

June 14, 2023

Mayor Rossillo and Members of the Board of Trustees  
112 Main Street  
Dobbs Ferry, New York 10522

**Re: Proposed Changes to the Zoning Ordinance**

Dear Mayor Rossillo and Members of the Board of Trustees:

At your June 13, 2023 Workshop, proposed changes to the existing Zoning Ordinance were discussed. Village Attorney Lori Lee Dickson ("Attorney") and Village Planner Valerie Monastra ("Planner") presented modifications that they are recommending that would change the permitted site coverage for potentially both impervious coverage and building coverage for properties in the Village. They explained that the need for these changes, in their opinion, is prompted by a recent decision made by the Dobbs Ferry Zoning Board (ZBA) on an application that is currently pending before the Dobbs Ferry Planning Board (PB) and Architectural & Historic Review Board ("AHRB").

Their presentation had a sense of urgency. The representation suggested that there has been a tried and true method employed over the years which was able to rely upon the "net lot area" being used for the calculation of coverages, but that the applicant for 0 North Mountain Drive found a loophole. The concern expressed at the Workshop was that, with this loophole discovered, there could be a onslaught of applications that would be able to use the "gross lot area" for coverage, potentially resulting in environmental harm and houses being built out of scale with the neighborhoods within which they are located.

I am approaching this with an assumption that the statements made by both the Attorney and the Planner are honest representations of what they truly believe. I have no reason to believe that they are intentionally making false statements and I prefer to believe that none of this is personal.

However, I also understand that both are relatively new to Dobbs Ferry. The fact is both the Attorney and the Planner are still in somewhat of a discovery period with some of the history of Dobbs Ferry zoning. The facts that their introduction to Dobbs Ferry has coincided with both CoVid protocols and the time during which the Village has also had either an experienced but interim Administrator or a short term inexperienced Administrator has no doubt made it more challenging.

My intent in writing this letter is to provide some of the history that is fundamental to understanding where some of the zoning regulations came from and what their purpose may have actually been. Creating zoning regulations and codes is challenging and often has collateral impacts, as well as unintended consequences. As the Board of Trustees considers the current changes to the Code, it is imperative to be aware of both. Any current concern with needing to move quickly is dwarfed by the damage that could be caused by getting it wrong.

Based on our personal experience in Dobbs Ferry over the past 30 years and what is actually in the Code, we contend the following:

1. Contrary to representations that have been made in support of the proposed change to the Code, **there is empirical evidence that makes it clear that gross lot area has been used consistently for determination of both impervious and building coverage since the Steep Slopes Ordinance was originally adopted**, at least until the current Building Inspector was appointed in 2022. While there were several projects that used the net lot area, these were a minority of applications before the Village, most receiving Site Plan Approval concurrent with the subdivision of the property to create the building lot.
2. A representation made at the June 13 meeting and in the written recommendation for a proposed change to the Code is that the Building Inspector has calculated the permitted coverages using the gross lot area on properties that did not have steep slopes and the net lot area on properties that did have steep slopes. Unless the contention is that the Building Inspector has the right to pick and choose when to apply one standard instead of the other, this does not make sense. Perhaps what they meant was that the Building Inspector has consistently required the use of the net lot area, which for some properties was the same as the gross lot area, due to the property not having steep slopes exceeding 15%. In that case, the net and the gross lot areas would be the same. However, to be assured of the net and gross areas were the same the Building Inspector would need a steep slopes analysis. The fact is steep slopes analyses were not required for most projects involving single family homes over the past 30 years. The standard in the Building Department was to use the full Lot Area for impervious and building coverage calculations. While applications may not have referenced that the coverage calculations used the Gross Lot Area, the definition for Lot Area in the Code is the same as the Gross Lot Area. **There is nothing in the Code that says that the Net Lot Area is required to be used in calculating coverage.** The definition for Building Coverage is that it is a percentage of the Lot Area. The definition for Impervious Coverage clearly states that it is a percentage of the Gross Lot Area. Neither definition makes any reference to the Net Lot Area.
3. **The claim made at the June 13 Workshop, that the decision by the ZBA that Building Coverage could be calculated using the Gross Lot Area and not the Net Lot Area, exposed the Village's environmentally sensitive areas and the character of neighborhoods to immediate harm is not true.** It ignores the substantial provisions in Section 300-46 Natural and Scenic Resource Protection in the Code, which specifically addresses concerns with impacts on environmentally sensitive features, including steep slopes. This is the Section of the Code intended to protect steep slopes and it is not affected by the ZBA's decision. All of the tools used by the Planning Board in evaluating Site Plan applications remain in place. Section 300-34, which involves slopes deduction, was never intended to apply to coverages.

## **NECESSITY FOR IMMEDIATE ACTION**

The only logical need for hurried amendments to the Code would be to place the 0 North Mountain Drive application (Application) in a kind of Limbo. It seems that the intent is to adopt the changes to the Code that would require the use of “Net Lot Area” for the coverages instead of the “Gross Lot Area” before a Building Permit could be issued for 0 North Mountain Drive.

The presentation made at the June 13 Workshop suggested that the recent decision by the ZBA that the Code does not require the use of the Net Lot Area could result in an onslaught of applications for oversized buildings that would result in environmental harm caused by the over development of steep sloped parcels. There are several realities that contradict this concern. First, it takes months for applications for larger projects like a single family home to proceed through Site Plan Review. The subject application was submitted to the Village in June 2022. Second, the volume of applications that the Village processes for larger projects averages less than one per month, and this is during a period when the Building Department has claimed that it is processing an unusually high volume of applications. Third, the issue of net/gross lot area for coverage calculations is only one of the tools that the Village has in its arsenal to restrict applications to suitable size and character. There have been many instances in which an application may have been compliant with calculated limits, but unable to meet the stringent engineering requirements required by the Village. The Planning Board is composed of members who are well versed in these concerns. It also has the benefit of its own Consulting Engineer, who reviews every application for compliance with those engineering requirements.

In the first six months of 2023, there have been three applications submitted to the Planning Board for the Site Plan Review of a new house, in addition to 0 North Mountain Drive. These include 11 Fairlawn and 21 Hollywood Drive, which are relatively small homes on oversized lots, as well as 86 Maple Street, which is a small house on a very small lot. For both 11 Fairlawn and 21 Hollywood, the Net Lot Area was used, as has clearly been the intent of the Building Inspector since he assumed the position in January 2022. Similar to projects that Gotham has worked on at 60 Washington Avenue and 1 Myrtle, the size of the lots obviated any concern with coverage. The 86 Maple Street property is an anomaly and variances for coverage, which were clearly justified by the context of the neighborhood, were granted.

It must be noted that the Planning Board’s powers are significant. Regardless of how the permitted coverage is calculated, the Planning Board has the authority to judge any project on the three criteria that are most important when it comes to the proposed size of a building on a specific building lot:

1. Can the project be engineered to meet the Village’s requirements for stormwater management, erosion and sediment control, site stability, relandscaping of disturbed areas, which are all critical when steep slopes are present, as well as with safety, particularly with the requirements of vehicles and parking?

2. Will the proposed building comply with the required setbacks and Sky Exposure Plan, which are tools used to determine compatibility with neighboring properties?
3. Will the proposed house be compatible with the existing character of the neighborhood?

All of these are evaluated and determined using current metrics with which the Planning Board is familiar and which, after they have been calculated by the applicant's team of qualified consultants, are reviewed by the Village's Consulting Engineer. While there can be subjective aspects to this process, the real strength in the Village's Zoning Ordinance is the extent to which objective determinations can be made.

As will be addressed later in this letter, there will be collateral impacts on many properties in the Village, if the mandate is for coverages to be calculated using the Net Lot Area. This is not something that is as simple and straightforward as was presented at the June 13 Workshop. If the Net Lot Area were to become the basis for determining coverage, a significant percentage of existing homes in the Village would be rendered non-conforming,

#### **ORIGIN OF THE STEEP SLOPES ORDINANCE**

At the June 13 Workshop, the idea of making a deduction from the gross lot area to determine a net lot area was explained as being a tool intended to prevent the construction of overly large homes. That is not accurate. Section 300-34.A. in the revised Code adopted by the Village in September 2010 is based on Section 300-35.D., which was added to the previous Code in September 1989.

Beginning in the late 1970s and continuing through the 1980s, the Village received proposals for the development of clustered residential developments. Walden Woods and Washington's Headquarters introduced the idea of being able to use clustered development as a way to develop a property that had eluded development using traditional subdivision due to topography and other environmental limitations. By clustering the units, the number of units that could be built could be significantly greater than the number of units that could be accomplished in an actual subdivision of single family building lots.

The number of units permitted in a cluster development in Dobbs Ferry was based on the hypothetical yield of units that could be created in a conventional subdivision. Initially, this was calculated by dividing the total lot area of the property by the minimum required building lot area for a single family home. For example, if someone owned a property with a total lot area of 110,000 square feet in a zoning district that permitted two family homes on lots with a minimum lot area of 5,000 square feet, the yield of condo units permitted would be 44 units.  $((110,000 / 5,000) \times 2 = 44)$ . After the first two condominium projects were approved in Dobbs Ferry, which both included law suits filed by the applicants, the Village began looking at ways in which the resulting densities could be reduced without law suits.

Concurrent with the impact that condominium development was having, the value of building lots in the Rivertowns began to increase as lots became more scarce. Parcels that had been ignored for decades due to steep slopes, significant rock, and other costly site characteristics started becoming more viable financially. Through the 1980s, the value of a single family building lot in Dobbs Ferry increased 10-fold from \$15,000 to \$150,000.

In an effort to gain more control over development in the Village, the Dobbs Ferry Board of Trustees investigated a change to the Code, which was presented as “protect[ing] environmentally sensitive lands, preserv[ing] the Village’s natural resources and promot[ing] the orderly development of land, development on a lot(s) with excessively steep slope areas.” The Code was revised in September 1989 to require both hypothetical and actual subdivisions to be calculated in such that the resulting building lots would each proof out to contain the minimum lot area required in the applicable zoning district.

Two subdivisions proposed in 1988 specifically concerned the Board of Trustees. Both involved spinning off building lots from significant properties on North Mountain Drive. One was a three lot subdivision with two building lots flanking the improved property at 77 North Mountain Drive and the other was a two lot subdivision creating one building lot from the property of 79 North Mountain Drive. The lot created from 79 North Mountain Drive is the parcel that is currently being proposed for development as 0 North Mountain Drive.

As soon as the three lot subdivision had been completed by the Planning Board, the Village Board of Trustees moved forward with the amendment to the Code that would require the “Steep Slopes Deduction.” While the 79 Mountain Drive subdivision process was ready for final approval at the September 1989 Planning Board meeting, the final vote on that application was adjourned to the October 1989 Planning Board meeting. This enabled the Board of Trustees to complete the change to the Code adding Section 300-35.D. The 0 North Mountain Drive parcel that is subject to the current application pending before the Planning Board was the first lot created with the Steep Slopes Ordinance in place.

Section 300-35.D. which became 300-34.A. in the 2010 revised Code, was adopted to reduce the yield in the number of parcels from a property, not to reduce the size of buildings. Building size in Dobbs Ferry is limited by a complete series of other criteria, which are addressed below. To further constrict the permitted size of a building by reducing the permitted coverages with steep slopes deductions is redundant and excessive and is not justified by any actual need to protect the community.

#### **DOBBS FERRY CODE RESTRICTIONS ON BUILDING SIZE**

The Village of Dobbs Ferry has a well established system of dimensional limits that restrict the size of a building that can be built on any property. This system follows the zoning districts such that new buildings in existing neighborhoods will be contextually appropriate with their neighbors.

The size of buildings and a desire to prevent what had become known as “McMansions” was a clear and present intent of the Land Use Committee and approval Boards during the review of the Village Code that resulted in the adoption of a revised Code, as well as a Vision Plan, in September 2010. That process took more than five years, engaged significant participation of residents, and resulted in new Land Use Regulations.

Prior to the 2010 revisions to the Code, the size of a building on a site was limited by the Schedule Limiting the Height and Bulk of Building, which was included as an attachment to the Chapter 300 Zoning and Land Use in the Village Code. That Schedule limited the size of buildings using a percentage of site coverage, a specific height in both feet and stories, and set backs from all property lines.

The revised Code retained, refined, and augmented these limits. To further control how a new building would fit with its neighbors, the revised Code added several other tools to be used by the approving Boards.

An Impervious Coverage Limit was added to the 2010 revised Code. The definition adopted, which remains unchanged since that time, reads as follows:

Impervious Coverage - The part of a lot that is covered by impervious surfaces, expressed as a percentage of the **gross** lot area. [Bold and underline added for emphasis.]

While the previous Code included a Maximum Building Area calculated as a percentage of the lot area in the Schedule, that Code did not provide a definition of Building Coverage. A definition of Building Coverage was added in the 2010 revised Code. The definition adopted, which remains unchanged since that time, reads as follows:

Building Coverage - The area of a lot covered by or permitted to be covered by principal and accessory building(s) and structures on the ground level. Percentage of building coverage is the area of principal and accessory building(s) at the ground level divided by the lot area and expressed as a percentage of the lot area.

The previous Code and the 2010 revised Code both have the same definition for Gross Lot Area:

Lot Area, Gross - The total square footage of a lot prior to any reductions pursuant to this chapter.

The 2010 revised Code modified the previous definition of Net Lot Area, although the intent remains the same:

Lot Area, Net - The area of the lot after any reductions pursuant to this chapter have been deducted. For the purposes of calculating lot area,  $\frac{1}{2}$  of the area of the lot with slopes measuring 25% or greater shall not be included in the total lot area, and  $\frac{1}{4}$  of the area of the lot with slopes measuring at least 15% but less than 25% shall not be included in the net lot area.

A definition of Lot Coverage was added to the 2010 revised Code:

Lot Coverage - The amount of building coverage, impervious surface coverage, or a combination of the two, divided by the lot area, and expressed as a percentage.

This definition includes a diagram showing how the lot area is to be calculated and there is no mention of any deductions for steep slopes in calculating the Lot Coverage.

The Finding by the ZBA at its May 10, 2023 Public Hearing on the appeal filed by the applicant was that the Code is vague and subsequently, in accordance with the courts of New York, the Gross Lot Area should be used for calculating Building Coverage.

The 2010 revised Code includes several additional tools that are used by the Boards to protect the character of existing neighborhoods and none of these additional tools are affected by whether Net or Gross Lot Area is used in the calculations.

The 2010 revised Code added the Sky Exposure Plane (SEP). The SEP establishes a method to be used to determine the extent to which a proposed building may affect neighboring properties in both crowding and loss of natural light. While a couple of the members of the Planning Board explained that they had not looked at the SEP drawings that were submitted to the Village in January for the February Planning Board meeting for the 0 North Mountain Drive application, the SEP has been provided and clearly demonstrates that the proposed house does not encroach on any neighbor.

Another significant tool added in the 2010 revised Code is the Sliding Scales Tables. A primary concern that was discussed in the public workshops conducted for the creation of the Vision Plan was the adverse impact that can result when a lot that is significantly larger than the other lots in a neighborhood is developed. For example, in the OF-6 zoning district, the minimum lot area for a single family home is 5,000 square feet. The OF-6 allows a Building Coverage of 27% calculated as a percentage of the lot area. A 5,000 square foot lot in that district allows a footprint of 1,350 square feet. Without some other restriction being imposed, a 20,000 square foot lot in that district would allow a footprint of 5,400 square feet, which could result in a house significantly larger than its neighbors.

In Attachment 2 to Chapter 300, Appendix B provides a series of Tables that dictate the dimensions and percentages permitted in each of the zoning districts. Table B-3: Residential Lot Dimensions and Coverage (Sliding Scales), which was amended in July 2021, imposes limits on the lots that are significantly larger than the minimum in a particular zoning district. Using the example above, a 20,000 square foot parcel in an OF-6 zoning district is required to reduce both the coverage by buildings and impervious surfaces. The 27% permitted for building coverage is reduced to 18.09% and the 54% permitted for impervious coverage is reduced to 36.18%.

Similar Sliding Scales were added to the 2010 revised Code modifying requirements for Side Yard Setbacks (Table B-4), Front and Rear Yard Setbacks (Table B-5), Building Height (Table B-6), and Massing Limits (Table B-7). Due to the fact that the 0 North Mountain Drive property is consistent with the basic requirements, the Sliding Scales on Tables B-3 through B-6 are not applicable to this property. Table B-7 includes the Sky Exposure Plane, which is applicable to this property. The Sky Exposure Plane analysis has been submitted for the Planning Board's review of 0 North Mountain Drive. It contributes to the determination that the proposed house is properly designed for the context of this neighborhood.

### **USE OF GROSS VS NET AREA IN PRACTICE**

Representation has been made that Building Coverage and Impervious Coverage calculations have consistently used New Lot Area since the adoption of the revised Code in 2010. While this may be the case since the current Building Inspector took the position in 2022, this claim is not consistent with the record for projects considered before 2022.

Gotham has provided Project Design Coordination services in Dobbs Ferry since 1978, helping prepare the submission that have been made to the Building Department on more than 100 projects. While many of these may have been smaller projects such as the restoration, renovation, repair, or expansion of an existing building, Gotham has been involved in the creation of more than twenty new single family homes in Dobbs Ferry, as well as the creation of five large clustered development projects including Livingston Ridge.

During the process of the Site Plan Review by the Planning Board and obtaining the two decisions from the ZBA, Gotham provided several Memoranda for the 0 North Mountain Drive applications. One of these is the Gross and Net Coverage Calculations / Building Lots Memorandum dated April 14, 2023. This Memorandum provided a series of applications that were processed by the Dobbs Ferry Building Department and granted Site Plan Approval by the Planning Board. A few of these examples, in which simultaneous Subdivision Approval by the Planning Board was also required, a Steep Slopes Analysis was required. In each of those, the Building Coverage was calculated using the Gross Lot Area, not the Net Lot Area. The other examples, which did not also involve a subdivision, no Steep Slopes Analysis was required. On those, the Building Coverage was calculated using the Lot Area, which has the same area as the Gross Lot Area.

The Planner provided a Memorandum, dated April 28, 2023, dismissing much of the data and examples we submitted on the basis of irrelevant issues; for example, claiming that projects that were done prior to September 28, 2010 don't count because the Code was revised. That did not change the fact that those properties contained steep slopes, no Steep Slopes Analysis was required, and the Building Coverage was calculated for the buildings that were built using the Gross Lot Area, not the Net Lot Area.

This Memorandum is available on the Village's website under "Government," and then "Building Department," and then "Projects," and then "0 North Mountain Drive."



Other examples that were approved after the revised Code was adopted in September 2010 were dismissed because “Based upon the regulations in Section 300,34(A)(2), this project did not require steep slope deductions.”

Following is the text of that Section:

Section 300-34 Measurements and exceptions.

- (2) Reductions for steep slope areas. In order to protect environmentally sensitive lands, preserve the Village's natural resources and promote the orderly development of land through standards that acknowledge the varied topography in Dobbs Ferry, net lot area shall be determined as the gross lot area less:
  - (a) Fifty percent of the gross area of a lot with slopes measuring 25% or greater.
  - (b) Twenty-five percent of the gross area of a lot with slopes measuring more than 15% but less than 25%.
  - (c) Sloped areas with a horizontal dimension of less than five feet and/or an area of less than 150 square feet may be considered an anomaly by the Planning Board and not deducted from the site area as otherwise required above.

The only justification that could be made to not require a Steep Slopes Analysis is if the existing parcel had already been deemed a building lot. Several of the examples that we provided involved alterations to an existing building. We agree that projects with that scope, based on our contention that the purpose of Section 300-34.A.(2) pertains only to the required size of the parcel and not to calculating coverage, do not require a Steep Slopes Analysis. However, with one exception described below, if the purpose of Section 300-34.A.(2) is to determine the permitted site coverage of buildings and/or impervious surface, the only way that the Building Inspector would be able to determine whether an application is compliant would be to have a Steep Slope Analysis prepared.

The one exception is when the area of the property is more than twice the area of the proposed coverage. For example, if a lot with an area of 20,000 square feet and a permitted building coverage of 18% is proposed for development with a building coverage of less than 1,800 square feet, a Steep Slopes Analysis could be waived, since the maximum deduction would be 50%, and 50% of 20,000 square feet is 10,000 square feet, and 18% of 10,000 square feet is 1,800 square feet.

If the purpose of Section 300-34.A.(2) is to determine Building Coverage, as has been claimed by the Planner, the Attorney, and the Building Inspector, none of the properties dismissed by the Planner in our presentation as examples that were developed without a Steep Slopes Analysis should have been approved.

Lest anyone misconstrue that this was a “Gotham” issue, Christina Griffin provided documentation that she designed six new homes in Dobbs after 2010 that used the Gross Lot Area, not the Net. Other architects serving the community report the same.

#### **COLLATERAL IMPACTS OF THE NET LOT AREA BEING APPLIED TO EXISTING PROPERTIES**

This issue is focused on how changing from the Gross Lot Area to the Net Lot Area as the basis for Building Coverage could affect property owner’s rights to develop their property. Changing the basis for determining coverage for single family homes will change what kind of house can be built on a property. This will affect the value of the property and the value of the house. Why did the Building Department change from using the Gross Lot Area to the Net Lot Area? Were too many oversized homes being built? Where undesirable changes being imposed on established neighborhoods? What is the reason that there is panic to change this “loophole” in the Code, which in fact is actually the way that the Village has properly managed the development of residential properties since 1989?

Unless the intent is for this change to be applied differently to two different classes of property owner, changing the permitted coverage from Gross Lot Area to Net Lot Area will also have a significant impact on many properties that have already been developed. Making this change will render many previously compliant parcels as suddenly non-conforming. The existing homes would be able to continue as pre-existing, but this would immediately affect the value of those properties and potentially affect the future ability for a purchaser to obtain financing at favorable rates. It also means that for many existing homes to make minor additions or modifications to their homes - effectively to maintain their homes viable as needs change, the first step will be a requirement to get a variance from the ZBA. Transforming entire blocks already developed with a desirable character from being compliant with zoning to non-conforming is not good planning.

Dobbs Ferry is a Village with many neighborhoods of properties with a Gross Lot Area that is equal to or just a little bit larger than the minimum required Lot Area. Since they were created and developed before September 1989, their Lot Area is the Gross Lot Area without deductions for steep slopes. The houses built on these smaller lots are also often close to the maximum Building Coverage permitted using the Gross Lot Area for the calculation. Add the fact that Dobbs Ferry is also a Village with substantial topography and it becomes clear that using the Net Lot Area with the deduction for steep slopes will adversely affect many residents.

Following is a sampling of parcels from several neighborhoods in Dobbs Ferry. The selections are existing compliant buildings on compliant lots, using the Gross Lot Area as the basis of determining Building Coverage. Each one of these examples represents a significant number of other properties in those neighborhoods with the same characteristics. The zoning district, the minimum required lot are, the maximum building coverage using the Gross Lot Area are taken from the Schedules in the Village Code. The actual lot area and the percentages of Building Coverage using both the Gross Lot Area and the Net Lot Area are provided based on information from the Town of Greenburgh GIS.

Abbreviations: MRLA - Minimum Required Lot Area  
MBC - Maximum Building Coverage  
EBC - Existing Building Coverage  
BC - Building Coverage Percentage Using Gross Lot Area  
GLA - Gross Lot Area  
SSD - Steep Slopes Deduction  
NLA - Net Lot Area  
BC2 - Building Coverage Percentage Using Net Lot Area

The neighborhoods noted are from the Vision Plan.

- A. Northfield - 116 Northfield Avenue - Parcel Lot #3.60-34-6  
Zoning OF-5; MRLA 7,500 sf.; MBC 25%; Lot Area 9,583 sf.  
EBC 1,936 sf.; BC1using GLA 20.2%  
SSD 1,916 sf.; NLA 7,667 sf. BC2using NLA 25.3%
- B. Chestnut Ridge - 30 Hickory Hill - Parcel Lot #3.140-126-20  
Zoning OF-4; MRLA 10,000 sf.; MBC 22%; Lot Area 11,326 sf.  
EBC 2,341 sf.; BC1using GLA 20.7%  
SSD 2,831 sf.; NLA 8,495 sf.; BC2using NLA 27.6%
- C. Knoll - 74 Briary Road - Parcel Lot #3.60-25-1  
Zoning OF-6; MRLA 5,000 sf.; MBC 27%; Lot Area 6,970 sf.  
EBC 1,330 sf.; BC1using GLA 22%  
SSD 1,568 sf.; NLA 5,402 sf.; BC2using NLA 28.3%
- D. Virginia - 27 Temple Road - Parcel Lot #2.60-21-4  
Zoning OF-6; MRLA 5,000 sf.; MBC 27%; Lot Area 6,534 sf.  
EBC 1,760 sf.; BC1using GLA 26.9%  
SSD 1,470 sf.; NLA 5,064 sf.; BC2using NLA 34.8%
- E. Walgrove - 97 Mohican Park Avenue - Parcel Lot #3.90-58-26  
Zoning OF-6; MRLA 5,000 sf.; MBC 27%; Lot Area 6,534 sf.  
EBC 1,558 sf.; BC1using GLA 23.8%  
SSD 880 sf.; NLA 5,654 sf.; BC2 using NLA 27.6%
- F. Riverview Manor - 100 Bellair Avenue - Parcel Lot #3/160-145-9  
Zoning OF-5; MRLA 7,500 sf.; MCB 25%; Lot Area 9,583 sf.  
EBC 1,982 sf.; BC1 using GLA 20.7%  
SSD 1,962 sf.; NLA 7,667 sf.; BC2 using NLA 25.8%

In each case, the existing house Building Coverage is compliant with the limits included in the Tables in Chapter 300 Zoning and Land Use, provided that the Gross Lot Area is used in the calculation. In each case, deducting the steep slopes in accordance with Section 300-34.A.(2) results in a Net Lot Area that, when used to calculate the Building Coverage results in a percentage that exceeds the maximum in the Zoning Tables.

## **FAIRNESS**

As one of the Trustees explained at the June 13 Workshop, making this change to the Code will create differences in what is available to neighbors in a way that may be unnecessarily unfair.

Reviewing the character of the neighborhoods listed above reveals houses on one side of a street with lots that do not have what are defined as steep slopes, while the houses on the other side of the street do have steep slopes; often in a way that does not really affect the type of house built on the property.

Consider two lots approximately the same size with 10,000 square feet in the OF-4 zoning district, which permits a Building Coverage of 22% with plenty of room to accommodate a house with a footprint of 2,200 square feet, but one having a steep grade of 25% on the back half of the property resulting in a steep slopes deduction of 2,500 square feet. Assuming that both buildings are fully compliant with the required setbacks, height limits, and SEP, as well as meeting all required engineering standards, does it make sense that one house could have a Building Coverage of 2,200 square feet, but the other be limited to 1,650 square feet. How does imposing that constriction benefit the community? Is it fair?

Consider the situation when this comparison is between two lots on the same street with one already improved with a house that was built using the Gross Lot Area, and the other undeveloped and now subject to the Net Gross Area. Does it make sense for properties that have not been developed to now be required to use the Net Lot Area, when the existing homes developed using the Gross Lot Area have created a desirable character for that neighborhood? Remember, the Code already has a complete matrix of tools for the Planning Board and Building Department to use in limiting and controlling the size, type, and design of homes that can be built. Given all of the other limits that are already in place, including dimensional limits and engineering requirements, what is the need for this additional restriction? Is it fair?

Does it make sense for the Village to modify the Code in a way that will make a significant number of existing homes no longer compliant with the zoning district within which they are located? If the Building Coverage is changed to be based on the Net Lot Area, any application for renovating, expanding, or otherwise improving their homes will have to start with an application to the ZBA for a variance. While I am sure that they will be granted, does this make any sense?

Laws should not be created or changed without a clear need. Where is the evidence of the development of properties using the Gross Lot Area creating undesirable homes in conflict with the character of their neighborhood? Where is the evidence that by changing to the Net Lot Area, there will be an improvement in the quality of life for Dobbs Ferry residents?

We are living in a time of daunting challenges. 89 million people in the United States live in areas that will become uninhabitable potentially by as soon as 2050. Is making this kind of change to Dobbs Ferry's Village Code what we should be doing with our time?

## **RECOMMENDATION**

Acknowledging that the current Code is not crystal clear in its definitions and has been declared vague by the ZBA, it makes sense to fix it. That is easy to do, without adverse impacts. When this issue first was identified, we recommended a simple change to the text in Definitions for Building Coverage:

Building Coverage - The area of a lot covered by or permitted to be covered by principal and accessory building(s) and structures on the ground level. Percentage of building coverage is the area of principal and accessory building(s) at the ground level divided by the lot area and expressed as a percentage of the **Gross** Lot Area.

If there is a concern that the purpose of Section 300.34 Measurements and exceptions is unclear, particularly as compared to Section 300.46 Natural and scenic resource protection, consider adding the following between the title and A. Lot area:

The following is intended for use in the creation of building lots by subdivision and the management of how building lots can be developed. The intent is to provide the tools to the Building Department and approving Boards necessary to control the intensity of development in a community typified by relatively small residential building lots and varied topography.

If you have any questions or would like to discuss this further, I am available at your convenience.

Thank you for your time and attention.

Sincerely,

Paddy Steinschneider