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February 24, 2021

BY HAND DELIVERY & ELECTRONIC SUBMISSION

Chairman Thomas Burt
and Members of the Harbor & Coastal Zone Management Commission
Village of Mamaroneck
169 Mt. Pleasant Avenue
Mamaroneck, NY 10543

Re: Elisabeth & William Fedyna
Supplemental Materials
Harbor & Coastal Zone Management Commission Application
Consistency Review of Wetlands Permit Application
Premises: 1165 Greacen Point Road, Village of Mamaroneck, New York
(Parcel ID: 9-65 -75)

Dear Chairman Burt and Members of the Harbor & Coastal Zone Management Commission:

This letter and enclosed materials are respectfully submitted on behalf Elisabeth and William Fedyna (the "Applicants"), the owners of residential property located at 1165 Greacen Point Road in the Village of Mamaroneck, New York (the "Premises"), in furtherance of the proposed reconstruction of a single-family home, garage and driveway (the "Project").¹

This submission responds to the February 9, 2021 memorandum prepared by Maser Consulting (the "Maser Memorandum"). By a Resolution dated February 2, 2021, the Harbor & Coastal Zone Management Commission ("HCZMC") retained Maser Consulting to review the Project's impact on the floodplain, including the impacts of net fill on hydrogeology and environmental conditions and to evaluate the feasibility of providing a private sewer line to the Premises. The Maser Memo significantly deviates from the scope provided in the February 2nd Resolution and lacks a detailed evaluation of the *feasibility* of installing a private sewer line to connect to the Premises.

In lieu of providing a technical evaluation, the Maser Memorandum includes general and conclusory statements about the preference of a sewer line to a septic system without any analysis of the specific practical and physical challenges associated with the installation of a sewer line. The Maser Memorandum fails to address the evidence and documentation in the substantial record evidencing the Applicants' 1.5 years of exploration of a sewer alternative. Indeed, the Maser Memorandum is tantamount to supporting an outright prohibition of any proposed septic system, or repair of an existing septic system, within the Village of Mamaroneck.

¹ The Applicants submitted an application for Consistency Review related to the pending wetlands permit application on April 3, 2020.

We respectfully submit that the siting, design, and installation of septic systems is within the jurisdictional authority of the Westchester County Department of Health (“DOH”) pursuant to Sections 347 and 308 of the New York State Public Health Law and Section 873.720 of the Westchester County Sanitary Code. Accordingly, the Applicants have applied to the DOH seeking approval of the proposed replacement septic system. At no time during the DOH’s active review of the Project over the last 7 months has it been noted that a septic system would not be permitted at the Premises.

As detailed in the enclosed Response Memorandum prepared by JMC, PLLC, dated February 24, 2021 (**Exhibit A**), the Applicants are proposing a properly engineered and installed septic system that meets all State and County standards and poses minimal risk as to the discharge of sewerage into the environment. “If this were not the case, the Westchester County Health Department would not even entertain an application.” JMC Response Memorandum, page 5.

The Westchester County DOH is responsible for “[e]nsuring that the sewage and other wastewater generated from habitable buildings and properties in Westchester County is processed in the most environmentally appropriate manner possible.” Section 873.720 of the Westchester County Sanitary Code. Septic systems are an approved and widely used method of waste disposal pursuant to DOH regulations, standards and practices. In fact, Section 873.729 of the Westchester County Sanitary Code provides that:

Where a public sanitary sewer is not available and accessible, every habitable building hereafter constructed shall be properly plumbed and the building sewer shall be connected to an onsite wastewater treatment system complying with the provisions of this code, and no other means for the disposal of domestic sewage shall be employed. (emphasis added)

Given that the decision to permit or prohibit a septic system on the Premises is within the expertise of the DOH, it is inappropriate for Maser to comment on the general impracticability of septic systems. Instead of providing the technical review of the specific details required to install a private sewer line that it was retained to complete, Maser has issued an explanation of its general preference for sewer lines over septic systems at the Applicants’ expense.

To the extent that the Maser Memorandum recommends the HCZMC not issue a consistency determination for any application proposing a septic system, we note that the Commission has repeatedly approved numerous residential Projects proposing septic systems, as discussed further in the Applicants’ November 4, 2020 submission. In fact, most recently, the septic system at 1248 Greacen Point Road, located just 5 houses from the Premises, was approved without requiring investigation into the feasibility of connecting to a sewer line. A copy of the HCZMC resolution is included as **Exhibit B**.

The Maser Memorandum is also devoid of any specific facts rebutting the extensive conclusions of both the Village’s and the Applicants’ environmental experts regarding the environmental and hydrological impacts of 420 cubic yards of net fill. Maser conclusively asserts that if a private sewer line is constructed, no fill would be required. Given the detailed findings and reports of Sven Hoeger (Dolph Rotfeld Engineering, P.C.), Beth Evans (Evans



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Associates Environmental Consulting, Inc.), Leonard Jackson (Leonard Jackson Associates PE PLLC) and James A. Ryan and Richard Cordone (JMC, PLLC), we respectfully submit that the proposed net fill on this uniquely situated property for the limited purpose of replacing an existing failing septic system partially within a wetland buffer where no public sewer connection exist is consistent with the LWRP.

In support of this application, enclosed please find one paper copy and an electronic copy of the following materials:

- Exhibit A: Detailed response to the Maser Memorandum prepared by JMC PLLC, the Project engineers, dated February 24, 2021; and
- Exhibit B: February 28, 2019 HCZMC Consistency Determination Resolution for 1248 Greacen Point Road.

We look forward to appearing before the HCZMC on March 17th. Should the HCZMC or Village Staff have any questions or comments in the interim, please do not hesitate to contact me. Thank you for your time and consideration in this matter.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Kristen Motel', is written over a light blue horizontal line.

Kristen Motel
Enclosures

- cc: Amber Nowak, Assistant Village Planner
- Steven Gates, AKRF, Inc., Village Planner
- Charles Gottlieb, Esq., HCZMC Attorney
- Frank Tavalacci, Building Inspector
- JMC, PLLC
- Beth Evans, Evans Associates Environmental Consulting, Inc.
- Anthony B. Gioffre III, Esq.
- Client