

In the Matter Of:

VILLAGE OF FARMINGDALE - ZONING BOARD OF APPEALS

VILLAGE OF FARMINGDALE ZBA HEARINGS

July 14, 2022



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ZONING BOARD OF APPEALS
PUBLIC HEARING
THE INCORPORATED VILLAGE OF FARMINGDALE
361 MAIN STREET
FARMINGDALE, NEW YORK 11735

July 14, 2022

8:00 p.m.

ACCURATE COURT REPORTING SERVICE, INC.
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2 A P P E A R A N C E S :

3 MARISA TULLY, Chairwoman

4 JAMES PORTER, Board Member

5 MARY CARPENTER, Board Member

6 STEVE FELLMAN, Building Inspector

7 CLAUDIO DEBELLIS, ESQ, Board Counsel

8 BRIAN FIORE Architect Case #7-3

9 WILLIAM CHIMERI Case #7-2

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2 CHAIRWOMAN TULLY: Let's call the
3 meeting to order.

4 MR. FELLMAN: Cross you heart,
5 follow me in the Pledge of Allegiance.

6 (WHEREUPON, the Pledge of
7 Allegiance was recited.)

8 MR. FELLMAN: And we ask everybody
9 to stand for 30 seconds of silence to
10 honor all our troops, the first responders
11 that are protecting all of us.

12 (WHEREUPON, a moment of silence was
13 observed.)

14 MR. FELLMAN: Thank you.

15 CHAIRWOMAN TULLY: Thank you.
16 Okay, welcome, everyone.

17 MR. PORTER: Madam Chair, I move we
18 dispense of the reading of the minutes of
19 the previous meeting.

20 MS. CARPENTER: I second the
21 motion.

22 CHAIRWOMAN TULLY: All in favor?

23 MR. FELLMAN: All in favor?

24 (WHEREUPON, there was a unanimous,
25 affirmative vote of the Board members

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2 present.)

3 CHAIRWOMAN TULLY: Thank you.

4 I call the meeting to order.

5 We're going to do the cases a
6 little bit out of order tonight.

7 So first case on the docket will be
8 case 7-3, application of Brian Fiore for a
9 building permit for front porch
10 addition at 5 Paine Avenue in a Residence
11 A Zoning District in the Village of
12 Farmingdale requiring a variance per
13 Village Ordinance Part II, Chapter 600
14 Zoning, Article VIII, Residence A
15 Districts, front yard setbacks shall not
16 to be less than 30 feet.

17 Sir, come up, please.

18 COURT REPORTER: If you could
19 introduce yourself, spell your name, and
20 give us your address, please.

21 MR. FIORE: Sure. My name is Brian
22 Fiore, architect, 208 -- oh, Fiore,
23 F-I-O-R-E, 208 North Wisconsin Avenue,
24 Massapequa.

25 COURT REPORTER: Thank you.

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2 MR. FIORE: I thought I was going
3 last.

4 CHAIRWOMAN TULLY: Sorry.

5 MR. FIORE: It's all right.

6 So we are proposing a front open
7 porch in a Zone A property that doesn't
8 have the required 30-foot front yard
9 setback, we're proposing 20.05 to the
10 closest point of the porch. The majority
11 of the porch is 26.38, also, but you know,
12 typically, in most towns, these are
13 permitted encroachments in a front yard.
14 It's not in the village, so a lot of these
15 are variances when you apply for them.
16 There's no intention of enclosing this,
17 it's to remain a roofed-over front porch
18 for aesthetics. It fits the
19 characteristics of the neighborhood in the
20 Village of Farmingdale, lots of front
21 porches, and you know, we feel like it
22 adds to the charm and character that this
23 village has in all their houses, and
24 they're adding it to this house. It's
25 pretty straight-forward.

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2 CHAIRWOMAN TULLY: Questions?

3 (WHEREUPON, no response was heard.)

4 CHAIRWOMAN TULLY: Is there anybody
5 in the audience that has any questions?

6 (WHEREUPON, no response was heard.)

7 MR. PORTER: I move to approve the
8 variance as requested with the stipulation
9 that the front porch never be enclosed.

10 MS. CARPENTER: I second the
11 motion.

12 MR. DEBELLIS: All in favor?

13 CHAIRWOMAN TULLY: All in favor?

14 (WHEREUPON, there was a unanimous,
15 affirmative vote of the Board members
16 present.)

17 MR. FIORE: Thank you. Have a good
18 night.

19 CHAIRWOMAN TULLY: Thank you.

20 (WHEREUPON, this application was
21 concluded.)

22 * * * *

23 CHAIRWOMAN TULLY: So we'll make a
24 note that case number 4-1 that was
25 supposed to be a continuation from last

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2 month's meeting has been continued to the
3 next one. That's for 44 Waverly Place.

4 (WHEREUPON, this application was
5 adjourned.)

6 * * * *

7 CHAIRWOMAN TULLY: On to case
8 number, case 7-1, application from Kenny
9 O'Connor for a building permit to maintain
10 an above-ground pool at 29 Hill Road in a
11 Residence A Zoning District in the Village
12 of Farmingdale requiring a variance from
13 Village Ordinance, Part II, Chapter 600
14 Zoning, Article XX, outdoor water pools.
15 The pool is .77 feet from the property
16 line, and pools must be 10-foot minimum
17 from the property line.

18 Is there anybody here that's on
19 that case?

20 (WHEREUPON, no response was heard.)

21 CHAIRWOMAN TULLY: Do we have any
22 questions?

23 (WHEREUPON, no response was heard.)

24 CHAIRWOMAN TULLY: We discussed
25 this.

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2 Is there anybody in the audience
3 that would like to comment on this
4 application?

5 (WHEREUPON, no response was heard.)

6 CHAIRWOMAN TULLY: Okay.

7 MR. DEBELLIS: So --

8 MR. PORTER: Deny the application
9 on discussion or --

10 MR. DEBELLIS: Yeah, but I mean,
11 you should go through the analysis.

12 MR. PORTER: Okay.

13 MR. DEBELLIS: But they -- the
14 notice for now, we get all that back.

15 MR. FELLMAN: Yeah.

16 MR. DEBELLIS: Yeah, okay, yeah, or
17 you could adjourn or you could make a
18 decision.

19 MR. PORTER: Well, Madam Chair, I
20 did look over this case, and I did go
21 through the five-part test for this
22 variance, and it appears to me that the
23 applicant does not satisfy the vast
24 majority of those points of the test.

25 Looking at the site plan, there are

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2 many alternative methods to achieve what
3 the applicant desires. This is a
4 significant variance being sought, less
5 than one foot setback.

6 It is a self-created difficulty
7 where they installed a pool where it
8 wasn't supposed to be, and I have serious
9 concerns with the safety of having an
10 above-ground swimming pool under power
11 lines.

12 With those being stated, I move
13 that we deny this application.

14 MS. CARPENTER: I second the
15 motion.

16 MR. DEBELLIS: All in favor?

17 CHAIRWOMAN TULLY: All in favor?

18 (WHEREUPON, there was a unanimous,
19 affirmative vote of the Board members
20 present.)

21 CHAIRWOMAN TULLY: Motion denied,
22 I mean, application denied. Okay, that
23 was easy.

24 (WHEREUPON, the application was
25 concluded.)

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2 * * * *

3 CHAIRWOMAN TULLY: All right, case
4 7-2, application of Scott Terrone
5 (phonetic), for a 290-seat two-story
6 restaurant with a basement at 202-204 Main
7 Street, in a DM-U Zoning District in the
8 Village of Farmingdale, requiring a
9 variance for a mixed-use, Village
10 Ordinance, Part II, Chapter 600 Zoning,
11 Article XVIII, Downtown Mixed-Use Zone.

12 There's a couple of petitions in
13 here.

14 The first one is a special-use
15 permit, the second one is the maximum lot
16 coverage, and the third one is addressing
17 the on-site parking. This Board can only
18 address the lot coverage, so the other
19 two -- and the parking, I'm sorry. The
20 special-use permit will be addressed by
21 the Board of Trustees.

22 MR. DEBELLIS: Yeah, but the
23 parking is part of that special-use.

24 CHAIRWOMAN TULLY: Yeah.

25 MR. DEBELLIS: Yeah.

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2 MS. CARPENTER: We're doing just
3 the lot coverage.

4 MR. DEBELLIS: Correct.

5 CHAIRWOMAN TULLY: I'm sorry, just
6 the lot coverage, my apologies.

7 MR. CHIMERI: Did you say the
8 parking is not part of tonight?

9 MR. DEBELLIS: No, no.

10 CHAIRWOMAN TULLY: It's not part of
11 the variance.

12 MR. DEBELLIS: It's going to be
13 before the Board of Trustees.

14 MR. FELLMAN: The Trustees have the
15 power to adjust that.

16 MR. DEBELLIS: This Board does not.

17 MR. FELLMAN: You're just here for
18 the 100 percent coverage.

19 MR. CHIMERI: Okay. William
20 Chimeri, C-H-I-M-E-R-I, 113 West Sunrise
21 Highway, Freeport, for the applicant Zuzu
22 on Main, LLC.

23 Good evening, members of the Board.
24 We have our principals here, Christopher
25 Werle, Jeffrey Paciullo, and there's two

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2 additional principals, Joseph Mendolia and
3 Joe Rodriguez.

4 The variance that we're seeking
5 for the lot coverage is for 100 percent as
6 opposed to the 90 percent that's permitted
7 under the code.

8 It's my understanding that there
9 are many similarly situated properties
10 that have 100 percent coverage in the
11 Village.

12 At this time, my understanding, 100
13 percent coverage, The (sic) Meetball
14 Place; 206 Main Street which is right next
15 door to the applicant's property;
16 Croxley's at 190 Main Street which is two
17 doors down; Allstate, 222 Main Street
18 which is five doors down; there's The
19 Lofts, 231 Main Street; The Chocolate
20 Duck, 310 Main Street; Solo New York, 336
21 Main Street; Kick'n Chicken, 342 Main
22 Street; Grey & Grey 360 Main Street; and
23 Farmingdale Laundromat at 425 Main Street;
24 and finally, Coldwell Realtors, 392
25 Conklin Street. We're asking for the same

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2 use of 100 percent.

3

4 As far as the effect of that on the
5 neighborhood, it would be minimal. As you
6 go down Main Street, in the front of the
7 building, virtually all of the buildings
8 are built right to the sidewalk, so from
9 that vantage point, it would be no
10 difference in the appearance.

11 From the back, as I said, there's
12 many properties that are built right to
13 the line. Also, building to the line
14 won't effect -- even though we're not
15 talking about the parking variance
16 tonight -- building right to the line
17 won't effect the ability of vehicles to
18 travel through the parking lot or in any
19 way negatively impact the area.

20 Just in general with this
21 application, these principals have a
22 combined 155 years of experience in the
23 restaurant business. This application
24 would be a benefit to the area, it would
25 fit right in with the character of the

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2 neighborhood.

3 As you all know, Farmingdale has
4 become a destination location for
5 restaurants throughout Long Island, and
6 these gentlemen not only have experience
7 in restaurants but very successful
8 restaurants. Two Waterzooi restaurants;
9 Novita in Rockville Centre, I mean, in
10 Garden City, sorry, and the Croxley Ale
11 Houses in Rockville Centre, Franklin
12 Square, and of course, right here in
13 Farmingdale up the block which they've
14 been here for many years, they've run an
15 excellent establishment. I understand
16 there's been no problems with the Building
17 Department, and I don't expect any would
18 occur with this.

19 As far as if the variance is
20 granted, this applicant is ready to
21 proceed immediately. They have purchased
22 the property, it's not subject to any
23 contingencies, they're self-funding the
24 construction themselves, it's not subject
25 to any financing requirements or anything

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2 else, they have their construction team
3 assembled, they've built other restaurants
4 successfully, and they're ready to go if
5 this is granted.

6 I generally like to touch -- even
7 though I know you're very well familiar
8 with the five factors, I'd like to touch
9 on each of the five factors.

10 The first one, and I quote, whether
11 an undesirable change will be produced in
12 the character of the neighborhood or
13 detriment to the nearby properties will be
14 created by the granting of the area
15 variance. I would submit to the Board, as
16 I've said, that this would not in any way
17 negatively impact the character of the
18 neighborhood. You've got 15 restaurants
19 surrounding this, another restaurant, a
20 top-end restaurant like these gentlemen
21 put on, is going to fit right in with the
22 neighborhood.

23 The second factor is whether the
24 benefit sought by the applicant can be
25 achieved by some method feasible for the

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applicant to pursue other than an area variance. Given the nature of these buildings all along Main Street, there is no property available for them to purchase to provide parking. The 90 percent, as I said, it's very common in the area to have the 100 percent coverage, and it would be no benefit, really, weighing the benefit against any detriment to the area, weighs in favor of the applicant's application.

The third factor is whether the requested area variance is substantial. As you know, that consideration has to take into effect -- into account how this fits in with the surrounding community, as well, and whether the substantial nature of it would have any negative impacts, and I don't see any detriment from this. It would not create a negative precedent since it's already, like I said, ten other buildings that have the same lot coverage as this one.

The fourth factor, whether the proposed variance will have an adverse

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impact on the physical environmental condition on the neighborhood or district. I don't see how this would have any adverse impact, in fact, it would be a benefit since this is going to be new construction, it's going to meet all of the new codes, building codes, the restaurant itself would meet all the new health codes, and would be built. You have, essentially, a brand new building there.

It also will have, in their plans, a refrigerated room in the basement where the trash would be placed to keep it cool. There will be no effect on odors or anything else in the village, rodents, et cetera, and it will be picked up by a private carter. So I can't see that this application would have any adverse impact at all.

The fifth and final factor is whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the Board of

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2 Appeals which shall not necessarily
3 preclude the granting of the variance.
4 Other than coming before the Board to seek
5 a variance which every applicant does,
6 they haven't done anything to create the
7 difficulty here. These properties all
8 along Main Street have the same problem,
9 and therefore, I believe, based on these
10 five factors, that you do consider that
11 the balancing of the benefit to this
12 applicant as opposed to any potential
13 detriment to the surrounding properties
14 and neighborhood weighs heavily in favor
15 of the granting of this, and we have our
16 professional engineer here tonight, we
17 thought we were going to be talking about
18 parking but apparently we're not.

19 CHAIRWOMAN TULLY: Sorry.

20 MR. CHIMERI: So --

21 MR. FELLMAN: That's all right.

22 MR. CHIMERI: (Continuing) -- we'll
23 present that later.

24 AUDIENCE MEMBER: Smiling faces is
25 all I need.

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2 MR. CHIMERI: So at this point,
3 based on those -- the weighing of those
4 five factors, we're respectfully
5 requesting that this portion of the
6 application be granted, and if you have
7 any questions for myself, our professional
8 engineer or the principals, we would be
9 glad to address that.

10 MR. PORTER: Can I give you one
11 clerical question?

12 The applications states that it's a
13 use variance. This is actually an area
14 variance you're requesting.

15 MR. CHIMER: Yes, I understand
16 that, I saw that. I think the confusion
17 was, they put it in because of the
18 special-use, and he checked off that box.
19 Obviously, we're not looking for a use
20 variance, which the requirements are much
21 more stringent.

22 MR. PORTER: I just wanted to
23 clarify.

24 MR. CHIMERI: I'm glad we're not
25 doing that.

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2 MR. FELLMAN: Yeah.

3 CHAIRWOMAN TULLY: I do have a
4 question.

5 The list of properties that are
6 built to the lot line, how many of them
7 are two-story; just out of curiosity.

8 MR. CHIMERI: What?

9 CHAIRWOMAN TULLY: Two-story.

10 MR. CHIMERI: Two-stories?

11 CHAIRWOMAN TULLY: Yeah. I'm just
12 curious.

13 MR. CHIMERI: The Meetball next
14 door.

15 MR. FELLMAN: Grey & Grey is.

16 MR. CHIMERI: Grey & Grey,
17 certainly, across the street from here.

18 MR. FELLMAN: Yeah, Staller,
19 Staller, the laundromat.

20 MR. CHIMERI: The laundromat.

21 MR. FELLMAN: No, the laundromat is
22 one-story.

23 AUDIENCE MEMBER: But the height
24 is.

25 MR. FELLMAN: The height is like

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2 two stories but it's one-story. I would
3 say at least three of them.

4 MS. CARPENTER: Grey & Grey is just
5 the old movie loft.

6 MR. FELLMAN: Grey & Grey, yeah.

7 MS. CARPENTER: It's the movie
8 loft, they don't use that.

9 MR. DEBELLIS: No, but in terms
10 of --

11 MS. CARPENTER: Well, I mean, you
12 look at it, height-wise.

13 MR. DEBELLIS: Right.

14 MR. FELLMAN: Yeah, well, I promise
15 you they're using that space somehow.

16 MS. CARPENTER: Right, old
17 records.

18 CHAIRWOMAN TULLY: Steve, do you
19 want to hear anything about parking or did
20 you want to --

21 MR. FELLMAN: Again, the parking,
22 we have -- the Trustees will handle the
23 parking. The code has an ability for them
24 to buy parking spaces to make up for the
25 not having adequate parking. We think the

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2 parking fee is going to be substantial
3 which will be helpful to the village. The
4 village is looking at other locations to
5 expand the parking lots to, and again, all
6 the money that goes to the parking fee in
7 the village is used only on the parking
8 lots. You could see, during COVID, we
9 redid every single parking lot, they're
10 all brand new. We're now looking to
11 expand parking lots, and these funds go
12 towards that, and 100 percent of the funds
13 will be used to expand the parking lots
14 and make them better.

15 MR. CHIMERI: Further on that, the
16 letter says we're 13 spaces short, and
17 that would be \$65,000, and the applicants
18 are ready to make that -- ready, willing
19 and able to make that payment as soon as
20 we get an approval.

21 CHAIRWOMAN TULLY: Okay. Is there
22 anybody in the audience?

23 (WHEREUPON, no response was heard.)

24 CHAIRWOMAN TULLY: Nope.

25 MS. CARPENTER: Nope.

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2 CHAIRWOMAN TULLY: Additional
3 questions?

4 MR. DEBELLIS: No.

5 MR. PORTER: Shall I speak?

6 CHAIRWOMAN TULLY: Sure.

7 MR. PORTER: Madam Chair,
8 considering the -- as the presenter went
9 through the test for the area variance
10 that, at least myself, I agree that this
11 would not make any detrimental effect on
12 the surrounding area, there's really
13 significant precedent for businesses
14 having this type of lot coverage.

15 I move that we approve the variance
16 for the building area coverage subject to
17 the Board of Trustees approval for a
18 special-use permit and the parking
19 conditions.

20 MS. CARPENTER: I second that.

21 MS. TULLY: All in favor?

22 (WHEREUPON, there was a unanimous,
23 affirmative vote of the Board members
24 present.)

25 MR. DEBELLIS: Okay, all done.

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AUDIENCE MEMBER: Thank you.

MR. FELLMAN: Subject to the
Trustee's approval.

(WHEREUPON, the application was
concluded.)

* * * *

MS. CARPENTER: I make a motion to
adjourn the meeting.

MR. PORTER: Second.

(WHEREUPON, this meeting was
concluded at 8:20 p.m.)

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C E R T I F I C A T E

STATE OF NEW YORK)

SS:

COUNTY OF NASSAU)

I, DEBBIE BABINO, a Shorthand Reporter in the State of New York, do hereby certify:

THAT the within transcript was prepared by me and is a true and accurate record of this hearing to the best of my ability.

I further certify that I am not related either by blood or marriage, to any of the parties in this action; and

THAT I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of July, 2022.

Debbie Babino

Debbie Babino, Certified Reporter

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