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November 3, 2025

Honorable Chair Robin Kramer and
Members of the Zoning Board of Appeals
Village of Mamaroneck
169 Mount Pleasant Avenue
Mamaroneck, NY 10543

Re: Appeal of Issuance of Building Permit
1011 Greacen Point Road, Mamaroneck, NY

Honorable Chair and Members of the Zoning Board of Appeals:

We represent Francesca Ortenzio, MD and Jakub "Kuba" Tatka, MD ("Appellants"), the owners of the property at 1019 Greacen Point Road, and we write regarding the pending appeal ("Appeal") previously filed on December 16, 2024 appealing the prior issuance of the building permit ("Building Permit") to the developer ("Developer") of the property located at 1011 Greacen Point Road ("Property").

On October 16, 2025, we received the Developer's latest revised submission to the ZBA, including a partial new set of plans.[1] We respectfully offer the following response to the latest set of revised materials. As previously agreed, we respectfully requested a copy of any new submissions by the Developer to the Planning Board or Zoning Board of Appeals ("ZBA" or "Zoning Board") simultaneously with any such submission and we reserved the right to respond to any new submissions.

The Developer's reply is long on hyperbole, based on double hearsay, misrepresents the facts and threatens civil rights lawsuits, and is not only short on evidence to rebut the Appeal, but acknowledges multiple mistakes and oversights that support the Appeal and even unwittingly

[1] We note that the Developer provided a partial set of revised plans. They did not provide the full site plan, making it impossible to fully and critically assess the plans, including the extent of the wall proposed. It is important to note that at the last Planning Board meeting, the Developer's representative (David LaPierre) explicitly stated that "the wall" is a viable option to introduce from a design perspective and counsel has now indicated that they retract their argument that the Appeal is moot with respect to the wall.

exposes new inconsistencies and errors. These newly-identified issues also support the assertion that the application submitted to the ZBA and other Village boards contained substantive errors, inconsistencies and omissions, making it impossible for any Village board to be able to accurately understand the project and make an informed decision. We will further demonstrate below the following issues in support of the Appeal:

1. FAR Violation:
   The development exceeds the prior Floor Area approved as part of the FAR variance because the Developer fails to include measurements to the exterior walls of the house. The Developer also excludes significant floor area contained in the covered and enclosed storage room and numerous porches, which by definition are part of the building.

2. Story and Height Violation:
   The house exceeds the height and number of stories allowed by the Village Code because the Developer: (i) based the finished grade on the artificially-increased grade of the raised and filled HVAC platform and front yard planters rather than the "surfaces of lawns, walks and roads adjoining the wall"; and (ii) measured from the lower house eaves rather than the highest house eaves.

3. Village Precedent:
   Pursuant to the Village Code and legal precedent, the ZBA must interpret the Code literally as it has consistently done so in the past.

4. Structures Violate Setback Restrictions:
   The development includes numerous "structures" as defined by the Village Code located in the required 25-foot side yard without the necessary variances. The ZBA's precedent in the ZBA Henderson Determination is directly on-point.

5. The Appeal is Timely and the ZBA has Jurisdiction Over the Entire Plan:
   The Developer is not permitted to violate the Code because prior Building Inspectors overlooked Code violations and the current Building Inspector has failed to issue a written determination or transmit the file to the ZBA as required by law.

6. The ZBA Should Retain Its Own Unbiased Expert:
   The Zoning Board should follow its prior precedent in the ZBA Henderson Determination and retain a third-party expert to review the drawings (due to the complexity of this proposed design, ceilings under seven (7) feet and over twelve (12) feet in height are not sufficiently depicted for an accurate Gross Floor Area/FAR assessment) and provide an unbiased opinion as to the issues raised in the Appeal. The Developer concedes that the Appellants were correct and all prior Building Inspectors were wrong regarding the Floor Area, as the Developer's prior Floor Area calculations failed to include all of the floor area. The Developer also claims that the Zoning Board does not have the necessary training or experience to understand these issues.

7. The Prior FAR Variance Must Be Reopened:
   Based on the mounting pile of prior plan mistakes and misrepresentations, as well as new evidence, including the Developer's concession that its prior FAR calculations were erroneous and the discovery of a freshwater wetland on the Property as recently confirmed by the NYSDEC, which was never considered by the Village, the prior FAR Variance must be reopened.

1. The House Exceeds the Permitted Floor Area Ratio.

The Developer now concedes that its prior FAR calculations were wrong and failed to include various areas of the house. Nonetheless, the Developer still failed to include many areas in its revised calculations.

The Developer admits to failing to include:

1. Multiple stairways; and

2. Several ceilings greater than twelve (12) feet in height.

Although the Developer fails to acknowledge most of their other omissions, even just including these two areas they conceded to would increase the Gross Floor Area by hundreds of square feet above what was presented to the ZBA in the initial application and at every single meeting since.

However, in the Appeal rebuttal letter, *the Developer submits a Gross Floor Area 108 square feet lower than the originally-submitted Gross Floor Area.* How is this possible? The Developer admits that they failed to include valid areas/square footage that would be additive to the Gross Floor Area, but when corrected upwards the new Gross Floor Area number the Developer reports is still smaller. The following is how the Developer shrank the GFA from 11,966 square feet to 11,858 square feet.

In spite of the Developer's new Gross Floor Area and FAR calculations, the proposed project still exceeds the prior FAR variance for the following reasons:

1. The Developer fails to include measurements to the exterior walls of the house by brazenly redrawing the new perimeter within the walls themselves; and

2. The Developer refuses to include the significant gross floor area of:

   i. The covered and enclosed storage room; and

   ii. Numerous roofed porches, which by definition are part of the building.

In one breath, the Developer claims that the plans have not changed since April 2024, and in another breath concedes that they made an error by not including the stairs in the FAR calculations. Then the new measurement lines are redrawn to exist within the building walls. Now, miraculously, the Developer argues that the Floor Area is now less than it was before![2]

The Village Code includes the following three (3) important definitions (emphasis added):

> FLOOR AREA, GROSS:
> The sum of gross horizontal areas of the several floors of the building or buildings on a lot, *measured from the exterior faces of exterior walls* or from the center line of party walls separating two buildings.
>
> AREA, BUILDING
> Total of areas taken on a horizontal plane at the main grade level of principal buildings and all accessory buildings, exclusive of *uncovered* porches, parapets, steps and terraces.
>
> PORCH
> A roofed-over structure projecting from the wall or walls of a main structure, whether or not open to the weather. *It shall be deemed to be a part of the building.*

Based on these definitions, the Floor Area must include the measurements to the exterior faces of the exterior walls. Here the Developer seeks to backpedal and measure the exterior walls to some arbitrary spot within the exterior walls. Even if the Developer's unique and fantastical interpretation of the Village Code is correct, which it is not, they still miscalculate the distance to the exterior walls by subtracting the stone veneer in below-grade areas where it never existed, applying their own misinterpretation of the definition of Floor Area.

The Floor Area must also include *covered* porches and steps, of which there are many, because only *uncovered* porches, parapets, steps and terraces are excluded from the area of the building.[3]

Additionally, the Developer seeks to exclude "Storage Area #021" ("Storage Room") located in the basement, which is at least 435 square feet, fully enclosed, and has two doors, a sink, and a number of closets. The Developer's reasoning for excluding the Storage Room is that the

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[2] The Developer's statement that "while there have been certain changes to elements of the site plan over the past sixteen (16) months, those changes have had no impact on the floor area or the height/story determinations rendered in the First Building Department Determination" is verifiably false. The height of the house was raised by one-and-a-half (1.5) feet; the ceiling heights in the basement were changed/lowered, but the first floor elevation remains unchanged; the fill around the house was increased, increasing the elevation change above the neighbors; the floor of the garage was lowered/ceiling height of the garage increased; the retaining wall was added/modified; and the front yard planters and the HVAC platform were added, all of which affected the average grade calculation and thus the FAR, height and number of stories calculations. The Developers' own architect conceded this in writing.

[3] We note that the house has several covered porches, stairs and storage rooms, and areas fancifully described as "grottos", which in reality are nothing more than covered porches.

doors only open to the "grottos." This argument is wholly unsupported by both the Code and common sense. The Storage Room must be included in the Floor Area.

Lastly, the developer made new calculations for the attic space. These calculations arbitrarily changed the size of the two "Mechanical/Storage" areas #302 and #303 to be smaller. Also, the Developer found a new <7 foot area of 16 square feet but erroneously overlooked the addition of the symmetrically-located similar area over the stairs that should be added as a space with a ceiling height greater than twelve (12) feet, and that space should be added at 1.5 times its square footage rather than subtracted as less than seven (7) feet in ceiling height.

Attached hereto as Exhibit 1 is an annotated copy of the Developer's Floor Area plans to clearly demonstrate the extent to which the Developer has gone to misrepresent the actual floor area.

2. The House Exceeds the Allowed Height and Number of Stories.

The Developer bases its finished grade calculation on a drawing that is not signed and sealed. They incorrectly calculate the finished grade by using elevation locations that do not align with the Code, including areas they artificially filled such as the HVAC platform that they unnecessarily created and the top of newly-added front-yard planters located adjacent to the house.

The Code includes the following definition (emphasis added):

> GRADE, FINISHED
> At any point along the wall of a building, the elevation of the completed surfaces *of lawns, walks and roads* adjoining the wall at that point.

Thus, the finished grade must be measured along the "surfaces of lawns, walks and roads adjoining the wall" and not some artificially-elevated HVAC platform and planter. In fact, the record shows that based on prior submissions, the Developer's architect and counsel were cognizant of this issue and the need to artificially maintain a higher average grade to manipulate the Code, which was stated by the architect at board meetings and described in an email to the Village. See Exhibit 2 attached hereto.

Moreover, the Developer uses the wrong house eaves to measure the building height. The Code defines Building Height as follows (emphasis added):

> HEIGHT, BUILDING
> For one- and two-family dwellings, the vertical distance to the highest level of the highest point of the roof if the roof is flat or mansard *or to the mean level between the eaves and the highest point of the roof if the roof is of any other type*, measured from the average level of the existing grade prior to construction adjacent to the exterior walls of the building. For all other buildings, the vertical distance to the highest level of the highest point of the roof if the roof is flat or mansard or to the

mean level between the eaves and the highest point of the roof if the roof is of any other type, measured from the average level of the existing grade at the lot line abutting the lot at the front yard. When a building is within the special flood hazard area, height is measured from two feet above base flood elevation.

Attached hereto as Exhibit 3 is a copy of the Developer's elevation drawings annotated to show that the Developer used the lower front eave rather than the higher side eaves to calculate the Building Height.

3. Pursuant to the Village Code and Legal Precedent, the ZBA Must Interpret the Code Literally.

Despite the Developer's improper threats of civil rights lawsuits and claims that the Zoning Board should decide the Appeal on arbitrary and capricious findings and the codes of other municipalities, the Zoning Board knows better and has rejected this exact argument in the ZBA Henderson Determination.

First, the Village Code demands that the Building Inspector, and on appeal, the Zoning Board, interpret the Code literally.

§ 342-9, entitled "Compliance required; interpretation and scope," states as follows (emphasis added):

> A. No building shall be erected, constructed, moved, altered, rebuilt or enlarged nor shall any land, water or building be used, designed or arranged to be used for any purpose ***except in compliance with this chapter***.
>
> B. In interpreting and applying this chapter, the requirements contained herein are declared to be the ***minimum requirements*** for the protection and promotion of the public health, safety, morals, comfort, convenience and general welfare of the Village and the residents thereof.

Moreover, § 342-86, entitled "Duties of Director of Building, Code Enforcement and Land Use Administration," states as follows (emphasis added):

> It shall be ***the duty*** of the Director of Building, Code Enforcement and Land Use Administration ***to enforce, literally, the provisions of this chapter*** and of all rules, conditions and requirements adopted or specified pursuant thereto. He shall maintain a current record of all variances and special permits granted by the Board of Appeals, all site development approvals made by the Planning Board and all approvals granted by the Board of Architectural Review and shall enforce the observance and performance of all the terms and conditions of such grants and approvals.

Likewise, § 342-3, entitled "Terms defined," states as follows (emphasis added):

> A. Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, ***have the meanings herein indicated***.

The Zoning Board must literally interpret and apply the Village Code—nothing more, nothing less. The Developer argues that the Zoning Board should do otherwise because there may be other instances in the Village where the Code was not followed.[4] The Zoning Board rejected this exact argument and wisely noted that if the Code must be revised, the Village Board is responsible for doing so.

In the ZBA Henderson Determination, the Zoning Board held that:

> Several People appeared to argue that this is a common practice. Whether or not this is a common practice our authority is limited to applying the Zoning Code as written and not how people would like it written. Steps, platforms, walls and structures used as planters do not fall within the exceptions established in section 342-14 for projecting architectural features. Therefore to the extent those structures encroach into any of the required yards we find that the building permit was not properly issued.

The Zoning Board held that the Zoning Code provisions must be "literally" enforced and that "if the Building Inspector or others believe the Zoning Code does not properly address the circumstances," they should petition the Village Board to amend the Zoning Code.

4. The Development Includes Numerous "Structures" as Defined by the Village Code Located in the Required 25-Foot Side Yard Without the Necessary Variances.

The Developer complains that the Code is written to be overly restrictive and concedes that the Code expressly states that "structures" must meet the relevant setback requirements.

The Code defines "structures" as: "Anything constructed, erected or installed the use of which requires location on or under the ground level, in whole or in part, or attachment to something having location on or under the ground. Depending upon its applicability, the use herein of "structure" shall include the term "building."

The Code expressly exempts a very narrow universe of structures from meeting the setbacks. Specifically, the Code does **not** exempt retaining walls, propane tanks, stormwater

[4] The Developer's request that "the longstanding practices and interpretations of the Village be upheld by the Board" and that the Zoning Board "must consider the potential impacts of the determination you render in this appeal to not only the Owners, but to all property in the Village" is wholly irrelevant and not a proper criteria for the Zoning Board to rely upon.

structures, stepping stone stairs, or lighting fixtures. The Developer offers conjecture about what the Village Board may have been thinking when the Code was adopted.[5] However, such conjecture is irrelevant because the Code is unambiguous and must be interpreted literally. As the Zoning Board pointed out previously, the Village Board is always free to change the Code, even to apply such changes retroactively.

The Developer has no retort to the fact that the Zoning Board has already made a determination in the ZBA Henderson Determination that is directly on-point. The Zoning Board correctly held in the ZBA Henderson Determination that the only structures permitted in the required yards are "the ordinary projection of the windowsills, bay windows, belt courses, cornices, eaves, exterior stairs and other architectural features, but those features must not project more than three feet into any required yard and must not be closer than five feet to the property line." The Zoning Board previously confirmed that the Village Code does not permit stairs, platforms, walls and structures used as planters within the yards. Similarly, the Zoning Code does not permit walls, barriers, stairs, planters, lighting fixtures, propane tanks or stormwater management structures in the required 25-foot side yard.

The Developer should change its plans, seek the necessary variances, or petition the Village Board to change the Code, not threaten civil rights lawsuits.

This issue is important because the Developer has pushed every limit possible with its design, as recognized by the Planning Board at the last meeting. The house it proposes spans from setback line to setback line, with all of its excessive supporting elements such as retaining walls, commercial bollards, fences, propane tanks, transformers and stormwater management practices crammed up against its neighbors' property lines. The neighbors offered simple proposed changes to the house to remedy these noncompliant elements. Rather than being a good neighbor, the Developer whined that that the neighbors "attempted to redesign the project" for the Developer. However, the neighbors simply demonstrated the proposed development's enormity and inappropriateness, and that reasonable alternatives exist.

5. The Appeal is Timely and the ZBA Has Jurisdiction Over the Entire Plan.

The Developer is not allowed to violate the Code because prior Building Inspectors overlooked Code violations and the current Building Inspector has failed to issue a written determination or transmit the file to the ZBA as required by law.

To reiterate, the Appeal was filed three (3) days after the building permit was issued. This vested full jurisdiction in the Zoning Board.

[5] The 2010 Code change did nothing to allow walls to be permitted obstructions. The 2010 Code change merely required the finish of the wall to be outwards and limited the height of such walls. In fact, the 2010 Code change more strictly restricted walls in the Village.

The Appeal does not challenge the prior ZBA resolution. The ZBA resolution dated April 4, 2024 included condition #6, which states: "The granting of the Area Variance does not relieve the Applicant from complying with all other applicable laws and regulations."

"[Estoppel] is not available against a local government unit for the purpose of ratifying an administrative error." *Morley v. Arricale*, 66 N.Y.2d 665, 667 (1985). In particular, "[a] municipality, it is settled, is not estopped from enforcing its zoning laws either by the issuance of a building permit or by laches". *City of Yonkers v. Rentways, Inc.*, 304 N.Y. 499, 505 (1952) and "[the] prior issue to petitioner of a building permit could not 'confer rights in contravention of the zoning laws[.]'" *Matter of B & G Constr. Corp. v. Board of Appeals*, 309 N.Y. 730, 732 (1955), *citing City of Buffalo v. Roadway Tr. Co.*, 303 N.Y. 453, 463 (1952).

The Developer outrageously claims that the prior Building Inspector's initial review of the plans, which have long since changed, should somehow insulate the Developer from complying with the Code. As the cases above demonstrate, even if the Village improperly issued a building permit, it can still revoke the permit and require the Developer to comply with the Code.

It is important to point out that the current Building Inspector and the multitude of prior Inspectors have not expressly determined the issues raised in this Appeal, despite our detailed May 16, 2025 Request for Determination that raised all of the issues herein.

Next, the Developer's argument that the Zoning Board has no jurisdiction to properly apply the Village Code to the current plans based on the Appeal is simply wrong. Under New York State Village Law and under the Village Code, once the Appeal was filed the Zoning Board stepped into the shoes of the Building Official to review the entire plan.

Section 342-90 of the Village Code states:

> The Board shall hear and decide appeals from and review from any order, requirement, decision, interpretation or determination made by any administrative official or board charged with the implementation or enforcement of this chapter **and may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and make such determination and order as, in its opinion, ought to be made in the premises.**

(Emphasis added).

Moreover, New York State Village Law Section 7-712-b states:

> Orders, requirements, decisions, interpretations, determinations. The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from **and shall make such order, requirement, decision, interpretation or determination as in**

its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.

(Emphasis added).

In the ZBA Henderson Determination, the Zoning Board correctly held that it had the power to modify the prior determination of the Building Inspector. Thus, this Appeal is ripe and timely, and the Building Inspector's determination to issue a building permit may be modified as the Zoning Board determines in its opinion, which includes the power to enforce the Code and require variances where required under the Village Code as it relates to the Property.

The Developer cites to Village Law Section 7-712-a(5)(b), which notes that the deadline to file the appeal was 60 days. Thus the Appeal was timely.

Moreover, Section 7-712-a(5)(b) requires that **"the administrative official from whom the appeal is taken (in his case the Building Inspector) shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed from was taken."** (Emphasis added). In this case, the Building Inspector failed to do so, and thus until he does so the Appellants are free to amend the Appeal, particularly given the fact that the Developer has continuously amended the plans upon which the building permit was issued and the Appeal was made.[6] Frankly, it is outrageous that the Developer has even argued that it may violate the Code because it believes the public has an obligation that has not been met.

6. <u>The ZBA Should Hire an Unbiased Consultant.</u>

We believe the issues related to height, FAR and setbacks are fairly obvious based on the Developer's own plans and the literal definitions in the Code. However, the Developer has threatened civil rights litigation and claimed that the Zoning Board does not possess the requisite expertise to make these decisions.

Instead, the Developer suggests that the Zoning Board rely on four (4) prior Building Inspectors. However, none of those Inspectors have opined on the issues herein: the first Inspector erroneously issued the Building Permit; the second modified the project (removing stairs and altering the retaining wall/barrier) prior to granting a building permit and then quit prior to a building permit being granted; next, the Village Manager granted a permit and the third Building Inspector's only action was to revoke the permit issued by the Village Manager on her first day on the job; and the current Building Inspector has refused to respond to our properly-filed Request for Determination and comply with Section 7-712-a(5)(b) by transmitting his record on appeal to the Zoning Board. We also note that the Developer concedes that the Developer's prior Floor Area

[6] In fact, the Second Determination Letter relied upon by the Developer was never transmitted by the Building Inspector along with the relevant file to the Zoning Board, despite the Building Inspector's notice that the Appeal was pending.

calculations were incorrect and those calculations were allegedly reviewed and approved by the three prior Inspectors according to the Developer.

Based on the foregoing, and in order to protect the decision of the Zoning Board against any frivolous lawsuit by the Developer in light of its litigation threats, we ask that the Zoning Board follow its prior precedent in the ZBA Henderson Determination and retain a third-party expert to review the CADD drawings[7] and provide an unbiased opinion as to the issues raised in the Appeal.

7. The Prior Variance Should Be Reopened.

We have documented a mountain of errors, omissions, false information and/or misrepresentations, and new evidence that the Zoning Board should reopen the prior Variance.

The Developer now concedes that the previous Floor Area calculations were incorrect. The Developer claims that the plans have not changed, but then states that the plans have changed to lower the floor area calculations by, among other things, lowering the ceiling heights. How this is possible is mysterious, because the height of the building was not reduced.[8]

Attached hereto as Exhibit 4 is another example of the Developer's misrepresentations to the Zoning Board during the original variance process. At that time, the plans incorrectly showed the Appellants''property being elevated compared to the proposed development. However, as we know, the Appellants' 'property is well below the proposed development, particularly since the house has been raised an additional one-and-a-half (1.5) feet since the variance was granted. Also attached as Exhibit 5 is a series of annotated plans showing how the Developer has changed the plans to correct significant errors in the original plans related to the attic calculations. Other small but relevant changes include the garage ceiling height being increased (possibly to greater than twelve [12] feet), the golf simulator being moved, and numerous other smaller alterations.

There is also significant new evidence for the Zoning Board to consider. The Property was always on a DEC and VOM saltwater wetland and FEMA AE flood zone, but the DEC has upgraded the sensitivity of the wetland. Attached hereto as Exhibit 6 is the October 10, 2025 Determination by the New York State DEC confirming that there are freshwater wetlands and/or adjacent areas on the Property. This DEC Positive Jurisdictional Determination confirms the presence of Class I freshwater wetlands—the highest sensitivity class—and regulated adjacent areas on the Property due to contiguity with tidally influenced wetlands (ECL §664.5(a)(5)). Any regulated activity requires a DEC Article 24 permit following formal delineation. The Zoning

[7] Despite our written request, the Developer has refused to provide us with the CAD drawings so our engineer may more easily and accurately confirm the actual Floor Area and other measurements. Moreover, we believe the drawings are incomplete.

[8] By way of example, see Exhibit 5 where the basement had a height of 8'10" at the time the Zoning Board approved the plans, and now it is only 8'. Did the Developer simply put in a drop ceiling to artificially game the height calculations?

Board was not aware of this when the prior FAR variance was issued, and these new facts and circumstances alone are a basis to reopen the hearing and reconsider the FAR variance. Please recall that prior FAR variance allowed a substantially larger-than-permitted house on an environmentally-encumbered property.[9] The Developer has also refused to address the new grading in the wetland buffer

We also note that the Village Board has recognized the severe stormwater and flooding issues facing the Village and the inadequacy of the current Village Code. Attached hereto as Exhibit 7 is the proposed Code revision to the Village Code regarding Stormwater Management, which is the subject of a January 12th, 2026 public hearing. The Zoning Board should take notice of this impending Code change and await making a decision until the Code change is adopted by the Village. As you may recall, the Developer does not have a valid building permit, was issued a notice of violation for performing work without a valid permit, used tactics to delay this application by improperly having the initial hearing adjourned, and has failed to comply with the Code provisions regarding compliance with the timeframes of prior approvals. As such, there is no prejudice to the Developer for the Zoning Board to await this important Code change.

For context, submitted herewith as Exhibit 8 is a news article written by Meg Yergin of the Mamaroneck Observer which eloquently summarizes the issues with the development.

Thank you for your consideration, and we look forward to the continued public hearing on the Appeal on November 6, 2025. We reserve our right to file comments to any new information submitted by any other party, consultant or official.

Very truly yours,

Robert D. Gaudioso

Exhibits
RDG/cae
cc: Scott Ransom, Building Inspector
Kathleen Gill, Village Manager
Mayor Sharon Torres and the Board of Trustees
Village of Mamaroneck Planning Board
Developer's Counsel

[9] Ironically, the Developer suggests that the Zoning Board should consider the regulations of other municipalities. Such consideration would be arbitrary and capricious. Many other municipalities deduct portions of a property that are encumbered by wetlands or floodplains, as is the case here, from the lot area, thereby reducing the amount of allowed Floor Area.