

# DRAWING LINE Mineola residents have to give back part of yards that encroach on village land - or pay for it

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## ABSTRACT

While inspecting the land last year, officials discovered the backyards of 13 homes clearly extended beyond those homeowners' property lines and into vacant village-owned land - exactly where North Hempstead is building the 20,000-square-foot sump. The village said it spotted the encroachments by checking surveys, Google Earth and Nassau County's Land Record Viewer, a website with satellite views of the block that showed sheds, pools, gardens and fences piercing property lines.

## FULL TEXT

When Bibi and Zaib Farooq closed four months ago on their Mineola home, the large backyard is what sealed the deal.

The couple envisioned expanding their Bruce Terrace colonial, perhaps adding a play area out back for their year-old daughter.

For nearly \$18,000 more, Mineola Village officials say, they can keep that big backyard.

The Farooqs are among 13 area homeowners whose backyards have grown and encroached onto public land, village officials say.

Now, the village is giving some of those homeowners an ultimatum: Give back the land many have been using for decades and move their sheds and fences off it. Or, buy back the land for \$10 a square foot. The average encroachment - 35 feet, for properties with average widths of 50 feet - would run a homeowner \$17,500, village attorney John Spellman said.

### Effort to relieve flooding

The problem has been years in the making, and was brought to light by an effort by Mineola, North Hempstead Town and Nassau County to deal with the area's intense flooding. Part of the solution was to build a storm basin, or sump, behind the backyards of homes on the east side of Bruce Terrace, a road with severe flooding.

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The Farooqs' neighbors, Svetlana and Leonid Khit, received a letter dated Jan. 17 and addressed to "Bruce Terrace

Resident." The letter, which they provided to Newsday, noted the backyard extensions and said, "That utilization is not permitted."

Svetlana Khit, 73, who said she's lived on the block for 35 years, expressed bewilderment.

"Why? We've lived here so many years," she said. "Nobody came and said that's not your property, never, only now. What happened?"

Bibi Farooq, 28, an occupational therapist, said she and her husband never saw such a letter before moving from their condominium in Glen Oaks. "It seems like now we have to buy something we thought we already purchased," she said.

The seller, the couple recalled, described the entire property being sold "as is."

Asked whether homeowners could seek recourse through title insurance, Spellman said he doubted the encroachments were in residents' deeds. He said the legal principle of adverse possession, whereby a homeowner uses property for 10 years without dispute and has a claim to it, would not apply. "You cannot adversely possess municipal property."

The village said it spotted the encroachments by checking surveys, Google Earth and Nassau County's Land Record Viewer, a website with satellite views of the block that showed sheds, pools, gardens and fences piercing property lines. Two of the six homes directly bordering the sump had to move fences back, Spellman said, and weren't given a purchase option because the town needed the land to build the sump.

But Mineola also discovered the encroachments continued past where the sump ends. Another 11 backyards, including the Farooqs', had been extended onto village land, and officials are negotiating buybacks with five of the homeowners, Spellman said.

A familiar case

Whether residents knew they had annexed village property or had permission to do so is a matter of dispute.

John Ryan, who said he moved into his Bruce Terrace home in 1989, recalled speaking with village officials at the time.

"We went to the mayor's office, we explained it," he said. Ryan said he was told, "No problem, we don't foresee any use for the property."

The case, experts say, is a familiar one.

It is not uncommon, said Commack real estate attorney Lita Smith-Mines, for homeowners to "encroach on a greenbelt or a sump area, and then when they're called on it, either plead ignorance when there isn't any such state of mind, or, they actually are ignorant because they didn't have guidance."

Buyers should be cautious of a seller's "as is" description of a home. "Sellers don't have the right to convey more than they legally own," she said.

Zaib Farooq, 28, a marketing manager, said the couple plans to discuss their options with an attorney.

Ironically, the building of the sump had been hailed by residents and local leaders.

For years, the area's steep contours have led to flooding along Bruce Terrace and other nearby streets during intense rain.

A project years in the making recently was greenlighted by officials after getting \$2.4 million in state grants. In addition to the sump, the project adds wider pumps underneath streets to move water out faster, and an underground mechanism to take water away from Bruce Terrace and into the village's recharge basin behind the Wilson Park Pool. That basin also is being widened.

Mineola Mayor Scott Strauss said he feels "bad" for residents negotiating buybacks but added he could not forgive them entirely. "Could I have said don't worry about it? Yeah, I could have, but ... we can't turn a blind eye."

The sump's excavation is done and final construction is nearly complete, officials say. Of homeowners considering the buybacks, Smith-Mines said, "They should all take the offer.

"It's borrowing," she said. "You have to give it back."

Credit: SCOTT EIDLER [scott.eidler@newsday.com](mailto:scott.eidler@newsday.com)

### Illustration

Caption: 1) Goofle Earth Satellite Image - The backyards of some homeowners have expanded onto Mineola Village land. 2) Photo by Howard Schnapp - Zalib Farooq with daughter Anabelle in the backyard of the family's home on Bruce Terrace

## DETAILS

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