

August 27, 2015

Zoning Board of Appeals
Village of East Hills
209 Harbor Hill Rd.
East Hills, NY 11576

BY Hand Delivery

To Whom It May Concern:

I hereby appeal to the East Hills Zoning Board of Appeals (ZBA) the decision rendered July 13, 2015 by the East Hills Architectural Review Board (ARB) to issue a tree-removal permit for multiple trees at 5 Palm Court, East Hills.

I reside at 35 Chestnut Drive in East Hills. My property is located about 290 feet from 5 Palm Court, and many of the trees, including the three Tulip trees in the rear of 5 Palm Court approved by the ARB for removal are visible to my house and backyard (see attached).

Removing the three Tulip trees, and other trees approved for removal, will adversely affect me and the enjoyment of my property because the trees provide a valuable buffer between my home and the traffic on Northern Boulevard, north of my home, among other services.

Northern Blvd. is about 545 feet from my property in a direct line through 5 Palm Court (see attached).

WITHDRAWN

I moved into my home when the old Village Hall abutted the rear of my property, and the removal of many trees to make way for subdivision built there since then had a significant negative impact on my property. Thus the trees currently on neighboring properties, and particularly those at 5 Palm Court, are even more important in maintaining the peace and tranquillity of my property.

Further, as outlined in the Village Code, the mature canopy trees in East Hills provide the entire community with valuable services such as clean air, natural beauty, wildlife habitat, etc. As such they enhance the value and enjoyment of my property.

It is my understanding that there were significant flaws in the approval process that should lead to your overturning of the ARB decision to approve the tree removals.

I understand that oral and written testimony was submitted to the ARB prior to its decision stating that the Village Code mandates the preservation of the local tree canopy, and that the proposal to remove the towering healthy Tulip trees for no reason other than the proposed building of a patio, and the removal of other trees for grading and the desire

to expand the foundation, fail to satisfy the Code's balancing test of reasonableness, or the Code's mandate that the topography of the current property is to be respected.

Furthermore the notification that neighbors received prior to the ARB vote did not specify the extent of the tree removals proposed, there were no documents posted on the Village website disclosing the extent of the proposed tree removals, and the times to view the files at Village Hall were in any event in conflict with my professional obligations.

I wish to appear before the Zoning Board of Appeals to appeal this ARB decision, and I further request that any work or permits be halted until my appeal may be heard.

I understand that based on state law I have the right to appeal the ARB decision, within 60 days, and actions are stayed in the interim:

NYS Village Law 7-712-(a)(4) Hearing appeals. Unless otherwise provided by local law, the jurisdiction of the board of appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the administrative official charged with the enforcement of any local law adopted pursuant to this article. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the village. (emphasis added)

As outlined above I am "aggrieved" by the ARB decision due to its impact on my property. I believe the law is clear that whatever jurisdiction the ZBA has, *any* aggrieved party may appeal.

Further,

NYS Village Law 7-712-(5)(b) An appeal shall be taken within sixty days after the filing of any order, requirement, decision, interpretation or determination of the administrative official, by filing with such administrative official and with the board of appeals a notice of appeal, specifying the grounds thereof and the relief sought. (emphasis added)

Further,

NYS Village Law 7-712-(6) 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.... (emphasis added)

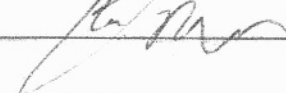
Thank you.

(Appeal of ARB decision on 5 Palm Court, continued)

Kevin Tack, M.D.
35 Chestnut Drive
East Hills NY 11576
(516) 729-4949

Sworn before me this _____ day of August, 2015

NOTARY PUBLIC


Kevin Tack, M.D.
35 Chestnut Drive
East Hills NY 11576
(516) 729-4949

Sworn before me this 28th day of August, 2015



NOTARY PUBLIC

ANTOINETTE CADDELL
Notary Public, State of New York
No. 01CA5054285
Qualified in Suffolk County
Commission Expires January 08, 2018



225
Incorporated Village of East Hills
 209 Harbor Hill Road, East Hills, New York 11576
 516-621-5600 Fax: 516-625-8736
 E-mail: mayor@villageofeasthills.org

Received
 MAY 08 2015
 2144

TREE REMOVAL/ALTERATION PERMIT APPLICATION

A) DESCRIPTION:

Property Owner: American Land Developers LLC Phone: 917-501-6366
 Address of Property: 5 Palm Court
 Section: 7 Block: 195 Lot(s): 17 Date: 5/7/15

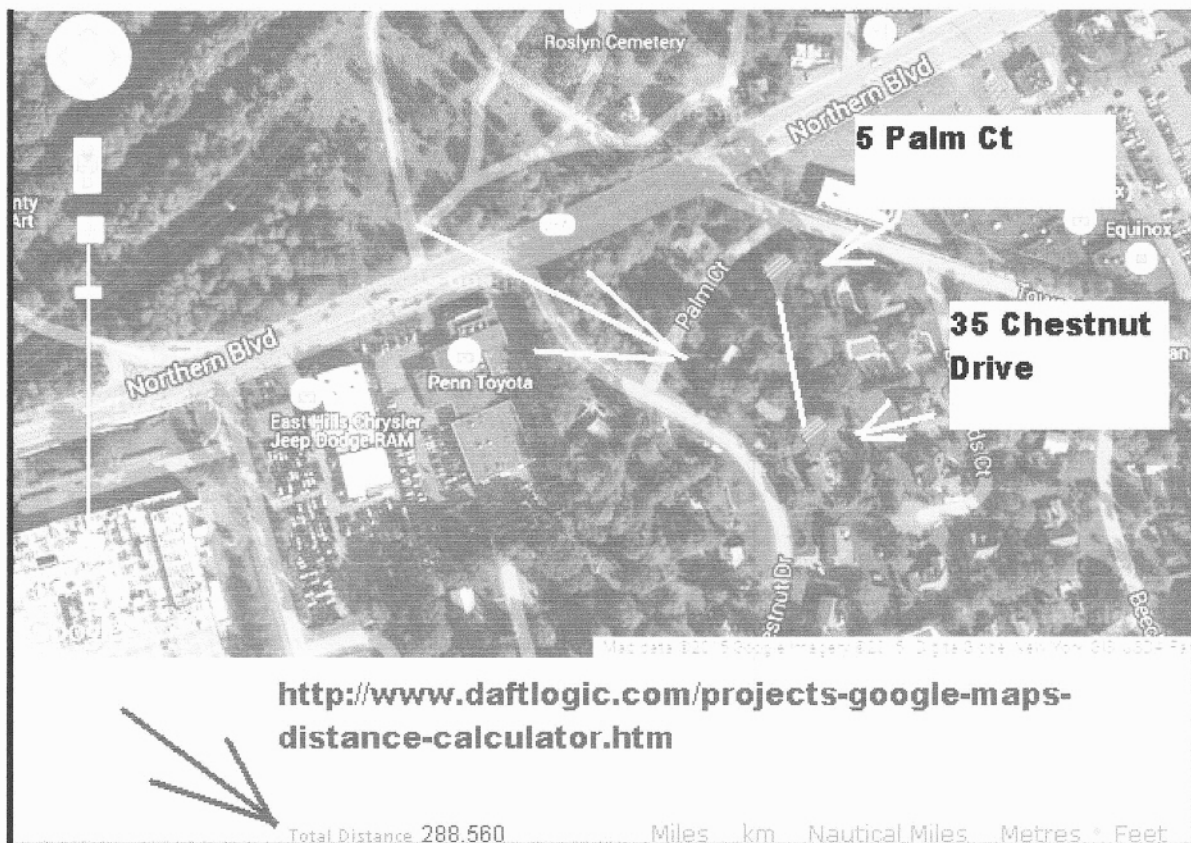
Tree Info:

Total # of Trees to be Removed: 10

| Species of Tree: | Diameter: | Reason for Removal: |
|---------------------|-----------|---------------------|
| <u>Tuliptree</u> | <u>8</u> | <u>regrading</u> |
| <u>Tuliptree</u> | <u>24</u> | <u>regrading</u> |
| <u>Tuliptree</u> | <u>10</u> | <u>regrading</u> |
| <u>Tuliptree</u> | <u>14</u> | <u>regrading</u> |
| <u>Tuliptree</u> | <u>20</u> | <u>patio</u> |
| <u>Tuliptree</u> | <u>20</u> | <u>patio</u> |
| <u>Norway Maple</u> | <u>16</u> | <u>Foundation</u> |
| <u>Oak</u> | <u>24</u> | <u>Foundation</u> |
| <u>Birch</u> | <u>18</u> | <u>regrading</u> |
| <u>Juniper</u> | <u>14</u> | <u>patio</u> |

Is the above tree work part of a construction/renovation project, either ongoing or planned in the next 12 months? ☒ YES ☐ NO

Are there any proposed grade changes that might adversely affect trees? ☐ YES ☒ NO



Richard Brummel
Keep East Hills Green Civic Association
15 Laurel Lane
East Hills, NY 11577
PO Box 124, Greenvale NY 11548
(516) 238-1646, rbrummel@att.net

July 13, 2015

East Hills Architectural Review Board
East Hills Village Hall
209 Harbor Hill Rd.
East Hills, NY 11576

Dear Chairman and Board Members:

This written testimony supplements verbal testimony by Richard Brummel.

Richard Brummel is an East Hills resident, a native having grown up here beginning in 1960, and currently residing at his childhood home at 15 Laurel Lane. He is the organizer of the Keep East Hills Green Civic Association, the writer of the website Planet-in-Peril.org, an environmental advocate, and an environmental-defense litigant. He is also a resident who enjoys and spends substantial time visiting and enjoying the flora and fauna throughout the Village of East Hills.

Preliminarily, in the interest of environmental protection and preservation, and humane public policy, I ask that in discharging its role under the Village's Tree Preservation Law, this Board before it allows any removal of a healthy tree, or one that is healthy enough to be restored to health with proper care, that **a report should indicate if any wildlife lives in the tree, and thus depends on it for shelter, and if so what plan is made to protect the animal(s), any young in nests, and to relocate them,** particularly in colder parts of the year. And furthermore that tonight such an inquiry is made in each case, and its findings should cause the Board to deny any application where such a question is not fully answered is is answered such that in the affirmative such animals do live in the subject tree.

I have made this request in several prior meetings as well. I believe your mandate to protect the environment allows you to take this into consideration. Your Tree Law specifically indicate the vale of trees for habitat for wildlife. You cannot discharge this duty without knowing how wildlife is directly affected.

I now also I have requested on multiple occasions that this Board make arrangements to allow the public to participate in your site inspections so we may also see what trees are at risk and the nature of the property in order to fully testify here. This has never

been permitted.

I note that the presence of a quorum on your site inspections requires an open meetings access by the public as well.

I further note as I stated in prior recent meetings it appears you are deliberating privately in violation of the state Open Meetings Law, whether in the site inspection or otherwise. I make this inference based on your seeming tacit understanding on various issues that have arisen for specific applications, such as lack of tree markings or objectionability of architectural features.

Further the Board's policy of including only vague general information "a house to be demolished....rebuilt" etc. in letters to neighbors eliciting testimony lacks key information of new house size and design, trees to be removed, etc. Further despite state law requiring relevant info to be published on the web this practice is entirely absent from Village proceedings of all kinds including the ARB. The hours to review documents 10-3:30 PM exclude people who work 9-5 -- the vast majority of Village residents who work. Further the window when the documents are available is unnecessarily short and not codified.

Specific comments are as follows:

5 Palm Court:

As noted at the last meeting the developer Hedvat Shomrim has presented many destructive proposals to this Board recently proposing the destruction of many trees. Previously you told Robert Beer his proposals suffered this defect. At 5 Palm Court Mr. Shomrim needs similar instruction and the denial of his plans.

The proposal to cut down seven Tulip Trees was abominable. The reduction to three for a "patio" is no less so.

These trees are unique to New York State on Long Island and are highly unusual throughout this area. This is a magnificent tree that is tall, strong and graceful.

The alleged need for patio space and grading is an unacceptable justification for the removal of these trees, which are magnificent visually to all the neighboring properties.

I spoke to two neighbors within 200 feet of the site. Both received letters from the Board but had no idea a huge 6,000 square foot house was proposed, massive tree removals were proposed, and the proposed house was in the words of one "a monstrosity" that he saw for the first time on my smart phone after I reviewed the case file at Village hall.

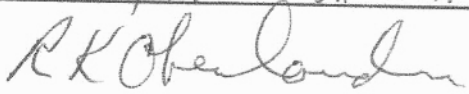
There is no reason the Board cannot include greater detail in its letters and provide documentation online -- as mandated by the State for important documents under

public consideration.

In contravention of the ARB law, the house is not consistent with or in harmony with the neighborhood, it is repetitive of the similar houses being recently constructed throughout East Hills that do not conform with the traditional and still predominant styles in East Hills, it is too large for the street, and the tree removals are unacceptably destructive of the ecology and aesthetics of the community.

I take exception to the abuse I received from the architect on this project after criticizing the design of the house -- echoed by the board members -- and request the Board assure such personal confrontations do not recur.

Both the house application and tree removals should be denied.

PIER RICHARD OBERLANDER - ONE TREE IN THE REAR, A MAPLE NEEDS
CARE BUT ALL CANDIDATE TREES ARE OTHERWISE HEALTHY & MATURE.
A FINE TRUNK RIVER BIRCH IN FRONT IS ESPECIALLY BEAUTIFUL. THE
TULIPS BECAUSE WE NEED CANOPY TREES HERE. THEY SHOULD BE PRESERVED.


19 Candy Lane

Both the 12" evergreen (whose species should be noted) and the extraordinary 30" elm are key landscape features of this property that should be preserved.

The elm is the largest tree on the property proper -- aside from the row row of pines on the border. This property does not have many hardwoods at all; it seems the elm is the only one.

As I have stated it is vital to know what animals depend on that tree prior to allowing its removal or consideration thereof.

There is no evidence presented by any professional that the elm is "failing". It is in fact thriving green in recent view of it. It has a full lush body and crown of leaves.

On inspection of the file last Friday there was no tree warden report as required by the Tree Law, and no diagram of the property.

The replacement with kousa dogwoods will not contribute to the tree canopy which is to be "preserved for this and future generations" per the Village Tree Law. The kousa is not a native tree and grows much smaller than the native hardwoods -- only 25 feet at maturity, compared with 100 feet or more for beech oak birch tulip etc.

The construction is elective and should not be permitted if it requires the tree removals.

RICHARD OBERLANDER IS A CERTIFIED ISO ARBORIST YOU KNOW AND A FOUNDED MEMBER OF THE BOARD, THE ARB. THE REAR TREE IS A NORWAY MAPLE. IT'S A NICE TREE, A BEAUTIFUL TREE, A NATIVE L/TREE. THE FRONT TREE IS HEALTHY, PROBABLY A SPRUCE. BOTH ARE ASSETS TO BE PRESERVED.

R. Koben

134 Tara Dr.

This property was largely denuded of trees. The tree warden stated the removed trees were "live" and noted no defects in his report, as he would otherwise do if found based on his normal practice.

Again as in the prior two meetings the applicant wants to change the "deal" on tree replacement after the fact. The trees have been removed and cannot be replaced in any similar kind: it takes 50 -100 years for these trees to mature. Thus the deal should stand as agreed to as a condition for the trees' removal -- which in itself was highly objectionable absent substantial reason that outweighed the ecological value of a fir, cypress and blue spruce.

Judging by neighboring properties built and landscaped at the same time, the destroyed trees were surely massive and beautiful trees that were complements to the neighborhood and community. Their absence and that on the north-adjacent property is surely regrettable.

This practice of post-facto re-negotiation of the terms of permits should not be tolerated by this board or any Village board -- where the applicant has committed irreversible acts and the Village has no real recourse. Alternately the applicant should be assessed the full replacement value of the destroyed trees, surely in the neighborhood of \$10,000 per tree, or else the opportunity cost associated with them -- aesthetic ecological etc.

I saw no tree warden report in the file last Friday.

25 Ash Drive

The application lacked a landscape plan and a tree warden report.

Assertions in the tree removal application as to insurance advice were not substantiated by evidence. The proximity to home is an argument repeatedly made to the ARB but not substantiated as a valid concern, in this or any other case, based on

expert opinion in writing or live testimony. It is obviously more a subterfuge as trees are in close proximity to homes throughout the community without issue until demolition or construction is planned.

This 18 inch Oak is a next-generation tree that should clearly be preserved. It is vital to the community and as habitat for wildlife.

Per RICHARD OBERLANDER - THE TREES ARE NOT MARKED. ONE
LIKELY CANDIDATE TREE IS A BLUE ATLAS CEDAR, A LITTLE UNUSUAL &
BEAUTIFUL HERE. IT'S HEALTHY. IT ADDS COLOR. IT'S IN A GOOD
SPOT. IT SHOULD REMAIN. RK Oberlander

As for all the applications for tree removal tonight:

All such applications for tree removal are defective in that they are missing tree warden reports intended to give the Board a sense of how the removals impact the community and surrounding properties. I have raised this issue in writing and verbally for two years now.

Thank you.



Richard Brummel
(516) 238-1646