Jakub Tatka, MD
1019 Greacen Point Rd.

July 22, 2025

Dear Mayor Torres, VOM Trustees, and VOM Land Use Boards,

The public process surrounding the 1011 Greacen Point Road project has reached a critical juncture. What was once assumed to be a good-faith submission for review has, through independent professional analysis and evolving facts, been revealed to contain numerous material errors and omissions. These issues are not minor. They strike at the heart of zoning compliance, procedural integrity, and environmental stewardship. If left unaddressed, they risk compromising both the credibility of the Land Use Boards and the public's trust in the land use process itself. Yet there is still time to act - responsibly, transparently, and within the law. The question now is not whether the project has problems. The question is whether the Planning Board, now fully informed, will use its authority to pause, reassess, and repair the process before permanent harm is done.

The Process Has Failed - But It Can Still Be Repaired

We understand the importance of due process. However, the process only holds value if it is grounded in transparency, accountability, and equity. In this case, the project was advanced with inaccurate and incomplete plans, and public input was severely limited - not by apathy, but by misinformation. Even the Boards, by their own admission, were at times unaware of significant plan deviations.

One cannot claim "there was no public comment" when the public was not given accurate information upon which to comment. As neighbors (not architects or engineers), we placed trust in the VOM Land Use process. But now, we have had to hire independent professionals to uncover issues that should have been caught during the Village's initial review - these independent professionals' reports show structures in the setbacks, a severe FAR inaccuracy, and grade/height/story manipulation/errors - some of which has been admitted to by the 1011 GP Rd design team itself.

So, if the Village of Mamaroneck's Building Inspector, professional consultants, and the Land Use Boards were - and still are - operating under incorrect assumptions, isn't it likely that the neighbors were too? It is a false argument from a Board member to state that "there was no public comment." When members of Boards repeat this statement, are they telling the public that in order for the Village of Mamaroneck to have made a thorough and complete assessment of this project (in order to provide both the applicant and the neighbors a fair and equitable Land Use process) that the Board's *needed* public comment, from non-professional neighbors no less? Does that mean that the VOM needs the neighbors to hire private architects and engineers to review a project in parallel with the Building Inspector and Land Use Boards to ensure the VOM does not miss an error like a FAR miscalculation? In this case, a miscalculation that underrepresents 3,000+ sq feet beyond the 11,966 sq feet granted by variance via Zoning Board Approval as identified in Tectonic Engineering's independent assessment.

I encourage anyone reading this to take a look at the relevant VOM FAR Zoning Code regulations and a copy of the 1011 GP Rd architectural plan, which conveniently provides the square footage of every space. Take note the excluded stairs, rooms, and even porches - even without a calculator it is obvious many, if not most, of the excluded areas should be added to the total. Submitted with this letter is also the most recent professional, stamped Tectonic Engineering assessment, which walks you through the FAR process, if you would like more guidance.

"The Wall" - A Symptom of a Bad Project, Not the Problem Itself

Do you know why and how the Building Permit was held and then suspended? The project was granted a Building Permit in December, 2024 (signed by the Village Manager Ms. Gill, on the literal day she arrived - also only days after the VOM building inspector left and days prior to the next starting - so in a couple day window with no building inspector). Once the permitted plans were made available to the public, upon my review - I identified that the project was shifted ~5 eastward into the VOM Wetland Buffer. I rushed to the Building Department to show the Building Inspectors (Harrison and freshly re-hired Tavolacci) the error. They did not believe me - at first. We were standing there that morning in the Building Department conference room, hunched over two different sets of plans - the plans originally approved by all the Land Use Boards and the new "modified" plans that were granted a Building Permit. We folded one set over to overlay and align one project over the other. "Holy shit!" someone exclaimed, "They shifted the house!"

Yes, the very professionals at the Village tasked with granting the Building Permit did not even notice this discrepancy until a non-professional neighbor - someone who has no formal training in looking at and interpreting engineering plans - showed them the substantive mistake. On one hand, what reasonable person would expect a building to shift at the permitting stage of the Land Use process? With this project there have been constant surprises like this.

Do I trust our professionals and board members? Yes. I trust them when they are given both the complete and correct information. I sound like a broken record - because it is factually accurate that the "original" plans that were granted Final Resolutions the had substantive errors that the Planning Board, the other Boards, and Building Inspector had no knowledge of at the time of approval and there are errors that still remain to this day - the majority of these errors are publicly unacknowledged by the VOM, Building Inspector, Land Use Boards or the consultants.

Some errors were corrected, but not all. New ones have been created, too. That may be a reason why this doesn't "feel right," as one Board member stated at the last PB meeting. It may be why some Board members openly struggle with the discrepancy between the professional consultants opinions and the dissent from many "outraged" neighbors? Maybe it is because it simply does not make sense. For example, at the 07/09/25 Planning Board meeting, Mr. Kellard described the new fill and grading plan as "a ramp" directed towards our 1019 Greacen Point Rd property, adding insult to injury this ramp ends with 45 degree 1:1 grade, which even Mr. Kellard admitted will increase water on our property - but never suggested mitigation of this new water flow or even feasibility of construction/maintenance of such a slope. Does that make sense?

What when, not if, the slot drain fails? What happens when in a few years or months it is clogged with plant debris and sediment? Then, to the south, we are to welcome a deluge of water from this water "ramp"? How will the developer manage their plants on a 1:1 grade without coming onto our active driveway? How will they build it without coming onto our property? The applicant's attorney once stated that avoiding stepping onto our property is the applicant's problem - no! that is our problem - and it will continue to be our problem in perpetuity if the Planning Board chooses to vote this project through - because it cannot be done without coming onto our property - that's what setbacks are for!

The underlying and unifying problem, *diagnosis* if you will, with this project is that it is too big and does not fit on this lot. All these other issues the Boards keep discussing - flooding, cutting excess trees, violating setback laws, and everything else - are just symptoms and the symptoms are what affects one's day to day life.

The diagnosis: *A house with features that clearly do not fit the lot*. The Tectonic Engineering report independently measures the square footage at 15,088 - that is the biggest house on Greacen Point Rd, 50% bigger than the next biggest house (which also happens to be on a bigger lot)!

The symptoms: flooding, flooding and more flooding, unnecessary clear cutting of trees and plant life, loss of privacy, excess change to the character of the neighborhood, damage to the environment, the list goes on.

Does someone need a 15,000 sq ft house with a deeper basement to accommodate sunken golf simulator (re-branded on the newest plans "Kid's Playroom") in their basement? NO.

Does my family need a dry basement that doesn't flood? YES.

DEAR PLANNING BOARD, PLEASE REQUEST THE APPLICANT BUILD A HOUSE THAT WILL FIT THE LOT, ONE THAT DOESN'T CREATE ISSUES FOR NEIGHBORS.

Process, Procedure and Legal Precedents

It is important to note that while the Planning Board rightly acknowledges it does not interpret zoning laws - that role belonging solely to the Zoning Board of Appeals - it unquestionably retains authority and responsibility to address errors or inaccuracies underlying its prior approvals, as affirmed in Matter of Riegert Apts. Corp. v. Planning Bd. of Town of Clarkstown (57 N.Y.2d 206, 1982), which limits PB actions to delegated site plan elements while permitting consideration of health, safety, and general welfare factors. Specifically, established New York precedent, such as Matter of Parkview Associates v. City of New York (71 N.Y.2d 274, 1987), Town of Mamakating v. Village of Bloomingburg (174 A.D.3d 1175, 3d Dept. 2019), and Matter of Pagnozzi v. Planning Board of Village of Piermont (292 A.D.2d 613, 2d Dept. 2002), confirm that municipal bodies may rescind or reopen land use approvals when faced with new evidence demonstrating material errors or inaccuracies in the submissions originally relied upon - preventing arbitrary outcomes lacking evidentiary support or compliance with the code.

In these cases, courts upheld municipal decisions to revisit approvals that were mistakenly granted based upon incorrect information supplied by applicants, thereby safeguarding the integrity of the approval process and protecting municipal interests. Practically speaking, any Planning Board member can initiate appropriate action without engaging in zoning interpretation by proposing a motion requesting that staff, including the Village Building Inspector or Counsel, promptly review the specific factual discrepancies raised - such as the FAR miscalculation - to determine their validity, consistent with Matter of King v. Chmielewski (76 N.Y.2d 182, 1990), which emphasizes reopening on incomplete or flawed submissions. This preliminary step allows the Board to pause further project approvals pending clarification, ensuring procedural fairness and legal prudence.

A sample motion any member could easily use is as follows: "I move that the Planning Board formally request the Village Building Inspector and/or Village Counsel review the newly presented evidence regarding potential FAR miscalculations and related zoning discrepancies for the 1011 Greacen Point Rd project. Pending the outcome of this review, I further move that we pause any final approvals and reopen our consideration of this project as needed, consistent with established legal precedents such as Parkview Associates and Mamakating."

Point/Counterpoint

Outlined here are some of the arguments made at recent Planning Board meetings with regards to this proposed project. This list also provides counterpoints to these arguments grounded in law and precedent. These emphasize the Board's flexibility and authority, ensuring decisions remain fair and defensible. Also, these clearly support the Planning Board's ability to make sure they are making the best decision for the community by providing multiple options of how to proceed and not just feeling stuck that this project needs to be approved "as is." It does not need to be approved until the Board feels and knows that the project is legally compliant with all laws and regulations and also that the project does not impose unnecessarily on neighbors (in my opinion - this project currently violates both of those statements).

Argument: "You already approved the house; you're only here for the amendment. Think of the house as built - you can't change it now."
Counter: This ignores precedents like Parkview and Mamakating, where courts allowed rescission of entire approvals on new evidence of errors (e.g., FAR inaccuracies affecting the whole project).

Argument: "Changes are minor; no need for full review/rescission - proceed as amendment."
Counter: Cumulative changes (e.g., wall removal, stormwater rerouting, grading changes to driveway, garage and northern property line) are substantial per King (reopen on material alterations). Pagnozzi annuls arbitrary denials lacking evidence - the errors in FAR, setbacks, and grading documented in our submissions provide that basis.

Argument: "PB can't interpret zoning (e.g., FAR) - that's ZBA; ultra vires to act."
Counter: Riegert limit PB to site elements but allow addressing factual errors without interpretation (e.g., verify FAR math via staff).

Argument: "No new evidence - neighbors' reports are old/rejected; rescission not warranted."
Counter: Recent findings like the DEC wetland (May 2025) and Tectonic analyses (July 2025) qualify as 'new' per Parkview/Mamakating. Vezza upholds denials based on rational evidence of non-compliance.

Argument: "Process binds you - can't stay/reopen mid-amendment; applicant rights vested."
Counter: Mamaroneck Beach confirms no automatic stay, but PB has discretion to pause (e.g., Young denied despite vested interests on non-compliance). King permits revisiting approvals for incomplete or erroneous applications, supporting a motion for full review of this project's errors. The developer has no vested rights in this case.

Argument: "The 62-day rule compels a vote - delays risk default approval."
Counter: Under Village Law § 7-725-a, the Board controls completeness of an application, not the applicant's claims it is complete. The Board can extend the review period by making a motion to hold additional hearings to verify errors, avoiding automatic approval risks while ensuring a thorough process, per King.

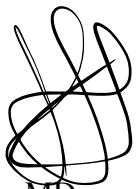
Conclusion

I recognize that the Board is balancing both past and current process with significant community input. That said, how does the Board reconcile its responsibility to act in the public interest with the apparent decision to disregard material facts of independently identified errors that have already been submitted and brought to light? Is it possible that by deferring to process - or assuming it lacks the authority to act - the Board may unintentionally be seen as stepping away from its core duty?

Please remember, the neighbors still have, and have had for almost a year, concerns with this project and are asking the Planning Board to critically assess what the developer has submitted for this project. Many of these concerns has been selectively ignored based on the most recent Letter of Determination - which only denotes "a wall" as a problem. The Planning Board can continue to limit themselves to what is in that document, however in doing so, the Planning Board risks approving an application with known errors and again deferring key concerns to the Building Dept (based on the draft resolution), approving a project that is both potentially illegal and damaging to the environment and the community.

Is the Planning Board willing to approve a project with faults and errors, issues not reflective of the Planning Board's own actions but the developer's submission, for a second time?

Sincerely,



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CITATIONS

-> Matter of Parkview Associates v. City of New York, 71 N.Y.2d 274 (1987)

Relevance: Supports rescission of the July 10, 2024, site plan approval due to errors in FAR (~15,008 sf vs. approved 11,966 sf) and grading, allowing correction without blame.

URL: https://www.casemine.com/judgement/us/59148befadd7b0493452a2b8

-> Town of Mamakating v. Village of Bloomingburg, 174 A.D.3d 1175 (3d Dept. 2019)

Relevance: Justifies denying the amendment for wetland encroachments (DEC, May 2025) and flooding from grading, as cumulative changes violate SEQRA (6 NYCRR § 617.3[g]).

URL: https://www.casemine.com/judgement/us/5d39629af175a712721e7aaf

Alternative URL: https://www.leagle.com/decision/innyco20190718298

-> Matter of King v. Chmielewski, 76 N.Y.2d 182 (1990)

Relevance: Empowers reopening or pausing for incomplete plans (e.g., unaddressed FAR/setback errors), supporting denial of the amendment under VOM Code § 342-74 and controlling the 62-day rule through incompleteness findings.

URL: https://www.casemine.com/judgement/us/591489a6add7b04934505a3f

-> Matter of Riegert Apts. Corp. v. Planning Bd. of Town of Clarkstown, 57 N.Y.2d 206 (1982)

Relevance: Allows addressing factual errors (e.g., FAR math) via staff, supporting verification without overstepping.

URL: https://law.justia.com/cases/new-york/court-of-appeals/1982/57-n-y-2d-206-0.html

Alternative URL: https://digitalcommons.pace.edu/cgi/viewcontent.cgi?article=1425&context=plr

-> Matter of Pagnozzi v. Planning Board of Village of Piermont, 292 A.D.2d 613 (2d Dept. 2002)

Relevance: Supports annulling the resolution due to unsupported FAR/setback compliance.

URL: https://www.casemine.com/judgement/us/59147b8cadd7b0493441efcb

Alternative URL: https://case-law.vlex.com/vid/pagnozzi-v-plan-g-895037010

-> Matter of Vezza v. Bauman, 192 A.D.2d 712 (2d Dept. 1993)

Relevance: Supports upholding denials of zoning relief for non-compliance with standards affecting community interests.

URL: https://www.casemine.com/judgement/us/5914867aadd7b049344d66b1

-> Matter of Young v. Board of Trustees of Village of Blasdell, 221 A.D.2d 975 (4th Dept. 1995), affd 89 N.Y.2d 846 (1996)

Relevance: Supports overriding vested rights claims to revisit approvals on errors like flooding risks and environmental non-compliance.

URL: https://www.casemine.com/judgement/us/59148398add7b049344aa089

-> Mamaroneck Beach & Yacht Club v. Fraioli, 24 A.D.3d 669 (2d Dept. 2005)

Relevance: Supports PB's flexibility to defer pending ZBA on zoning issues.

URL: https://www.casemine.com/judgement/us/59147301add7b04934388521

Alternative URL: https://www.leagle.com/decision/200569324ad3d6691223