

**In the Matter Of:**

VILLAGE OF FARMINGDALE - ZBA

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**ZBA HEARINGS**

*March 10, 2022*

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ZONING BOARD OF APPEALS PUBLIC HEARING

5

THE INCORPORATED VILLAGE OF FARMINGDALE

6

361 MAIN STREET

7

FARMINGDALE, NEW YORK 11735

8

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March 10, 2022

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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 DAVID NOSTRAND, Chairman
- 4 MARISA TULLY, Board Member
- 5 MARY CARPENTER, Board Member
- 6 JAMES PORTER, Board Member
- 7 STEVE FELLMAN, Building Inspector
- 8 CLAUDIO DEBELLIS, ESQ., Board Counsel
- 9 MELISSA GRAHAM, Long Island Perfect Permits
- 10 MATTHEW LAIETTA, Applicant - Case #3-1
- 11 DENISE RIVERA, Applicant - Case #3-2
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1                   3-10-22 - ZBA

2                   CHAIRMAN NOSTRAND: We need to open  
3 the meeting for March 10, 2022.

4                   MR. PORTER: I make a motion.

5                   CHAIRMAN NOSTRAND: Motion carried.

6                   We do need a motion to waive the  
7 reading of the minutes from the last  
8 meeting.

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

12                  CHAIRMAN NOSTRAND: All in favor?

13                  MR. FELLMAN: We need a second?

14                  MS. CARPENTER: Second it.

15                  MR. PORTER: I second.

16                  CHAIRMAN NOSTRAND: Motion carried.

17                  Okay, first case, 3-1, Chris Ross  
18 Building Permits for 51 Maple Street,  
19 pool.

20                  CHAIRMAN NOSTRAND: You can come  
21 up.

22                  MS. GRAHAM: Okay.

23                  COURT REPORTER: May I just get  
24 your name and the spelling of it?

25                  MS. GRAHAM: Yup, it's Melissa

1                   3-10-22 - ZBA

2       Graham, G-R-A-H-A-M.

3                   COURT REPORTER: Thank you.

4                   MS. GRAHAM: You're welcome.

5                   Okay, good evening. My name is  
6       Melissa Graham. I'm from Long Island  
7       Perfect Permits, 124 Front Street, Suite  
8       205, Massapequa Park. I am the agent  
9       representing Matthew Laietta who is the  
10      homeowner of 51 Maple Street, Farmingdale,  
11      Section 49, Block 122, Lot 142.

12                  An application was filed to  
13      maintain an existing semi in-the-ground  
14      pool. The existing pool does not meet the  
15      required side yard setback of 10 feet.  
16      The pool maintains a 4.2-foot side yard  
17      setback. My clients purchased the home in  
18      2011 and installed the pool in 2021.

19                  Unfortunately, they had the pool  
20      company do the application for the pool,  
21      and they thought they were in the Town of  
22      Oyster Bay so they went based on those  
23      setbacks so they were not aware that they  
24      were not in compliance.

25                  CHAIRMAN NOSTRAND: Okay.

1                   3-10-22 - ZBA

2                   MR. GRAHAM: As you can see from  
3 the pictures, it really was the only spot  
4 my clients could put their pool in the  
5 backyard that it would fit comfortably for  
6 them.

7                   With a lot of uncertainty in the  
8 world they've decided to invest in their  
9 home rather than go out and enjoy the  
10 world.

11                  They have one child who is an avid  
12 swimmer which is another reason why they  
13 chose to put a pool in their backyard.

14                  The pool is enclosed by a six foot  
15 PVC fence. All their gates open out, they  
16 self-close, they self-lock. They have all  
17 the required safety alarms installed.

18                  My client spoke to his neighbor who  
19 is abutting him who is most affected by  
20 this side yard setback. He does not have  
21 any objection to the pool being  
22 maintained. He also wrote a letter that I  
23 would like to just submit.

24                  CHAIRMAN NOSTRAND: Okay.

25                  MS. GRAHAM: Just stating that he's

1 3-10-22 - ZBA

2 okay with everything, and then -- did you  
3 guys need -- do you have the pictures of  
4 the pool or did you need those, as well?

5 CHAIRMAN NOSTRAND: I don't think  
6 we have any pictures.

7 MS. GRAHAM: These are the pictures  
8 of the pool in the backyard if you'd like  
9 to take a look.

10 CHAIRMAN NOSTRAND: Okay.

11 MS. GRAHAM: And that concludes my  
12 presentation.

13 CHAIRMAN NOSTRAND: So I assume  
14 this permit you're -- the variance you're  
15 looking for is just to bring this into  
16 compliance.

17 MS. GRAHAM: Correct.

18 CHAIRMAN NOSTRAND: Okay.

19 MR. FELLMAN: Yeah, the pool  
20 setback is 10 feet from any property line.

21 MR. PORTER: And this one is what?

22 MR. FELLMAN: Six feet?

23 MR. PORTER: Four, two.

24 MS. GRAHAM: It's 4.2.

25 MR. FELLMAN: 4.2, all right.

1 3-10-22 - ZBA

2 MS. GRAHAM: Yeah, in Oyster Bay  
3 it's actually five so the pool company was  
4 wrong all around but --

5 MR. FELLMAN: Is this an  
6 above-ground or --

7 MS. GRAHAM: It's a semi  
8 in-the-ground.

9 MR. FELLMAN: Semi in-the ground,  
10 all right.

11 MS. GRAHAM: Yeah.

12 MS. TULLY: And there's no overhead  
13 electric?

14 MS. GRAHAM: No, they did a  
15 beautiful job.

16 CHAIRMAN NOSTRAND: And there's no  
17 side clearance issue from the Fire  
18 Department?

19 MR. PORTER: Here's the four foot,  
20 two -- for the Fire Department.

21 CHAIRMAN NOSTRAND: Okay. Is there  
22 anybody in the audience who wants to speak  
23 about this case?

24 MR. LAIETTA: No, it's my house.

25 CHAIRMAN NOSTRAND: You're allowed

1 3-10-22 - ZBA

2 to speak.

3 MR. LAIETTA: No, I'm a -- I'm  
4 raised here, I was raised right by Allen  
5 Park, and --

6 CHAIRMAN NOSTRAND: Oh, you own the  
7 house, okay, you're the --

8 MS. GRAHAM: Correct.

9 CHAIRMAN NOSTRAND: (Continuing) --  
10 homeowner, okay.

11 MR. LAIETTA: Yeah, I'm the  
12 homeowner, sorry.

13 I just -- I've been in the town my  
14 whole life. I didn't know, because I was  
15 raised off Shirley Court right by Allen  
16 Park that the Village had rules, you know.

17 CHAIRMAN NOSTRAND: That's okay.

18 MR. LAIETTA: But, you know.

19 MR. FELLMAN: That's because you  
20 were raised in the town not in the  
21 Village.

22 MS. CARPENTER: Yeah, really.

23 MR. LAIETTA: Yeah.

24 MR. FELLMAN: We'll forgive you for  
25 that.

1 3-10-22 - ZBA

2 MR. LAIETTA: Yeah, I'm a --

3 MR. FELLMAN: Because you're --

4 MR. LAIETTA: I'm an NYPD  
5 Sergeant, my wife's a veteran nurse.

6 MR. FELLMAN: Okay, as long as  
7 you --

8 CHAIRMAN NOSTRAND: Nobody else in  
9 the audience has come there talk about  
10 this case?

11 (WHEREUPON, no response was heard.)

12 CHAIRMAN NOSTRAND: Okay, anybody  
13 have any questions on the Board? No?

14 MS. CARPENTER: No.

15 CHAIRMAN NOSTRAND: Okay. Do we  
16 have a motion to -- make a motion.

17 MS. TULLY: I would like to make to  
18 motion to approve case 3-1 for 51 Maple  
19 Street.

20 MR. FELLMAN: I'm sorry, don't you  
21 have to close the hearing first?

22 MR. DEBELLIS: Close the hearing.

23 CHAIRMAN NOSTRAND: Why do I have  
24 to close the hearing?

25 MR. FELLMAN: You have to close the

1                   3-10-22 - ZBA

2   hearing and then vote.

3                   MR. DEBELLIS:   Yeah.

4                   MS. TULLY:    I make a motion.

5                   MS. CARPENTER:  You have to make a  
6   motion first; don't you?

7                   MR. FELLMAN:   Yeah, make a motion  
8   to close the hearing.  Close the hearing,  
9   and then make a motion to vote.

10                  MR. DEBELLIS:   Yeah.

11                  MR. FELLMAN:    Am I wrong, Counsel?

12                  MR. DEBELLIS:   Yeah.

13                  CHAIRMAN NOSTRAND:  That's a new  
14   one on me.  I never heard that before.  
15   We've never done that before.  We always  
16   make a motion, one way or the other, and  
17   then we move on to the next case.

18                  Please make a motion.

19                  MS. TULLY:    I'd like to make a  
20   motion for case number 3-1, 51 Maple  
21   Street to approve the application as  
22   submitted that involved the setbacks to  
23   the pool.

24                  MR. PORTER:    Seconded.

25                  CHAIRMAN NOSTRAND:  All in favor?

1 3-10-22 - ZBA

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

5 CHAIRMAN NOSTRAND: Motion carried.  
6 Have a good night.

7 MS. GRAHAM: Great, thank you, very  
8 much. Have a good night.

9 MR. DEBELLIS: Good night.

10 CHAIRMAN NOSTRAND: I never heard  
11 that before.

12 MS. CARPENTER: No, because you  
13 discuss it when you make the motion.

14 CHAIRMAN NOSTRAND: Okay.

15 MR. FELLMAN: The point is, you  
16 open the public hearing to get input, and  
17 you close the public hearing, and then you  
18 go to a vote.

19 CHAIRMAN NOSTRAND: We've never  
20 done that before.

21 MS. CARPENTER: Well, we never --

22 MR. FELLMAN: Then we've done it  
23 wrong all this time. It's his fault.

24 MS. CARPENTER: Well, usually he  
25 makes a motion and it's --

1 3-10-22 - ZBA

2 (WHEREUPON, there was a discussion  
3 off the record, after which the following  
4 transpired:)

5 CHAIRMAN NOSTRAND: Our next case  
6 is 3-2, Denise Rivera.

7 COURT REPORTER: Name, please?

8 MS. RIVERA: Denise Rivera.

9 COURT REPORTER: Spell your last  
10 name.

11 MS. RIVERA: R-I-V-E-R-A.

12 COURT REPORTER: Thank you.

13 MS. RIVERA: Do I need to say my  
14 address?

15 CHAIRMAN NOSTRAND: Yes.

16 MS. RIVERA: 190 Grant Avenue,  
17 Farmingdale, New York 11735.

18 I'm here because I would like to  
19 install a portico over my front door  
20 entrance for curb appeal to -- when  
21 there's rain, snow, and I'm aware that  
22 there's setbacks that --

23 CHAIRMAN NOSTRAND: Well, the  
24 problem we have with the application is  
25 that the front of the house is already

1 3-10-22 - ZBA

2 seven feet into the setback, so to go  
3 another four feet, even though it's over a  
4 stoop, is just something that we're  
5 probably not going to be able to do.

6 MS. RIVERA: For the portico? I  
7 mean, we didn't build out the house, when  
8 we purchased the house it was --

9 CHAIRMAN NOSTRAND: Right, I  
10 understand that but it's still seven feet  
11 into the setback already, so --

12 Is there a variance for that, Mr.  
13 Fellman; if you know?

14 MR. FELLMAN: Yes, yes.

15 CHAIRMAN NOSTRAND: For that  
16 addition?

17 MR. FELLMAN: Yes.

18 CHAIRMAN NOSTRAND: So to add a  
19 variance in front of another variance is  
20 not likely to happen.

21 MS. RIVERA: For the portico on  
22 front, like --

23 MS. CARPENTER: We've got the  
24 plans.

25 MS. RIVERA: So it's not possible?

1 3-10-22 - ZBA

2 CHAIRMAN NOSTRAND: Not with this  
3 Board, no.

4 MS. RIVERA: All right, is there  
5 maybe somewhere we can meet?

6 CHAIRMAN NOSTRAND: We're here,  
7 we're meeting.

8 MS. RIVERA: No, I mean, like with  
9 the setback. I understand that, you know,  
10 you said it's already where it's placed  
11 and that's what the --

12 CHAIRMAN NOSTRAND: Right.

13 MS. RIVERA: (Continuing) -- the  
14 rules are with the Village but can I  
15 adjust them?

16 CHAIRMAN NOSTRAND: You can't  
17 adjust the rules.

18 MS. RIVERA: Not the rules, the  
19 portico, like the --

20 CHAIRMAN NOSTRAND: If your front  
21 of your house was at 25 feet, and you  
22 wanted to go out four feet for a portico,  
23 we'd probably say fine. You want to go  
24 out with the porch, that would be fine.  
25 We like people having -- we like front

1 3-10-22 - ZBA

2 porches, we like the roof over the porch  
3 but you're already seven feet extended  
4 into the front yard with the existing  
5 house. So to go another four feet, why  
6 don't we go right to the curb; you know?

7 It just doesn't -- it's not -- this  
8 is why we're here, to keep these things  
9 from being built.

10 MS. RIVERA: When you say I'm going  
11 the four feet, what exactly does that  
12 mean? So like, everything is already,  
13 like my stoop and my door is there, so --

14 CHAIRMAN NOSTRAND: Mm-hmm.

15 MS. RIVERA: (Continuing) -- help  
16 me understand. So my door, then it's the  
17 portico on top of it --

18 CHAIRMAN NOSTRAND: Mm-hmm.

19 MS. RIVERA: (Continuing) -- where  
20 the stoops are already existing so I'm not  
21 going --

22 CHAIRMAN NOSTRAND: And now you're  
23 going to put a structure on top.

24 MR. PORTER: The stoop and the  
25 granite walkway is hardscaping. It's part

1                   3-10-22 - ZBA  
2     of the landscaping. So the roof is a  
3     structure. And the code doesn't allow  
4     structures to protrude into the setback  
5     lines. That's the difference, it's the  
6     stoop versus the portico.

7                   MS. RIVERA: Mm-hmm, okay.

8                   CHAIRMAN NOSTRAND: And again, the  
9     building is already seven feet into where  
10    it's not supposed to be but we granted  
11    permission for that a few years back.

12                  MR. FELLMAN: Yeah, yeah.

13                  MS. RIVERA: Well, we purchased the  
14    home like that, we didn't change --

15                  MR. FELLMAN: Well, you added to it  
16    with the second floor and all that stuff.  
17    You came before this Board a few years  
18    back.

19                  MS. RIVERA: I did.

20                  MR. FELLMAN: That all recanonized  
21    (sic), so to speak, and the problem is  
22    that you're -- we call it refrogging, and  
23    next thing you're on the sidewalk, you  
24    know, it's like the setbacks are important  
25    in terms of open space and the look of the

1                   3-10-22 - ZBA  
2     Village, and they just feel like,  
3     apparently, that this is -- it's getting  
4     too much. They granted you the whole big  
5     structure. I mean, you got away with a  
6     good one --

7                   MS. RIVERA: Yeah.

8                   MR. FELLMAN: (Continuing) -- with  
9     the main structure, you got to --

10                  CHAIRMAN NOSTRAND: There's  
11     another issue, too, Steve, is the floor  
12     area ratio.

13                  MR. FELLMAN: Yeah.

14                  CHAIRMAN NOSTRAND: You're at 52  
15     percent which is -- what is it; what is it  
16     supposed to be?

17                  MS. CARPENTER: 25.

18                  CHAIRMAN NOSTRAND: 25?

19                  MR. PORTER: 35.

20                  CHAIRMAN NOSTRAND: 35.

21                  MS. CARPENTER: Sorry.

22                  CHAIRMAN NOSTRAND: That parcel  
23     that you own is supposed to have 35  
24     percent maximum of building on it. You  
25     already have 52 percent, and you want to

1                   3-10-22 - ZBA  
2    go another -- granted it's only eight feet  
3    but then you want to go up another  
4    percentage to 53 percent. Where is it  
5    going to stop? You're already over. You  
6    have too much house on that property as it  
7    is.

8                   MR. FELLMAN: And part of that has  
9    to do -- again, you were before this Board  
10   a few years back. We weren't sure how to  
11   treat the open carport so it didn't get  
12   treated as enclosed space.

13                  MS. RIVERA: Right.

14                  MR. FELLMAN: So you kind of dodged  
15   the F.A.R. at that point. Now it's coming  
16   back into play, that F.A.R., that carport  
17   has to be open. I see you put like a tarp  
18   and stuff. You can't have a tarp, you  
19   can't have -- it's got to be open.  
20   You're supposed to have cars in there, not  
21   living space.

22                  MS. RIVERA: Right, it's not a  
23   living space. We did the tarp because of  
24   the snow.

25                  MR. FELLMAN: Right.

1                   3-10-22 - ZBA

2                   MS. RIVERA: Last year I had  
3 massive snow.

4                   MR. FELLMAN: I understand. It's  
5 got to be open, so --

6                   MR. DEBELLIS: You know, that was  
7 one of the conditions that the Board  
8 had --

9                   MR. FELLMAN: Yeah.

10                  MR. DEBELLIS: (Continuing) -- for  
11 the approval.

12                  MR. FELLMAN: Yeah.

13                  CHAIRMAN NOSTRAND: The carport  
14 never being enclosed.

15                  MR. DEBELLIS: Yeah.

16                  MR. FELLMAN: Yeah.

17                  CHAIRMAN NOSTRAND: So we granted  
18 that favor, and then now you enclosed it.

19                  MS. RIVERA: It's not permanent.

20                  CHAIRMAN NOSTRAND: It's okay, I  
21 get that. It has nothing to do with what  
22 you're here for tonight. We're just  
23 bringing that up because it's a problem;  
24 okay?

25                  It has nothing to do with the floor

1 3-10-22 - ZBA

2 area ratio, it has nothing to do with the  
3 portico.

4 MR. FELLMAN: Understand you got  
5 granted a lot up until now, you really got  
6 a lot.

7 CHAIRMAN NOSTRAND: Okay, we're  
8 going to make a motion.

9 MR. FELLMAN: Close the hearing?

10 MR. DEBELLIS: Close the hearing?

11 Well, no one else wants to be heard, we  
12 have --

13 CHAIRMAN NOSTRAND: Anybody else  
14 want to be heard in the audience about  
15 this case?

16 MS. TULLY: I'd like to make a  
17 motion to close the public hearing.

18 CHAIRMAN NOSTRAND: Okay.

19 MS. CARPENTER: Seconded.

20 CHAIRMAN NOSTRAND: Motion granted,  
21 meeting closed.

22 (WHEREUPON, a discussion held off  
23 the record.)

24 MR. PORTER: I make a motion to  
25 deny the application in case 3-2 for

1 3-10-22 - ZBA

2 non-conformance of the four-part test of  
3 these hearings.

4 CHAIRMAN NOSTRAND: All in favor?

5 MR. FELLMAN: Second?

6 MS. CARPENTER: I'll second it.

7 MR. FELLMAN: All in favor?

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

11 CHAIRMAN NOSTRAND: Motion carried.

12 Thank you.

13 CHAIRMAN NOSTRAND: Do I have to  
14 close the meeting; again?

15 Now it is closed.

16 MR. FELLMAN: Now you make a motion  
17 to close the meeting.

18 MR. DEBELLIS: Make a motion to,  
19 you know, close the --

20 MR. FELLMAN: (Continuing) --  
21 public hearing.

22 MS. CARPENTER: The meeting.

23 MR. DEBELLIS: The Zoning Board  
24 meeting.

25 MS. CARPENTER: The Zoning Board

1                   3-10-22 - ZBA

2 meeting.

3                   MR. DEBELLIS: (Continuing) -- not  
4 any particular --

5                   MR. PORTER: I move that we close  
6 the meeting.

7                   MS. CARPENTER: Second.

8                   CHAIRMAN NOSTRAND: Carried.

9                   (WHEREUPON, this meeting was  
10 concluded at 7:20 p.m.)

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3-10-22 - ZBA

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 and Notary Public in the State of New York, do hereby certify:

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

I am not connected by blood or marriage with any of the said parties, nor interested directly in the matter in controversy, nor am I in the employ of any of the counsel.

IN WITNESS WHEREOF, I have set my hand on this 13<sup>th</sup> day of March, 2022.

*Debbie Babino*

Debbie Babino, Certified Reporter

**1**

**10** 3:3 4:15 6:20  
**11735** 12:17  
**122** 4:11  
**124** 4:7  
**142** 4:11  
**190** 12:16

**2**

**2011** 4:18  
**2021** 4:18  
**2022** 3:3  
**205** 4:8  
**25** 14:21 17:17,18

**3**

**3-1** 3:17 9:18 10:20  
**3-10-22** 3:1 4:1 5:1 6:1 7:1 8:1  
9:1 10:1 11:1 12:1 13:1 14:1 15:1  
16:1 17:1 18:1 19:1 20:1  
**3-2** 12:6 20:25  
**35** 17:19,20,23

**4**

**4.2** 6:24,25  
**4.2-foot** 4:16  
**49** 4:11

**5**

**51** 3:18 4:10 9:18 10:20  
**52** 17:14,25  
**53** 18:4

**A**

**above-ground** 7:6  
**abutting** 5:19

**add** 13:18  
**added** 16:15  
**addition** 13:16  
**address** 12:14  
**adjust** 14:15,17  
**affected** 5:19  
**affirmative** 11:3  
**agent** 4:8  
**alarms** 5:17  
**Allen** 8:4,15  
**allowed** 7:25  
**apparently** 17:3  
**appeal** 12:20  
**application** 4:12,20 10:21 12:24  
20:25  
**approval** 19:11  
**approve** 9:18 10:21  
**area** 17:12 20:2  
**assume** 6:13  
**audience** 7:22 9:9 20:14  
**Avenue** 12:16  
**avid** 5:11  
**aware** 4:23 12:21

**B**

**back** 16:11,18 18:10,16  
**backyard** 5:5,13 6:8  
**based** 4:22  
**Bay** 4:22 7:2  
**beautiful** 7:15  
**big** 17:4  
**Block** 4:11  
**Board** 9:13 11:3 14:3 16:17 18:9  
19:7  
**bring** 6:15  
**bringing** 19:23  
**build** 13:7

**building** 3:18 16:9 17:24  
**built** 15:9

**C**

**call** 16:22  
**CARPENTER** 3:9,14 8:22 9:14  
10:5 11:12,21,24 13:23 17:17,21  
20:19  
**carport** 18:11,16 19:13  
**carried** 3:5,16 11:5  
**cars** 18:20  
**case** 3:17 7:23 9:10,18 10:17,20  
12:5 20:15,25  
**CHAIRMAN** 3:2,5,12,16,20 4:25  
5:24 6:5,10,13,18 7:16,21,25 8:6,  
9,17 9:8,12,15,23 10:13,25 11:5,  
10,14,19 12:5,15,23 13:9,15,18  
14:2,6,12,16,20 15:14,18,22 16:8  
17:10,14,18,20,22 19:13,17,20  
20:7,13,18,20  
**change** 16:14  
**child** 5:11  
**chose** 5:13  
**Chris** 3:17  
**clearance** 7:17  
**client** 5:18  
**clients** 4:17 5:4  
**close** 9:21,22,24,25 10:8 11:17  
20:9,10,17  
**closed** 20:21  
**code** 16:3  
**comfortably** 5:5  
**company** 4:20 7:3  
**compliance** 4:24 6:16  
**concludes** 6:11  
**conditions** 19:7  
**Continuing** 8:9 14:13 15:15,19  
17:8 19:10  
**Correct** 6:17 8:8  
**Counsel** 10:11

**Court** 3:23 4:3 8:15 12:7,9,12  
**curb** 12:20 15:6

---

**D**

---

**DEBELLIS** 9:22 10:3,10,12 11:9  
19:6,10,15 20:10

**decided** 5:8

**Denise** 12:6,8

**deny** 20:25

**Department** 7:18,20

**difference** 16:5

**discuss** 11:13

**discussion** 12:2 20:22

**dodged** 18:14

**door** 12:19 15:13,16

---

**E**

---

**electric** 7:13

**enclosed** 5:14 18:12 19:14,18

**enjoy** 5:9

**entrance** 12:20

**evening** 4:5

**existing** 4:13,14 15:4,20

**extended** 15:3

---

**F**

---

**F.A.R.** 18:15,16

**Farmingdale** 4:10 12:17

**fault** 11:23

**favor** 3:12 10:25 19:18

**feel** 17:2

**feet** 4:15 6:20,22 13:2,3,10 14:21,  
22 15:3,5,11 16:9 18:2

**Fellman** 3:13 6:19,22,25 7:5,9  
8:19,24 9:3,6,20,25 10:7,11  
11:15,22 13:13,14,17 16:12,15,20  
17:8,13 18:8,14,25 19:4,9,12,16  
20:4,9

**fence** 5:15

**filed** 4:12

**fine** 14:23,24

**Fire** 7:17,20

**fit** 5:5

**floor** 16:16 17:11 19:25

**foot** 5:14 7:19

**forgive** 8:24

**front** 4:7 12:19,25 13:19,22  
14:20,25 15:4

---

**G**

---

**G-R-A-H-A-M** 4:2

**gates** 5:15

**good** 4:5 11:6,8,9 17:6

**Graham** 3:22,25 4:2,4,6 5:2,25  
6:7,11,17,24 7:2,7,11,14 8:8 11:7

**granite** 15:25

**Grant** 12:16

**granted** 16:10 17:4 18:2 19:17  
20:5,20

**Great** 11:7

**ground** 7:9

**guys** 6:3

---

**H**

---

**happen** 13:20

**hardscaping** 15:25

**heard** 9:11 10:14 11:10 20:11,14

**hearing** 9:21,22,24 10:2,8 11:16,  
17 20:9,10,17

**held** 20:22

**home** 4:17 5:9 16:14

**homeowner** 4:10 8:10,12

**house** 7:24 8:7 12:25 13:7,8  
14:21 15:5 18:6

---

**I**

---

**important** 16:24

**in-the** 7:9

**in-the-ground** 4:13 7:8

**input** 11:16

**install** 12:19

**installed** 4:18 5:17

**invest** 5:8

**involved** 10:22

**Island** 4:6

**issue** 7:17 17:11

---

**J**

---

**job** 7:15

---

**K**

---

**kind** 18:14

---

**L**

---

**Laietta** 4:9 7:24 8:3,11,18,23 9:2,  
4

**landscaping** 16:2

**letter** 5:22

**life** 8:14

**lines** 16:5

**living** 18:21,23

**long** 4:6 9:6

**lot** 4:11 5:7 20:5,6

---

**M**

---

**main** 17:9

**maintain** 4:13

**maintained** 5:22

**maintains** 4:16

**make** 3:4,9 9:16,17 10:4,5,7,9,16,  
18,19 11:13 20:8,16,24

**makes** 11:25  
**Maple** 3:18 4:10 9:18 10:20  
**March** 3:3  
**Massapequa** 4:8  
**massive** 19:3  
**Matthew** 4:9  
**maximum** 17:24  
**meet** 4:14 14:5  
**meeting** 3:3,8,11 14:7 20:21  
**Melissa** 3:25 4:6  
**members** 11:3  
**minutes** 3:7,10  
**Mm-hmm** 15:14,18 16:7  
**motion** 3:4,5,6,9,16 9:16,18 10:4, 6,7,9,16,18,20 11:5,13,25 20:8, 17,20,24  
**move** 10:17

---

**N**

---

**neighbor** 5:18  
**night** 11:6,8,9  
**NOSTRAND** 3:2,5,12,16,20 4:25 5:24 6:5,10,13,18 7:16,21,25 8:6, 9,17 9:8,12,15,23 10:13,25 11:5, 10,14,19 12:5,15,23 13:9,15,18 14:2,6,12,16,20 15:14,18,22 16:8 17:10,14,18,20,22 19:13,17,20 20:7,13,18,20  
**number** 10:20  
**nurse** 9:5  
**NYPD** 9:4

---

**O**

---

**objection** 5:21  
**open** 3:2 5:15 11:16 16:25 18:11, 17,19 19:5  
**overhead** 7:12  
**Oyster** 4:22 7:2

---

**P**

---

**parcel** 17:22  
**Park** 4:8 8:5,16  
**part** 15:25 18:8  
**people** 14:25  
**percent** 17:15,24,25 18:4  
**percentage** 18:4  
**Perfect** 4:7  
**permanent** 19:19  
**permission** 16:11  
**permit** 6:14  
**Permits** 3:18 4:7  
**pictures** 5:3 6:3,6,7  
**plans** 13:24  
**play** 18:16  
**point** 11:15 18:15  
**pool** 3:19 4:14,16,18,19,20 5:4, 13,14,21 6:4,8,19 7:3 10:23

**porch** 14:24 15:2  
**porches** 15:2  
**PORTER** 3:4,15 6:21,23 7:19 10:24 15:24 17:19 20:24  
**portico** 12:19 13:6,21 14:19,22 15:17 16:6 20:3  
**present** 11:4  
**presentation** 6:12  
**problem** 12:24 16:21 19:23  
**property** 6:20 18:6  
**protrude** 16:4  
**public** 11:16,17 20:17  
**purchased** 4:17 13:8 16:13  
**put** 5:4,13 15:23 18:17  
**PVC** 5:15

---

**Q**

---

**questions** 9:13

---

**R**

---

**R-I-V-E-R-A** 12:11  
**rain** 12:21  
**raised** 8:4,15,20  
**ratio** 17:12 20:2  
**reading** 3:7,10  
**reason** 5:12  
**recanonized** 16:20  
**record** 12:3 20:23  
**refrogging** 16:22  
**REPORTER** 3:23 4:3 12:7,9,12  
**representing** 4:9  
**required** 4:15 5:17  
**response** 9:11  
**Rivera** 12:6,8,11,13,16 13:6,21, 25 14:4,8,13,18 15:10,15,19 16:7, 13,19 17:7 18:13,22 19:2,19

**roof** 15:2 16:2  
**Ross** 3:17  
**rules** 8:16 14:14,17,18

---

**S**

---

**safety** 5:17  
**Seconded** 10:24 20:19  
**Section** 4:11  
**self-close** 5:16  
**self-lock** 5:16  
**semi** 4:13 7:7,9  
**Sergeant** 9:5  
**setback** 4:15,17 5:20 6:20 13:2, 11 14:9 16:4  
**setbacks** 4:23 10:22 12:22 16:24  
**Shirley** 8:15  
**sic** 16:21  
**side** 4:15,16 5:20 7:17  
**sidewalk** 16:23

**snow** 12:21 18:24 19:3  
**space** 16:25 18:12,21,23  
**speak** 7:22 8:2 16:21  
**Spell** 12:9  
**spelling** 3:24  
**spoke** 5:18  
**spot** 5:3  
**stating** 5:25  
**Steve** 17:11  
**stoop** 13:4 15:13,24 16:6  
**stoops** 15:20  
**stop** 18:5  
**Street** 3:18 4:7,10 9:19 10:21  
**structure** 15:23 16:3 17:5,9  
**structures** 16:4  
**stuff** 16:16 18:18  
**submit** 5:23  
**submitted** 10:22  
**Suite** 4:7  
**supposed** 16:10 17:16,23 18:20  
**swimmer** 5:12

---

**T**

---

**talk** 9:9  
**tarp** 18:17,18,23  
**terms** 16:25  
**thing** 16:23  
**things** 15:8  
**thought** 4:21  
**time** 11:23  
**tonight** 19:22  
**top** 15:17,23  
**town** 4:21 8:13,20  
**transpired** 12:4  
**treat** 18:11  
**treated** 18:12

**TULLY** 7:12 9:17 10:4,19 20:16

---

**U**

---

**unanimous** 11:2  
**uncertainty** 5:7  
**understand** 13:10 14:9 15:16  
 19:4 20:4

---

**V**

---

**variance** 6:14 13:12,19  
**versus** 16:6  
**veteran** 9:5  
**Village** 8:16,21 14:14 17:2  
**vote** 10:2,9 11:3,18

---

**W**

---

**waive** 3:6,10  
**walkway** 15:25  
**wanted** 14:22  
**wife's** 9:5  
**world** 5:8,10  
**wrong** 7:4 10:11 11:23  
**wrote** 5:22

---

**Y**

---

**yard** 4:15,16 5:20 15:4  
**year** 19:2  
**years** 16:11,17 18:10  
**York** 12:17  
**Yup** 3:25

---

**Z**

---

**ZBA** 3:1 4:1 5:1 6:1 7:1 8:1 9:1  
 10:1 11:1 12:1 13:1 14:1 15:1  
 16:1 17:1 18:1 19:1 20:1