



December 14, 2022

**Via Email Only**

Hon. Jane E. Veron and  
Members of the Village of Scarsdale Board of Trustees  
Village Hall  
1001 Post Road  
Scarsdale, New York 10583

Re: **Comments Regarding Proposed Amendments to Village Code Chapter 254**

Dear Mayor Veron and Members of the Board of Trustees:

As you know, our firm represents the Garden Road Neighbors Group, a group of twenty-nine residents that live in a Sensitive Drainage Area (“SDA”) within the Village.

I virtually attended the public hearing on proposed amendments to the Village Code last night. Unfortunately, the Board secretary did not see my hand raised to speak and did not recognize my client, Helen Maccarino, when her hand was raised a second time to advise the Board that I wished to be heard. In any event, while my client appreciates the effort of the Board and Village staff to amend the current stormwater provisions, the amendments to Chapter 254, as currently drafted, contain vague and undefined terms and a discretionary process that will undoubtedly lead to inconsistent and unjust outcomes.

In July, 2022, my partner Karen Mintzer appeared before your Board and expressed concerns that the then-proposed code language did not go far enough to protect our clients’ properties with respect to drainage issues, including, but not limited to, the creation of a buffer area that would allow property to be raised in a manner that creates a plateau with downward slopes to the buffer area and causes stormwater to flow even more quickly over adjacent property boundaries, and use of an outdated and ineffective metric in the 100-year storm event.

All of our prior comments apply equally to the current proposed draft legislation. We request that that our prior testimony be included in the administrative record for this matter. In addition, we urge the Board and staff to take these and the other well-reasoned comments and suggestions into account and address them through revisions to the proposed amendments to Chapter 254.

In addition to the substantive changes that could and should be made to the proposed amendments, we urge the Board to adopt a temporary moratorium on the processing of development applications within SDAs while the Board completes the legislative process. As

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you may recall, earlier this year in February and March, we wrote to the Board suggesting a limited, temporary moratorium on applications for subdivision or development in a SDA. At the March 8, 2022 meeting, the Village Manager said that a moratorium would not be considered until there was further study and proposed changes to the Village Code.

Since then, there has been further study and there are now proposed changes to the Code. A temporary moratorium on the processing of development applications in SDAs is a valid stopgap measure that would achieve two things: 1) focus the Village's limited resources on the legislative task at hand and 2) afford protection to residents in SDAs while stricter rules are adopted. These types of moratoriums are plainly within this Board's power and authority. Charles v. Diamond, 41 N.Y.2d 318, 324 (1977); see also, Matter of Laurel Realty, LLC v. Planning Board of Town of Kent, 40 A.D.2d 857, 859 (2d Dept. 2007); 119 Development Associates v. Village of Irvington, et al. 171 A.D.2d 656 (2d Dept. 1991); Matter of Dune Assocs. v Anderson, 119 A.D.2d 574 (2d Dept. 1986).

The changes that the Village is considering to various chapters of the Village Code relating to flooding, stormwater runoff and land disturbance will further public health, safety and welfare and should be applied uniformly to all subdivision and development applications for projects in vulnerable areas. There is no good reason not to adopt a moratorium. It is not a complicated or controversial process. It merely requires this Board to have the will to protect Village residents while the more complicated Code amendments are fully thought through, revised, finalized and adopted.

Respectfully submitted,

MINZTER MAUCH PLLC



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