

Update on the following properties:

079.13-004-044 (30 Piney Point)

079.13-004-045 (32 Piney Point)

079.13-004-064 Vacant Lot on Nordica Drive

Lots 44 and 45 on Piney Point Avenue received variances from the Zoning Board of Appeals and minor site plan approval for the construction of two residential homes from the Planning Board. As set forth in the Planning Board Resolution, the Minor Site Plan approval includes the issuance of an Excavation and Filling Permit under section 120-4 of the Village Code and Tree removal permits under section 208-16 of the Village Code. In addition to the trees approved to be removed as part of the Minor Site Plan approval, additional trees were removed in the easement area where the drainage and sewer lines are to be installed.

However, additional trees were also removed in Lots 44 and 45 which is a violation of Chapter 208. The Village is in the process of issuing appearance tickets for these violations*. In addition, the property owners are required to come back to the Planning Board for a tree planting remediation plan.

Work on Lots 44 and 45 has also exceeded the site disturbance limit threshold and now require a steep slopes permit. The Village is in the process of issuing appearance tickets for these violations*. In addition, the property owners are required to come back to the Planning Board for steep slopes permits. Among other things, this process will require the applicants to submit and comply with a new site stabilization plan. A new survey has been ordered so that the applicant's geotechnical engineer can submit a site stabilization plan.

Tree removal permits for seven trees were issued for Lot 16 on Nordica Drive to allow for the installation of drainage and sewer lines within the new easement. The permit requires the applicant to plant three replacement trees. There was no application required for this property before the Planning or Zoning Board as the only work was expected to be utility installation. Under the provisions of the Tree Chapter trees less than 8 inches in diameter that are not within the buffer zone do not require a tree removal permit. However two additional trees with diameters greater than 8 inches were removed without a permit which is a violation of chapter 208. The Village is in the process of issuing appearance tickets for these violations and can also require additional replacement trees*.

Questions have been raised regarding compliance with OSHA regulations. The Village has no authority to enforce OSHA regulations.

The Engineer is issuing a modified stop work order stopping all work until a better method of dust control has been determined and implemented and some additional items, including supplemental site stabilization, addressed.

In summary, the Village intends to pursue the violations in Village Court. The Village has required and the Planning Board will require that the property owners provide additional escrow funding for site inspection, geotechnical engineering, landscape architect and/or arborist services

and Village Attorney legal support. The initial escrow funding request for the two sites will total approximately \$20,000 to cover these services. The Village Planning Board will be requiring tree planting remediation, site remediation, and steep slopes permits which will include additional site stabilization.

Janine King
Village Manager
September 20, 2019

*Penalties and Fines per Village Code are as follows:

Tree Law:

208-25 Penalties for offenses.

A. Any person, firm, corporation, or other entity who or which undertakes any regulated activity without a tree removal permit required by this chapter or who violates any condition attached to a tree removal permit, or who otherwise violates any of the provisions of this chapter shall be guilty of an offense punishable by a fine of not more than \$250. Each tree removed without a tree removal permit required by this chapter or in violation of any condition attached to a tree removal permit or otherwise in violation of this chapter shall constitute a separate offense. For a second and each subsequent violation within a one-year period, the violator shall be guilty of an offense punishable by a fine of not more than \$1,000 or a term of imprisonment of not more than 15 days, or both. Notwithstanding the foregoing, a violation of § **208-16A(6)** shall be punishable by a fine of not more than \$5,000 or a term of imprisonment of not more than 15 days, or both. Each violation of the provisions of this chapter shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense. In addition, the court may order or direct a violator to replace any or all trees removed illegally, with a size and type selected by the Superintendent of the Department. The court shall specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the Village Engineer.

B. In addition to the criminal penalties provided in § **208-25A** any person, firm, corporation, or other entity who or which undertakes any regulated activity without a tree removal permit required by this chapter, or who violates any condition attached to a tree removal permit, or who otherwise violates any provision of this chapter shall also be liable for a civil penalty not to exceed \$3,000 for each such violation. Each consecutive day of the violation shall be considered a separate offense. Before assessment of the civil penalty, the alleged violator shall be afforded a hearing or opportunity to be heard before the Planning Board upon due notice and with right to specification of the charges and representation by counsel. Such civil penalty may be recovered in an action brought by the Village in any court of competent jurisdiction. Such civil penalty may be released or compromised by the Village and any action commenced to recover the same may be settled and discontinued by the Village.

Steep Slopes:**195-12 Penalties for offenses.**

Any person who undertakes any regulated activity without a steep slope permit required by this chapter or who violates any condition attached to a steep slope permit or who otherwise violates any provision of this chapter shall be guilty of an offense, punishable by a fine of not less than \$500 nor more than \$1,000. For a second and each subsequent offense, the violator shall be guilty of an offense punishable by a fine of not less than \$1,000 nor more than \$2,000 or a term of imprisonment of not more than 15 days, or both. Each violation of the provisions of this chapter shall be a separate and distinct offense and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense. In addition, any court having jurisdiction may order or direct a violator to restore the affected steep slope area to its condition prior to the offense, insofar as that is possible. The court shall specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the Village Engineer.

B. In addition to the criminal penalties provided under § **195-12A**, any person who undertakes any regulated activity within a steep slope area without both a steep slope permit and a work permit or who violates any condition attached to a steep slope permit or who otherwise violates any provision of this chapter shall be liable for a civil penalty not to exceed \$3,000 for each such violation. Each consecutive day of the violation shall be considered a separate offense. Before assessment of the civil penalty, the alleged violator shall be afforded a hearing or opportunity to be heard before the Planning Board upon due notice, and with rights to specification of the charges and representation by counsel. Such civil penalty may be recovered in an action brought by the Village in any court of competent jurisdiction. Such civil penalty may be released or compromised by the Village, and any action commenced to recover the same may be settled and discontinued by the Village.