

LAW OFFICES OF
SNYDER & SNYDER, LLP

94 WHITE PLAINS ROAD
TARRYTOWN, NEW YORK 10591

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WRITER'S E-MAIL ADDRESS

Rgaudioso@snyderlaw.net

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LESLIE J. SNYDER
ROBERT D. GAUDIOSO (NY/NJ)
DOUGLAS W. WARDEN
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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

December 16, 2024

Honorable Chair Robin Kramer and
Members of the Zoning Board
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:

We represent Francesca Ortenzio, MD and Jakub "Kuba" Tatka, MD ("Appellants"), the owners of the property at 1019 Greacen Point Road, and we write to respectfully appeal ("Appeal") the issuance of the building permit ("Building Permit") in connection with the property located at 1011 Greacen Point Road ("Property").

Pursuant to NYS Village Law Sec. 7-712-a(6), the Appeal stays the Building Permit and any work commenced will be illegal.

NYS Village Law Sec. 7-712-a(6) states:

Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of such local law, from whom the appeal is taken, certifies to the board of appeals, after the notice of appeal shall have been filed with the administrative official, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.

We respectfully request that the Village stay the Building Permit and notify the owners of the Property immediately to avoid the need for a temporary restraining order.

The Appellants own the property directly adjoining the Property and will be aggrieved by the work proposed under the Building Permit.

In furtherance of the Appeal, enclosed please find a check in the amount of the \$195.00 representing the appeal fee, a check in the amount of \$1,000.00 representing the escrow fee, and six (6) copies of the following documents:

1. Zoning Board of Appeals application form;
2. FOIL requests dated October 2, 2024, which the Village has not yet complied with, and December 13, 2024 (collectively, "FOIL Requests"); and
3. Request for Determination filed with the Building Department dated October 31, 2024 ("Request for Determination"), which has not been addressed.

As you may be aware, the Building Permit approves a 12,000-square-foot house with a pool. A foundation wall ("Foundation Wall") is proposed within one foot of the Property line, looming over our clients' property and driveway. The location and height of the Foundation Wall is a clear public health, safety, and welfare hazard to persons and cars, which may topple over the wall and plummet onto our clients' active driveway. We reserve the right to amend this appeal upon receiving a response to the FOIL Requests and review of the final plans.

The Foundation Wall is necessary to support the proposed oversized house and driveway that have been significantly elevated based on the environmental constraints on the Property (including relatively small lot size, floodplains and wetlands) and the desire of the owner to have a golf simulator in the basement. The Foundation Wall is a component of the house necessary to raise the elevation and the elevated driveway leading to the three-car garage facing our clients' property.

The Foundation Wall was not detailed on the approved Site Plan. In fact, the Planning Consultant during the review process noted that the Foundation Wall would be only four feet in height. *See* Memorandum from John Kellard, P.E. to the Planning Board and Building Inspector, dated May 8, 2024, attached as Exhibit 1 to the Request for Determination ("Village Planner Memo"). Given the proposed height, the Foundation Wall requires a barrier or fence to keep persons and vehicles from falling over the Foundation Wall and onto my clients' driveway. *See* Comment 4 of the Village Planner Memo. Thus, the SEQRA Determination and Site Plan approval did not contemplate the location, height and overall scale of the Foundation Wall, and a new SEQRA determination is required as well as Amended Site Plan approval.

Moreover, given the location of the Foundation Wall, a side yard setback variance is required because it is a "Structure" and "Building" as defined by the Village Code and thus must be set back twenty feet from the Property line. A 19-foot setback variance is required and has not yet been obtained. Moreover, a height variance may be required based on the wall's height including the necessary barrier.

Specifically, Note 11 of the Village of Mamaroneck Bulk table states: “Every accessory *building or structure* shall conform in all respects to the minimum front and *side yard setbacks* applicable to the lot in question and shall not be located closer than six feet to the rear lot line.” (Emphasis supplied). The term “building” is defined as: “Any structure having a roof supported by columns or by walls and intended for shelter, housing, protection or enclosure of persons, animals or property. Depending upon its applicability, the use herein of ‘building’ shall include the term ‘structure.’” The term “structure” is defined 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.’” Accordingly, the Foundation Wall is clearly an essential part of the “building,” and absolutely a “structure” that must meet the 20-foot side yard setback. Even if the Foundation Wall is somehow considered an architectural feature, it is non-compliant and requires a variance pursuant to Section 342-14.A of the Zoning Code.

Section 342-14.C of the Zoning Code states: “Fences, walls or retaining walls shall be constructed with the finished side facing outward from the property, and **shall not exceed six feet in height**, except:

- (1) On a corner parcel, placed beyond the front or side building lines, they shall not exceed four feet in height.
- (2) An additional six inches in height may be allowed, at the discretion of the Building Inspector, to provide for necessary distance between the grade and the bottom of the fence, for greater flexibility in mounting.
- (3) Where required pursuant to Article XI.
- (4) Where approved in conjunction with a special permit granted under Article X.”

(Emphasis supplied).

The Foundation Wall requires a height variance, particularly once the barrier or fence is placed on top for safety and code compliance purposes. It must also be noted that there is no practical way for the Foundation Wall to be constructed, including with the installation of necessary erosion control measures, without trespassing on our clients’ property.

Simply put, the Foundation Wall was never properly considered, for whatever reason, during the zoning and planning review process, and not properly evaluated under SEQRA. However, the Site Plan approval resolution (“Site Plan Resolution”), attached hereto as Exhibit 2, contemplated the necessity for the Building Inspector to carefully consider this issue and potentially require a new design. Specifically, Condition #1 of the Site Plan Resolution requires that:

“If the Building Inspector determines that, as a result of concerns related to public health, safety, and welfare, minor changes are necessary to complete the work authorized by the approved plans, the Building Inspector may, [sic] allow such changes and amend the building permit(s) accordingly. **The applicant must submit amended plans reflecting the approved changes.** If the Building Inspector determines that concerns related to the public health, safety and welfare require a change in the approved plans but that change is not minor, **any deviation from or change in the approved Plans must be approved by the Planning Board by amendment to this approval.**”

(Emphasis supplied).

Moreover, Condition #4 of the Site Plan Resolution states that: “The Applicant must submit plans for structural retaining walls along the driveway at the edge of pavement, prior to obtaining a Building Permit. I personally reviewed the Building Permit filing pursuant to a FOIL request on October 24, 2024 and no such required structural retaining wall plans have been submitted as of that time of my review, nor provided to me pursuant to the FOIL Requests.”

Thank you for your consideration, and we look forward to the required public hearing on the Appeal.

Very truly yours,



Robert D. Gaudioso

Enclosures

RDG/cae

cc: Village of Mamaroneck Clerk-Treasurer Agostino A. Fusco
Mayor Sharon Torres and the Board of Trustees
David Turiano, LaBella Associates
Kristen Wilson, Marks DiPalermo Wilson PLLC
Village of Mamaroneck Planning Board
Robert Spolzino, Village Attorney
Mary Desmond, Village Attorney
Mr. James Contini, Acting Building Inspector



VILLAGE OF MAMARONECK
PLANNING DEPARTMENT

169 Mt. Pleasant Avenue,
Mamaroneck, NY 10543

Phone: (914) 825-8758
www.village.mamaroneck.ny.us/planning-department

Zoning Board of Appeals Variance Application Checklist

SUBMISSION REQUIREMENTS: (TO BE DEEMED COMPLETE)

- Submit 6 collated packets of the items below:
 - Zoning Board of Appeals Variance Application.
 - Cover Letter explaining the application.
 - Copy of zoning compliance chart, detailing existing zoning and specify variance needed.
 - [Short Environmental Assessment Form](#) Part 1 ([Full Environmental Assessment Form](#) upon request of the commission or if the action is type 1).
 - Copy of the most recent survey, if the survey is more than one year old a sworn statement from the surveyor attesting there have been no changes that would affect the accuracy of the survey.
 - Photographs, including Google Aerial Photos of property.
 - Architectural Plans.
 - Site Plan (if applicable).
 - Copy of building permit application.
 - Copy of building determination letter.
 - For sign variance applications:
 - Sign compliance chart, to be drafted by applicant. (i.e. allowable letter height vs. proposed letter height)
- Submit one digital copy with each item on the above list as a separate pdf to the Planning Department (e.g. one pdf with architectural plans, one pdf of the survey, one pdf of the application, one pdf of zoning table etc.)
 - **Note: both physical and digital plans must be signed and sealed by a licensed architect or engineer.**
- Please confirm application fees with the Planning Department. A check with the application fee made payable to "Village of Mamaroneck" must be included with the application. The Village fee schedule is available [here](#).
- A check with the required escrow deposit made payable to "Village of Mamaroneck" must be included with the application as needed. Please refer to the determination letter for the specified escrow deposit amount.
 - **Note:** the escrow deposit must be a separate check from the application fees.

Notice requirements

- Please review Chapter [372-3 of the Village of Mamaroneck Zoning Code](#), staff will provide detailed notice instructions once the above has been deemed complete.



VILLAGE OF MAMARONECK
PLANNING DEPARTMENT

169 Mt. Pleasant Avenue,
Mamaroneck, NY 10543

Phone: (914) 825-8758
www.village.mamaroneck.ny.us/planning-department

Zoning Board of Appeals Variance Application
(Area, Use, Fence or Appeal/Interpretation)

Received By : _____ Date : _____

App # : _____

1. Project Address:

1011 Greacen Point Road, Mamaroneck, NY

2. Section: _____ Block: _____ Lot(s) : _____

3. Zoning District: _____

4. Owners Name & Address:

Phone: _____ Cell: _____

Email: _____

5. Applicant (Not Owner or Owner's Representative):

Name: Francesca Ortenzio, MD and Jakub "Kuba" Tatka, MD ("Appellants")

Address: 1019 Greacen Point Road

Phone: _____ Cell: _____

Email: _____

Role: Neighbors

6. Representative (if applicable):

Name: Robert D. Gaudio Esq. of Snyder & Snyder, LLP

Address: 94 White Plains Road Tarrytown, NY 10591

Phone: (914) 333-0700 Cell: _____

Email: RGaudio@snnyderlaw.net

Role: Attorney for Appellants

7. This is an Application for the following (check one (1) or more as applicable):

- ☐ **Area Variance:** This is to use land in a manner not allowed because of dimensional or topographical requirements in the Zoning Code. **Specify Code Section** _____
- Date and description of the determination that is being appealed (a copy of the determination must also be attached with this application):
- _____

- ☐ **Use Variance:** This is to allow land to be used in a manner or for a purpose which is prohibited or not allowed by the Zoning Code on the property that is the subject of the application.

☐ **Fence Variance**

☐ **Sign Variance**

☒ **Appeal or Interpretation (Specify Code Section)** See attached letter

- Date and description of the determination that is being appealed (a copy of the determination must also be attached with this application):

Appeal is related to building permit recently issued to 1011 Greacen Point Road (see letter attached)

☐ **Other (Specify):** _____

8. This Application must be made in the name of the person or entity that has a possessory interest in the property such as a tenant with a signed lease or the owner.
- a. If you are the owner, on what date did you acquire title? _____
- b. If you are not the owner, list the name and address of the owner and describe your relationship to the property and the date said relationship commenced:

This appeal is not brought by the owners or person with possessory interest. The Appellants are neighbors within the zone of interest and therefore have standing to bring this appeal.

NOTE: If the Applicant or Property Owner is a:

1. Corporation: Attach a separate Rider listing all the corporation's officers and corporate address.
2. Partnership: Attach a separate Rider listing the type of partnership and identify the general partner.
3. LLC: attach a separate Rider listing the LLC's members.

9. Has a prior variance, special permit, or interpretation Application ever been submitted for this property?

_____Yes

_____No

If YES, you must attach copies of the prior variance and resolution. Describe below:

N/A

10. List all permits you must obtain in order to complete the project that is the subject of this Application (include all permits or approvals necessary from any federal, state, county or local agency or department)

N/A

11. Is the property subject to any covenants, easement, or other recorded restrictions or encumbrances? If so, list and describe these. (You may be required to provide copies of these documents establishing same to the Board.) Please be advised that nothing herein or within Board purview will alter or modify existing contractual rights with respect to the subject property.

N/A

12. _____ Check here if there have been any violations issued with respect to the property, regardless of whether they have been removed or adjudicated.

If so, describe and provide the date(s) and details, including if the violation continues:

FOR USE VARIANCES:

A use variance may only be granted if it is determined that zoning regulations and restrictions cause the property owner unnecessary hardship. New York law provides that: "In order to prove such unnecessary hardship, the property owner shall demonstrate to the Board of Appeals that:

- Under the applicable zoning regulations, the owner is deprived of a reasonable return for each and every permitted use under the zoning regulations for the particular district where the property is located This deprivation must be established by competent financial evidence.
- the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.
- the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- the alleged hardship has not been self-created.

You must set forth the facts which support your Application request. (Attach additional sheets, schedules, or other information that you want the Board to consider). A financial analysis must be included, showing the actual price paid for the property, the current market rate for sale or lease, as appropriate, and an analysis of the cost of the development proposed on the property.

| |
|--|
| |
|--|

FOR AREA VARIANCES:

Under law, the Board of Appeals must consider the following factors in making a decision on your request for an area variance. The Applicant must provide an answer to each of the following factors:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

2. whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance.

3. whether the requested area variance is substantial.

4. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

5. and whether the alleged difficulty was self-created.

FOR SIGN VARIANCES:

A sign variance may only be granted if it is determined that zoning regulations and restrictions cause the property owner unnecessary hardship. New York law provides that: "In order to prove such unnecessary hardship, the property owner shall demonstrate to the Board of Appeals that:

- Under the applicable zoning regulations, the owner is deprived of a reasonable return for each and every permitted use under the zoning regulations for the particular district where the property is located This deprivation must be established by competent financial evidence.

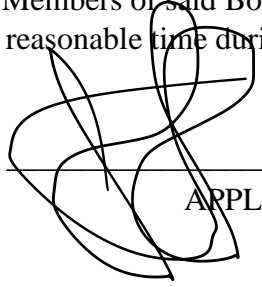
- the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.

- the requested use variance, if granted, will not alter the essential character of the neighborhood; and

- the alleged hardship has not been self-created.

You must set forth the facts which support your Application request. (Attach additional sheets, schedules, or other information that you want the Board to consider):

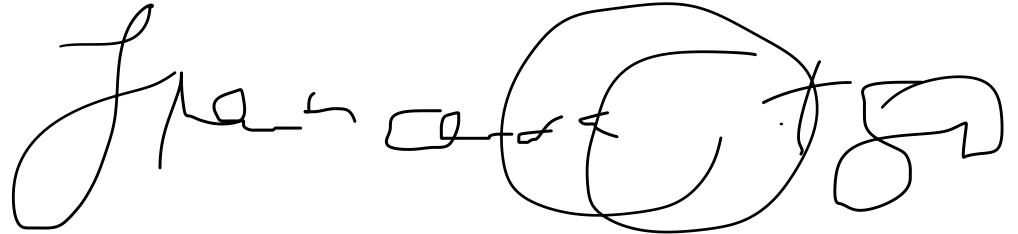
I hereby give permission to Members of said Boards/Commissions and/or supporting Staff to visit the property in question at a reasonable time during the day. The foregoing information is affirmed by:



JAKUB TATWA

APPLICANT SIGNATURE

12/13/24



12/13/24

LAW OFFICES OF
SNYDER & SNYDER, LLP

94 WHITE PLAINS ROAD
TARRYTOWN, NEW YORK 10591

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FAX (914) 333-0743

WRITER'S E-MAIL ADDRESS

Rgaudioso@snyderlaw.net

October 2, 2024

NEW YORK OFFICE
445 PARK AVENUE, 9TH FLOOR
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LESLIE J. SNYDER
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ONE GATEWAY CENTER, SUITE 2600
NEWARK, NEW JERSEY 07102
(973) 824-9772
FAX (973) 824-9774

REPLY TO:

Tarrytown office

Agostino A. Fusco
Village Clerk / Treasurer
Village of Mamaroneck
123 Mamaroneck Avenue
Mamaroneck, NY 10543

Re: FOIL Request for (SBL) 9-49-12 & 9-49-230
1110 Greacen Point Road, Mamaroneck, NY

Dear Mr. Fusco:

Pursuant to New York State Public Officers Law Article 6, also known as New York's Freedom of Information Law ("FOIL"), and the Village's FOIL Policy, I am writing to request a copy of the entire file, in whatever form held by the Village, with respect to the above referenced property ("Property") including without limitation the following:

1. All zoning, planning, and any other Village board or committee approval resolutions for the Property as filed with the Village Clerk;
2. All application materials, documents, plans, and submittals of any kind filed with the Village in connection with application(s) for zoning, planning, and/or construction approval(s) for the Property, including building permit applications;
3. All Village staff, Village consultant, public, and agency written comments, including referral review comments from any Village board or committee, comments from any state agencies such as New York Department of Environmental Conservation, Westchester County Department of Planning, and comments from members of the public submitted in connection with zoning, planning, and/or construction application review(s) for the Property, including building permit applications;

4. All documents, materials, and reports in the Village's possession regarding application reviews, zoning decisions, and construction approvals or denials for the Property, including any stormwater studies or reports; and
5. All Environmental Assessment Forms, including any appended or supporting information, and all SEQRA documentation and materials reviewed by the Village or Village consultants and/or staff in preparing SEQRA determination(s) related to zoning decisions for the Property.

Please note that this request shall be deemed an ongoing request.

If your agency charges a fee for reproduction, please consider this letter acknowledgment that I agree to pay all reasonable reproduction costs not to exceed \$500.00. If the cost of reproduction exceeds \$500.00, please call me at the number above to discuss.

As you may be aware, Public Officers Law §89(3) and the Village's FOIL Policy §5(c), requires a response to this request within five (5) business days of receipt. Therefore, I would appreciate a response as expeditiously as possible. If for any reason any portion of this request is denied, please state the reason(s) for denial in writing and provide me the name and address of the appropriate official to whom an appeal may be directed. See Public Officers Law §89(4)(a) and Village's FOIL Policy §7(a).

If you have any question regarding this letter or the nature or scope of this request, please feel free to contact me at the above address.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'R. Gaudio', with a stylized flourish at the end.

Robert D. Gaudio

RDG/djk

Cam Atzl

From: Robert Gaudio
Sent: Friday, December 13, 2024 2:10 PM
To: Elena Decunzo; Matthew Gansert; mdesmond@abramslaw.com
Cc: FOIL; Cam Atzl
Subject: RE: FOIL 8444 1011 Greacan Point Road Mamaroneck
Attachments: SKM_C650i24121313330.pdf

Please see attached FOIL request. Specifically we need the building permit and approved plans that I understand were just approved.

We still also need the items requested based on our prior FOIL request.

Time is of the essence. Thank you

Robert D. Gaudio

Snyder & Snyder, LLP
94 White Plains Road
Tarrytown, New York 10591
(914) 333-0700-Phone
(914) 333-0743-fax

Confidentiality Notice: This communication contains privileged and confidential information intended only for the use of the addressee. If you are not the intended recipient, be advised that the unauthorized dissemination of this communication is strictly prohibited. If you have received this communication in error, kindly notify sender by collect-call for further instructions.

From: Robert Gaudio
Sent: Tuesday, November 26, 2024 12:42 PM
To: Elena Decunzo <edecunzo@vomny.org>; Matthew Gansert <mgansert@vomny.org>
Cc: FOIL <foil@vomny.org>; Cam Atzl - Snyder & Snyder, LLP (catzl@snyderlaw.net) <catzl@snyderlaw.net>
Subject: RE: FOIL 8444 1011 Greacan Point Road Mamaroneck

Good afternoon Matt. I just wanted to see when we may expect the response to the FOIL request. Please let me know if you need me to resend the Dropbox link.

Thank you!

Robert D. Gaudio

Snyder & Snyder, LLP
94 White Plains Road
Tarrytown, New York 10591
(914) 333-0700-Phone
(914) 333-0743-fax

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From: Robert Gaudio

Sent: Tuesday, October 29, 2024 1:13 PM

To: Elena Decunzo <edecunzo@vomny.org>; Matthew Gansert <mgansert@vomny.org>

Cc: FOIL <foil@vomny.org>; Cam Atzl - Snyder & Snyder, LLP (catzl@snyderlaw.net) <catzl@snyderlaw.net>

Subject: RE: FOIL 8444 1011 Greacan Point Road Mamaroneck

Hi Matt. I just wanted to see if you had digital copies of any of the documents yet.

Thanks again!

Robert D. Gaudio

Snyder & Snyder, LLP
94 White Plains Road
Tarrytown, New York 10591
(914) 333-0700-Phone
(914) 333-0743-fax

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From: Robert Gaudio

Sent: Friday, October 25, 2024 9:14 AM

To: Elena Decunzo <edecunzo@vomny.org>; Matthew Gansert <mgansert@vomny.org>

Cc: FOIL <foil@vomny.org>; Cam Atzl - Snyder & Snyder, LLP (catzl@snyderlaw.net) <catzl@snyderlaw.net>

Subject: RE: FOIL 8444 1011 Greacan Point Road Mamaroneck

Matt: Thank you so much for your assistance yesterday. It is greatly appreciated!

In order to make things easier, we narrowed down the documents to documents that I tagged yesterday. A digital copy by email is great. Cam of my office will send you a Dropbox link to make things easier.

We only need the following large size plans and final SWPPP.

1. Final zoning board approval plans;
2. Final planning board approval plans;
3. Final coastal zone management consistency approved plans;
4. Most recent building permit construction plans; and
5. Final SWPPP.

We did not see any plans showing the design of the retaining wall. Please send us a copy once that plan is received by the Village. If we overlooked it, and the Village has received the retaining wall plan, please send us a copy at this time.

Finally, can you please let us know if and when the Building Permit is issued?

Thank you once again!

Robert D. Gaudioso

Snyder & Snyder, LLP
94 White Plains Road
Tarrytown, New York 10591
(914) 333-0700-Phone
(914) 333-0743-fax

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From: Robert Gaudioso

Sent: Thursday, October 24, 2024 8:29 AM

To: Elena Decunzo <edecunzo@vomny.org>; Matthew Gansert <mgansert@vomny.org>

Cc: FOIL <foil@vomny.org>

Subject: RE: FOIL 8444 1110 Greacan Point Road Mamaroneck

Good morning Matt. We will see you at 1030 to review the file. Thanks!

Robert D. Gaudioso

Snyder & Snyder, LLP
94 White Plains Road
Tarrytown, New York 10591
(914) 333-0700-Phone
(914) 333-0743-fax

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From: Robert Gaudioso

Sent: Tuesday, October 22, 2024 8:57 AM

To: Elena Decunzo <edecunzo@vomny.org>; Matthew Gansert <mgansert@vomny.org>

Cc: FOIL <foil@vomny.org>

Subject: RE: FOIL 8444 1110 Greacan Point Road Mamaroneck

Hi Matt. We are looking forward to seeing you on Thursday at 10:30 am to view the file.

Thanks!

Robert D. Gaudioso

Snyder & Snyder, LLP

94 White Plains Road
Tarrytown, New York 10591
(914) 333-0700-Phone
(914) 333-0743-fax

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From: Robert Gaudio

Sent: Friday, October 18, 2024 3:29 PM

To: Elena Decunzo <edecunzo@vomny.org>; Matthew Gansert <mgansert@vomny.org>

Cc: FOIL <foil@vomny.org>

Subject: RE: FOIL 8444 1110 Greacan Point Road Mamaroneck

Hi Matt: yes next Thursday at 10:30 am is great for us to come in and look at the files.

Thanks again.

Robert D. Gaudio

Snyder & Snyder, LLP
94 White Plains Road
Tarrytown, New York 10591
(914) 333-0700-Phone
(914) 333-0743-fax

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From: Robert Gaudio

Sent: Friday, October 18, 2024 8:47 AM

To: Elena Decunzo <edecunzo@vomny.org>; Matthew Gansert <mgansert@vomny.org>

Cc: FOIL <foil@vomny.org>

Subject: RE: FOIL 8444 1110 Greacan Point Road Mamaroneck

Good morning. I just wanted to follow up on the below.

Thanks!

Robert D. Gaudio

Snyder & Snyder, LLP
94 White Plains Road
Tarrytown, New York 10591
(914) 333-0700-Phone
(914) 333-0743-fax

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is strictly prohibited. If you have received this communication in error, kindly notify sender by collect-call for further instructions.

From: Robert Gaudio

Sent: Monday, October 14, 2024 9:40 AM

To: Elena Decunzo <edecunzo@vomny.org>; Matthew Gansert <mgansert@vomny.org>

Cc: FOIL <foil@vomny.org>

Subject: RE: FOIL 8444 1110 Greacan Point Road Mamaroneck

Good morning. I am not sure if you are open today but just wanted to check to see when I may come in to review the file.

Thanks!

Robert D. Gaudio

Snyder & Snyder, LLP
94 White Plains Road
Tarrytown, New York 10591
(914) 333-0700-Phone
(914) 333-0743-fax

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From: Robert Gaudio

Sent: Thursday, October 10, 2024 5:33 PM

To: Elena Decunzo <edecunzo@vomny.org>; Matthew Gansert <mgansert@vomny.org>

Cc: FOIL <foil@vomny.org>

Subject: RE: FOIL 8444 1110 Greacan Point Road

Please let me know if the file will available for me to review at 9am next Tuesday.

Thanks again!

Robert D. Gaudio

Snyder & Snyder, LLP
94 White Plains Road
Tarrytown, New York 10591
(914) 333-0700-Phone
(914) 333-0743-fax

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----- Original message -----

From: Elena Decunzo <edecunzo@vomny.org>
Date: 10/10/24 9:34 AM (GMT-05:00)
To: Matthew Gansert <mgansert@vomny.org>
Cc: Robert Gaudio <RGaudio@snnyderlaw.net>, FOIL <foil@vomny.org>
Subject: RE: FOIL 8444 1110 Greacen Point Road

Thanks. Matthew, this is a request to view the file for 1011 Greacen. Please contact Robert when ready to view.

From: Robert Gaudio <RGaudio@snnyderlaw.net>
Sent: Thursday, October 10, 2024 9:29 AM
To: Elena Decunzo <edecunzo@vomny.org>
Cc: Matthew Gansert <mgansert@vomny.org>; FOIL <foil@vomny.org>
Subject: RE: FOIL 8444 1110 Greacen Point Road

Actually, it appears to be 1011 Greacen Point.

Robert D. Gaudio

Snyder & Snyder, LLP
94 White Plains Road
Tarrytown, New York 10591
(914) 333-0700-Phone
(914) 333-0743-fax

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From: Elena Decunzo <edecunzo@vomny.org>
Sent: Thursday, October 10, 2024 9:22 AM
To: Robert Gaudio <RGaudio@snnyderlaw.net>
Cc: Matthew Gansert <mgansert@vomny.org>; FOIL <foil@vomny.org>
Subject: FW: FOIL 8444 1110 Greacen Point Road

The box will have to be pulled, and Matthew would call when it's ready. Is this the correct address? It's not pulling up in our system.

From: Robert Gaudio <RGaudio@snnyderlaw.net>
Sent: Thursday, October 10, 2024 9:11 AM
To: Elena Decunzo <edecunzo@vomny.org>
Cc: FOIL <foil@vomny.org>
Subject: RE: FOIL 8444

Good morning. Thank you. That may be best. Let me check my schedule.

Robert D. Gaudioso

Snyder & Snyder, LLP
94 White Plains Road
Tarrytown, New York 10591
(914) 333-0700-Phone
(914) 333-0743-fax

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From: Elena Decunzo <edecunzo@vomny.org>
Sent: Wednesday, October 9, 2024 3:24 PM
To: Robert Gaudioso <RGaudioso@snyderlaw.net>
Cc: FOIL <foil@vomny.org>
Subject: FW: FOIL 8444

Hi, Would you like to come in to view the file? This may expedite your request. Let me know.

From: PublicRecords@destinyhosted.com <PublicRecords@destinyhosted.com>
Sent: Wednesday, October 2, 2024 11:38 AM
To: Elena Decunzo <edecunzo@vomny.org>
Subject: New Public Records Request has been submitted from the public web site

New request submitted on 10/02/24, TRACKING NUMBER: 2025-489, FORM: 8444, From Robert Gaudioso, Company: Snyder & Snyder, LLP. Request: A copy of the entire property file, in whatever form held by the Village, with respect to 1110 Greacan Point Road (SBL 9-49-12 & 9-49-230) (the "Property") including without limitation the following: 1. All zoning, planning, and any other Village board or committee approval resolutions for the Property as filed with the Village Clerk; 2. All application materials, documents, plans, and submittals of any kind filed with the Village in connection with application(s) for zoning, planning, and/or construction approval(s) for the Property, including building permit applications; 3. All Village staff, Village consultant, public, and agency written comments, including referral review comments from any Village board or committee, comments from any state agencies such as New York Department of Environmental Conservation, Westchester County Department of Planning, and comments from members of the public submitted in connection with zoning, planning, and/or construction application review(s) for the Property, including building permit applications; 4. All documents, materials, and reports in the Village's possession regarding application reviews, zoning decisions, and construction approvals or denials for the Property, including any stormwater studies or reports; and 5. All Environmental Assessment Forms, including any appended or supporting information, and all SEQRA documentation and materials reviewed by the Village or Village consultants and/or staff in preparing SEQRA determination(s) related to zoning decisions for the Property. Please note that this request shall be deemed an ongoing request. If your agency charges a fee for reproduction, please consider this letter acknowledgment that I agree to pay all reasonable reproduction costs not to exceed \$500.00. If the cost of reproduction exceeds \$500.00, please call me at the number above to discuss. has been received. Please log into [Public Records Request](#) to access.

LAW OFFICES OF
SNYDER & SNYDER, LLP
94 WHITE PLAINS ROAD
TARRYTOWN, NEW YORK 10591

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

(914) 333-0700
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NEW JERSEY OFFICE
ONE GATEWAY CENTER, SUITE 2600
NEWARK, NEW JERSEY 07102
(973) 824-9772
FAX (973) 824-9774

WRITER'S E-MAIL ADDRESS

Rgaudioso@snyderlaw.net

REPLY TO:

Tarrytown office

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

DAVID L. SNYDER
(1956-2012)

December 13, 2024

Agostino A. Fusco
Village Clerk/Treasurer
Village of Mamaroneck
123 Mamaroneck Avenue
Mamaroneck, NY 10543

Re: FOIL Request for (SBL) 9-49-12 & 9-49-230
1011 Greacen Point Road, Mamaroneck, NY

Dear Mr. Fusco:

Pursuant to New York State Public Officers Law Article 6, also known as New York's Freedom of Information Law ("FOIL"), and the Village's FOIL Policy, we requested a copy of the entire file, in whatever form held by the Village, with respect to the above referenced property ("Property").

In particular we request a copy of the most recently issued Building Permit and approved plans. We also request any documents or correspondence related to the issuance of the Building Permit.

If you have any question regarding this letter or the nature or scope of this request, please feel free to contact me at the above address.

Very truly yours,


Robert D. Gaudio

RDG/djk

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

October 31, 2024

NEW YORK OFFICE
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NEW YORK, NEW YORK 10022
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LESLIE J. SNYDER
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DOUGLAS W. WARDEN
JORDAN M. FRY
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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

Mr. James Contini
Acting Building Inspector
Village of Mamaroneck
169 Mount Pleasant Avenue
Mamaroneck, NY 10543

Re: Request for Determination
1011 Greacen Point Road, Mamaroneck, NY

Dear Mr. Contini:

We represent Francesca Ortensio, MD and Jakub "Kuba" Tatka, MD, the owners of the property at 1019 Greacen Point Road, and we write to respectfully request an official determination denying the pending Building Permit application related to the property located at 1011 Greacen Point Road ("Property"). We also respectfully request that the project be referred back to the Zoning Board of Appeals for a height and setback variance and to the Planning Board for amended site plan approval for the reasons set forth below, as well as any necessary SEQRA review.

As you may be aware, the Building Permit application seeks approval for a 12,000-square-foot house with a pool. An approximately 7.5-foot-high foundation wall ("Foundation Wall") is proposed within one foot of the Property line, looming over our clients' property and driveway. The location and height of the Foundation Wall is a clear public health, safety, and welfare hazard to persons and cars toppling over the wall and plummeting onto our clients active driveway.

The Foundation Wall is necessary to support the proposed oversized house and driveway that have been significantly elevated based on the environmental constraints on the Property (including relatively small lot size, floodplains and wetlands) and the desire of the owner to have a golf simulator in the basement. The Foundation Wall is a component of the house necessary to raise the elevation and the elevated driveway leading to the three-car garage facing our clients' property.

The Foundation Wall was not detailed on the approved Site Plan. In fact, the Planning Consultant during the review process noted that the Foundation Wall would be only 4 feet in height. *See* Memorandum from John Kellard, P.E. to the Planning Board and Building Inspector, dated May 8, 2024, attached hereto as Exhibit 1 (Village Planner Memo”). Given the proposed height, it requires a barrier or fence to keep persons and vehicles from toppling over the Foundation Wall and onto my clients’ driveway. *See* Comment 4 of the Village Planner Memo. Thus, the SEQRA Determination and Site Plan approval did not contemplate the location, height and overall scale of the Foundation Wall, and a new SEQRA determination is required as well as Amended Site Plan approval.

Moreover, given the location of the Foundation Wall, a side yard setback variance is required because it is “Structure” and “Building” as defined by the Village Code and thus must be set back twenty feet from the Property line. A 19-foot setback variance is required and has not yet been obtained. Moreover, a height variance is required based on the 7.5-foot height plus whatever fence or barrier is necessary on top for safety purposes.

Specifically, Note 11 of the Village of Mamaroneck Bulk table states: “Every accessory *building or structure* shall conform in all respects to the minimum front and *side yard setbacks* applicable to the lot in question and shall not be located closer than six feet to the rear lot line.” (Emphasis supplied). The term “building” is defined as: “Any structure having a roof supported by columns or by walls and intended for shelter, housing, protection or enclosure of persons, animals or property. Depending upon its applicability, the use herein of ‘building’ shall include the term ‘structure.’” The term “structure” is defined 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.’” Accordingly, the Foundation Wall is clearly an essential part of the “building,” and absolutely a “structure” that must meet the 20-foot side yard setback. Even if the Foundation Wall is somehow considered an architectural feature, it is non-compliant and requires a variance pursuant to Section 342-14.A of the Zoning Code.

Section 342-14.C of the Zoning Code also states: “Fences, walls or retaining walls shall be constructed with the finished side facing outward from the property, and **shall not exceed six feet in height**, except:

- (1) On a corner parcel, placed beyond the front or side building lines, they shall not exceed four feet in height.
- (2) An additional six inches in height may be allowed, at the discretion of the Building Inspector, to provide for necessary distance between the grade and the bottom of the fence, for greater flexibility in mounting.
- (3) Where required pursuant to Article XI.
- (4) Where approved in conjunction with a special permit granted under Article X.”

(Emphasis supplied).

The Foundation Wall requires a height variance, particularly once the barrier or fence is placed on top for safety and code compliance purposes. It must also be noted that there is no practical way for the Foundation Wall to be constructed, including with the installation of necessary erosion control measures, without trespassing on our clients' property.

Simply put, the Foundation Wall was never properly considered, for whatever reason, during the zoning and planning review process, and not properly evaluated under SEQRA. However, the Site Plan approval resolution ("Site Plan Resolution"), attached hereto as Exhibit 2, contemplated the necessity for the Building Inspector to carefully consider this issue and potentially require a new design. Specifically, Condition #1 of the Site Plan Resolution requires that:

"If the Building Inspector determines that, as a result of concerns related to public health, safety, and welfare, minor changes are necessary to complete the work authorized by the approved plans, the Building Inspector may, [sic] allow such changes and amend the building permit(s) accordingly. *The applicant must submit amended plans reflecting the approved changes.* If the Building Inspector determines that concerns related to the public health, safety and welfare require a change in the approved plans but that change is not minor, *any deviation from or change in the approved Plans must be approved by the Planning Board by amendment to this approval.*"

(Emphasis supplied).

Moreover, Condition #4 of the Site Plan Resolution requires that: "The Applicant must submit plans for structural retaining walls along the driveway at the edge of pavement, prior to obtaining a Building Permit. I personally reviewed the Building Permit filing pursuant to a FOIL request on October 24, 2024 and no such required structural retaining wall plans have been submitted. Kindly provide a copy to my office if and when such plans are filed by the applicant.

The engineering solution here is simple. The garage should be reoriented such that the doors face the street and the Foundation Wall eliminated, or reduced in height and set back twenty feet from the Property line. We are willing to meet with the applicant and their counsel to discuss how the project plans may be amended to meet the safety interests of all parties concerned. If the applicant is unwilling to amend the project plans, the Building Permit application must be denied and referred back for all necessary planning and zoning approvals.

Thank you for your consideration and we look forward to notice of your determination.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Robert D. Gaudioso', with a long horizontal line extending to the right.

Robert D. Gaudioso

Exhibits

RDG/cae

cc: Village of Mamaroneck Clerk-Treasurer Agostino A. Fusco
Mayor Sharon Torres and the Board of Trustees
David Turiano, LaBella Associates
Kristen Wilson, Marks DiPalermo Wilson PLLC
Village of Mamaroneck Planning Board
Village of Mamaroneck Zoning Board of Appeals
Robert Spolzino, Village Attorney

Exhibit 1




John Kellard, P.E.
David Sessions, RLA, AICP
Joseph M. Cermele, P.E., CFM
Jan K. Johannessen, RLA, AICP

MEMORANDUM

TO: Seamus O'Rourke, Chair

CC: Village of Mamaroneck Planning Board
Carolina Fonseca, Building Inspector

FROM: John Kellard, P.E. 
KSCJ Consulting
Consulting Village Engineer

DATE: May 8, 2024
Updated June 26, 2024
Updated July 10, 2024

RE: Kevin Valles & Madelyn Moelis
1011 Greacen Point Road
Section 9, Block 49, Lots 12 & 230

PROJECT DESCRIPTION

At the request of the Village of Mamaroneck Planning Board, KSCJ Consulting has reviewed the site plan and supporting documents submitted in conjunction with the above-referenced application. The applicant is proposing to construct a single-family home with inground swimming pool on a 40,689 s.f. parcel within the R-20 Residential Zoning District. The property is the site of a former single-family residence, which was previously removed. The applicant also owns an adjacent 33,242 s.f. Parcel Lot 230, which is bisected by Greacen Lane, a paper street. The present application proposes improvements and site disturbance only within Parcel Lot #12.

The subject property contains wetlands within the western portion of the property. The western portion of the site is also within the FEMA Special Flood Hazard Area AE Zone with a Base Flood Elevation of 13 feet. The proposed application includes disturbance and improvements within the FEMA Special Flood Hazard Area.

The proposed residence will have access from a driveway with two (2) curb cuts off Greacen Point Road. The residence will have a full basement, which will include a walk out within the rear onto a lower terrace, with an upper terrace, at the first floor level above. An inground 18' x 40' swimming pool will be located off the lower terrace.

CIVIL ENGINEERING | LANDSCAPE ARCHITECTURE | SITE & ENVIRONMENTAL PLANNING

500 MAIN STREET | ARMONK, NY 10504 | T 914.223.2323 | F 914.223.2329

WWW.KSCJCONSULTING.COM

Seamus O'Rourke, Chair
Kevin Valles & Madelyn Moelis – 1011 Greacen Point Road
May 8, 2024
Updated June 26, 2024
Updated July 10, 2024
Page 2 of 10

Sanitary sewage service is proposed to the municipal sewer system by an E/One Grinder Pump with a connection to an existing private force main which was previously installed to service the subject property. A sewer force main service will need to be installed within a ten (10) foot wide easement across the front yard of the neighboring property at 943 Greacen Point Road where the service presently terminates. Water service shall be from the existing public water main within Greacen Point Road. Stormwater runoff will be mitigated within two (2) Cultec infiltration systems to be located within the rear yard. Regrading within the rear yard within the vicinity of the pool and rear terraces will result in the loss of some floodplain volume. Compensatory storage, however, has been proposed through regrading of a portion of the rear yard.

Retaining walls are proposed along the driveway at the garage back out area adjacent to the southern property boundary. The highest portion of the wall appears to be four (4) feet in height.

The applicant has revised the application raising the proposed residence floor elevations 1.5 feet, raising the garage slab 2.0 feet, expanding the stormwater mitigation systems by adding a third treatment system, which includes storage within 166 l.f. of 36 inch diameter drainage pipe and infiltration within eight (8) Cultec units located within the side yard. Raising the garage will increase the wall height along the southern property line by 1 – 1.5 feet, to a maximum height of four (4) feet.

The applicant has also provided an option to the previously proposed sewer connection to the existing force main within the front yard of the neighboring property to the north. The option would instead connect to an existing force main on the east side of Greacen Point Road, directly across from the proposed residence.

GENERAL COMMENTS

1. The applicant has depicted the limits of disturbance and quantify the proposed area of disturbance on the plans to be 22,852 s.f.

Projects with limits of disturbance greater than 1,000 s.f. require the applicant to prepare a Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements set forth in Chapter 294-8B (Subsections 1 - 3) of the Village Code.

Projects with limits of disturbance between 2,000 s.f. and one (1) acre require the applicant to provide erosion and sediment controls, stormwater quality controls, and stormwater quantity controls. Stormwater quantity controls includes attenuation of the post-development, 100-year storm event to pre-development flow rates. Stormwater quality controls require the applicant to provide treatment for the Water Quality Volume (WQv) through runoff reduction. Stormwater

mitigation designs shall include calculations which base the pre-development runoff on the unimproved lot area and the post-development runoff on the area of all existing and proposed improvements.

The applicant has prepared a SWPPP for the project, which includes the design of two (2) Cultec infiltration systems within the rear yard which are designed to mitigate runoff from the proposed driveway, roof and terraces. The SWPPP also includes temporary erosion and sediment controls to be implemented during construction.

The applicant has added a third stormwater treatment practice to the project. The third practice includes a storage component of 166 l.f. of 36" pipe under the driveway, which discharges to an infiltration practice within the side yard.

Our comments with regard to the SWPPP follow.

- a. In accordance with Section 294-8 (B) (2) (c) of the Village Code, all treatment of water quantity must attenuate the 100-year, 24-hour storm event. The stormwater computations and mitigation design must be updated to address the 100-year storm event.

The stormwater mitigation design has been updated to address the 100-year storm event. Comment addressed.

- b. Pre-treatment is proposed through the use of two (2) hydrodynamic separators located immediately upstream of each infiltration practice. The project's pre-treatment requirements should be explained within the SWPPP.

Pre-treatment is now proposed through one (1) hydrodynamic separator for System #1 and isolation rows for Systems #2 and #3. The SWPPP narrative should explain the proposed pre-treatment.

Pre-treatment has been addressed within the SWPPP. Comment addressed.

- c. Pre-Treatment Facility PTF-1 is proposed at grade elevation 13.0 with an outlet invert of 11.75 feet. The stormwater practice connected to the device is designed to hold water to an Elevation of 13.03 feet, which will back up into the pre-treatment facility. PTF-1 appears to receive flows from the roof and upper terrace which should permit relocating the facility to a higher elevation which would avoid the back up of flows into the structure.

Seamus O'Rourke, Chair
Kevin Valles & Madelyn Moelis – 1011 Greacen Point Road
May 8, 2024
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The applicant has relocated the pre-treatment unit. The hydrodynamic separator would better serve the stormwater practices if installed before the storage system located below the driveway.

The applicant has relocated the pre-treatment unit upgrade of the storage system. Comment addressed.

- d. The applicant shall conduct deep tests and provide test results on the project plans and within the SWPPP Report to certify that minimum separation of three (3) feet exists between the bottom of the proposed infiltration system and the groundwater table (or mottled soil layer) or bedrock. The applicant shall show the location of the deep test holes on the plans.

The applicant has performed soil deep hole tests, which results are included within the SWPPP and locations on plan Sheet C-102. Comment addressed.

- e. The applicant shall submit infiltration testing results signed and sealed by a Professional Engineer licensed in the State of New York. The applicant shall show the location of the infiltration tests on the plans. Infiltration test results shall be conducted following the prescribed testing methodology in Appendix D of the New York State Department of Environmental Conservation (NYSDEC) Stormwater Management Design Manual (SMDM), which requires the use of a four (4) or six (6) inch diameter solid casing, filled with 24 inches of water, and set at a depth of two (2) feet below the anticipated bottom elevation of the proposed stormwater infiltration system. Please confirm on the project plans and within the SWPPP Report that protocol was followed.

The applicant has performed soil infiltration tests, which results are included within the SWPPP and locations on plan Sheet C-102. Comment addressed.

- f. Per the NYSDEC SMDM, infiltration practices shall be installed in virgin soils. If located within fill, the infiltration trench shall have no more than 25% of its depth within fill. It appears a portion of Stormwater Practice #1 exceeds the requirement. The applicant should provide a cross section through the proposed treatment practice confirming compliance with the regulations.

The applicant has provided cross sections of the three (3) infiltration systems on plan Sheet C-116. System #1 illustrates a test hole seven (7) feet deep with groundwater at 6.5 feet. Actual test results within the SWPPP include an eight (8) foot deep hole with groundwater

Seamus O'Rourke, Chair
Kevin Valles & Madelyn Moelis – 1011 Greacen Point Road
May 8, 2024
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Updated July 10, 2024
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at 7.5 feet. System #2 illustrates a seven (7) foot deep test hole, while results within the SWPPP have a test hole of only 5.5 feet. The applicant should correct this information on the cross sections.

Deep test data has been updated within the Stormwater Management Practice Cross Sections found on plan Sheet C-116. Comment addressed.

- g. The applicant shall revise the project plans to include construction fence or other barrier surrounding the proposed infiltration practice during construction.

The applicant has revised the plans. Comment addressed.

- h. The applicant should include realistic stockpile sizes necessary for the project, on the erosion and sediment control plan.

Comment addressed.

- i. The applicant shall update the SWPPP to include:

- o A maintenance schedule and procedures for the proposed stormwater management system.

The applicant has updated the SWPPP with maintenance schedule and procedures for the proposed stormwater management system. Comment addressed.

- o The applicant shall provide a maintenance schedule and procedures for all proposed temporary erosion and sediment controls.

The applicant has updated plan Sheet C-112 with the maintenance schedule and procedures for the erosion and sediment controls. Comment addressed.

- o The applicant shall include the Contractor Certification Statement, as per Chapter 294 of the Village of Mamaroneck Code.

The statement is now included within the SWPPP. Comment addressed.

Seamus O'Rourke, Chair
Kevin Valles & Madelyn Moelis – 1011 Greacen Point Road
May 8, 2024
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Updated July 10, 2024
Page 6 of 10

- j. The applicant should provide the following stormwater notes on the project plans:
- Prior to the issuance of a Certificate of Occupancy, the applicant shall provide a maintenance agreement for the proposed stormwater management features for review by the Village Engineer.
 - Prior to the issuance of a Certificate of Occupancy, the applicant shall submit a stormwater As-Built Survey that includes topography and the location, rim elevations and invert elevations of all on-site stormwater facilities for review by the Village Engineer.
 - Prior to the issuance of a Certificate of Occupancy, a Construction, Maintenance and Inspection Declaration for the stormwater management facilities installed, in a form satisfactory to the Village, shall be fully executed and submitted to the Building Department with proof that the Declaration has been recorded in the Westchester County Clerk's office.

Stormwater notes have been added to plan Sheets C-100 and C-102. Comment addressed.

- k. The applicant should specify on the plans the required separation distance between the proposed inground swimming pool, property lines and the stormwater infiltration systems.

Setbacks have been provided on plan Sheet C-101. In accordance with Section 6.3.1 of the NYS SMDM, infiltration practices shall be separated a minimum of ten (10) feet from structures. Infiltration practices are proposed less than ten (10) feet from the proposed residence and pool. The systems should be adjusted accordingly.

Setbacks to infiltration practices have been adjusted by the applicant providing a minimum separation of 10 feet to the pool and 7.5 feet to the building foundation where no basement is located below. Comment addressed.

- l. The applicant should provide locations and elevations of footing drains.

The applicant should show the location of the footing drain discharge with elevations.

The applicant has provided the footing drain discharge locations and elevations on plan Sheet C-102. The future golf simulator foundation (slab), if constructed in the future, will

require a sump pump. Comment addressed.

- m. Systems #2 and #3 include isolation rows for pre-treatment of the runoff. The rows must be isolated from the main treatment system. This will require the applicant to divert flows in excess of the isolation row capacity around the isolation row with a direct connection to the main system. The applicant should update the plans.

The applicant has updated Infiltration Practices #2 and #3 to include diversion structures, which will bypass larger inflows around the isolation row. Comment addressed.

- n. The plans note that the storage system under the driveway will have 166 l.f. of 36 inch storage pipe, while the SWPPP states 172 l.f. Please address.

The stormwater report has been revised to conform with the project plans. Comment addressed.

- o. The outlet structure grate for System #3 is Elevation 13.25 feet, which is below the top of the chambers and stone storage within System #3. High water elevation during the 100-year storm event is 13.36 feet, higher than the proposed grate elevation. Please address.

The proposed grate elevation of the outlet at Stormwater Practice #3 has been adjusted. Comment addressed.

- p. The applicant has provided a storm drainage pipe schedule, however, an evaluation of each pipe segment's ability to handle peak runoff is not provided. The applicant should evaluate each segment where multiple pipes connect.

The storm drainage pipe table on plan Sheet C-102 has been updated to confirm proposed pipes have the capacity to convey the 100-year storm event. Comment addressed.

- q. The stormwater storage system located below the driveway will have its discharge regulated by a four (4) inch diameter discharge pipe from the storage system. The applicant should provide an emergency overflow, should the outlet fail.

A second outflow has been provided at the top of the proposed stormwater storage unit. Comment addressed.

2. The project site is partially within the FEMA Special Flood Hazard Area Zone AE – 13 feet. A portion of the proposed swimming pool, stormwater mitigation systems and fill within the rear yard will be within the floodplain.

The applicant will need to file an application for Floodplain Development Permit, in accordance with Chapter 186 – Flood Damage, within the Village Code. The applicant should include a compensatory storage analysis which confirms that equivalent storage will be provided, which mitigates the loss of floodplain volume for the proposed improvements and regrading.

The proposed residence will have a lower level which will include finished living space at Elevation 13.5 feet and a golf simulator area at Elevation 11.5 feet. The Village Flood Damage Regulations require the lowest finished floor to be two (2) feet or more above the base flood elevation (13.0 feet) for the area. The rear of the residence will have glass doorways exposed to potential flooding from Long Island Sound. The finished lower level will be subject to flooding during a storm event which exceeds the base flood elevation by more than six (6) inches.

It is good design practice when buildings adjacent to flood-prone areas to incorporate free board into the elevation of the new structure. Designing freeboard into the project will provide a hedge against backwater conditions caused by ice jams and debris dams, protect against uncertainties inherent in flood hazard modeling, will permit footing drains to operate by gravity instead of pumping during significant events, provides an added level of safety and should result in lower flood insurance rates. I would strongly suggest that the applicant raise the lowest finished floor elevation of the residence to 15.0 feet.

The golf simulator area has been raised to Elevation 13.5, six (6) inches above the base flood elevation. The lowest finished floor within the remainder of the lowest level has been raised to Elevation 15.0, two (2) feet above the base flood elevation. Comment addressed.

The proposed regrading of the site within the FEMA special flood area will result in the loss of 59.7 c.y. of floodplain volume. The applicant is proposing to compensate for the loss by regrading of the rear yard with the removal of 68.7 c.y. of soil. The applicant has designated the area where compensatory storage will be provided, however, the applicant has not detailed how this will be accomplished.

The applicant has submitted Plan Attachment A, which provides sufficient detail to confirm that compensatory storage of the floodplain volume lost due to regrading of the project site will be provided. Comment addressed.

Seamus O'Rourke, Chair
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3. The applicant should quantify in a table on the plan the proposed cut/fill volumes for the development.

Comment addressed.

4. The applicant should provide construction details for all proposed improvements, including, but not limited to, driveway, drainage, curbing, pavement restoration, walkways, sewer and water services. Construction details of the proposed retaining walls shall also be provided. A protective barrier should be provided along the top of the wall. Please clarify the locations of porous pavers.

The applicant will need to design structural retaining walls along the driveway at the edge of pavement where vehicle weight is possible above the wall. These walls include protective barriers above the wall, which prevent a vehicle from traveling over the wall. Walls and protective barriers should be submitted to the Building Department for their approval prior to Building Permit.

5. The plan should illustrate the location of the pool equipment. The applicant should specify on the plans procedures for drawing down the pool water during winterization of the pool.

The applicant provided a connection between the pool equipment and Cultec chambers, which provides a connection for the winterization drawdown from the pool to discharge to the Cultec units. The Board should determine whether such discharge is acceptable or whether the Board prefers off-site removal of the winterization drawdown.

6. The applicant has provided two (2) options for connection of the sewer discharge for the residence. Option #1 to an existing force main within an easement on the property to the north and Option #2 to an existing force main within the eastern shoulder of Greacen Point Road.

Option #2 will require confirmation that an existing force main is physically available within the roadway and that said force main is available for the use of #1011 Greacen Point Road. The applicant should provide confirmation and obtain the Village Engineer's approval of the preferred option. Sanitary Sewer Plan C-105 should be coordinated with the remaining site engineering plans. There seems to be two (2) different C-105 plans and a conflict exists between the sewer pump and stormwater infiltration system.

The applicant has confirmed that the sewage pump will be located within the northern side yard. The applicant should obtain the Village Engineer's Approval of the point of connection prior to obtaining a Building Permit.

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In order to expedite the review of subsequent submissions, the applicant should provide annotated responses to each of the comments outlined herein.

PLANS & REPORT REVIEWED, PREPARED BY ALP ENGINEERING:

- Overall Property Plan (C-100), dated May 27, 2024
- Site Layout Plan (C-101), dated June 24, 2024
- Grading and Utilities Plan (C-102), dated June 24, 2024
- Erosion and Sediment Control Plan (C-103), dated June 24, 2024
- Landscape and Mitigation Planting Plan (C-104), dated June 24, 2024
- Sanitary Sewer Plan (C-105), dated June 24, 2024
- Tree Removal and Preservation Plan (C-106), dated June 24, 2024
- Construction Details (C-111), dated May 27, 2024
- Construction Narrative/Stormwater Facilities Maintenance (C-112), dated May 27, 2024
- Construction Details (C-113, C-114), dated May 27, 2024
- Construction Details (C-115, C-116), dated June 24, 2024
- Stormwater Pollution Prevention Plan/Stormwater Management Report, dated June 24, 2024
- Compensatory Volume Calculation (Attachment A)

JK/dc

https://kelliardsessionsconsulti.sharepoint.com/sites/Kellard/Municipal/Mamaroneck/Correspondence/2024-07-10_MamPB_Valles Moelis - 1011 Greacen Point Road_Review Memo.docx

Exhibit 2

RECEIVED
THE VILLAGE OF MAMARONECK PLANNING BOARD
SITE PLAN APPROVAL AND WETLAND PERMIT RESOLUTION FOR
1011 GREACEN POINT ROAD
SBL: 9-93C-19 (TOWN: 9-49-12 & 9-49-230)
2024 JUL 25 A 11:39

JULY 10, 2024

WHEREAS, the Applicant seeks site plan approval pursuant to § 342-75 of the Village Code and a wetland permit pursuant to § 192 of the Village Code, to construct a 11,966 square foot single-family home with in-ground saltwater pool, terrace, and walkways located at 1011 Greacen Point Road in the R-20 zoning district (the "Project"); and

WHEREAS, 1011 Greacen Point is comprised of two Town of Mamaroneck ("Town") tax lots, (9-49-12 and 9-49-230) which are located within the FEMA Special Flood Hazard Area and adjacent to the Long Island Sound Critical Environmental Area ("CEA"); and

WHEREAS, no development is proposed on Town tax lot 230, which is approximately .76 acres and contains tidal wetlands associated with Delancey Cove, a Village of Mamaroneck conservation area noteworthy for tidal wetlands, as a shorebird and waterfowl concentration area, and a local significant fish and wildlife habitat; and

WHEREAS, the proposed development would occur on Town tax lot 12, which is approximately 0.93 acres and fronts on Greacen Point Road, contains tidal wetlands on the western portion of the lot, with the Village-regulated wetland buffer area extending another 100 feet onto the lot; and

WHEREAS, the applicant proposes locating the pool, landscaping, and a terrace within the 100-foot Village regulated wetland buffer area which would add approximately 1,523 square feet of impervious surface in the wetland buffer area; and

WHEREAS, the Application Materials for the Project are on file at the Village Offices and include the following documents:

1. Building Permit Application sworn to by the Applicant January 3, 2024,
2. Building Determination letter dated February 2, 2024,
3. Site Photographs and Renderings prepared by Cardello Architects, dated February 15, 2024,
4. Zoning Compliance Table completed by Robert A. Cardello, Jr., Architect,
5. FEMA Elevation Certificate signed January 1, 2024,
6. Site Plan Application signed April 16, 2024,
7. Wetlands Permit Application,
8. HCZMC Consistency Application,
9. Short Environmental Assessment Form signed January 29, 2024,
10. Survey of 1011 Greacen Point Road prepared April 21, 2023,
11. Owner Sworn Statement Verifying Survey, sworn to April 16, 2024,
12. Topographic Survey of 1011 Greacen Point Road prepared April 21, 2023,
13. Environmental Impact Assessment prepared by Pfizer-Jahnig dated April 16, 2024,

14. Letters from Applicant's counsel, Marks DiPalermo Wilson, dated April 16, 2024 and May 27, 2024,
15. Memoranda to Chair Seamus O'Rourke and Members of the Planning Board from ALP Engineering & Landscape Architecture, PLLC dated May 27, 2024 and June 25, 2024,
16. Architectural Plans (14 sheets) prepared by Cardello Architects last revised June 26, 2024,
17. Sanitary Sewer plans prepared by ALP Engineering & Landscape Architecture, PLLC dated January 29, 2024,
18. Retaining Wall detail prepared by Cardello Architects dated February 7, 2024,
19. Westchester County Planning Board referral form,
20. County Planning Board site plan recommendations, dated June 25, 2024,
21. Stormwater Pollution Prevention Plan / Stormwater Management Report ("SWPPP") prepared by ALP Engineering & Landscape Architecture, PLLC revised through June 24, 2024,
22. Engineering and Landscape Plans (13 pages) prepared by ALP Engineering & Landscape Architecture, PLLC revised through June 24, 2024,
23. Saltwater Pool drawing and diagram,
24. Wetland impact assessment prepared by LandTech dated June 21, 2024,
25. Average Grade Calculation prepared by ALP Engineering & Landscape Architecture, PLLC, dated January 3, 2024 and revised May 27, 2024,
26. Bluestone Pavers specifications,
27. Western Red Cedar Shingles specifications,
28. Azek Exteriors catalog,
29. Anderson Windows product guide,
30. Flood Development Permit signed May 27, 2024,
31. Summary Sheet prepared by AKRF last revised July 2, 2024,
32. Memoranda from AKRF dated May 3, 2024, June 21, 2024 and July 3, 2024,
33. Memorandum from KSCJ Consulting dated May 8, 2024 and updated June 26, 2024 and July 10, 2024,
34. Memorandum from TBLD dated May 2, 2024 and updated June 23, 2024 and July 3, 2024,
35. April 4, 2024 Resolution of the Zoning Board of Appeals of the Village of Mamaroneck,
36. Draft HCZMC Conditional Consistency Resolution of June 18, 2024; and

WHEREAS, the Building Inspector of the Village of Mamaroneck determined that the Applicant required site plan approval pursuant to § 342-75 of the Village Code, a wetlands permit pursuant to § 192-5 of the Village Code, an area variance pursuant to § 342-27.1 of the Village Code, storm water pollution prevention plan ("SWPPP") approval pursuant to § 294 of the Village Code, a consistency determination by the Harbor and Coastal Zone Management Commission ("HCZMC") pursuant to § 240 of the Village Code, a floodplain development pursuant to § 186 of the Village Code, approval of the Board of Architectural Review, and compliance with the Tree Law pursuant to § 318 of the Village Code; and

WHEREAS, on April 4, 2024, the Applicant obtained the necessary area variance from the Zoning Board of Appeals, and on June 18, 2024, obtained a conditional consistency determination from the HCZMC; and

WHEREAS, the Applicant first appeared for a preliminary site plan and wetland permit review before the Planning Board on May 8, 2024 and presented an overview of the Project; AKRF noted that there were no current concerns from a planning perspective; KSCJ advised that the Project must be designed for the 100-year storm, suggested raising the lowest finished level of the home because it is adjacent to the AE flood zone, and recommended that the Applicant consider how the winter draw down of the pool will be handled; TBLD advised that tree protection must be marked on all plans and include the overlapping canopies of trees on the adjacent properties, that the ANSI guidelines need to be included in the plans, and noted that the proposed replacement trees are not comparable in height to those being removed; and

WHEREAS, following the Applicant's May 8, 2024 presentation and discussion with the consultants and Board members, the application was typed as a Type II action pursuant to SEQRA regulations found at 6 NYCRR § 617.5(c)(11) (consistent with the Zoning Board of Appeals SEQRA determination on April 4, 2024), and the Applicant was referred to the HCZMC to review the Project for consistency with the Local Waterfront Redevelopment Policy; and

WHEREAS, following the HCZMC's June 18, 2024, conditional consistency determination, the Applicant returned to the Planning Board on June 26, 2024 and informed the Board that the plans had been revised to raise the lowest finished level to 15 feet which is 2 feet above base flood elevation, that the stormwater system is now designed to the 100-year storm, and that it did not believe incorporating the recommendations from the County Planning Board would improve the function of the Delancey Cove wetland environment; and

WHEREAS, also during the June 26, 2024 Planning Board meeting, the consultants AKRF and TBLD advised that the Applicant had addressed all their comments, and KSCJ requested further information regarding the sewer connection and compensatory storage data; and

WHEREAS, on June 26, 2024, the Planning Board opened the public hearing on the Applicant's wetland permit, no members of the public wished to be heard at that time, and the Board kept the hearing open to be continued on July 10, 2024; and

WHEREAS, KSCJ noted in its memorandum last updated for the July 10, 2024 Planning Board meeting that the Applicant provided the option of connecting the sewer to an existing force main on Greacen Point Road directly across from the residence, noted that the Applicant had revised the plans and SWPPP to address the conditions of the HCZMC's consistency determination, advised that the Applicant will need to design structural retaining walls along the driveway at the edge of pavement where vehicle weight is possible above the wall, and advised that the Board should determine whether the proposed drawdown of the saltwater pool into culvert chambers is an acceptable winterization plan or whether the Board prefers off-site removal; and

WHEREAS, during the July 10, 2024 meeting, and the Board's consultants expressed no further concerns regarding the proposed Project, and upon confirming that no members of the Public wished to be heard on the wetland permit application, the Board closed the public hearing; and

WHEREAS, the Board completed its review of the application materials and the memoranda and advice provided by the Board's consultants, determined that the application was complete, and in consideration of the standards for site plan approval set forth on Article IX of the Village Code, Chapter 342-76, and the Village Tree Protection Law set forth in Chapter 318, determined that the applicable standards and criteria have been satisfied with the conditions of review stated below; and

WHEREAS, the Board, having thoroughly reviewed and considered the application for the Project's wetland permit, the advice of the Board's consultants, documents submitted by the Applicant, and the conditions of approval recited below, pursuant to Chapter 192 of the Village Code, finds the project to be consistent with Village policy to preserve, protect and conserve wetlands, that the proposal is consistent with Village land use regulations, is compatible with the public health and welfare, is reasonable and necessary, and that there is no reasonable alternative for Applicant's proposal on the site which is not a wetland or adjacent area, taking into account in particular the reduction to impervious coverage; and

NOW, THEREFORE, on motion of Mallory Call Chinn and seconded by Mary Shiffer, BE IT RESOLVED, that the Planning Board hereby grants site plan approval and a wetland permit to the Applicant to construct the Project in accordance with the site plan and additional materials submitted with the application, on the conditions below.

Conditions

1. If the Building Inspector determines that, as a result of concerns related to public health, safety, and welfare, minor changes are necessary to complete the work authorized by the approved plans, the Building Inspector may, allow such changes and amend the building permit(s) accordingly. The applicant must submit amended plans reflecting the approved changes. If the Building Inspector determines that concerns related to the public health, safety and welfare require a change in the approved plans but that change is not minor, any deviation from or change in the approved Plans must be approved by the Planning Board by amendment to this approval.
2. Prior to the issuance of a building permit, the applicant must pay all outstanding professional and consultant review fees in connection with Planning Board review of this application.
3. Prior to the issuance of a Certificate of Occupancy, the applicant shall provide a maintenance agreement for the proposed stormwater management features for review by the Village Engineer.
4. Prior to the issuance of a Certificate of Occupancy, the applicant shall submit a stormwater As-Built Survey that includes topography and the location, rim elevations and invert elevations of all on-site stormwater facilities for review by the Village Engineer.
5. Prior to the issuance of a Certificate of Occupancy, a Construction, Maintenance and Inspection Declaration for the stormwater management facilities installed, in a form satisfactory to the Village, shall be fully executed and submitted to the Building

Department with proof that the Declaration has been recorded in the Westchester County Clerk's office.

4. The Applicant must submit plans for structural retaining walls along the driveway at the edge of pavement prior to obtaining a Building Permit.
5. The Applicant must obtain the Village Engineer's approval of the proposed sewer connection prior to obtaining a Building Permit.
6. Where construction is proposed to take place within the dripline of a tree, ANSI Tree Care Industry Standards will be followed, as provided in the landscaping plan.
7. Exterior lighting in the rear of the house will be downward facing, shielded and remain consistent with the Applicant's lighting plan.
8. Hydro-Dynamic separators must include safeguards against entrapment of amphibians.
9. Pool must remain a salt-water pool.
10. Landscaping chemicals, including fertilizers, pesticides, fungicides and herbicides, will not be applied within the 100-foot Village designated wetland buffer.
11. Prior to the issuance of a certificate of occupancy, the conditions of this resolution must be verified by the Building Department.

| JULY 10, 2024 VOTE RECORD | | | | |
|--|-------------------------------------|-----------|----------------|-------------------------------------|
| RESOLUTION GRANTING SITE PLAN APPROVAL AND WETLAND PERMIT | | | | |
| FOR 1011 GREACEN POINT ROAD | | | | |
| | Yes | No | Recused | Absent |
| Seamus O'Rourke, Chair | | | | <input checked="" type="checkbox"/> |
| Mary Shiffer | <input checked="" type="checkbox"/> | | | |
| Mallory Call Chinn | <input checked="" type="checkbox"/> | | | |
| Richard Litman, Acting Chair | <input checked="" type="checkbox"/> | | | |
| William Bintzer | <input checked="" type="checkbox"/> | | | |

Richard M. Litman

RICHARD LITMAN, ACTING CHAIR