

In the Matter Of:

VILLAGE OF FARMINGDALE - ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS

August 12, 2021



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INCORPORATED VILLAGE OF FARMINGDALE

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ZONING BOARD OF APPEALS

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361 MAIN STREET

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FARMINGDALE, NEW YORK 11735

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August 12, 2021

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8:00 p.m.

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2 A P P E A R A N C E S :

3 MARISA TULLY, Acting Chairwoman

4 JAMES PORTER, Board Member

5 MARY CARPENTER, Board Member

6 STEVE FELLMAN, Building Inspector

7 LINDA DOLLARD, Applicant

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2 CHAIRWOMAN TULLY: Okay, let's call
3 the meeting to order.

4 MS. CARPENTER: Need a gavel?

5 MS. TULLY: Welcome to the Village
6 of Farmingdale Zoning Board of Appeals.

7 Someone make a motion to waive --

8 MS. CARPENTER: I make a motion to
9 waive the reading of the minutes from our
10 last meeting.

11 MR. PORTER: Second.

12 CHAIRWOMAN TULLY: All in favor?

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

15 CHAIRWOMAN TULLY: Carried.

16 Okay, case #8-1, the application of Linda
17 Dollard to erect a 4-foot high fence along the
18 north property line in the front yard of 30 Maple
19 Street in the Village of Farmingdale requiring a
20 variances in the Village Ordinance, Part 2,
21 Chapter 600 Zoning, Article 21. A fence is not
22 permitted in the front yard.

23 Do we have a representative for Ms.
24 Dollard?

25 MS. DOLLARD: I'm Ms. Dollard.

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2 CHAIRWOMAN TULLY: Would you like
3 to present your case?

4 MS. DOLLARD: I'm sorry?

5 CHAIRWOMAN TULLY: Present your
6 case?

7 MS. DOLLARD: Well, I wasn't aware
8 that the fencing wasn't permitted since
9 there's so many in the neighborhood, and I
10 was putting it up to kind of improve the
11 appearance of my property, because the
12 property next to me is -- how should we
13 say -- very sloppy and unkempt, and so I
14 thought that this would show a definite
15 division between the two properties.

16 CHAIRWOMAN TULLY: So according to
17 Zoning Section 600-158, fences are not
18 permitted in the front yard property, and
19 you're here at the Zoning Board now for a
20 variance.

21 So there's a four-part test to --

22 MR. PORTER: Can I ask a question,
23 Madam Chair?

24 MS. DOLLARD: Sure.

25 MR. PORTER: You mentioned that

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2 there are fences in the neighborhood?

3 MS. DOLLARD: There's plenty; three
4 on my block.

5 MR. PORTER: I didn't notice them.
6 Do you know if they have permits or --

7 MS. DOLLARD: I have no idea.

8 MR. PORTER: Okay, well, unless we
9 know that they were legal fences, we
10 really can't use them as a --

11 MS. DOLLARD: Well, if they're on
12 the front yard, how could they be legal if
13 it's not permitted?

14 MR. PORTER: People put things up
15 and don't get caught.

16 MS. DOLLARD: I'm sorry?

17 MR. PORTER: Sometimes people put
18 things up and don't get caught.

19 MS. DOLLARD: Oh, I understand
20 that.

21 MR. PORTER: I applaud you for
22 trying to go about it the right way, but
23 there is a four-part test.

24 MS. DOLLARD: Okay.

25 MR. PORTER: Five-part test,

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2 actually, for an area variance. We can go
3 through the points of that. It was in the
4 application that you submitted. You may
5 have seen the --

6 MS. DOLLARD: I don't know. I
7 submitted it a while ago. I don't
8 remember.

9 MR. PORTER: You may have seen
10 them; five questions.

11 MS. DOLLARD: Okay.

12 MR. PORTER: So let's just go over
13 them.

14 So question one, does the variance
15 change the character of the locality?

16 Putting a fence in the front yard
17 is something the Village does not allow.
18 So, in my opinion, it would change the
19 character of the locality by adding a
20 fence in the front yard.

21 Now, you did say that there are
22 fences on other houses, I didn't notice
23 any.

24 MS. DOLLARD: There's three right
25 behind Village Hall.

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2 MR. PORTER: Okay, okay, but
3 that's --

4 MS. DOLLARD: I went around the
5 street, so I made notations.

6 MR. PORTER: Okay. Do you have
7 that information?

8 MS. DOLLARD: Oh, I didn't bring it
9 with me, no.

10 CHAIRWOMAN TULLY: Are there any on
11 your block?

12 MS. DOLLARD: Yes, three at the
13 other end of the street.

14 MR PORTER: Okay. But the big
15 point is item two on the test: Are there
16 alternative methods of achieving what the
17 applicant desires?

18 It seems what you're looking for is
19 a visual break between your house --

20 MS. DOLLARD: I am, I am, because
21 the -- my neighbor, as I said, does not
22 keep his property neat at all. He feeds
23 stray cats, squirrels, puts out little
24 dishes of food. I don't have a problem
25 with my neighbor outside of I want to keep

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2 our two properties looking separate, and
3 all this debris is always, you know,
4 flying over to my yard. I have to pick up
5 cat food, and it's really affecting the
6 value of my home.

7 MR. PORTER: Have you had your home
8 appraised; did an appraiser mention that?

9 MS. DOLLARD: No, but actually, Mr.
10 Hardy came to see it and said the same
11 thing.

12 MR. PORTER: Is Mr. Hardy here?

13 MS. CARPENTER: No.

14 CHAIRWOMAN TULLY: No.

15 MR. PORTER: Okay.

16 MS. DOLLARD: He came to my house
17 twice after.

18 MR. PORTER: Okay. The part two of
19 the test is: Are there alternative
20 methods to achieve what the applicant
21 desires?

22 So what quite a few homeowners have
23 done, rather than put a fence in the front
24 yard, there's also a living fence, you can
25 put shrubbery.

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2 MS. DOLLARD: I understand, Mr.
3 Hardy said that to me, but as I explained
4 to him, I have to constantly maintain that
5 then.

6 MR. PORTER: Sure.

7 MS. DOLLARD: You know, with the
8 landscaping and all. This is a
9 permanent --

10 MR. PORTER: Mm-hmm.

11 MS. DOLLARD: (Continuing) --
12 attractive, not obtrusive at all. It's a
13 picket fence. It's only four-foot high.

14 MR. PORTER: Right.

15 MS. DOLLARD: And like I said,
16 there's so many homes in the Village that
17 have them, they look nice.

18 MR. PORTER: All right. We really
19 can't judge based on those homes. We
20 don't know which homes they are, we don't
21 know if they're done legally, if they have
22 permits or variances.

23 MS. DOLLARD: Oh, I understand.
24 I'm just explaining.

25 MR. PORTER: Sure. But the Village

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2 does have rules as far as fences, and our
3 main concern is setting a precedent. If
4 we allow one homeowner to have a fence,
5 then anyone else can say they want a
6 fence, too. Before you know it, it
7 looks like Queens. The fence --

8 MS. DOLLARD: Well, that's kind of
9 what I'm saying, because I went around,
10 and in 10 blocks I found 25 homes that
11 have the same fence that I want to put up,
12 and that's only 10 blocks from Maple
13 Street. I'm sure there's 50 or 60 in the
14 Village. I would assume most of them
15 don't have a variance.

16 MR. PORTER: If someone else did
17 something illegal, we can't grant --

18 MS. DOLLARD: I understand that.

19 CHAIRWOMAN TULLY: Then you set a
20 precedent --

21 MS. DOLLARD: But this is not a
22 precedent then. The precedent has
23 apparently been set.

24 CHAIRWOMAN TULLY: (Continuing) --
25 if we allowed it.

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2 MS. DOLLARD: I'm sorry.

3 CHAIRWOMAN TULLY: It would be a
4 precedent if we allowed it, and we granted
5 a variance.

6 MS. DOLLARD: Well, Mr. Hardy
7 suggested I do this because he was -- he
8 told me, after looking at my neighbor's
9 property, that my property was definitely
10 being devalued, and he said I had a good
11 case, and I should apply.

12 You can confirm that, of course,
13 with him.

14 MR. PORTER: Well, we can't do that
15 now.

16 CHAIRWOMAN TULLY: He's not
17 present.

18 MS. DOLLARD: And he spoke to --
19 I'm sorry, I forget his last name --
20 Steve, I believe, about this.

21 CHAIRWOMAN TULLY: Mr. Fellman?

22 MS. DOLLARD: I'm sorry?

23 MR. FELLMAN: That's me.

24 MS. DOLLARD: What's your name,
25 sir?

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2 MR. FELLMAN: Steve Fellman.

3 MS. DOLLARD: Yeah, I believe he
4 spoke with you about this the day he came
5 to my home.

6 MR. FELLMAN: Yeah, he spoke to me,
7 but like I said, it needs a variance. You
8 know, we don't permit fences in the front
9 yard.

10 MS. DOLLARD: But he told me you
11 suggested that I just go through the
12 proper channels and take care of it,
13 because --

14 MR. FELLMAN: Well, you have no
15 choice. You have to go through this
16 procedure.

17 MS. DOLLARD: No, I understand,
18 that's why I'm here.

19 CHAIRWOMAN TULLY: Do you have any
20 question -- other -- anything to present,
21 anything else?

22 MR. PORTER: So it seems to me as
23 the application fails the test, in my
24 opinion.

25 You mentioned a lot of things about

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2 other homes, about what Mr. Hardy said.
3 We really have to consider that as
4 hearsay, without any evidence before us.
5 We're not saying you're lying, but you
6 know, we need to have everything
7 documented before granting a variance.

8 MS. DOLLARD: Well, what kind of
9 evidence would you need; do you need
10 pictures?

11 MR. PORTER: If you have a list of
12 addresses.

13 MS. DOLLARD: Sure.

14 MR. PORTER: Or if you have
15 information on whether or not those homes
16 did get permits or variances.

17 MS. DOLLARD: Well, I would have no
18 way of knowing that.

19 MR. PORTER: You could come, and
20 the Building Department could tell you if
21 there are permits or variances on file for
22 those homes.

23 You can get some information from
24 Mr. Hardy. You told us what Mr. Hardy
25 said, but he's not here to tell us

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2 himself, that's considered hearsay.

3 MS. DOLLARD: Well, then that's
4 something you can confirm with him?

5 MR. PORTER: He's not here.

6 MS. DOLLARD: Well, I don't mean
7 today, I mean --

8 MR. PORTER: We're part-time
9 volunteers. We're not here in front of --

10 CHAIRWOMAN TULLY: (Continuing) --
11 during the case.

12 MS. DOLLARD: Well, is that
13 something you could confirm with him? You
14 work together; don't you?

15 MR. FELLMAN: Yeah, absolutely.
16 It's up to this Board what they want to
17 accept.

18 MS. DOLLARD: Well, that's what I'm
19 asking, if he's willing to confirm it with
20 Mr. Hardy.

21 MR. PORTER: What we could do is
22 defer decision until next month.

23 CHAIRWOMAN TULLY: We can reserve
24 decision. Like, you can gather some more
25 evidence and re-present the case next

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2 month.

3 MS. DOLLARD: All I could do is
4 take pictures. What other evidence is
5 there?

6 My conversation with Mr. Hardy, and
7 the fact there are --

8 MS. TULLY: And evidence of a
9 permit granted for --

10 MS. CARPENTER: The addresses with
11 the pictures.

12 CHAIRWOMAN TULLY: Some research
13 needs to be done.

14 MR. FELLMAN: If you get me a list
15 of houses on your block and stuff that
16 have it, we'll research the file to see if
17 they ever got permits for those fences.

18 MS. DOLLARD: Okay, and if they
19 haven't?

20 MR. FELLMAN: If they haven't, then
21 they're in violation. They can be issued
22 a summons.

23 MS. DOLLARD: Well, I'm not looking
24 to get --

25 MR. FELLMAN: I understand.

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2 MS DOLLARD: (Continuing) -- give
3 anybody a summons.

4 MR. FELLMAN: The point is, this
5 Board has to worry about setting precedent
6 because here's what happens -- right --
7 those fences are illegal. They grant
8 yours. Those three people now come in and
9 go, well, we want her approval for our
10 three fences that have been illegal for 10
11 years, and now they're stuck with granting
12 it, because they set a precedent. That's
13 what they have to worry about.

14 CHAIRWOMAN TULLY: I've been on
15 this Board for probably about 10 years,
16 and we have not granted a front yard
17 variance yet, except for a corner
18 property.

19 MR. FELLMAN: Right, only front
20 yard fences have been corner properties.

21 MS. DOLLARD: Well, let me just ask
22 you, if I give you addresses, and you
23 confirm that people are in violation,
24 what's the point? What does that do for
25 me?

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2 MR. PORTER: Well, we can't use
3 that as justification to give you a
4 variance.

5 MR. FELLMAN: Right. If you got
6 three houses on your block that got
7 variances and got approval, that then
8 gives -- kind of sets a precedent for them
9 to say, well, previous Boards have granted
10 it in the past. It makes them think about
11 it differently.

12 But if we prove the three houses
13 are all illegal, that's going to
14 strengthen their case not to approve it.

15 MS. DOLLARD: Oh, so that they
16 wouldn't approve it, and because I
17 applied, I would be denied, and they keep
18 their fences.

19 MR. FELLMAN: No, we are going to
20 have to go after them.

21 MS. DOLLARD: Well, I don't want to
22 get all these people in trouble.

23 CHAIRWOMAN TULLY: Well, it's up to
24 you what you want us to do today. We can
25 either decide or --

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2 MS. DOLLARD: Well, I would like to
3 speak to Mr. Hardy -- and I would like you
4 to speak to Mr. Hardy, because I wouldn't
5 have bothered going through this process,
6 unless I was confident that I had a good
7 chance of being granted the variance,
8 which is what I was led to believe.

9 CHAIRWOMAN TULLY: We obviously
10 can't speak to that, because we weren't
11 part of that conversation.

12 But -- so, is there anybody in the
13 audience that wants to speak on this
14 matter?

15 (WHEREUPON, no response was heard.)

16 MS. DOLLARD: She's just with me,
17 and I did confirm with my next door
18 neighbor. He has no problem. He got the
19 letter, and he said if anything, you know,
20 he has no objection; if you needed someone
21 to call, you could call him. And he's the
22 only party that would be affected because
23 it's on one side.

24 CHAIRWOMAN TULLY: So do you have
25 any questions?

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2 MS. CARPENTER: I do not.

3 MR. PORTER: So would you like a
4 chance to get more information?

5 MS. DOLLARD: Absolutely.

6 MR. PORTER: Then I move that we
7 defer this case 'til next month's meeting.

8 MS. CARPENTER: I second the
9 motion.

10 CHAIRWOMAN TULLY: All in favor?

11 (WHEREUPON, there was a unanimous,
12 affirmative vote of the Board members
13 present.)

14 CHAIRWOMAN TULLY: We'll reserve
15 our decision -- we reserve decision 'til
16 next month.

17 MS. DOLLARD: And for the next
18 hearing I have to come back.

19 CHAIRWOMAN TULLY: I'm sorry?

20 MS. DOLLARD: So I come back for
21 the next hearing?

22 CHAIRWOMAN TULLY: Yes, just put
23 your information together, you know,
24 show --

25 MR. PORTER: Talk to Mr. Fellman

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2 with the listed addresses. He can find
3 out if those fences are legal. And maybe
4 we can confirm with Mr. Hardy what was
5 said, and what --

6 MS. DOLLARD: Oh, yeah.

7 CHAIRWOMAN TULLY: Get an affidavit
8 or have him show up on your behalf.

9 MS. DOLLARD: Okay.

10 COURT REPORTER: Ma'am, can I get
11 your name and the spelling of it, please?

12 MS. DOLLARD: Yeah, Linda Dollard,
13 D-O-L-L-A-R-D.

14 COURT REPORTER: Thank you.

15 MS. DOLLARD: You're welcome.

16 MS. CARPENTER: That's it, okay.

17 CHAIRWOMAN TULLY: Any other
18 business that needs to be addressed?

19 (WHEREUPON, no response was heard.)

20 CHAIRWOMAN TULLY: All right.

21 MR. PORTER: Motion to adjourn the
22 meeting.

23 MS. CARPENTER: Second.

24 CHAIRWOMAN TULLY: All in favor?

25 GROUP: Aye.

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CHAIRWOMAN TULLY: Motion carried.

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

(WHEREUPON, this hearing was concluded at
8:15 p.m.)

* * * *

C E R T I F I C A T E

1 8/12/21 - ZBA

2 STATE OF NEW YORK)

3 SS:

4 COUNTY OF NASSAU)

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

7 That, the foregoing is a true and accurate
8 transcript of my stenographic notes.

9 I further certify that I am not related to
10 any of the parties to this matter by blood or by
11 marriage and that I am in no way interested in the
12 outcome of any of these matters.

13 IN WITNESS WHEREOF, I have set my hand

14 On this 18th day of August, 2021.

15 Debbie Babino

16 DEBBIE BABINO

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