

VILLAGE OF MUNSEY PARK
BOARD OF APPEALS

BZA No. 322/2021

WHEREAS, Mr. & Mrs. Sforza, residing at 68 Sully Place, Manhasset, New York 11030, known as Section 3, Block 148, Lot 140, on the Land and Tax Map of Nassau County (hereinafter the 'Premises'), situated in the '*Residence A*' District of the Village, have appealed to the Board of Appeals for a variance from Section 200.8(B) of the Code of the Incorporated Village of Munsey Park which requires that the building area, including all accessory buildings and all structures on a premise in the '*Residence A*' District, shall not exceed 25% of the lot area.

WHEREAS, on September 20, 2021, at 7:00 p.m., after due notice, the Board of Appeals held a public hearing on said application, at which hearing any and all persons interested in that appeal were given an opportunity to appear and be heard;

WHEREAS, the applicants appeared, together with Michael Rant of North Coast Civil with offices at 39 West Main Street, Oyster Bay, New York, and no party appeared in opposition;

WHEREAS, Section 200-8(B), as amended by Local Law 1-1993 on January 13, 1993, requires of all lots located in the '*Residence A District*', that the building area, including all accessory buildings and all structures, shall not exceed 25% of the lot area, and 29.4% is proposed herein; and

WHEREAS, Section 200-2 of the Village Code defines "Building Area", as an area determined by measuring around the exterior of the foundation walls or foundation structure of a building, and includes the floor area of porches, decks, swimming pools, and all other accessory buildings.

WHEREAS, Section 200-2 of the Village Code further states that for the purposes of determining lot coverage, the term "swimming pool" shall include the walls, decks along the sides

of the pool, the base for the springboard or diving platform, and the foundation for the purifying apparatus. In addition to the above, decks, terraces, patios and walks shall conform to the applicable setback requirements;

WHEREAS, the instant application seeks a variance for an existing, newly expanded patio surrounding the pool, located in the rear of the yard located on the south side of Sully Drive, 182.35 feet west of Hunt Lane;

WHEREAS, Village Law Section 7-712-b(3) requires that in making a determination for an area variance, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

NOW THEREFORE, after due consideration and deliberation, the Board finds that with regard to the newly expanded patio surrounding the pool in violation of Section 200.8(B) of the Code; the benefit to the applicant is outweighed when compared to the health, safety and welfare of the neighborhood and community; and that the benefit achieved by the applicant could have been realized by other feasible methods which would not have required a variance;

FURTHER, while the Board finds that the request for this variance is not the result of any hardship or existing circumstance, but rather self-created by the applicant, in that the expanded area of the patio located on the east side of the pool, is significantly larger than necessary, resulting in a substantial variance request in the view of the Board;

HOWEVER, the Board further finds that the Applicant presented a specific hardship, unique to the Sforza's and their property, based upon medical notes submitted to the Board and incorporated into the records herein; and that the property is uniquely situated within the Village, specifically bordering Northern Boulevard on the Village boundary;

NOW THEREFORE BE IT RESOLVED that the application for a variance with regard to existing, newly expanded patio surrounding the pool in violation of Section 200-8(B) of the Village Code hereby is, approved to the extent that a variance from Section 200-8(b) of the Code is approved up to 27% lot coverage, based on the above; and

The forgoing resolution was moved by Chairman Joseph Russo and seconded by Member Robert Farrer, and adopted as follows:

Joseph Russo, Chairperson	-	Aye
Robert Farrer, Member	-	Aye
Tara Kirkwood, Member	-	Aye
Dimitri Nikas, Member	-	Aye
Matthew Fulgieri, Member	-	Aye

Joseph Russo, Chairperson

Dated: _____

Filed: _____