

In the Matter Of:

VILLAGE OF FARMINGDALE - ZONING BOARD OF APPEALS

CASE #6-1 MERRITTS ROAD

June 08, 2023



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ZBA - 6/8/23

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

June 8, 2023
8:00 p.m.

Case #6-1 Merritts Road

ACCURATE COURT REPORTING SERVICE, INC.

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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 BERNIE HOTHERSALL, Board Member

6 CLAUDIO DEBELLIS, Board Counsel

7 A L S O P R E S E N T :

8 TODD O'CONNELL
ARCHITECT FOR THE APPLICANT
9 Case #6-1 20 Merritts Road

10 SUNIL SHAH, Commentator

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2 CHAIRMAN NOSTRAND: Call to order
3 the June 8th, 2023 Zoning Board of
4 Appeals.

5 We have three cases, although one
6 application. We're going to treat all
7 three as one, make it simple.

8 We need to make a motion to waive
9 the reading of the minutes from the last
10 meeting.

11 MS. TULLY: I make a motion to
12 waive the reading of the minutes from
13 the last meeting.

14 CHAIRMAN NOSTRAND: All in favor?

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

18 CHAIRMAN NOSTRAND: Motion
19 carried.

20 MR. HOTHERSALL: I second.

21 CHAIRMAN NOSTRAND: Okay, first
22 case, #6-1 application of Black Horse
23 Development, to construct a single
24 family, 20 Merritts Road, Subdivision
25 Residence AA Zoning.

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2 MR. O'CONNELL: Okay, well, thank
3 you.

4 CHAIRMAN NOSTRAND: Give us your
5 name and for the record.

6 COURT REPORTER: Just for the
7 record, introduce yourself.

8 MR. O'CONNELL: Absolutely.

9 Chairman, members of the Board,
10 my name is Todd O'Connell, architect,
11 doing business at 1200 Veterans Highway,
12 Hauppauge, New York.

13 COURT REPORTER: Thank you.

14 MR. O'CONNELL: Okay. So this is
15 an application that's come before you
16 based on some recommendations from some
17 -- from prior Boards and discussions
18 with the neighbors that are specifically
19 to the rear of the property, and the
20 concern of this house is because this
21 house has a, you know, a very sharp
22 topography on it, is how we can create a
23 home that meets the code or go for a
24 variance that, you know, get some relief
25 to try to help some drainage issues,

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2 also to try to diminish concerns of any
3 neighbors.

4 So one of the things that
5 happened during the Planning Board, and
6 it may be difficult to see but you all
7 have copies of the plans is, you have
8 this drainage area on the back which
9 encompasses over 10 and-a-half,
10 actually, it's six, 12, almost 15 feet
11 of the rear property line which is
12 specifically for drainage as well as
13 landscape buffer to the neighbors. So
14 that diminishes some of the rear yard
15 area.

16 Some of the other issues that the
17 neighbors had at some of the Planning
18 Board and Architectural Review Board
19 meeting is the feel of a -- what
20 ultimately becomes a three-story home on
21 the back of the property. Now that's
22 just because of the topography of the
23 land. It's a walkout basement is what
24 it is on the back end but that is
25 strictly because, you know, which a lot

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2 a typical parking spot so we could get a
3 full car in the driveway, parking should
4 not become an issue, and we felt that
5 that would, you know, be a design that
6 would be beneficial to the people in the
7 rear of the property, as well as, you
8 know, it's beneficial to anyone
9 purchasing this property so they're not
10 losing that section of yard that's being
11 occupied by landscaping and drainage
12 swales that essentially becomes unusable
13 property, and that also helps the
14 drainage issue that was some big
15 concerns with the neighbors behind, as
16 well.

17 So we felt the application before
18 this Board would -- was, you know, the
19 benefit achieved by any, you know, owner
20 of this parcel would far outweigh any
21 detriment to the, you know, surrounding
22 area. It would actually help the
23 neighbors behind. So we felt that, you
24 know, the, you know, it wouldn't
25 diminish the character of the

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2 neighborhood, because again, it's a
3 one-story home on -- one and-a-half
4 stories on the front facing two-story
5 homes so we're kind of working with the
6 character, we're not trying to overbuild
7 the street. We feel the benefit will
8 assist the people behind, and there's
9 really no environmental, you know, issue
10 with what we're proposing. It's you
11 know, we've had engineers on this
12 project that provide all the proper
13 drainage, and that was, you know, the
14 solution of some of the drainage was
15 specific to being able to push the house
16 a little bit more forward.

17 So that's a little bit about the
18 application. It's consistent with all
19 of the three homes that are before you
20 today, so the testimony would be
21 incorporated onto all three of them, and
22 with that, I'd love to answer any
23 questions the Board may have.

24 CHAIRMAN NOSTRAND: Mr.
25 O'Connell, you keep saying, story

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2 and-a-half.

3 MR. O'CONNELL: Yes.

4 CHAIRMAN NOSTRAND: This is a
5 two-story house.

6 MR. O'CONNELL: Well, from the
7 front. It's a Cape Cod. A Cape Cod is
8 classified as quote/unquote a one
9 and-a-half story home, and that's what,
10 essentially, this house is. The lower
11 story, which when you look at it in the
12 rear, is a three-story home. It's a
13 walkout basement which is not an
14 uncommon thing, any house that has a
15 grade thing. That's what they end up
16 being.

17 CHAIRMAN NOSTRAND: With two
18 stories above it.

19 MR. O'CONNELL: Yes, exactly.

20 CHAIRMAN NOSTRAND: Calling it a
21 one and-a-half is a stretch.

22 MR. O'CONNELL: Correct, it's
23 just, you know, it's like a dormered
24 cape on the back.

25 CHAIRMAN NOSTRAND: Right.

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2 MR. O'CONNELL: Which I'm sure
3 everybody is familiar with.

4 CHAIRMAN NOSTRAND: Right. The
5 plans also says two stories.

6 MR. O'CONNELL: Yes, the relevant
7 part of the one and-a-half story is just
8 the feeling of the street side --

9 CHAIRMAN NOSTRAND: Yeah.

10 MR. O'CONNELL: (Continuing) --
11 which is an important view. As you
12 drive down the street, you don't want to
13 be looking at, you know, this mass which
14 then impedes the, you know, the
15 neighbors to the rear.

16 CHAIRMAN NOSTRAND: One of the
17 questions we have is the floor area
18 ratios. The code in Farmingdale is 35
19 percent, max.

20 MR. O'CONNELL: Okay.

21 CHAIRMAN NOSTRAND: You're at 60,
22 62.

23 MS. TULLY: 40.

24 CHAIRMAN NOSTRAND: Some are at
25 40, 62, 42, right.

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2 MR. O'CONNELL: You're talking
3 about lot coverage or --

4 MR. DEBELLIS: F.A.R.

5 MS. TULLY: F.A.R.

6 MR. O'CONNELL: Oh, F.A.R.,
7 F.A.R., okay.

8 MS. TULLY: And we don't see it
9 on the plans.

10 MR. O'CONNELL: Yes, I'm not
11 seeing it on the plans, as well.

12 MR. DEBELLIS: No, it's not on
13 the plans but it's on the application.

14 MR. O'CONNELL: Got it.

15 MS. TULLY: Yes.

16 MR. O'CONNELL: The application
17 before the BZA I was not part of. I
18 believe they including the basement
19 which should not be included in that
20 F.A.R. requirement.

21 MR. DEBELLIS: It is.

22 MR. O'CONNELL: It is?

23 MR. DEBELLIS: Yeah.

24 MR. O'CONNELL: Okay, all right,
25 I didn't see it. Again, I didn't make

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2 the application.

3 CHAIRMAN NOSTRAND: Right.

4 MR. O'CONNELL: So I'm not sure
5 what they've submitted to you.

6 CHAIRMAN NOSTRAND: Did you
7 design these? Are these your plans?

8 MR. O'CONNELL: The plans are
9 mine, yes.

10 CHAIRMAN NOSTRAND: Okay.

11 MR. O'CONNELL: So I'm looking --
12 if I'm looking at the same plan you have
13 here, all I have is lot coverage on this
14 particular --

15 MS. TULLY: Yeah, there's no --

16 CHAIRMAN NOSTRAND: F.A.R. is a
17 fixed point on these developments.

18 MS. TULLY: It's our
19 understanding that F.A.R. wasn't covered
20 in the Planning Board meeting?

21 MR. O'CONNELL: Not that I'm
22 aware of, no.

23 CHAIRMAN NOSTRAND: That right
24 there is just a big problem --

25 MR. O'CONNELL: Got it.

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2 CHAIRMAN NOSTRAND: (Continuing)

3 -- for the entire application.

4 MR. O'CONNELL: For the entire --
5 okay.

6 CHAIRMAN NOSTRAND: Including the
7 fourth house that's not on the
8 application but it shows, you know, for
9 the future.

10 MR. O'CONNELL: Gotcha, I
11 understand, I understand.

12 May I approach and just see what
13 you're looking at there with the F.A.R.s
14 just to make sure that I -- is that
15 okay?

16 CHAIRMAN NOSTRAND: Yeah.

17 MS. TULLY: Sure.

18 MR. DEBELLIS: Come on up.

19 CHAIRMAN NOSTRAND: We'll go
20 Off-the-record, off-the-record for a
21 minute.

22 MR. O'CONNELL: Okay.

23 (WHEREUPON, there was an
24 off-the-record discussion.)

25 CHAIRMAN NOSTRAND: So let's go

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2 back on the --

3 MR. O'CONNELL: On the record,
4 okay.

5 CHAIRMAN NOSTRAND: (Continuing)
6 -- on the record.

7 We should make a motion -- what?

8 MS. TULLY: We also have the
9 cards.

10 CHAIRMAN NOSTRAND: So what I'm
11 going to suggest is that we table this
12 until you go to back your firm and your
13 builders and square away these numbers,
14 and there's a packet of notifications
15 that all residents receive the letter
16 and all that.

17 MR. DEBELLIS: Yeah, the
18 return/receipt.

19 CHAIRMAN NOSTRAND: The green
20 cards.

21 MR. DEBELLIS: The green cards.

22 MR. O'CONNELL: Yeah, again, I
23 did not do any of that. So I was asked
24 just to appear and present, so I did not
25 do any of the application.

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2 MR. DEBELLIS: The next time,
3 whoever comes in.

4 MS. TULLY: You have to bring all
5 those return/receipts.

6 MR. O'CONNELL: I will advise the
7 person who made the submittals. So it
8 was done by the owner. They didn't want
9 to retain us to do the submissions,
10 so --

11 CHAIRMAN NOSTRAND: Okay, and on
12 the record, I think you should know at
13 this point that we're not going to give
14 a 20-foot setback. It's just not a
15 precedent we can set.

16 MR. O'CONNELL: Okay.

17 CHAIRMAN NOSTRAND: So my advice
18 is that the building person, you need to
19 make a smaller house, by a lot, to get
20 into your 35 percent F.A.R. --

21 MR. O'CONNELL: Mm-hmm.

22 CHAIRMAN NOSTRAND: (Continuing)
23 -- and retain the front setbacks and
24 keep the neighbors behind you happy.

25 MR. O'CONNELL: Well, that was

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2 our goal, and again, it's you know,
3 totally understand, that's what we're
4 trying to do, that's what prompted the
5 moving forward, so --

6 CHAIRMAN NOSTRAND: Yup. Oh, do
7 you have something you want to say back
8 there?

9 MR. SHAH: Oh, no, I just wanted
10 to say that moving it 30 --

11 CHAIRMAN NOSTRAND: We need
12 you --

13 MR. SHAH: Oh, Sunil Shah.

14 COURT REPORTER: If you could
15 just come on up.

16 CHAIRMAN NOSTRAND: Come on up.
17 Give your name.

18 MR. DEBELLIS: Come on up.

19 MR. SHAH: Sure.

20 MR. DEBELLIS: Just your name and
21 address.

22 MR. SHAH: Sunil Shah, 9 Toretta.

23 COURT REPORTER: Oh, thank you.

24 MR. SHAH: Basically, I was going
25 to say, like, it devalues the properties

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2 that are across the street that were
3 already built by moving them to 20 feet
4 because there's already a short yard as
5 it is, and the property value in that
6 area has gone up considerably, and I'm
7 one of the homeowners that actually has
8 an exclusion that I can sell, and I'm
9 trying to actually do that in the next
10 few months, and I don't want my property
11 value to go down just because you're
12 moving it 10 feet up because that means
13 you're crowding the street by it, as
14 well.

15 CHAIRMAN NOSTRAND: How much, out
16 of curiosity.

17 MR. SHAH: 1.2 million.

18 CHAIRMAN NOSTRAND: Because we
19 walked the property the other day.

20 MR. SHAH: Yeah, I saw you guys,
21 I was the guy who was outside.

22 CHAIRMAN NOSTRAND: So how much
23 frontage do you have between the curb
24 and --

25 MR. SHAH: So we have -- we have

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2 about 30 feet.

3 CHAIRMAN NOSTRAND: Thirty feet.

4 MR. SHAH: Yeah, because we had
5 the sprinkler guys. I was the one
6 outside that was on the end, like, on
7 the end when you guys were in the
8 escalade. Yeah, you guys were in the
9 escalade, basically, yeah.

10 MS. TULLY: Walking the property.

11 MR. SHAH: But if you move it up
12 10 feet, it's literally, you're from
13 here to that wall.

14 CHAIRMAN NOSTRAND: It's a lot
15 shorter than that.

16 MR. SHAH: That's 20 feet. So
17 because here to that area's 10, and from
18 there to there is 10. That means that
19 you've crowded the street, and nothing
20 against the builder, but I got to make
21 my money back as well, at this point,
22 because there's a lot of other issues
23 which we're not even here to discuss.
24 But hey, everybody needs to make a
25 living, so --

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2 MS. TULLY: Great.

3 CHAIRMAN NOSTRAND: Okay, thank
4 you.

5 MR. O'CONNELL: Thank you.

6 MR. SHAH: Cool, thank you.

7 MS. TULLY: I just have one
8 question about the application. The
9 measurement of 20 feet, is that from the
10 curb line or from back of the sidewalk?

11 MR. O'CONNELL: It's from the
12 property line.

13 MS. TULLY: Which is where?

14 MR. O'CONNELL: The property line
15 itself is probably about 10 feet back --

16 MS. TULLY: From the curb line.

17 MR. O'CONNELL: (Continuing) --
18 from the curb line, yeah. So you know,
19 aesthetically, it's, you know, it still
20 feels like 30 feet from the curb but
21 it's -- but we go from the property line
22 to the setbacks that are before you.

23 CHAIRMAN NOSTRAND: I'm not sure
24 if I agree with that.

25 MS. TULLY: I was just curious

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2 because there were stakes in the ground.

3 MR. O'CONNELL: To give you an
4 exact dimension, let me just look at it,
5 right now, it's probably 10, 20, it's
6 probably about seven feet of the -- if
7 the survey is correct, we're showing
8 about seven feet. So it's probably
9 about 27 from the curb.

10 MR. SHAH: I can answer that
11 question for the stakes. Those are the
12 actual like, division lines.

13 MR. O'CONNELL: Right.

14 MR. SHAH: Because this morning I
15 had a surveyor for my back area which is
16 Alex, you guys know, as well, who comes
17 here all the time to complain about
18 random stuff but facing the back fence,
19 the surveyor was there, he was looking
20 at all the spots, and he said those are
21 property division lines.

22 MS. TULLY: Okay.

23 MR. SHAH: So it's plot
24 divisions.

25 MS. TULLY: Yeah, I wasn't sure

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if it was the corner of the house.

Okay, thank you.

CHAIRMAN NOSTRAND: Okay, motion to adjourn to -- is next month good?

MR. O'CONNELL: Sounds good to me.

MS. TULLY: I make a motion to adjourn three applications.

MR. DEBELLIS: Thank you.

MS. TULLY: To adjourn to next month.

CHAIRMAN NOSTRAND: All in favor?

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

CHAIRMAN NOSTRAND: Carried.

(WHEREUPON, the 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 15th day of April, 2023

Debbie Babino

Debbie Babino, Certified Reporter

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