

- Since the **building size** is not being reduced in size, the property and the surrounding areas cannot support more cars/storage of wrecks or those waiting for auto-body ceramic coating/vinyl wrapping services.

The applicant's engineer states "the granting of parking variance will not have an adverse impact on the traffic or parking conditions in the area surrounding the subject site."

The applicant's engineer states "The subject site requires 12 parking spaces. The proposed design provides 17 parking spaces". He also states that the increase will still "provide safe and efficient circulation. – page 22 of the BZA pdf.

- To promote a **design and site layout** where 17 stalls would provide "safe and efficient circulation" defies common sense as per all of the points mentioned above.

The appeal narrative on p7 of the BZA pdf states "While it is understood that the addition of the spray booth can lead one to the presumption that Auto Body Repair is being performed, our client is definitely not operating an Auto Body Shop at this location." The applicant narrative on p7 of town doc also states: "They are not bringing cars involved in accidents".

The location is such where the business currently has an adverse impact on traffic and this will only get worse should the variance be approved.

Please note, the business directly abuts residential properties on 2 sides, on Locust Pl and Bayview Ave. Residential homes continue northward on Locust and onto Colonial Pkwy, into Plandome Heights and further north into Port Washington. Homes also continue west and south of the property on Bayview Ave, and westward to Bayview Terrace, Dewey St, Linden St, Highland Terrace and more.

- A significant number of commuters, school children, and shoppers—pedestrians and drivers alike—travel along these intersecting main arteries on a daily basis to drive and walk in- and out-of town, to the nearby Middle and High Schools, and to Plandome road shopping.
 - As mentioned prior, the Applicant regularly parks 30 to 40 cars where only 12 are allowed. These cars often block one of the two driveways and extend over to the sidewalk.
 - To allow additional parking spaces for wrecked cars or other, and the additional flow in-and-out of the property by cars, tow trucks and flatbeds will cause increased and unacceptable risks to residents, especially during peak commuter and school hours.
 - Residents have experienced delays and near hits, both as pedestrians as drivers, as the applicants cars negotiate entering and exiting the property due to the volume of parked and stored cars on the property
- The applicant states several times throughout his documents that he does not intend to use this facility for painting or repair body work; If that is the case, then no variance, conversion or paint booth and paint mixing room or additional stalls are needed.
- If they are not performing auto body work, why are more than 30-40 cars continually parked there, including wrecked cars?
- As per the Opinion Letter by Certified Master Mechanic of 40 years and adjacent resident, Madia ([professional opinion letter](#)), a paint booth and paint mixing room is not needed to perform ceramic coatings and/or vinyl wrapping and that these services are considered to be auto body work.
- It is our assertion that the appeal to maintain the conversion to an auto body shop is an attempt to legalize the **design and layout** of the illegally built paint booth and mixing room so that it can be used as part of auto body repair shop and painting.. To approve the appeal will only invite its improper use and set a dangerous precedent for similarly zoned properties.

No remedy suggested or promises made by the applicant can be trusted based on their prior bad acts and continued disregard for the law.

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.

The applicant states on p8 of the supplied BZA PDF that: "private general mechanics are finding it more and more difficult to keep their businesses profitable" and that small businesses simply cannot compete, and they have been forced to explore other parts of the business to remain in the black. Here, the spray booth was added to enhance business.."

- To refute the applicant's assertions, there are many auto repair shops within 5 miles of Manhasset that are thriving, 5 are right here in Manhasset ([see map link](#)), 2 of them with less stalls than the applicants.
- There are also many auto body shops within a 5 mile radius to satisfy the demand of the residents, 7 of them within the immediate Manhasset vicinity ([see map link](#)). Another is not needed.
- The residents have not sought out this conversion to an auto body shop facility out of necessity or value to the community or its general welfare and as such, oppose granting any conversion/variance or approval of the paint booth.

D. Whether the proposed use will be hazardous, conflicting or incongruous to the immediate neighborhood by reason of excessive traffic, assembly of persons or vehicles, proximity to travel routes or congregations of children or pedestrians

The applicant claims that "the proposed application will have no perceptible impact on the Level of Service on the surrounding roadway network". The applicant proposed study by the owner's engineer's claims no harm since the business has been here since 1949i (almost 75 years ago)

- The engineer's analysis does not make a good argument when trying to state it was viable 75 years ago to the present time are inconsistent with the increase in density experienced over those years of neighboring areas, including those from the north, east, west and south of Manhasset
- Hazardous conditions exist due to the volume and flow in-and-out of ONE access on Bayview Ave; currently 30 to 40 cars park there, in violation of the allowable stall amount, which block the Locust Pl access. To increase the allowable stalls to 17 will only invite misuse as is currently the case.
- This is a main artery to the stores, railroads, schools and is used by Port Washington and Great Neck as well.
- To gain access to this location, especially during the morning commute and from 3pm to 6 pm, means you have to stop traffic on an already busy "secondary" route as the applicant claims, creating hardship and hazardous conditions for commuters in vehicles and on foot, pedestrians, school buses and emergency vehicles, including the Manhasset Fire House which is just across the business on Locust Pl and Bayview Ave..
- There are various no parking regulations for residents as to keep a safe and clear path for emergency vehicles.
- It is our assertion that the applicant will continue to overpark on the property, block aprons, and that tow trucks, flatbeds and delivery trucks will continue to block sidewalks and park in no parking zones.
 - It has been reported by residents that flatbed trucks entering the property have backed up traffic on Bayview Avenue including school buses for up to 15 minutes

- This can sacrifice the safety of the community with unnecessary congestion
 - The school bus stop is on the corner of this business on Bayview Avenue and Bayview terrace less than 50 feet away which can cause dangerous situation for children waiting for their bus and crossing this street

The applicant states on page 22 of the supplied BZA pdf that “the granting of this application will not create an undesirable change in the character of the neighborhood detriment to nearby properties”

- For all the reasons above and the nature of the business; “auto body shop” it would only diminish the value of neighboring residents properties and negatively change the character of the area.

In conclusion, this is not an industrial zone, where the impact would be less severe as there likely would be no residential homes in the area, and for this reason the business should comply to the existing zoning restrictions

E. Whether the proposed use will provide be of such nature as to be objectionable to nearby residential dwellings by reason of noise, lights, vibration or other factors of impact

- Conducting a business with the volume of cars presently on the site daily, along with the patron cars, tow trucks, flat beds and service vehicles moving in and out clearly suggest an objectionable level of noise to nearby residential dwellings.
 - Cars being worked on outside of the building with running motors.
 - Flatbeds and tow trucks delivering wrecked cars during all hours of the day.
 - Traffic jams caused by the business constantly jockeys cars, service vehicles and delivery trucks around not only cause excessive noise (honking, motors running, back up beeps) but cause hazardous conditions for both pedestrians and drivers.
- The number of cars stored on this property average 30-40 daily, on a 12,500 sq ft. This does not align with the well maintained homes that immediately surround this property nor with the homes north and west of it.
- Since the booths were installed illegally we cannot speak about the negative impact they will have until, unfortunately, when they will be used.
- The massive electric vents located on the roof for the paint spray booth will create unacceptable noise.
- These same vents obstruct the sky view and emit a very strong reflection/glare to nearby the immediate neighboring residential homes at dusk.
- A small repair shop with limited cars, as was present prior to this owner, did not negatively impact the neighbors. The noise and the traffic that the existing establishment maintains is extremely unfavorable for the nearby residential dwellings.

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.

(Town of North Hempstead Zoning Code, Article XVII, § 70-140, C)

Whether the proposed use is harmonious with surrounding uses and not in conflict with the general character of the community.

The installations and proposed variances are objectionable to the surrounding properties and will diminish the value of the surrounding residential properties.

Applicant's engineer states on p16 of the BZA pdf that "... good quality well maintained houses are located north of the subject property and to the west... A high-end quality spray booth has been installed to apply protective ceramic coatings and wrappings to vehicles."

- All properties abutting the applicant's lot constitute expensive suburban houses. The home owners pay high property taxes and deserve to have the value of their homes maintained.
 - The applicant's building lacks the required 15 foot side yard and backyard to separate it from the abutting residential properties. Noncompliant with Town of North Hempstead Zoning Code, Article XVII, § 70-146 A.
- The spray booths and rooftop exhaust hoods have already been illegally installed without the approval of the Zoning Board and will negatively impact the value of all properties in the adjacent residential neighborhood.
 - The spray booths require the ventilation of toxic fumes into the surrounding residential neighborhood, degrading the air quality. This diminishes property values and quality of life for neighboring homeowners. Noncompliant with Town of North Hempstead Zoning Code, Article XVII, § 70-140 C-1.
 - These fumes are emitted through massive, hooded rooftop exhaust vents, which disrupt the local panorama and are a blemish on the landscape. Noncompliant with Town of North Hempstead Zoning Code, Article XVII, § 70-140 C-1.
 - The exhaust vents are highly reflective. They cast a blinding glare through the windows of abutting residences. Noncompliant with Town of North Hempstead Zoning Code, Article XVII, § 70-140 C-2.

The installations and proposed variances are in conflict with the general character of the neighborhood.

Applicant's engineer states on p22 of the town PDF that "the proposed application will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district."

- The spray booths utilize massive rooftop exhaust vents which are visible from the street and all the surrounding residential houses. They are incongruous with the character of the neighborhood.
 - The exhaust vents emit toxic fumes that pollute the air, thus damaging the environment and diminishing the quality of life and air quality for the applicant's neighbors.
 - Owing to the applicant's single story establishment and corner location the large rooftop exhaust vents are very noticeable.
 - They alter the characteristics of the surrounding suburban neighborhood, making it appear more urban and industrial; they make an expensive Nassau County neighborhood look more like inner-city factory zones.

Applicant's engineer states on p16 of the town PDF that "the subject site will not be used for auto-body repairs."

- The applicant's business often displays totaled or badly damaged vehicles, sometimes for several days at a time. These are wrecks in need of body work, not vehicles in working order needing engine repair. Noncompliant with Town of North Hempstead Zoning Code, Article XVII, § 70-146.3 C-3.
- The applicant's business stores well in excess of four vehicles on their lot overnight, often more than 20 vehicles a night. Noncompliant with Town of North Hempstead Zoning Code, Article XVII, § 70-146.3 C-3.

- The applicant's business stores auto parts used in their business outside an enclosed building, including used oil, car parts, tires, etc. Noncompliant with Town of North Hempstead Zoning Code, Article XVII, § 70-146.3 C-3.
- The applicant's business keeps their lot illuminated all night; well beyond the legal limit of a half hour past the business' closing time. Noncompliant with Town of North Hempstead Zoning Code, Article XVII, § 70-103 E.
- Storage of inoperative vehicles and used parts on an exposed corner lot devalues the surrounding properties and changes the identity of the neighborhood for the worse.

G. In addition to the foregoing, the location and size of a proposed use in a 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.

(Town of North Hempstead Zoning Code, Article XVII, § 70-140 C-3)

Whether the proposed use will be hazardous to or conflicting or incongruous with the immediate neighborhood by reason of excessive traffic or parking of vehicles.

The proposed variances are objectionable to the surrounding parking overflow.

Applicant's engineer states on p22 of the town PDF that "The subject site requires 12 parking spaces. The proposed design provides 17 parking spaces exceeding the requirements set forth by the Town Code."

- The applicant regularly stores 30 to 40 vehicles on the property during business hours, and sometimes overnight, far exceeding the amount allotted in the Town Code.
- Vehicles often block one another in so the business can squeeze as many cars as possible onto the lot.
- Vehicles with excessive body damage are a common sight.
- Sometimes cars are left up on blocks for days at a time. Noncompliant with Town of North Hempstead Zoning Code, Article XVII, § 70-146.3 C-3.

Applicant's engineer states on p22 of the BZA pdf that "Our analysis shows that the proposed size and dimensions of the parking lot design will provide for safe and efficient site circulation relating to the existing Motor Vehicle Repair Shop."

- The applicant's property is located along a traffic artery that commuters from the area use going to and from the city. During rush hour there is heavy traffic. Additionally, it is a 3 minute walk from the commuter railroad, middle school and highschool. The applicant's property is a corner lot located at a key turn in a traffic artery. Commuters struggle with the turn at that corner because there is an island halfway across the intersection, which causes drivers indecision.
- The applicant's request for additional 5 stalls, while really parking and storing 300% more cars than zoning allows, will make exiting onto Locust and Bayview even more hazardous. Painting directional arrows realistically can resolve the issue as they will likely be covered by cars.

- The applicant's lot lacks designated parking spaces or directional arrows, making navigation hazardous exiting, entering or navigating the lot. Noncompliant with Town of North Hempstead Zoning Code, Article XVII, § 70-103 B.
 - The applicant's lot is often filled beyond capacity, leading to vehicles overflowing onto the sidewalk or into the street, which has no parking. Noncompliant with Town of North Hempstead Zoning Code, Article XVII, § 70-140 C-3.
 - The population density and traffic in the surrounding neighborhood has multiplied considerably since the business was first founded in 1949.
 - This business causes undue traffic and parking overflow in this area. Expanding its parking allowance would only further detriment the neighborhood.
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In closing, we residents strongly oppose any approval of the Appeal for the reasons outlined above. Our names, addresses and emails are listed in the table on the following pages.

After the signatures, please continue on to review recent photo exhibits that depict some of property issues.

Please contact Cristina Robino, 1 Bayview Terrace, Manhasset, NY11030 cristinarobino99@gmail.com should you have any questions.

Residents opposing any approval of the Appeal:

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Sabrina	Horn	164 Colonial Pkwy	sabrina@sabrinahorn.com
Michael	Trombetta	217 Thompson shore Road	mickey11030@yahoo.com

SEE PHOTO EXHIBITS ON NEXT PAGE

PHOTO EXHIBITS - BZA APPEAL #21382

Zoning Variance 55 Bayview Ave Realty dba Schmitt's Auto Repair & Body Shop



**Schmitt's Auto Repair & Body Shop looking SW from Locust Pl.
Damaged cars awaiting body work. Photo taken May 8, 2023 1:45 pm**



**Schmitt's Auto Repair & Body Shop looking SW from Locust Pl.
Same black Damaged car with bumper hanging out of rear window,
awaiting body work. Photo taken May 8, 2023 1:45 pm**

SEE MORE PHOTOS ON NEXT PAGE

BZA Appeal #21382

Zoning Variance 55 Bayview Ave Realty dba Schmitt's Auto Repair & Body Shop



Schmitt's Auto Repair & Body Shop view from Bayview Ave & Locust looking northwest. Towtruck parked half on the sidewalk and half on the street hindering pedestrians and vehicles and creating hazardous conditions.

Photo taken Wednesday, May 3, 2023 at 4:53 pm.

Continued on next page



Schmitt's Auto Repair & Body Shop view from driveway & backyard of neighbor's home looking south & west. Exhaust vents for illegal paint booth. Photo taken Sunday, May 7, 2023 at 4:30 pm.



Schmitt's Auto Repair & Body Shop looking west on Bayview Ave. Tow Truck obstructing pedestrian & vehicle traffic and causing hazardous conditions.

Photo taken Friday, May 5, 2023 at 11:00 am.



**Schmitt's Auto Repair & Body Shop looking west on Bayview Ave.
Flat bed tow truck obstructing pedestrian & vehicle traffic creating
hazardous conditions. Note on coming traffic.**

Photo taken May 5, 2023 11:30 am

SEE MORE PHOTOS ON NEXT PAGE



Schmittty's Auto Repair & Body Shop looking west from Locust Place.

Note

- cars blocking Locust Pl driveway.
- over 30 cars counted on the property

Photo taken Thurs. May 4, 7:14 pm



WEEKEND PHOTO–SCHMITTY’S IS CLOSED.

Schmitt’s Auto Repair & Body Shop looking west from Locust Place.

- **Note cars blocking Locust Pl driveway, Including the Tesla and other cars from prior exhibit 2 days earlier.**
- **33 cars counted on the property includes ones parked at BACK OF THE BLDG with no buffer to protect abutting residential home on Locust**

Photo taken Saturday May 6, 1023 12:37 PM



WEEKEND PHOTO–SCHMITTY’S IS CLOSED.

Schmitt’s Auto Repair & Body Shop looking North from Bayview Ave.

- **33 cars counted on the property incl. Those parked in narrow space at left of building–no buffer to protect abutting residential homes on Bayview Terrace**

Photo taken Saturday May 6, 1023 12:37 PM