

INCORPORATED VILLAGE OF FLORAL PARK

BOARD OF TRUSTEES

November 1, 2016

P R E S E N T

MAYOR THOMAS J. TWEEDY

TRUSTEE KEVIN M. FITZGERALD

TRUSTEE DOMINICK A. LONGOBARDI

TRUSTEE LYNN POMBONYO

TRUSTEE ARCHIE T. CHENG

GERARD M. BAMBRICK, ESQ.

JOHN RYAN, ESQ., VILLAGE ATTORNEY

STEPHEN McALLISTER, POLICE COMMISSIONER

SUSAN E. WALSH, VILLAGE CLERK

Application of: Paul Capozziello, Lessee,
49 Covert Avenue

Reported By: MARY ANNE COPPINS, Court Reporter

1 MAYOR TWEEDY: Good evening, ladies
2 and gentlemen. We have a fairly full
3 calendar this evening. We are going to
4 begin with a Public Hearing on a Special
5 Use Permit followed by three Local Laws,
6 after which I will ask our Village
7 Clerk, Susan Walsh, to present the
8 agenda. Subsequent to that, we will
9 have the opportunity for anyone who
10 would like to present an issue that
11 concerns them, or a suggestion they may
12 have before the Village Board at that
13 time.

14 At this time, I would ask Susan
15 Walsh, our Village Clerk, to be kind
16 enough to read the legal notice.

17 Is the applicant here for the --
18 okay, very good, if you would come
19 forward for the Special Use Permit of
20 Paul Capozziello -- we will recall it
21 after the Local Laws. Okay, all right,
22 then we will hold off. Thank you Paul.

23 (Application set aside and recalled
24 after other matters are called.)

25 MAYOR TWEEDY: Ladies and

1 gentlemen, we now move to Local Law
2 Number 5 -- we will hold off on Local
3 Law Number 5. We will move now to the
4 public hearing for which is a Special
5 Use Permit on Covert Avenue. Paul
6 Capozziello, I appreciate it, Mario
7 Vergara.

8 Good evening, sir. If you can just
9 walk us through -- I'm sorry, if I can
10 start by asking our Village Clerk, Susan
11 Walsh, to kindly read the Notice of
12 Public Hearing.

13 MS. WALSH: Thank you, Mayor
14 Tweedy.

15 Notice of Public Hearing,
16 Incorporated Village of Floral Park, New
17 York.

18 Notice is hereby given that the
19 Board of Trustees of the Incorporated
20 Village of Floral Park, New York, will
21 hold a Public Hearing at the Village
22 Hall, One Floral Park Boulevard, Floral
23 Park, New York, on Tuesday November 1,
24 2016 at 8:00 p.m. in relation to the
25 following application: The application

1 of Paul Capozziello, Lessee, of 49 Covert
2 Avenue, Floral Park, New York, is made
3 in accordance with Article III, Section
4 99-10B of the Zoning Ordinance of the
5 Incorporated Village of Floral Park, New
6 York, which requires that when a
7 building is altered or used for a
8 restaurant in a B-1 District, the use
9 may only be authorized as a special use
10 after a public hearing.

11 The structure for which said
12 Special Permit is applied is situated on
13 the west side of Covert Avenue, 35.09
14 feet south of Beverly Avenue, and known
15 as 47 Covert Avenue, Section 32, Block
16 270, Lots 160 to 170 on the Nassau
17 County Tax Map.

18 A copy of the application is on
19 file in the Office of the Village Clerk,
20 One Floral Boulevard, Floral Park, New
21 York and may be examined by any persons
22 interested therein during business
23 hours, Monday through Friday, except
24 legal holidays, from 8:30 to 4:30 p.m.

25 Now take notice that all parties in

1 interest and citizens will be given the
2 opportunity to be heard at the aforesaid
3 time and place.

4 The correct Board in the legal
5 notice should read: By Order of the
6 Board of Trustees, Incorporated Village
7 of Floral Park, New York, Susan E.
8 Walsh, Village Clerk, and the legal
9 notice was dated October 26, 2016. The
10 Gateway acknowledges a misprint.

11 This legal notice has been
12 published in the official paper of the
13 Incorporated Village of Floral Park, New
14 York, and posted according to law and
15 sent to the Nassau County Planning
16 Commission.

17 MAYOR TWEEDY: Thank you very much,
18 Ms. Walsh.

19 I would like to place on the record
20 that the applicant has previously filed
21 an affidavit of service indicating that
22 all neighbors within a 200-foot radius
23 of the dwelling have been served with
24 notice.

25 MR. RYAN: Before we begin, Mr.

1 Vergara, this matter has to go before
2 the Zoning Board for a variance. The
3 Zoning Board is lead agency for the
4 purposes of SEQRA, the State
5 Environmental Quality Review Act. So,
6 all of this is going to be continued on
7 those decisions.

8 MR. VERGARA: Understood.

9 MAYOR TWEEDY: And the hearing date
10 for that is November 9th, as I recall.

11 MR. VERGARA: November 9th.

12 MAYOR TWEEDY: So we'll certainly
13 include this as part of that record.

14 We will wait, obviously, for that
15 decision before this Board renders a
16 decision; however, I would like to hear
17 your application.

18 At this time, I would ask you to be
19 sworn by the stenographer.

20 (Whereupon, the witness is sworn.)

21 THE STENOGRAPHER: Please state
22 your name for the record.

23 MR. VERGARA: Mario R. Vergara, V,
24 as in victory, E-R-G-A-R-A, 100 Jericho
25 Turnpike, Floral Park.

1 kitchen. 80 percent of its current
2 business is delivering takeout.

3 The application in front of the
4 Board tonight would double the square
5 footage, resulting in an additional 45
6 seats, five of which would be located at
7 the small service bar to the front of
8 the premises. This additional space
9 would be for additional seating during
10 lunch and for small private parties,
11 such as baby showers, bridal showers,
12 birthdays, dinners, christenings and
13 communions. There will be no live
14 entertainment or sports parties; for
15 example, Superbowl parties or soccer
16 events.

17 The opening hours remain the same
18 and are Monday through -- seven days a
19 week, 11 in the morning to 10 at night.
20 The number of staff is expected to
21 remain the same with, perhaps, the
22 addition of a waitress or a bus boy on
23 busy nights. The current staff parks on
24 the opposite part of Covert Avenue,
25 closer to the Stewart Manor Country

1 Club.

2 The food menu is expected to remain
3 the same. The new kitchen exhaust hood
4 and Ansul system will be provided for
5 the expansion of the kitchen at the rear
6 of the additional space. In the seven
7 years Capo has operated, there have been
8 no complaints regarding odors. Trash is
9 picked up both by municipal and private
10 trash companies totalling six days a
11 week. This pick-up service will be
12 maintained with proposed -- with the
13 proposed additional space, and if
14 approved, the applicant plans to install
15 a refrigerator container outside of the
16 rear of the property.

17 Capo currently has an SLA license
18 for beer and wine and is currently
19 applying for a liquor license. No
20 gambling venue such as NYRA or Keno will
21 be provided.

22 I'd be happy to answer any
23 questions you might have.

24 MAYOR TWEEDY: Just a few notes.

25 I have to clarify and confirm that

1 this new opening between the old kitchen
2 and the new kitchen is through a masonry
3 wall, I assume.

4 MR. VERGARA: Yes.

5 MAYOR TWEEDY: And that will be a
6 new addition. Is that also new to this?

7 MR. VERGARA: That's correct. Both
8 openings from the existing kitchen and
9 the existing dining room are new.

10 If you note, there is a sliding
11 door located at the opening of the
12 dining area in case of a private party.

13 MAYOR TWEEDY: Obviously, we will
14 have existing lighting for emergency
15 lighting, the rear door as well.

16 MR. VERGARA: Yes.

17 MAYOR TWEEDY: At this time I would
18 ask if any member of the Board has any
19 questions.

20 TRUSTEE FITZGERALD: Thank you, Mr.
21 Mayor, thank you, Mr. Vergara.

22 With regards to the basement, is
23 there any uses of the basement?

24 MR. VERGARA: I will have to ask
25 the owner.

1 MR. CAPOZIELLO: No.

2 MAYOR TWEEDY: Paul, would you be
3 sworn, please.

4 (Whereupon, the witness was sworn.)

5 MR. CAPOZIELLO: No, I'm sorry.

6 THE STENOGRAPHER: Would you state
7 your name for the record?

8 MR. CAPOZIELLO: Paul Capozziello,
9 C-A-P-O-Z-I-E-L-L-O.

10 TRUSTEE FITZGERALD: With regards
11 to the basement, what are the plans,
12 storage?

13 MR. CAPOZIELLO: At this time,
14 there's no need to use the basement,
15 although it's there.

16 Currently, we're going to put
17 another walk-in box in the existing
18 basement of my 49 Covert Avenue.

19 TRUSTEE FITZGERALD: With regards
20 to deliveries when you expand the
21 business, do you expect to have expanded
22 deliveries in the sense of more times
23 deliveries are made, or is it just going
24 to be the same times, just more goods
25 delivered at that time?

1 MR. CAPOZIELLO: I believe it is
2 going to stay the same because it's
3 coming out of 49 Covert Avenue. I'm not
4 using the new space for delivery and
5 takeout.

6 TRUSTEE FITZGERALD: No, I'm sorry,
7 deliveries of goods that you produce.

8 MR. CAPOZIELLO: I would assume,
9 obviously, there will be more deliveries
10 to the restaurant, correct.

11 TRUSTEE FITZGERALD: But when will
12 they occur, during the same time?

13 MR. CAPOZIELLO: Same time as they
14 do now.

15 Currently, I am receiving
16 deliveries approximately four times a
17 week.

18 TRUSTEE FITZGERALD: It will be
19 within the same window?

20 MR. CAPOZIELLO: That's correct.

21 MAYOR TWEEDY: Trustee Longobardi?

22 TRUSTEE LONGOBARDI: Thank you, Mr.
23 Mayor, thank you Mr. Vergara.

24 Just with regards to the bar
25 service, alcohol service, the hours you

1 said, again, were to remain 11 to 10,
2 you're not planning to stay open.

3 MR. CAPOZIELLO: If there is a
4 private party, probably 11 or 12:00,
5 that is something I wouldn't know until
6 then. But it is not going to be a bar,
7 as a public opening, people walking in
8 out using it as a bar. It would be used
9 as a service bar for any type of private
10 party or restaurant service.

11 TRUSTEE LONGOBARDI: The door that
12 remains in the current location, you
13 won't be using the other door as an
14 entrance.

15 MR. CAPOZIELLO: I don't plan on
16 using that as a public entrance,
17 correct.

18 TRUSTEE LONGOBARDI: Any outside --
19 again, did I hear outside refrigerator
20 container?

21 MR. VERGARA: If the application is
22 approved for the additional trash that
23 may be expected, the applicant would
24 look to install a refrigerated case for
25 garbage.

1 TRUSTEE LONGOBARDI: That would be
2 in the back of the building?

3 MR. VERGARA: That's correct.

4 MR. CAPOZIELLO: That's correct.

5 TRUSTEE LONGOBARDI: You're not
6 planning on using the back entrance?

7 MR. CAPOZIELLO: There would be no
8 public entrance.

9 TRUSTEE LONGOBARDI: At this time,
10 I have no questions.

11 MAYOR TWEEDY: Trustee Pombonyo?

12 TRUSTEE POMBONYO: Thank you.

13 In terms of the new area of the
14 restaurant that you are opening, will
15 that also then be opened daily for lunch
16 and dinner or is that --

17 MR. CAPOZIELLO: Yes.

18 TRUSTEE POMBONYO: -- starting a
19 regular --

20 MR. CAPOZIELLO: Correct.

21 TRUSTEE POMBONYO: Could you talk a
22 little bit about where and how you're
23 storing trash.

24 MR. CAPOZIELLO: The trash is
25 coming out every single day. When I say

1 every single day, it goes out Sunday
2 night, Monday night, Tuesday night,
3 Wednesday night, Thursday night, as well
4 as Friday night. It's picked up by a
5 private sanitation on those days.

6 TRUSTEE POMBONYO: Is it kept
7 inside?

8 MR. CAPOZIELLO: It's kept out
9 back.

10 TRUSTEE POMBONYO: What kind of
11 receptacles?

12 MR. CAPOZIELLO: Right now I have a
13 plastic receptacle to keep whatever
14 garbage that I have. For the time
15 period they're not picked up, that's
16 where they're stored.

17 TRUSTEE POMBONYO: So it's all
18 contained.

19 MR. CAPOZIELLO: It's contained,
20 and that's also why I suggested that if
21 it was okayed, I would be willing to put
22 a refrigerated garbage storage, because
23 I was aware of the fact that there will
24 be more garbage. And rather than create
25 a problem now, I would be proactive and

1 present you with the opportunity, if I
2 were to open, and have a refrigerated
3 garbage receptacle.

4 TRUSTEE POMBONYO: Thank you.

5 MAYOR TWEEDY: Trustee Cheng?

6 TRUSTEE CHENG: I'm not following
7 the flow of this new part, the proposed
8 part, the front door and the five seats
9 for the non-bar that is the bar.

10 MR. CAPOZIELLO: It would be more
11 for a waiting area for the restaurant if
12 it you were waiting for a table to have
13 a cocktail.

14 TRUSTEE CHENG: So they're going to
15 flow through 49, walk midway through
16 this restaurant, make a right turn, come
17 back toward the front of 47, because
18 you're not going to open the front door.

19 MR. CAPOZIELLO: Correct, that
20 would be my plan.

21 TRUSTEE CHENG: That's the flow,
22 past all the other tables.

23 MR. CAPOZIELLO: Correct. There
24 would be an opening when you walked into
25 the restaurant.

1 TRUSTEE CHENG: Where is the
2 hostess supposed to be?

3 MR. CAPOZIELLO: Right when you
4 walk into 49. I wouldn't have that if I
5 was going to have a party or something,
6 I would not have that front door shut
7 off that there is no entrance or exit.
8 Maybe I answered that first question
9 wrong.

10 TRUSTEE CHENG: Okay.

11 MR. CAPOZIELLO: It would be open
12 for people coming in for dinner.

13 TRUSTEE CHENG: So it will be open.

14 MR. CAPOZIELLO: Yes.

15 TRUSTEE CHENG: So the hostess area
16 could, conceivably, be in the new area.

17 MR. CAPOZIELLO: Yes.

18 TRUSTEE CHENG: I read the decision
19 back in 2008 and the hours were supposed
20 to be from 11 to 9:00 p.m., except for
21 Friday, which was 10 p.m.

22 MR. CAPOZIELLO: Correct, that's
23 what the hours are now. Sunday, it's
24 from 11 to 8, Monday through Thursday
25 are 11 to 9, Friday and Saturday are

1 10:00.

2 TRUSTEE CHENG: That's not what Mr.
3 Vergara said before. He gave us 10 p.m.
4 each night.

5 MR. CAPOZIELLO: Okay.

6 TRUSTEE CHENG: I will wait for the
7 Mayor.

8 MAYOR TWEEDY: Thank you very much.

9 At this time, I would ask if you
10 would kindly have a seat.

11 MR. RYAN: Before you do, Mr.
12 Vergara, I would strongly recommend that
13 in anticipation of the next meeting
14 before the Zoning Board, that a parking
15 survey be done to justify the 45 extra
16 seats.

17 MR. VERGARA: A survey prepared by
18 a traffic engineer?

19 MR. RYAN: Not before this Board,
20 I'm just giving you a recommendation.

21 MR. VERGARA: Well taken, thank
22 you.

23 MAYOR TWEEDY: If you would kindly
24 have a seat, I would ask if anyone has
25 anything for or against, or any comments

1 as it relates to this application. If
2 you would kindly step forward, I would
3 ask you to give your name and address
4 for the stenographer.

5 All right, seeing none, Mario, I
6 would ask, once again, if you would
7 kindly come forward.

8 Are there any other additional
9 questions?

10 TRUSTEE FITZGERALD: If I may, Mr.
11 Mayor.

12 With regards to your original
13 application, it says the reason for a
14 Special Use Permit, if I may read this
15 and clarify something.

16 It says, for many reasons I tried
17 to contribute to the community, but the
18 size of my seating area is unable to
19 facilitate the need of allowing for
20 community meetings and functions.

21 So it's more than just community
22 meetings and functions stated here, it
23 will be open for lunch and dinner?

24 MR. CAPOZIELLO: Correct.

25 TRUSTEE FITZGERALD: More than just

1 on the application, thank you.

2 MAYOR TWEEDY: Any additional
3 questions?

4 TRUSTEE CHENG: No.

5 TRUSTEE LONGOBARDI: No.

6 MR. WALSH: I would like to be
7 heard on this after what Mr. Fitzgerald
8 said.

9 MAYOR TWEEDY: Again, if you would
10 state your name.

11 MR. WALSH: My name is Arthur
12 Walsh, I live at 347 Plainfield Avenue.
13 I represent my wife who owns 39 Beverly
14 Avenue.

15 I'm not sure this is the forum now,
16 because it is going to be before the
17 Zoning Board, but to think that this
18 building, this space, can seat 45 more
19 people in this building and have
20 capacity on Covert and on the other side
21 of the street is not going to work.

22 Ever since Park Place opened and
23 expanded, the parking is horrendous on
24 the street. I'm not sure if this is the
25 forum or it would be at the Zoning

1 Board. But the Trustees should realize
2 to have another 45 seats there, it is
3 going to be chaotic for people that live
4 on the residential block that borders
5 this property.

6 MAYOR TWEEDY: I appreciate your
7 comments, Mr. Walsh, and on November 9th
8 you may be heard then as well.

9 MR. WALSH: Thank you.

10 MAYOR TWEEDY: Mr. Vergara, Paul,
11 please come forward once again.

12 Again, you heard the recommendation
13 of our Village attorney and the concerns
14 of one of our residents.

15 Are there any closing statements
16 you would like to make to the Board at
17 this time?

18 MR. VERGARA: We will have a
19 traffic study.

20 MAYOR TWEEDY: I would ask at this
21 time to reserve decision and leave the
22 public hearing open.

23 TRUSTEE FITZGERALD: So moved.

24 TRUSTEE LONGOBARDI: Second.

25 MAYOR TWEEDY: Ms. Walsh, would

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you please poll the Board?

MS. WALSH: Trustee Fitzgerald.

TRUSTEE FITZGERALD: Aye.

MS. WALSH: Trustee Longobardi.

TRUSTEE LONGOBARDI: Aye.

MS. WALSH: Trustee Pombonyo.

TRUSTEE POMBONYO: Aye.

MS. WALSH: Trustee Cheng.

TRUSTEE CHENG: Aye.

MS. WALSH: Mayor Tweedy.

MAYOR TWEEDY: Votes aye.

* * * * *

C E R T I F I C A T I O N :

I, Mary Anne Coppins, Court
Reporter, hereby certify that the above
transcript is a true and accurate copy
of the minutes taken by myself
stenographically in the within matter.



Mary Anne Coppins

Court Reporter

INCORPORATED VILLAGE OF FLORAL PARK
BOARD OF TRUSTEES

-----X
In Re Application of

PAUL CAPOZIELLO,

**DECISION
AND RESOLUTION**

For a Special Use Permit to Allow Alteration of
an existing Restaurant Use.

-----X

This application is made under Section 99.10 of the Code for a Special Use Permit to allow the alteration of a building for restaurant use. The Applicants have submitted an affidavit from the owner of the subject premises, verifying the statements set forth in the application. The Applicants also submitted plans for the proposed alteration, which are on file with the Village. Applicant also delivered to the Board the mailing receipts and return cards of the notice sent to all owners of real property within a two hundred (200') foot radius of the subject premises.

Under the Zoning Code, a building may only be altered to allow a restaurant use following a public hearing and the grant of a Special Use Permit. This application for a Special Permit is made under Section 99-10.B. The property which is the subject of the application is located on the West side of Covert Avenue, 35.09 feet South of Beverly Avenue, known as 47 Covert Avenue, Floral Park, New York and identified as Section 32, Block 270 and Lots 160-170 on the Land and Tax Map of Nassau County.

Trustee Pombonyo offered the following resolution and moved its adoption:

WHEREAS, a public hearing was held on this application for November 1, 2016;

WHEREAS, by letter, dated November 3, 2016, the Nassau County Planning Commission deferred the matter to the Board of Trustees to take action as it deemed appropriate;

WHEREAS, a public hearing was held on this application on November 1, 2016, at which time the Applicant made a sworn presentation to the Board of Trustees;

WHEREAS, Members of the Board of Trustees have viewed and investigated the subject premises, its surroundings and other pertinent matters and circumstances in connection therewith; and

WHEREAS, the application and all testimony and exhibits presented at the hearing have been carefully considered and due deliberation given thereto.

NOW, THEREFORE, the Board of Trustees makes the following findings:

1. The subject property is in a B-1 District.
2. The Zoning Board of Appeals, as lead agency, has unanimously found that the application is a Type II action pursuant to SEQRA and has adopted a negative declaration.
3. The Nassau County Planning Commission recommended that the Village take whatever action it deems appropriate.
4. The adjoining property has been operated as a restaurant by the Applicant for several years.
5. The hours of operation have been 11:00 A.M. to 11:00 P.M. Sunday to Thursday. On Fridays and Saturdays it was 11:00 A.M. to 1:00 A.M.
6. At the outset of the hearing, it was confirmed that the Board of Trustees decision was contingent upon the grant of a variance by the Board of Zoning and Appeals for eleven (11) required parking spaces.
7. Subject to the condition set forth below, this Special Use Permit is granted.

8. The proposed use will not hinder or discourage the appropriate use and development of adjacent uses or impair their values.

9. The Board has considered the remaining standards set forth in Section 99-60 and finds that this application conforms with those standards.

10. This Decision and Resolution, as well as each and every condition set forth herein, may only be modified by the Board of Trustees following a public hearing.

NOW, THEREFORE, BE IT RESOLVED, that by reason of the foregoing, the Application of Paul Capozziello for a Special Use Permit to allow an existing building to be altered to a restaurant use is granted, subject to the conditions set forth below :

A. Applicant shall obtain a parking variance for the Board from Zoning and Appeals.

B. Refuse shall be collected by private carting company at the rear of the premises;

C. The premises shall be consistent with the discussions and representations made at the public hearing;

D. no amplified sounds or light shall interfere with any residential property.

E. Employees of the Applicant shall not park at any metered parking spaces or parking spaces to be used by customers, including those that are the subject of the variance before the Zoning Board of Appeals.

F. Hours of operation shall be 11:00 A.M. to 11:00 P.M. Sunday through Thursday; and 11:00 A.M. to 1:00 A.M. on Fridays and Saturdays.

G. This Resolution shall become effective upon the granting of a full liquor license to the Applicant by the New York State Liquor Authority. Applicant shall consent to have said license limited to hours of operation as set forth in paragraph "F" above.

In the event of a violation of any of these conditions, this Special Use Permit shall be revoked.

The foregoing Resolution was seconded by Trustee Longobardi and adopted on a roll call as follows:

Mayor Thomas J. Tweedy	-	Aye
Trustee Dominick A. Longobardi	-	Aye
Trustee Kevin M. Fitzgerald	-	Aye
Trustee Lynn Pomponyo	-	Aye
Trustee Archie T. Cheng	-	Aye

Dated: February 7, 2017
Floral Park, New York

Board of Trustees
Incorporated Village of Floral Park

Final Decision and Resolution of Public Hearing officially filed in the Clerk's office of the Incorporated Village of Floral Park on November 8, 2017.

Susan E. Walsh
Village Clerk