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VILLAGE OF SCARSDALE
MANAGER'S OFFICE
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January 31, 2019

Mayor Hochvert and Trustees Arest, Callaghan,
Crandall, Finger, Ross, and Veron
Village Hall
Scarsdale, N.Y. 10583

Re: Deletion of the word "dying" from
proposed Sec. 281-4(A)(6)

Dear Mayor Hochvert and Trustees:

I am writing to oppose the exemption of "trees greater than six inches DBH that are...dying" from counting towards Sec. 281-5(A) "aggregate DBH" Replacement tree requirements.

When I spoke at the joint meeting of the Sustainability and Law Committees on January 22nd about the removal of dying trees it was not my intention, as I believe Trustee Finger understood it to be, that the Board require that the landowner undertake to save such trees but only that the removal of such trees should be subject to Sec. 281-5's replacement requirements.

As a member of the Conservation Advisory Council ("CAC") we discussed how Scarsdale could best accomplish the preservation and renewal of the Village's tree canopy. It soon became apparent that the problem was not the number of trees being removed by individual homeowners as being hazardous or diseased or their desire to improve their property's amenities, e.g. additions, swimming pools, tennis courts, renovations. Rather, the real problem was the removal of dozens of mature trees by developers subdividing lots and building new houses and roads therein without making provision for replacing the removed trees, i.e. "clear cutting."

Therefore, to better align the Village's interest in preserving, maintaining and renewing its tree canopy with the interest of the developer in clear cutting trees, the CAC decided that depending upon the amount of "aggregate DBH" removed - the Village Engineer would now be authorized to order the party doing the removal to either replant a specified number of "trees and/or payment to the Tree Preservation Fund" (sec. 281-5(B)). The object of this formula being to shift the cost of re-planting the Village's tree canopy from its taxpayers to the developer who had diminished it.

This "aggregate DBH" tree replacement methodology will be defeated if the proposed Code's Sec. 281-4(A)(6) exclusion of "dying" trees from Sec. 281-5's tree replacement requirement is adopted. It is emphasized that trees which are "dead...diseased or hazardous" and as such are exempted from Sec. 281-5's replacement requirement pursuant to Sec. 281-4(A)(6) may be objectively determined, i.e. Sec. 281-2 Definitions, tree scratch test.

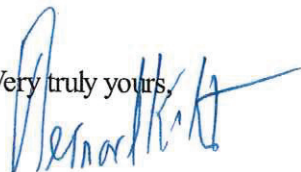
The determination of whether a tree is "dying" is however a subjective determination. Most tree sickness is either environmental (e.g. too much or little water, too much or wrong fertilizer, toxic pesticides, soil

compaction) or curable (e.g. pruning, deadwood removal). Nonetheless it is neither my nor the Code's intention that an owner undertake the expense of saving a "dying" tree. My intention is simply that an alleged "dying" tree for the purpose of aggregating its DBH pursuant to Sec. 281-5(A) replacement requirements, be presumed to be viable. I note also that pursuant to Sec. 281-3(C) the developer may remove as of right without any replacement requirement any and all invasive species (e.g. Norway Maple).

The inclusion of the word "dying" in proposed Sec. 281-4(A)(6) will only lead to disputes by tree experts regarding its application to any given tree and the concomitant waste of Village staff, Engineer and the Planning Board time in making such determinations. Thus, it would be both simpler and more in keeping with the CAC's recommendations on how and at whose cost the Village's tree canopy is to be preserved and renewed that when "trees greater than six inches DBH" that are alleged to be "dying" and are removed as such that they be counted towards the Sec. 281-5(A) aggregate DBH Replacement tree requirements.

Accordingly, it is respectfully requested that the Board delete the word "dying" from proposed Sec. 281-4(A)(6).

Very truly yours,



Bernard Kobroff