

These are intended to be “Action Minutes” which primarily record the actions voted on by the Planning Board on July 22, 2010. The full public record of this meeting is the audio/video recording made of this meeting and kept in the Planning Board’s Records.

Present: Robert Galvin, AICP – Chairman
Stewart Sterk
Michael Ianniello (arrived late)
Ingemer Sjunnemark
Lee Wexler
Frank Fish, BFJ Planning
John Winter, Building Inspector

AGENDA

APPROVAL OF MINUTES

OLD BUSINESS

MINUTES

A motion was made by Mr. Sterk, seconded by Mr. Wexler to approve the minutes of the Regular Meeting of the Planning Board held on July 8, 2010.

Ayes: Galvin, Sterk, Wexler, Sjunnemark
Nays: None
Abstain: Ianniello

NEW BUSINESS

- 1. 600 W. Boston Post Road Soundview Service Station- (C-1 District) Dumpster permit**
- 2. 208 W. Boston Post Road, John Lese - (C-1 District) Proposed 5-unit condominium. Site Plan Review.**
- 3. 441 Mamaroneck Avenue, Jumana Hamdan – (C-2 District) Change of use: tanning salon to food service/restaurant. Site Plan Review.**

OLD BUSINESS

- 4. Nolles Ridge, 800 Fenimore Rd. (R-6 District) Subdivision/preliminary plat approval. Six building lots and one conservation lot.**

NEW BUSINESS

- 1. 600 W. Boston Post Road Soundview Service Station-(C-1 District) Dumpster permit**

Mr. Paul Perente addressed the Planning Board.

Mr. Galvin stated that the site plan for this application was approved at the July 8, 2010 meeting. At that time, the Planning Board had requested that the applicant return with a dumpster permit application.

The Board discussed the dumpster enclosure.

On motion of Mr. Sterk, seconded by Mr. Wexler the dumpster permit for Soundview Service Station at 600 West Boston Post Road was approved, with the condition that the dumpster enclosure should have black slats.

Ayes: Galvin, Sterk, Wexler, Sjunneemark
Nays: None
Absent: Ianniello

2. 441 Mamaroneck Avenue Jumana Hamdan change of use ; tanning salon to food service restaurant

Jumana Hamdan, the applicant, addressed the Planning Board describing the change of use. He stated that he is going before the Zoning Board of Appeals on 7/29 for a special permit for the proposed food service/restaurant.

Mr. Galvin stated that this is a 1,440 square foot establishment and is a change of use within the C-2 commercial district. As such, it is Type II action not subject to SEQRA. The application has been properly noticed, and the Board has a short form EAF as well as the Coastal Assessment Form.

Mr. Wallace Toscano, the applicant's architect, 108 Campfire Road Chappaqua, stated that they are seeking a special permit to operate a Mediterranean Restaurant with 4 employees open 7 days a week 7AM -10PM.

Mr. Galvin discussed the garbage dumpster, stating that there are residential properties on Staub Court located near the dumpster. The Planning Board will require a top on the dumpster enclosure. The enclosure slats should be either black or green.

The roof exhaust was also discussed and Mr. Toscano stated that it was code compliant.

The Board reviewed the specification sheet for the exhaust system. Mr. Winter indicated that he had reviewed the manufacturer's specs for the system and saw no issues with it. There were no questions or comments from the public.

On motion of Mr. Sjunneemark, seconded by Mr. Sterk the final site plan for the proposed food service/restaurant at 441 Mamaroneck Avenue was approved subject to Zoning Board of Appeals approval of a special permit and the preparation and submission of an application for a dumpster permit subject to the satisfaction of the Building Inspector.

Ayes: Galvin, Sterk, Wexler, Sjunneemark, Ianniello
Nays: None

3. 208 W. Boston Post Road, John Lese - (C-1 District) Proposed 5-unit condominium. Site Plan Review.

Mr. John Lese, the applicant, addressed the Planning Board. The application was the subject of an informal discussion at the last meeting.

Mr. Galvin stated that the Board has an application for a site plan, short form EAF, an aerial survey, special permit application (for infill housing) and a coastal assessment form.

The Planning Board discussed the site plan, the orientation of the building to Boston Post Road, the placement and number of parking spaces, and the landscaping plan. The Planning Board agreed that the total number of parking spaces to be provided on-site should be 8. A fee in lieu of these two parking spaces should be paid to the Village's parking fund (\$8,700 for each space). The Board requested the applicant to return with alternate plans taking into account the Board's concerns.

Mr. Sjunneemark had to leave the meeting at 8:00PM.

Mr. Lese stated that he will have alternate parking configurations completed and submitted to BFJ Planning for their review.

Mr. Roberts of Community Housing Innovation (CHI) stated that the units will have one dedicated parking space as part of their deed with the remaining spaces being visitor parking.

Mr. Fish stated that the draft easement proposals must be submitted to the Planning Board and the Village Attorney for review.

Mr. Galvin requested a letter from CHI stating how the project meets the affordability threshold under the Village's Below Market code.

Mr. Galvin stated that in order to save time alternate parking configurations should be sent directly to Mr. Fish, BFJ Planners for review as soon as possible.

On motion of Mr. Sterk, seconded by Mr. Ianniello the Board declared intent to be lead agency for this unlisted action under SEQRA.

Ayes: Galvin, Sterk, Wexler, Ianniello
Nays: None
Absent: Sjunneemark

Mr. Lese is to submit different proposals including storm water management and engineering directly to the Planning Board's consultants for review. Westchester County Planning will comment on the application. The County may require the installation of a bike rack. Marketing and financing information from CHI should be supplied to the Board. Mr. Fish will also supply examples of pervious surfaces that have been used in a project in Bronxville.

OLD BUSINESS

4. Nolles Ridge, 800 Fenimore Rd. (R-6 District) Subdivision/preliminary plat approval. Six building lots and one conservation lot.

Mr. Galvin stated that public hearing was closed July 8, 2010. The Planning Board has received a full set of preliminary plans dated July 16, 2010. The landscape sheet provides a 6 foot, 6 inch privacy fence as the neighbors specified as well as the changes in plantings specified in Ms. Oakley's memo of 7/14/10.

Mr. Fish summarized the draft resolution approving the preliminary plat for Nolles Ridge.

The following resolution approving the Preliminary Subdivision Plat for Nolles Ridge was approved. The proposed draft chapter 120 (Rock Removal) is attached for reference.

Name: Nolles Ridge Subdivision (800 Fenimore Road)

Location: 800 Fenimore Road

District: R-6

Block and Lot: Section 8, Block 63, Lot 1

WHEREAS, an application was submitted in October 2008 by Al Nolletti (the Applicant), for Preliminary Subdivision Plat Approval to allow for the subdivision of a 3.3-acre parcel located at 800 Fenimore Road, within an R-6 zone, pursuant to Chapter A348 (Subdivision Regulations), such application consisting of 14 sheets as revised through July 16, 2010; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act (SEQRA), after due notification the Planning Board declared itself Lead Agency on April 23, 2009, and the action was classified as Type 1; and

WHEREAS, the Planning Board, and its consulting engineer and planner, having reviewed the long-form Environmental Assessment Form (EAF) submitted by the Applicant and supplemental materials relating to potential stormwater and flooding impacts, wetlands, rock removal and noise, completed Part II of the EAF (as revised) in July 2009, and Part III of the EAF in January 2010; and

WHEREAS, the Planning Board, having reviewed Parts I, II and III of the EAF, as well as various supplemental materials, and having conducted a public hearing on SEQRA held open for a series of meetings throughout 2009, issued a Negative Declaration (dated January 28, 2010) under SEQRA that no significant adverse environmental impacts would result from the proposed action; and

WHEREAS, on March 11, 2010, after due public notice, the Planning Board held a public hearing on the subdivision action and heard comments from the public and kept this public hearing open for subsequent meetings on April 22, June 24 and July 8, 2010; and

WHEREAS, the Planning Board approved a wetland permit for the application on July 8, 2010; and

WHEREAS, the Planning Board has received all reports and technical information it has requested, including a U.S. Army Corps of Engineers Wetland Permit received by the Applicant in November 2009; project certification from Westchester Joint Water Works in May 2010; full reviews by the Village Engineer, the Village's Landscaping Consultant and the Village's Planning Consultants; and legal advice from the Village Attorney;

WHEREAS, the Planning Board will require the applicant to resolve the following matters for Final Subdivision Plat Approval:

- A. The proposed action shall receive consistency approval from the Harbor and Coastal Zone Management Commission (HCZM) with the Village's Local Waterfront Revitalization Program (LWRP); and
- B. The applicant shall submit a final rock blasting plan in accordance with the test borings agreed to by the Village Engineer and with the proposed Draft Chapter 120 (Rock Removal) of the Village of Mamaroneck code as provided to the applicant and attached hereto for reference; and
- C. The project shall receive Westchester County Department of Health Approval of the public water supply and wastewater disposal system; and
- D. The applicant's landscape architect shall visit the project site with the Village's landscaping consultant after initial clearing of vegetation to tag the trees to be retained, and the landscape plan and tree removal plan will be revised accordingly; and
- E. The applicant shall submit a final homeowner's association agreement, including a provision for enforcement of maintenance requirements in the event of the dissolution of the homeowner's association; a declaration of covenants; and a licensing agreement for planting and maintenance of the Village right-of-way along Fenimore Road, each acceptable to the Planning Board, based on the advice of the Village Attorney; and
- F. The applicant shall submit final emergency access easement language acceptable to the Planning Board, based on the advice of the Village Attorney, and the encroaching neighboring property owner, including a provision that the neighboring property owner shall not post any signage discouraging access to the easement; and
- G. The applicant shall submit the required recreation fee of \$15,000 (\$2,500 per unit), in accordance with Section A348-13 of the Village's Subdivision Regulations; and
- H. In accordance with Section A348-19 of the Village's Subdivision Regulations, the applicant shall submit a performance bond sufficient to cover the full cost of the proposed action, as confirmed by the Village Engineer; and
- I. In accordance with Section A348-17 of the Village's Subdivision Regulations, the applicant shall submit a maintenance bond sufficient to cover the full cost, as estimated by the Village Engineer, of maintaining all requisite improvements and of making such repairs and improvements as may be necessary in order that, at the end of seven years' completion from the date of the last certificate of

occupancy issued, all improvements shall conform to the requirements imposed by the Planning Board;

NOW, THEREFORE, on motion of Stewart Sterk, and seconded by Lee Wexler:

BE IT RESOLVED, in accordance with the vote of this Board taken on July 22, 2010, that such application for Preliminary Subdivision Plat Approval for the Preliminary Plat dated July 16, 2010 is hereby approved, subject to approval by the following where appropriate:

Village of Mamaroneck Mayor and Board of Trustees []
Village of Mamaroneck Village Manager []
Village of Mamaroneck Attorney []
Village of Mamaroneck Treasurer []
Village of Mamaroneck Engineering Consultant [x]
Village of Mamaroneck Building Director [x]
Village of Mamaroneck Fire Chief []
Village of Mamaroneck Traffic Commission []
Village of Mamaroneck Architectural Review Board []
Village of Mamaroneck Harbor and Coastal Zone Commission [x]

Village of Mamaroneck Zoning Board of Appeals []
Westchester County Department of Planning []
[]

Westchester County Department of Environmental Facilities

Westchester County Department of Health [x]
New York State Department of Transportation []
New York State Department of Environmental Conservation []

Ayes: Galvin, Sterk, Wexler, Ianniello
Nays: None
Absent: Sjunneemark

ADJOURNMENT

On motion of Mr. Sterk, seconded by Mr. Wexler the meeting was adjourned at 8:35 P.M.

Ayes: Galvin, Sterk, Wexler, Ianniello
Nays: None
Absent: Sjunneemark

**Minutes prepared by:
Francine M. Brill**

Draft Chapter 120: ROCK REMOVAL

[HISTORY: Adopted by the Board of Trustees of the Village of Mamaroneck X-XX-200X as L.L. No. X-200X, effective X-X-200X. (This local law also repealed former Ch. 120, Blasting, Adopted by the Board of Trustees of the Village of Mamaroneck 2-14-1989 as L.L. No. 2-1989, effective 2-21-1989, as amended. Amendments noted where applicable.)]

GENERAL REFERENCES

Building construction — See Ch. 126.

Fire prevention — See Ch. 182.

Fees — See Ch. A347.

§120-1. Intent.

The Village Board of the Village of Mamaroneck takes recognition of requests by residents of the Village of Mamaroneck to impose regulations on the necessary construction operations to remove rock by explosive and non-explosive means, within the Village so as to promote the peace, good order and safety of the community.

§120-2. Statutory authority.

This chapter is adopted pursuant to Article 2, § 10, of the Municipal Home Rule Law of the State of New York, Article 16 of the Labor Law of the State of New York and Title 12, Part 39, Chapter 16, of the New York Codes, Rules and Regulations, specifically Section 464-a, or as said provisions are amended from time to time.

§120-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BUILDING INSPECTOR — Unless otherwise specified, the Village of Mamaroneck Building Inspector or his designated representative.

ENFORCEMENT AGENCY OR AUTHORITY — The Village Engineer, the Building Inspector or the Fire Inspector of the Village of Mamaroneck or their designated representatives.

ENGINEER — Unless otherwise specified, the Village of Mamaroneck Consulting Engineer or his designated representative.

EXPLOSIVES — Gunpowder, powders used for blasting, high explosives, blasting materials, detonating fuses, detonators and other detonating agents, smokeless powder and any chemical compound or any mechanical mixture containing any oxidizing and combustible units or other ingredients in such proportions, quantities or packing that ignition by fire, friction, concussion, percussion or detonation any part thereof may and is intended to cause an explosion, but shall not include gasoline, kerosene, naphtha, turpentine, benzine, acetone, ethyl ether, benzol and all quantities of black powder not exceeding five (5) pounds for use in firing of antique firearms or artifacts or replicas thereof. Fixed ammunition and primers for small arms, firecrackers, safety fuses and matches shall not be deemed to be "explosives" when the individual units contain any of the above-mentioned articles or substances in such limited quantity, of such nature and so packed that it is impossible to produce an explosion of such units to the injury of life, limb or property.

FIRE INSPECTOR — Unless otherwise specified, the Village of Mamaroneck Fire Inspector or his designated representative.

NON-EXPLOSIVE ROCK REMOVAL — Rock removal methods not employing the use of explosives, including but not limited to the use of hydraulic or pneumatic hammers and/or breakers; hydro-fracturing; chemical expansion agents; and/or controlled foam injection for barring, wedging, chipping, breaking and removing rock.

ROCK — All ledge or bedrock, boulders or masonry larger than one-half (½) cubic yard in volume and any material requiring blasting, barring, chipping, wedging or other methods for removal from its original bed.

§120-4. Prohibition on certain days.

No rock removal operations shall take place on Saturday, Sunday or on any of the holidays listed below or on any other day or time period as noted in New York State laws, as designated by local, state or federal decree or as included in the body of this chapter:

- A. New Year's Day.
- B. Washington's Birthday.
- C. Memorial Day.
- D. Independence Day.
- E. Labor Day.
- F. Yom Kippur.
- G. Thanksgiving Day.
- H. Christmas Day.

§120-5. Notice required.

Whenever rock removal operations (either by blasting or non-explosive methods) shall be permitted under the provisions of the Village Code, written notice, as approved by the Building Inspector, shall be given by the rock removal operations contractor to property owners, at their addresses as shown on the latest assessment roll of the Village of Mamaroneck, as to all improved properties within an area designated by the Building Inspector. Said area shall include all properties which the Building Inspector shall find will be substantially affected by the proposed rock removal operations. Said notice shall state the date on which rock removal operations is proposed to commence and the estimated date when rock removal operations will be completed as well as the proposed method by which the rock is to be removed. Said notice shall be mailed by certified mail, return receipt requested, at least ten (10) calendar days before the proposed commencement of rock removal operations and shall be placed at each property in a conspicuous place at least three (3) days before commencement of rock removal operations. An affidavit of mailing or delivery of the notice, designating the name and address of each property owner notified, shall be filed by the rock removal operations contractor with the Building Inspector before commencement of rock removal operations. Failure to furnish evidence of such notice shall be grounds for revoking a permit for rock removal operations.

§120-6. Property inspections and monitoring by contractor; liability.

- A. Before any rock removal can begin, the rock removal contractor shall cause to be made an in-depth inspection of all homes, structures or facilities within a minimum distance of one thousand (1,000) feet of the center line of the site (e.g., gravity sewers) to note the interior and exterior condition, including foundation walls, sidewalks, pools and the like. The inspection and written report shall be conducted by an independent firm experienced in this type of work.
- B. Should it be determined by the Building Inspector and/or Village Engineer that a pre-rock removal inspection report is necessary for any area not listed above but within the proximity of the rock removal, the Building Inspector and/or Village

Engineer shall advise the rock removal contractor of this requirement, and a report shall be prepared as requested.

- C. A copy of the inspection report, when it is completed, covering each house, structure or facility inspected, shall be delivered to the Building Inspector and/or Village Engineer. This report must be conducted and delivered prior to any detonation of explosives.

§120-7. Rock clearance and backfilling.

- A. Ledge rock, boulders and large stones shall be removed from the sides and bottom of the trench to provide clearance for the specified embedment of each pipe section, joint or appurtenance; but in no instance shall the clearance be less than six (6) inches. Additional clearance at the pipe belt or joint shall be provided to allow for the proper makeup of the joint
- B. At the transition from an earth bottom to a rock bottom, the minimum bottom clearance shall be twelve (12) inches for a distance of not less than five (5) feet.
- C. Concrete for structures shall be placed on the rock, and the excavation shall be only to the elevations and grades shown on the contract drawings.
- D. Rock removal and backfilling shall be performed in accordance with all generally accepted standards.
- E. The rock excavated which cannot be incorporated into the backfill materials as specified shall be disposed of as spoil and shall be replaced with the quantity of acceptable material required for backfilling.

§120-8. Permitted hours.

No detonation of explosives or any other non-explosive rock removal activities shall be permitted within the Village of Mamaroneck except between the hours of 9:00 a.m. and 4:00 p.m. on any day on which rock removal is otherwise permitted.

§120-9. Monitoring and inspection of operations by Village.

The Building Inspector and/or the Village Engineer of the Village of Mamaroneck or their duly authorized representatives have the authority to monitor rock removal operations when such monitoring is, in their discretion, deemed necessary and to inspect the storage, handling and size of the charges intended to be detonated or the means and methods being employed in any non-explosive rock removal operations. The Building Inspector and/or the Village Engineer of the Village of Mamaroneck shall also have the authority to inspect rock removal sites to ensure that the provisions of all applicable laws of the State of New York, rules and regulations of the State of New York and this chapter are being complied with. The enforcement agency shall have authority to issue appearance tickets to compel the appearance in court of any person, firm or corporation found to be in violation of any applicable state law or regulation or this chapter.

§120-10. Accidents; repair of damages; potential for damage.

- A. Every accident, caused by an explosion of a blast, or other non-explosive rock removal activity, within the Village limits shall be regarded as presumptive evidence of negligence on the part of a contractor or blaster concerned with the operation in the

course of which such explosion occurs or other accident, and the permit of the blaster or other such rock removal contractor shall be revoked, unless it shall appear at a subsequent hearing that the accident occurred despite the observance of all proper precautions in the handling of such explosive, or the execution or such other non-explosive rock removal method, and, pending such hearing, such permit shall be suspended. Said hearing shall be before the enforcement authority and shall be requested in writing by the permit holder within five (5) days from the notice of revocation and shall be held within ten (10) days thereafter. The permit shall not be reissued or renewed except upon delivery to the Village Clerk of a new and additional bond under the provisions of §120-14.

- B. Any injury or damage to the work or to existing pipes, facilities or structures shall be repaired or rebuilt by the rock removal contractor at his expense.
- C. Whenever, in the opinion of the Building Inspector and/or Village Engineer, continuation of the current method of rock removal may damage adjacent rock, pipes, facilities or structures, rock removal shall be discontinued, and the rock removed by such other methods, as approved by the Engineer, which will provide for the protection of same. Approval of such other methods, by the Village Engineer, shall in no way constitute a release from the absolute liability of the rock removal contractor for the protection of said facilities or structures.

§120-11. Consent to presence of Village officials.

Every applicant pursuant to this chapter, as well as the owner of the property upon which such applicant intends to detonate explosives, is deemed to consent to the presence of the Building Inspector, the Village Engineer or their designated representatives on the blasting site for the purpose of inspecting or monitoring the handling, the storage and the detonation of explosives.

§120-12. Blasting

A. Applicability of state provisions.

The provisions of Article 16 of the Labor Law of the State of New York, as well as Industrial Code Rules contained in Title 12, Part 39, of the New York Codes, Rules and Regulations, or as said provisions are amended from time to time, are recognized as applicable to the possession, handling, storage and transportation of explosives within the jurisdiction of the Village of Mamaroneck and shall be complied with by all blasters.

A. License and permit required; qualifications; fee.

(1) No person, firm or corporation shall detonate explosives within the Village of Mamaroneck unless it is licensed pursuant to § 458 of the Labor Law of the State of New York and, in addition to such licensing, unless it has obtained a permit for such blasting from the Village of Mamaroneck pursuant to this section. Said permit shall be valid for a period of ninety (90) days.

(2) Any person, firm or corporation intending to detonate explosives within the Village of Mamaroneck shall, prior to such detonation, apply for a permit to detonate such explosives from the Engineering Department of the Village of Mamaroneck. Such person, firm or corporation shall supply the Engineering Department with the following information:

(a) The name of the owner of the property upon which the detonation of explosives is intended to occur.

(b) A geotechnical report, signed and sealed by an Engineer licensed in the State of New York, characterizing the nature and stability of the rock to be removed, potential impacts on adjacent properties and structures and the appropriateness of the removal methods being proposed to be employed.

(c) The business address of the person, firm or corporation proposing to detonate explosives on the subject property.

(d) Evidence of the fact that the person, firm or corporation intending to detonate explosives is duly licensed pursuant to § 458 of the Labor Law of the State of New York.

(e) The precise location of the intended detonation of explosives, as well as the size of charges intended to be detonated and the proposed schedule for detonation of explosives, as well as detailed plans indicating the locations spacing and depths of any and all relief drilling to be used to isolate the blasting effects to the area of rock to be removed.

(f) Evidence that the person, firm or corporation intending to detonate explosives has sufficient insurance coverage, as described in §120-14, Bond and insurance requirements, to provide payment for damages to any person suffering damages by virtue of the detonation of the explosives.

- (3) All permits must be requested from the Building Inspector at least five (5) business days in advance of any blasting.
 - (4) Upon submission of the foregoing information to the Building Department, on a form to be supplied by the Building Department, and an application fee, as set forth in Chapter A347, the Building Inspector may issue a permit for blasting to the applicant if the Building Inspector finds that the applicant is in compliance with this chapter and all applicable laws of the State of New York with respect to blasting.
- B. Monitoring Requirements
- (1) The blasting contractor shall provide continuous blast monitoring during construction.
 - (2) Blast monitoring shall be performed by an independent testing agency at the blasting contractor's expense.
 - (3) The peak particle velocity shall be limited to two (2) inches per second maximum.
 - (4) The Village of Mamaroneck shall assume no responsibility whatsoever for any costs incurred in connection with any work required under this section.
- C. Storage requirements; records.
- (1) Explosives for blasting shall be kept in a properly constructed magazine painted red and marked "danger." \
 - (2) At no time shall the amount of explosives kept at the site of the work exceed amounts needed for one (1) working day, unless otherwise approved in writing by the Building Inspector and/or Village Engineer. Such explosives shall be stored, handled and used in conformance with any and all applicable laws, regulations and codes. Under no circumstances may explosives be stored over any weekend, and all excess explosives not required for Friday's detonation shall be removed by 12:00 noon on Friday.
 - (3) Accurate daily records shall be kept, showing the amount of explosives on hand within the municipal boundary, both at the site and at any storage magazine, the quantities received and issued and the purpose of which issued, when used or store within the Village limits.
 - (4) The blasting contractor shall be responsible for any damage or injury to any persons, property or structures as a result of his handling, storage or use of explosives.
 - (5) Magazines to be used for storage of explosives shall be as specified in the current standards of the National Fire Protection Code. Magazines are to be kept locked, except when being inspected or when explosives are being placed therein or being removed therefrom. All magazines will be stored at a location approved by the Building Inspector and/or Village Engineer. Under no circumstances is the agreed storage location to change without written permission of the Village.
 - (6) Blasting caps, electric blasting caps, detonating primers, primed cartridges and primer cord shall not be stored in the same magazine with other explosives, pursuant to the New York State Fire

Code.

(7) All material safety data sheets for each type of explosive shall be forwarded by the blasting contractor to the Fire Inspector of the Village of Mamaroneck and copied to the Building Department, and copies shall be kept on the actual storage site.

(8) Accurate daily records shall be maintained by the blasting contractor showing the locations of all blast holes, size of actual load used and time of load detonation.

(9) Only such quantity of explosive shall be used in a blasting operation as may be necessary to properly start the rock.

D. Covering blasts; protection of pipelines and structures; notice to Engineer.

(1) Immediately after loading and tamping the hole and before firing the blast, the rock to be blasted shall be covered on all exposed sides with a strong woven matting of rope or wire, and, in the case of a rope mat, the same shall be held down by a sufficient number of timbers, each ten (10) feet long and ten (10) inches in the smallest diameter, held securely together by chains or steel wire. After the rock has thus been covered, the blast shall be fired without unnecessary delay. The amount and manner of application of the proposed covering to be placed over blasts situated on the perpendicular or diagonal side of the rock and over blasts for trenches, manholes and sewer and gas connections shall be as required by good practice.

(2) All blasts in open cut shall be properly covered and protected with approved blasting mats.

(3) Charges shall be of such size that the excavation will not be unduly large and shall be so arranged and timed that adjacent rock, upon or against which pipelines or structures are to be built, will not be shattered.

(4) Blasting will not be permitted within twenty five (25) feet of pipelines or structures. Except as specifically approved by the Village Engineer

(5) All existing pipes or structures exposed during excavation shall be adequately protected from damage before proceeding with the blasting.

(6) After a blasting permit has been issued, written notice of blasting shall be given to the Village Engineer by the blasting contractor at least forty eight (48) hours prior to commencement of blasting.

(7) The Village Engineer reserves the right to alter rock removal techniques and activities, as required.

E. Warning of blast.

(1) At least three (3) minutes before firing a blast, the blaster shall give warning thereof by causing a competent person carrying a red flag to be stationed a reasonable distance and not less than one hundred fifty (150) feet from the blast at each avenue of approach and also by calling out the words "a blast" several times repeated and loud enough to be

heard at a distance of three hundred (300) feet from the point of discharge.

- (2) The blasting contractor shall further notify all occupants of all houses within three hundred (300) feet of the work on the morning of each day when blasting is to be done and shall notify the occupants of all houses within one hundred fifty (150) feet of the work before each blast is fired.

F. Additional regulations.

- (1) Requests for storage of any explosive materials, storage magazines, etc., must be in writing.

- (2) If permission is granted for the storage of any explosive materials, storage magazines, etc., said permission shall be in writing and must be retained (posted) on the actual storage site of the materials. Permission granted by the Village of Mamaroneck for the storage of explosive materials in no way whatsoever infers that the responsibility is transferred to the Village.

- (3) The Village of Mamaroneck shall be coinsured at all times.

- (4) Storage magazines shall be secured with tamperproof locks.

- (5) Storage magazines shall be completely fenced in, including the top. The gate shall be secured with a tamperproof locking device. All appropriate warning signs shall be utilized.

- (6) The minimum posted insurance bond shall be five million dollars (\$5,000,000.) unless changed by mutual consent of the Village and the blasting contractor, as so stated in writing.

- (7) All insurance shall be kept in effect from the date that permit is issued until the contract is completed. If the contract end is significantly later than the end of the blasting period, then request for a waiver of insurance for blasting shall be made in writing.

- (8) The Village Engineer, Building Inspector, Fire Inspector and/or Fire Chief or their designated representatives reserve the right to inspect the actual blasting site, storage area, storage magazines, trucks or other vehicles used in the transportation of the explosives at any reasonable time.

- (9) Prior to the issuance of a permit, the blasting contractor shall submit to the Building Inspector his anticipated route through the Village for the delivery of any explosives. No permit will be issued until the route is approved by the Building Inspector and Fire Inspector.

- (10) Should it become necessary for the blasting contractor to change the approved route for the delivery of any explosives, the blasting contractor shall request such a change in writing from the issuing authority. The original approved route will be maintained up to the date that the change is approved. Should this not be practicable, delivery shall be halted until the revised route is reviewed and approved by all agencies involved. Should the Building Inspector or Fire Inspector determine that the route of delivery must be changed, for whatever reason, he shall verbally notify the blasting contractor immediately and follow this

notification with notice in writing. The blasting contractor shall terminate his delivery route immediately upon such verbal notice and shall submit an alternate routing plan for review by all necessary agencies.

- (11) Copies of all licenses of actual shooters shall be given to the Building Inspector. All licenses shall be valid, current and not due to expire during the blasting period. Should a license be scheduled to be renewed during the blasting period, the renewal should be taken care of so that the renewal certificate will be in place at least ten (10) days prior to the scheduled date of renewal. Should the blasting contractor wish to have another shooter on the job during this period to cover for the current shooter, approval shall be requested in writing from the Building Inspector. Under no circumstance shall a new shooter be allowed to perform his work without first having been present on the job site for at least forty eight (48) hours [two (2) working days] during which time blasting shall have taken place in his presence. This overlapping is to ensure adequate familiarization of the shooter with the specific site conditions of the job.

§120-13. Non-explosive Rock Removal

A. Applicability of state provisions.

The provisions of Article 16 of the Labor Law of the State of New York, as well as Industrial Code Rules contained in Title 12, Part 39, of the New York Codes, Rules and Regulations shall be complied with by all rock removal contractors

A. Permit required; qualifications; fee.

- (1) No person, firm or corporation shall commence rock removal operations in the Village of Mamaroneck unless it has obtained a permit for such operations from the Village of Mamaroneck pursuant to this section. Said permit shall be valid for a period of ninety (90) days.
- (2) Any person, firm or corporation intending to perform non-explosive rock removal operations, within the Village of Mamaroneck shall, prior to such operations, apply for a permit to perform non-explosive rock removal operations, from the Building Department of the Village of Mamaroneck. Such person, firm or corporation shall supply the Building Department with the following information:
 - (a) The name of the owner of the property upon which the rock removal operations are intended to occur
 - (b) A geotechnical report, signed and sealed by an Engineer licensed in the State of New York, characterizing the nature and stability of the rock to be removed, potential impacts on adjacent properties and structures and the appropriateness of the removal methods being proposed to be employed.
 - (c) The business address of the person, firm or corporation proposing to perform said operations on the subject property.
 - (d) A rock removal plan including the precise location of the intended operations, proposed methods of removal, the number,

sizes and types of equipment to be used in said operations as well as detailed plans indicating the locations spacing and depths of any and all relief drilling to be used to isolate the effects of the rock removal operations to the area of rock to be removed.

- (e) Evidence that the person, firm or corporation intending to perform said operations has sufficient insurance coverage, as described in §120-14, Bond and insurance requirements, to provide payment for damages to any person suffering damages by virtue of the rock removal operations.
- (f) All permits must be requested from the Village Building Inspector at least ten (10) business days in advance of any non-explosive rock removal operations.
- (g) Upon submission of the foregoing information to the Building Department, on a form to be supplied by the Building Department, and an application fee, as set forth in Chapter A347, the Building Inspector may issue a permit for non-explosive rock removal to the applicant if the Building Inspector finds that the applicant is in compliance with this chapter and all applicable laws of the State of New York with respect to rock removal operations.

§120-14. Bond and insurance requirements

- A. No one shall perform rock removal operations within the Village of Mamaroneck until he or his employer has given to the Village a bond executed by a surety company, satisfactory to the Village Manager. Said bond shall be in an amount to be determined by the Village Manager; however, said amount shall not be less than one hundred thousand dollars (\$100,000.) and shall cover the faithful performance of the permittee.
- B. In addition, the permittee shall be responsible to have in effect, at the permittee's sole cost and expense, a comprehensive general liability insurance policy in the sum of at least five million dollars (\$5,000,000.) for any occurrence, including:
 - (1) Personal injury.
 - (2) Contractual.
 - (3) Independent contractors.
 - (4) Broad form.
 - (5) Sixty day non-cancellation clause.
 - (6) Completed operations.
 - (7) Additional interest of Village of Mamaroneck.
- C. Certificate.
 - (1) In addition, any permittee granted a permit to blast shall also supply a certificate evidencing the following insurance coverage:
 - (a) Statutory state disability insurance.
 - (b) Workers' compensation, including unlimited employer's liability coverage.

- (c) Automobile with limits of not less than one million dollars (\$1,000,000.) combined single limit bodily injury and property damage.
- (2) Said certificate shall be issued to the Village of Mamaroneck and shall contain a clause that states: "No modification, cancellation or diminution of coverage shall take place unless the certificate holder receives not less than thirty (30) days advance written notice thereof via registered or certified mail.

§120-15. Penalties for offenses.

Any person, firm or corporation violating any of the provisions of this chapter or failing to comply therewith shall be guilty of an unclassified misdemeanor and, upon conviction, shall be punished by imprisonment for a term of not more than one (1) year or by a fine of not more than one thousand dollars (\$1,000.), or both such fine and imprisonment. Each violation of any provision of this chapter shall be a separate and distinct offense, and, in case of continuing violation, each day such violation shall be permitted to exist shall constitute a separate offense.

§120-16. Construal of provisions.

The issuance of any permit hereunder shall in no manner be construed as an approval of, waiver of or compliance with any additional requirements of the State of New York, the Department of Labor or any other agency authorized to supervise the detonation of explosives.

§120-17. Severability.

The invalidity of any section, clause, sentence or provision of this chapter shall not affect the validity of any part of this chapter which can be given effect without such invalid parts or part.