

LAW OFFICES OF  
**SNYDER & SNYDER, LLP**

94 WHITE PLAINS ROAD  
TARRYTOWN, NEW YORK 10591

(914) 333-0700

FAX (914) 333-0743

WRITER'S E-MAIL ADDRESS

Rgaudioso@snyderlaw.net

June 9, 2025

NEW YORK OFFICE  
445 PARK AVENUE, 9TH FLOOR  
NEW YORK, NEW YORK 10022  
(212) 749-1448  
FAX (212) 932-2693

LESLIE J. SNYDER  
ROBERT D. GAUDIOSO (NY/NJ)  
DOUGLAS W. WARDEN  
JORDAN M. FRY (NY/NJ)  
MICHAEL SHERIDAN (NY/NJ)  
DAVID KENNY (NY/NJ)

DAVID L. SNYDER  
(1956-2012)

NEW JERSEY OFFICE  
ONE GATEWAY CENTER, SUITE 2600  
NEWARK, NEW JERSEY 07102  
(973) 824-9772  
FAX (973) 824-9774

REPLY TO:

Tarrytown office

Honorable Chairman Seamus O'Rourke  
and Members of the Planning Board  
Village of Mamaroneck  
169 Mount Pleasant Avenue  
Mamaroneck, NY 10543

Re: Opposition to Site Plan Application  
1011 Greacen Point Road, Mamaroneck, NY

Hon. Chairman Seamus O'Rourke  
and Members of the Planning Board:

We represent Francesca Ortenzio, MD and Jakub "Kuba" Tatka, MD ("Francesca and Kuba"), the owners of the property at 1019 Greacen Point Road, and we write to respectfully oppose the Site Plan application proposed by the developer ("Developer") on the property located at 1011 Greacen Point Road, Lot 12 ("Property") for the following reasons, which are in addition to the reasons set forth in our February 12, 2025 letter and prior testimony and submissions at the February 12, 2025 meeting.

1. Denial of Public Right to Timely Review Essential Project Documents:

We wish to highlight several Village practices that limit transparency and hinder meaningful public participation in the planning process. These include:

- **Delayed Agenda Confirmation and Document Disclosure:** The Village of Mamaroneck ("VOM") does not confirm whether a matter will be on the upcoming Wednesday night agenda until the Friday prior and does not disclose developer filings submitted well in advance. This restricts the public's ability to review materials and provide informed comments to the Planning Board in a timely manner. It also limits the ability of the public to know when a matter will be on an agenda and set aside the time to appear in person.
- **Lack of Justification for Withholding Materials:** There is no apparent reason for the Village to withhold applicant-submitted materials. Posting these documents on the Village website upon submission would be a straightforward way to enhance

transparency and support public engagement.

- **Inadequate Response to FOIL Requests:** The Village's handling of Freedom of Information Law ("FOIL") requests falls short of legal requirements. For instance, a FOIL request submitted on May 23, 2025 was not acknowledged until June 3, 2025, with the Village incorrectly stating that the request was made on June 3<sup>rd</sup>. The Village has further indicated that it will not provide the requested documents until at least July 30, 2025, despite the obligation to respond within a reasonable timeframe, typically being 20 days. This delay prevents the public from accessing information essential for commenting on the application. A copy of the FOIL request and the Village's response are attached as **Exhibit 1**.
- **Non-Compliance with the Open Meetings Law ("OML"):** The Open Meetings Law (Public Officers Law, Article 7) mandates that records related to a meeting be made available "upon request." Despite multiple email requests and formal FOIL requests, the Village has not provided the relevant documents.

These practices undermine the principles of open governance and limit the public's ability to fully engage in the planning process. To address this, we respectfully request that the Planning Board adjourn consideration of this application until the documents requested in the May 23<sup>rd</sup> FOIL request are provided. This will allow the public sufficient time to review the materials and offer meaningful comments, enabling the Board to consider such input in its deliberations.

## 2. Request for Recusal:

We believe there may have been a violation of the New York State Open Meetings Law and of the Village of Mamaroneck Ethics Code. Accordingly, we respectfully request that any parties involved in any *ex parte* meeting clarify their involvement, disclose all documents and discussions, and subsequently recuse themselves from any further engagement in this matter.

As documented by the emails attached hereto as **Exhibit 2**, a private, *ex parte*, non-public meeting was held with the Developer and its representatives, the Chairs of the Planning Board and the Harbor and Coastal Zone Management Commission ("HCZMC"), a member of the Board of Architectural Review ("BAR"), and the Village consulting engineer. As documented in the emails, various documents and plans were presented in advance of and at this private, *ex parte* meeting for the consideration of the Village officials that attended. Not only was this meeting kept secret, but the existence of this meeting was initially denied at the March 19, 2025 HCZMC meeting by prior VOM legal counsel even though the legal counsel was writing emails in regard to this meeting. The document(s) presented at this meeting included alternative plans that were not made available to the public. This *ex parte* meeting was not advertised, and despite the public's expressed concern about this development, no one from the public was made aware of this meeting. The Village consulting engineer was lobbied during this meeting and his recommendations directly influenced, which are all the more troubling given his improperly-delegated approval authority over this application. This *ex parte* meeting was coordinated in an improper attempt to circumvent the quorum requirements for a meeting, which in and of itself has been found to be a violation of the Open Meetings Law. In fact, the Developer's attorney expressly requested to meet in "non-quorum-sized groups" to evade public participation.

It is clear that the former Planning Board and HCZMC counsel had an understanding of the OML and how it may affect the ability of a land use board to objectively deliberate without undue influence from outside sources. VOM counsel wrote an email to me to reprimand my client for sending an innocuous email to a Board member seeking clarification on a Code requirement. In this communication regarding my client, the Board attorney explicitly stated that contacting Board members was “not appropriate[,]” all while she herself had been actively engaging in *ex parte* communications with the Developer’s counsel and arranging and participating in quorum-evading meetings with board members of all of the relevant boards and the Village consulting engineer. This only came to light after a prior FOIL request was finally responded to by the Village. There has also been a history of multiple other *ex parte* discussions and deviations from the normal procedures to help the Developer expedite the process outside of the public eye, as detailed in the emails attached as **Exhibit 3**.

A. The Open Meetings Law:

The Open Meetings Law was passed in 1976, and the declared legislative intent stated that:

- It is essential that public business be performed in an open and public manner and that citizens be “fully aware of and able to observe the performance of public officials.”
- Citizens have the right “to attend and listen to the deliberations and decisions that go into the making of public policy.”

Unfortunately, the intent and requirements of the Open Meetings Law have been violated in the processing of this application to the detriment of transparency and the public’s ability to comment.

B. Village Ethics Code:

a. Appearance of impropriety.

Section 21-4.A of the Village Ethics Code states:

General standards applicable to covered persons. Every covered person must endeavor to pursue a course of conduct consistent with the declaration of policy and other provisions of this chapter and strive to act so as not to raise reasonable suspicion among the public that the covered person may or is likely to be engaged in conduct that is in violation of the public's confidence and trust. The specific prohibitions set forth in Subsections B through P of this section are a comprehensive, but not necessarily exclusive, list of provisions regarding the ethical conduct of covered persons. If a covered person is in doubt regarding any particular conduct or issue, the covered person should request an advisory opinion from the Ethics Board.

(Emphasis supplied).

Section 21-4.C of the Village Ethics Code states:

Recusal. (1) A covered person must promptly recuse from participating in a matter before the Village in which the covered person has an interest when acting on the matter or failing to act on the matter may benefit the persons identified in § 21-4A(1), financially, or give the reasonable appearance of a conflict of interest or impropriety.

(Emphasis supplied).

We request that every covered person, as defined by the Village Ethics Code, that participated in the secret meeting recuse themselves from further action on this application.

b. Disclosures.

Section 21-6.F of the Village Ethics Code states:

Applicant disclosure statement. Every applicant must submit as part of the application an applicant disclosure statement stating the name, nature and extent of any interest of any covered person in the application that is known to the applicant and whether the covered person is required to take any discretionary action with respect to the application. The applicant has a continuing duty to disclose any interest of a covered person that becomes known to the applicant.

Section 21-6.J of the Village Ethics Code states:

If a covered person fails to file a required transactional disclosure statement or an applicant fails to file a required applicant disclosure statement, the village agency engaged in the transaction or the village agency to which the application was made may terminate, deny, modify, or vacate the transaction or approval of the application with respect to which the disclosure was required. If a transaction or application is under consideration by more than one village agency, a decision by one village agency to terminate, deny or modify the transaction or approval by one village agency constitutes termination, rejection, modification or vacatur by all.

Based on our review of the online documents related to this application and representations by the Village staff as to the documents that have been submitted, it is our understanding that the Developer has never filed the required applicant disclosure statement. Accordingly, the application should be terminated and all prior approvals vacated.

Section 21-6.I of the Village Ethics Code states:

If a covered person who is an appointed member of a village agency, except a member of the Board of Trustees, fails to file a required annual disclosure statement by the date due for filing, or by an extended date approved by the Ethics Board, the covered person may not participate in the meetings or other activities of the village

agency until the Village Clerk-Treasurer certifies to the village agency that the covered person has duly filed the required disclosure statement.

(Emphasis supplied).

As noted above, we have made a FOIL request for copies of all covered persons' disclosure statements related to this matter and have not yet been provided with them. Accordingly, we request that this application be adjourned until they are disclosed.

3. The Proposed Site Plan Is Not in Compliance with the Village Code:

Section 342-74 of the Village Zoning Code states:

No building permit may be issued for any building within the purview of this Article, except in conformance with an approved site development plan. No certificate of occupancy may be issued for any building or use of land within the purview of this Article unless the building is constructed or used or the land is developed or used in conformity with an approved site development plan. **Every application for site development plan approval shall be accompanied by a certification by the Director of Building, Code Enforcement and Land Use Administration to the effect that said plan meets all the specific applicable requirements of this chapter and a certificate by the Village Engineer that the plans meet all the applicable standards and requirements established or approved by him.**

(Emphasis supplied).

Again, based on our review of the file, the foregoing required certificates by the Director of Building, Code Enforcement and Land Use Administration and by the Village Engineer have not been presented to the Planning Board in connection with this application. More troubling is the fact that we have made a Request for Determination to the Building Inspector, dated May 16, 2025 and attached hereto as **Exhibit 4**, detailing numerous instances where the site plan fails to meet the applicable requirements, and we have been informed that no reply to our Request for a Determination will be provided. As such, we request that the Planning Board adjourn this application until the required certifications are provided. We reserve the right to appeal any such certifications to the Zoning Board of Appeals.

4. Failure to Notify Properly:

In our February 12<sup>th</sup> letter, we advised the Planning Board as follows:

We note that the application could be dismissed by the Planning Board for the Developer's failure to properly notify the public in accordance with Chapter 372. Attached hereto as Exhibit 12 is a photograph of the public notice sign that incorrectly stated the hearing time as 7:30 p.m., whereas the Planning Board hearing is actually at 7:00 p.m. Village Code § 372-5, entitled "Effect of failure to

give required notice,” states: “Failure to comply with any of the provisions of this chapter may be a basis for denying an application.”

The Developer was expressly made aware of this noncompliance by the Village staff and has refused to correct the sign, which continues to intentionally mislead the public. Attached hereto as **Exhibit 5** is an email from the Land Use Coordinator to the Developer’s attorney dated February 4, 2025. We request that the application be dismissed as authorized by the Village Code and refiled with the correct public notice.

5. DEC Freshwater Wetlands Determination:

There are DEC Freshwater Wetlands in direct proximity to the development that have not been delineated or considered. Attached hereto as **Exhibit 6** is a DEC Freshwater Wetland Determination. We request that the Planning Board adjourn the application until the wetlands are properly delineated and it is determined whether the new Site Plan will impact the freshwater wetlands, as this issue was not previously addressed by the Developer or the Village.

6. BAR and County Planning Board Referrals Are Required:

As previously detailed and as conceded by the Developer’s consultants, the plans previously reviewed by the BAR were riddled with errors. Those plans also did not include the wall and the barrier/fence.

Section 6-6 of the Village Code states:

Every application for a permit for the construction or reconstruction, as defined in § 6-3 herein, of any building or structure within the Village of Mamaroneck shall be referred by the Building Inspector to the Board of Architectural Review within five days of the date of the application, provided that it conforms in all respects to all other applicable laws and ordinances. The applicant must comply with the notification requirements set forth in Chapter 372 of this Code (Land Use Application Notice Requirements). [Amended 9-12-2023 by L.L. No. 15-2023, effective 9-21-2023]

If the Building Permit has been revoked, then when a new application is filed it must be referred to the BAR. If for some reason the Building Permit is not revoked, then the prior application should have already been referred. In any case, a new BAR approval is required and the Planning Board should adjourn the application until the BAR has issued its decision.

Moreover, as the Planning Board and consulting planner have acknowledged, this matter must be referred to the County Planning Board. We request that all of the opposition comments be included in the “complete file” referred to the County Planning Board.

7. Impacts on the Neighborhood:

We trust that the Planning Board understands that this development will have significant impacts on the neighborhood in general and on Francesca and Kuba in particular. At the last Planning Board meeting in February, the Planning Board tasked the Developer with evaluating alternatives, including moving the wall out of the setback. Instead, the Developer lobbied members of the land use boards and staff in private meetings out of the public's view and made wholly insufficient changes to the plan, including **leaving the proposed wall a mere 1.08 feet from the property line.**<sup>1</sup> **In fact, the wall and barrier were proposed to cumulatively be 6.5 feet above grade based on the February 12<sup>th</sup> plan, but currently are proposed to be 7.5 feet above grade based on the February 25<sup>th</sup> plan.** See Exhibit 5 of Exhibit 4 attached hereto. Alternative plans were apparently discussed at the *ex parte* meeting but have not been presented to the public.

The impacts from this oversized, noncompliant development will be significant, they will be real, and they will be right on Francesca's and Kuba's property line. A letter from Jakub "Kuba" Tatka detailing these impacts will be submitted under separate cover.

We trust the Planning Board will follow the requirements of the Village Code.

Thank you for your consideration.

Very truly yours,



Robert D. Gaudioso

Exhibits

RDG/cae

cc: Kathleen Gill, Village Manager  
Building Inspector  
HCZMC  
Zoning Board of Appeals  
Mayor and Members of the Village Board  
Ethics Board  
BAR

---

<sup>1</sup> We respectfully request that the Planning Board require the Developer to provide a Construction Management Plan detailing how they plan to build a foundation a mere six (6) inches from Francesca's and Kuba's driveway without entering, damaging, or disturbing Francesca's and Kuba's property.