



Village of Mamaroneck Zoning Board of Appeals

c/o Department of Planning and Development
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Chair

To: Village Board of Trustees

From: Zoning Board of Appeals

Cc: Jerry Barberio, Village Manager
Daniel Sarnoff, Deputy Village Manager
Robert Spolzino, Village Attorney
Christy Mason, Deputy Village Attorney
Michael Hartman, Zoning Board Attorney
William Long, Planning Director
Amber Nowak, Planning Assistant
Agostino Fusco, Village Clerk
Sally Roberts, Deputy Village Clerk
Barbara Ritter, Office Assistant

Date: November 5, 2020

Re: **Recommendation Concerning Amendments to the Village's Tree Ordinance – Chapter 318**

Dear Mayor and Village Board of Trustees:

Thank you for bringing this matter to the Zoning Board's attention. The Zoning Board is greatly concerned with the preservation of the Village's character and appearance, including its trees. Overall, there certain aspects of the proposed ordinance that require further clarity. The Zoning Board has the following point of consideration regarding the proposed Tree Ordinance Amendment:

- All defined terms should be capitalized.
- Section 318-5(B) – should include “without the written permission of the Village Manager
- Section 318-5(D)(2) – Clarify process when the Village Manage and Tree Committee may disagree
- Section 318-6(A) – Clarify the “exception clause”. Currently, it nullifies the ANSI A300 Standards
- Section 318-6(B) – Clarify the intent of the last sentence. Explain whether the Tree Committee could amend the list of suggested street tree species; thereby, making the tree species an authorized tree species.
- Section 318-6(B) – Define “Non-invasive tree”.

- Section 318-7(A)(7) – Clarify who determines and the way the determination is made as to whether a tree is considered a “Dangerous Tree”. Clarify the process for disputing the classification of a “Dangerous Tree”.
- Section 318-7(D) – Clarify and define “reasonable cause”. Clarify whether documentation is required; who makes the determination and how. Consider the legality of “reasonable cause”. Perhaps reasonable notice and copy of the complaint should be provided to property owner prior to entering property. Perhaps a Police Officer should accompany Village Manager.
- Section 318-7(D) – Clarify whose permission is required. Clarify who determinations and the way the determination of sufficiency of the replacement trees.
- Section 318-7(F) – should include “written consent”
- Section 318-8(B) – should include the ability to take down other trees that may be deemed to be dangerous.
- Section 318-8(B) – Clarify the relationship between this section and Section 318-8(C) because additional trees on a property are “dangerous”.
- Section 318-8(B) – Clarify the criteria for assigning a certified arborist.
- Section 342-75 – Clarify to specify trees.
- Ensure alignment with all other Village Code.
- Section 318-8(H)
 - The proposed Chapter 318-8(H) states that “Any applicant who has been denied a tree removal permit may appeal to the Village Manager or the Village Manager’s designee. The appeal must be submitted in writing to the Village Manager or the Village Manager’s designee within 30 days of the determination. In determining an appeal, the Village Manager or the Village Manager’s designee may consult a certified arborist selected by the Village Manager or the Village Manager’s designee and paid for by the property owner.”

Consideration:

- The Board is concerned that one person within the Village or their designee is making the decision about whether a tree is to be removed when a private property owner is aggrieved by a denial of a tree removal permit and there is no appeal of that decision
- We would ask the Trustees to consider allowing the Planning Board to hear a further appeal when a private property owner is aggrieved by a denial of a tree removal permit. This (1) ensures that a collective body is rendering tree removal decisions and (2) provides discretion as to whether another tree should/could be planted somewhere else on the property, if the subject tree(s) is removed. While we recognize that the Planning Board could be the sole decision maker, we acknowledge that a quick decision may be needed which cannot be provided by the Planning Board. This process will allow a property owner to decide whether to take the time to appeal the denial further and, hopefully, reduce the number of such applications going to the Planning Board.

The Zoning Board believes that these recommendations will provide additional fairness to property owners.