

LEO K. NAPIOR
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#### April 22, 2021

Village of Bronxville Zoning Board of Appeals 200 Pondfield Road Bronxville, New York 10708

> Re: 3 Fordal Road Section 7.C, Block 1, Lot 2

Dear Members of the Zoning Board of Appeals:

We represent Sacha Zarba and Laura Zarba (the "Applicants") in connection with the above-referenced property (the "Subject Property"). As some of you may recall, the Applicant is redeveloping the Subject Property with a new single family residence.

The Subject Property already contains two curb cuts and the prior residence had a semi-circular driveway. In connection therewith, this Board denied our previous application to modify the prior existing semi-circular driveway. The Applicant has made modifications to the plans for the proposed semi-circular driveway and we submit herewith a new application for the Board's consideration.

Specifically, submitted herewith are the following:

- Exhibit 1 Zoning Board of Appeals Application;
- Exhibit 2 Denial Letter / Plan Review Comments;
- Exhibit 3 Prior Existing Condition Photographs;
- Exhibit 4 Area Map & Photographs of Circular Driveways Within Vicinity
- Full size plans:
  - o P-1: Plot Plan / Survey prepared by Ahneman Kirby last revised 5/17/19
  - o LS-1.2: Site Plan prepared by Sean Jancski Landscape Architects dated 4/12/21
  - Master Planting Plan prepared by Sean Jancski Landscape Architects dated 4/12/21
  - Usable Open Space Sketch prepared by Sean Jancski Landscape Architects dated 6/9/20
  - o Drainage Plan prepared by Alfonzetti Engineering, P.C., last revised 4/22/20
- Additional detail sheets prepared by Sean Jancski Landscape Architects dated 4/12/21:
  - o Elevation A View of Front of House and Driveway

- o Section B Section Cut from Fordal Road Through to Front Entrance
- o Usable Open Space Sketch (No Circular Driveway)
- o Usable Open Space Sketch with Circular Driveway
- o Driveway Use Diagram

#### Executive Summary

The Subject Property is located in the Residence AA zoning district. The Applicants are redeveloping the Subject Property with a new single family residence. The Subject Property already had a semi-circular driveway, as do a number of other properties in the area, including the property directly across the street. The Applicants are proposing to keep the existing curb cuts generally in the same location but to modify the driveway to accommodate the location of the new house and garage.

The proposed plan has been revised since the prior application by reducing the width of the driveway to be 11'-6" throughout and locating the top of the semi-circular portion to be entirely outside of the front yard setback. Most significantly, the Applicant is also proposing to utilize "Permadrive" porous pavement to surface the driveway. Although still counted in the open space calculations, those sections of the driveway will be 1,515 square feet of permeable surfaces which would actually be a reduction in total impervious surfaces over the as-of-right plan.

The Applicant has also modified the proposed plans to include a highly detailed planting plan which will provide a visual buffer between Fordal Road and the circular driveway. The planting plan includes a mix of trees, shrubs and perennials in the front yard all of which will both screen the driveway and be an aesthetic enhancement to the streetscape, in place of what was previously largely maintained lawn area with minimal screening of the pre-existing driveway.

In determining whether to grant an area variance, the Zoning Board of Appeals is to consider the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such a determination to the Board is to consider the following five factors:

## A. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

There will be neither an undesirable change to the character of the neighborhood nor a detriment to nearby properties in granting the area variances. The Subject Property already contained a semi-circular driveway as do a number of other properties in the immediate vicinity of the Subject Property.

Specifically, each of the following properties in the area already contain circular driveways (see Exhibit 4 for corresponding area map and photos):

- 4 Fordal Rd
- 11 Paddington Cir
- 1 Manor Rd
- 360 Pondfield Rd
- 356 Pondfield Rd
- 352 Pondfield Rd
- 340 Pondfield Rd
- 6 Courseview Rd
- 10 Courseview Rd
- 14 Courseview Rd
- 17 Courseview Rd
- 20 Courseview Rd
- 24 Courseview Rd
- 7 Northway
- 9 Eastway
- 14 Eastway
- 15 Eastway
- 16 Eastway
- 10 Westway

As you can see, there are approximately 20 properties within a few blocks of the Subject Property all of which are similarly located within the Residence AA zoning district that already contain semi-circular driveways. Many of these streets are similar to Fordal Rd in that they are narrow but also allow for on-street parking. In addition, unlike many of the existing semi-circular driveways noted above, the proposed driveway will be heavily screened from views from the street and will be pervious.

Given the prevalence of existing circular driveways of similarly situated properties in the area and that the Subject Property already has a semi-circular driveway it can hardly be said that the proposed driveway would create an undesirable change in the neighborhood.

## B. Whether the benefit sought by the applicant can be achieved by some other feasible method, other than an area variance.

We understand that all semi-circular driveways require an area variance for parking within the required front yard. Therefore, there is no alternative method for the Applicants to maintain a semi-circular driveway without an area variance.

#### C. Whether the requested area variance is substantial

The requested area variance is not substantial. The top of the arch of the semi-circular driveway is outside of the required front yard setback and is in keeping with similar driveways in the area. In addition, the Applicant is proposing significant landscape enhancements to mitigate any visual impacts and is also proposing to utilize a pervious surface to mitigate any stormwater runoff impacts.

## D. Whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The requested area variance will have no adverse effect or impact on the physical or environmental conditions in the neighborhood. There are no sensitive environmental features on the Subject Property and the site topography is relatively flat. The project will comply with the required usable open space and the driveway will be surfaced with pervious material which will actually reduce the total impervious surfaces over the as-of-right plan.

## E. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance.

While the alleged difficulty could be said to be self-created, virtually every variance request is a result of a self-created difficulty except for the rare occasions where a property has been impacted by a change in the zoning laws during the time of an applicant's ownership. The property already contained a semi-circular driveway and there are existing curb cuts the Applicant is seeking to re-utilize.

In any event, even where a zoning board finds a self-created difficulty, such conclusion does not preclude the granting of the variances, but instead, simply is one factor of the balancing to be documented by the board. Sasso v. Osgood, 86 N.Y.2d 374, 285 (1995) (holding that a self-created hardship does not preclude the granting of an area variance).

The Applicant is not requesting the variance to squeeze in extra parking spaces in a front yard on an otherwise tight lot with insufficient parking. The Subject Property is able to accommodate all required off-street parking in the garage and motor court and the Applicant does not anticipate the routine parking of vehicles in the circular portion of the driveway. Rather, the Applicant is requesting the variance for the convenience and safety benefit of vehicles, including delivery trucks, landscapers, visitors, etc., being able to circumnavigate the driveway and exit the Subject Property facing forward rather than backing out onto or having to park on a narrow street.

In sum, when considering all the factors and weighing the benefit to the Applicant in granting the requested variances against the detriment to the neighborhood the scales clearly tip in favor of granting the requested variances.

We look forward to answering any questions the Board may have at the upcoming meeting and thank you for your attention to this matter.

Very truly yours,

HARFENIST KRAUT & PERLSTEIN, LLP

By:

Leo K. Napior

# EXHIBIT 1

#### ZONING BOARD OF APPEALS APPLICATION

Project Name, If Applicable: 3 Fordal Road - S	emi-Circular Driveway	1
Project Street Address: 3 Fordal Road, Bronxville	e, NY 10708	
Section: 7.C Block: 1 Lot(s): 2		Zone: Residence AA
Applicant: Sacha Zarba c/o Harfenist Kraut &	Perlstein LLP	
Address: 2975 Westchester Ave - Suite 415		
City: Purchase	State: NY	<b>Zip:</b> 10577
Phone #: 914-701-0800	Email:    lnapior@h	nkplaw.com
Same as Applicant		
Address:		
City:	State:	_ Zip:
Phone #:	Email:	
Application is for:		ti .
An interpretation of the Zoning Law	or a determination by the S	Superintendent of Buildings
X Area variance(s) 310-22D. Parkin	g in required front yar List Se	
Use Variance		
Special Permit Use	List Se	ctions
	List Se	ctions
Description of the proposed project and nature of sought: The Applicant is redeveloping the Sub	ject Property with a n	ew single family residence. There
is an existing semi-circular driveway at the S		
to permit a modified semi-circular driveway in Property.	i connection with the	redevelopment of the Subject
i Topony -		
		·

When did present owner acquire title? September 13, 2018
Was the title acquired by purchase: (Yes or No), If so from whom? Yes - Thomas King and Mary King
Are you seeking a variance from the provisions of the ordinance? (Yes or No)
If so, from which ordinance, from which provision thereof and to what extent?
Section 310-22D of the Village Code prohibits parking spaces or areas in required front yards, with
the exception of driveways. The Applicant is proposing modifications to the existing semi-circular
driveway in connection with the redevelopment of the Subject Property with a new single family residence.
The Building Inspector has determined that the semi-circular driveway requires a variance from
Section 310-22D.
If you are seeking a variance from the provisions of the ordinance, do you contend that the effect of the ordinance
on the property to which this appeal pertains is different from its effect on other properties in the same zoning
district? (Yes or No ) If so, in what respect and what is the cause of the difference?
The Subject Property already contains a semi-circular driveway as does the property directly across
the street and a number of other properties within the vicinity of the Subject Property.
Does the owner of the premises involved in this application own any contiguous property? (Yes or No)
If so, in what respect and what is the cause of the difference? N/A
Owners Signature: 4/27/71
Day 4/77/1

#### Zoning Compliance Analysis

Property	Address:	3	Fordal	Road	
-		-			-

Zoning District: Resi ence AA

Flood Zone: Yes:\_\_\_\_

No: X

ZONING STANDARD	REQUIRED	EXISTING	PROPOSED	STATUS
BUILDING USE	Single family	Single family	Single family	Complies
LOT AREA	15,000 s.f.	20,057 s.f.	20,057 s.f.	Complies
LOT WIDTH	100'	140'	140'	Complies
LOT DEPTH	120'	143'	143'	Complies
FRONT YARD	25'	60'	38.8'	Complies
SIDE YARD #1	15'	15'	15'	Complies
SIDE YARD #2	15'	48'	15'	Complies
REAR YARD	30'	34.25'	30.25'	Complies
HEIGHT Feet & Stories)	35' / 2.5 stories	2.5 stories	28.3' / 2.5 stories	Complies
UILDING COVERAGE	25%	10.25%	24.65%	Complies
ISABLE OPEN PACE	50%	35.35%	150.65%	Complies
.A.R.	0.2707 / 5,430 s.f.	.16/3210 s.f.	0.259 / 5195 s.f.	Complies
ARKING	2	2	2	Complies

All applications for additions to submit complete detailed finished grade and FAR calculations, and completed F.A.R. computation worksheet on reverse, submission to be stamped by the design professional of record.

Form Prepared By:	Name (Print):_	ELI SEHERGAN	
	Signature:	naffur—	

Zoning F.A.R. Calculation

	EXISTING	PROPOSED	SUB TOTAL
BASEMENT(b)	0.00	0.00	0.00
I <sup>ST</sup> FLOOR	1151.00	2407.35	2407.35
2 <sup>ND</sup> FLOOR	1391.00	2371.61	2371.61
3 <sup>RD</sup> FLOOR (d)	N/A	N/A	
ATTIC (d)	405	N/A	
GARAGE (c)	263	461	461
AC	CTUAL TOTAL BUIL	DINGFLOOR AREA =	5195.96
	A	CTUAL LOT AREA =	20,057.57
PERMITTED F.	A.R. (From Table, inte	erpolate if necessary) =	0.2707
		DING FLOOR AREA RMITTED F.A.R). =	5,430

Floor Area Ratio (for a lot whose principal use is a one or two family dwelling): The ratio of the gross floor area of all buildings on a lot to the area of the lot on which the buildings are located. For the purpose of determining the floor area ratio (FAR), all floor areas of each floor of all principal and all accessory structures on the lot shall be included. Any interior space with a floor-to-ceiling height in excess of 14 feet shall be counted twice. Notwithstanding the preceding the following shall be excluded from the calculation of floor area:

- a) The aggregate area of all unroofed structures such as decks and patios and all spaces in unenclosed porches and porticos, except that existing unenclosed porches may be enclosed and the enclosed area excluded from the FAR calculation provided that the exterior walls of the unenclosed porch and the walls of the dwelling to which the porch is attached are not relocated closer to the lot lines of the subject property than the existing unenclosed porch.
- b) The aggregate area of any cellar regardless of its use or of any basement unless it is defined as a story. See Basement definition.
- c) The aggregate area of grade level garage parking (whether attached or detached) or basement level parking, in either case, up to a maximum of 400 square feet. In those instances where an additional story is provided above a garage (whether attached or detached) such floor area shall be subject to the attic and sloping roof limitations in (d) below.
- d) The aggregate area of all unfinished or finished space in an attic or under a sloping roof provided that the total exterior width of all dormers does not exceed 30% of the exterior linear width of the portion of the roof upon which they are situated. The exterior linear width of the roof shall be measured from end to end at the widest point of the roof. Where the linear width of the dormers exceeds the limitation above, the total area in the attic or under the sloping roof shall be included in the calculation of FAR, except where floor area between the top of the floor beams and the structural ceiling level is five (5) feet or less.

Calculations Prepared By:	Name (Prin	ELISEHERGAN	
•	VACCASA	hudfy-	

# EXHIBIT 2

# VILLAGE OF BRONXVILLE Department of Buildings 200 Pondfield Road

(914) 337-7338 (914) 337-0158 (Fax)

#### **PLAN REVIEW COMMENTS**

**APPLICATION NUMB:** 

ALT 057-21

DATE RECEIVED:

April 6, 2021

LOCATION:

3 Fordal Road

SBL:

7.C/1/2

APPLICANT NAME:

Zarba, Laura

**APPLICANT ADDRESS:** 

16 Hewitt Ave.

Bronxville, NY 10708

**DESCRIPTION OF WORK:** 

ALTERATION: new circular driveway to replace

existing at front of property.

#### DISAPPROVED 04\13\21, FOR THE FOLLOWING:

Your application for a permit on the above location has been reviewed and a permit may not be issued at this time for the reasons indicated below.

#### **ZONING CODE REVIEW** (Section Numbers refer to Village Code of 1981)

Zoning Review - ALT 057-021 Circular parking area in front yard -

Plan dated as received 3/31/21

#### Comments -

- 1) Parking in front yard prohibited: as per 310-22 D referral to Zoning Board of Appeals
- 2) Previous application that was denied by Zoning Board of Appeals was substantially different from the new application in that the applicant is including pervious pavement to address the comments from board members concerning the proposed work using more green methods. Applicant shall provide more information in the zoning application to show the technical details of the pervious pavement system that is proposed.

310-22D. Parking in front yards prohibited in residential districts. Parking spaces or parking areas, with the exception of driveways, shall not be permitted within front yards in any residential district in the Village. For purposes of this section, the portion of any driveway (excluding the 20 feet immediately in front of any garage) that is wider than 12 feet shall be considered to be part of a parking area, except that in the three feet of a driveway closest to the curb the width of the driveway may gradually fan out to a width of up to 16 feet at the curb. The parking or storage of vehicles upon lawns or other unimproved areas shall not be permitted on any lot improved by a dwelling structure in any residential district in the Village. Circular driveways are deemed front yard parking, except in the One Family Residence AAA District. In addition, all driveways shall be set back at least 3 feet from any side yard lot line.

#### VILLAGE OF BRONXVILLE Department of Buildings 200 Pondfield Road (914) 337-7338 (914) 337-0158 (Fax)

Notwithstanding any provision in this Code to the contrary, no existing curb cut may be widened or moved, nor any new curb cut made that is wider than 16 feet at the curb, without both (a) a variance and (b) approval, to the extent any driveway is built on Village property, from the Department of Buildings. Where additional parking space is sought in a side yard adjacent to any portion of any permitted driveway space that is located immediately in front of a garage, the width of such additional parking space may not extend more than 8.5 feet towards the adjacent side yard lot line, nor may the length of such additional parking space be more than 20 feet. This document constitutes a final administrative determination by the Building Inspector denying your application for the reasons set forth above. Section 7-712(a) of the New York State Village Law provides that any appeal of this decision must be filed within 60 days of the date hereof with the Zoning Board of Appeals of the Village of Bronxville.

Paul Taft

Building Inspector

CC: Zarba, Laura

#### VILLAGE OF BRONXVILLE Department of Buildings 200 Pondfield Road (914) 337-7338 (914) 337-0158 (Fax)

## Resubmission/Correction Sheet Fee: \$100

APPLICATION NUM	AD.

ALT 057-21

**DATE RECEIVED:** 

April 6, 2021

LOCATION:

3 Fordal Road

SBL:

7.C/1/2

Comment #	Description	Sheet #
	2	

# EXHIBIT 3

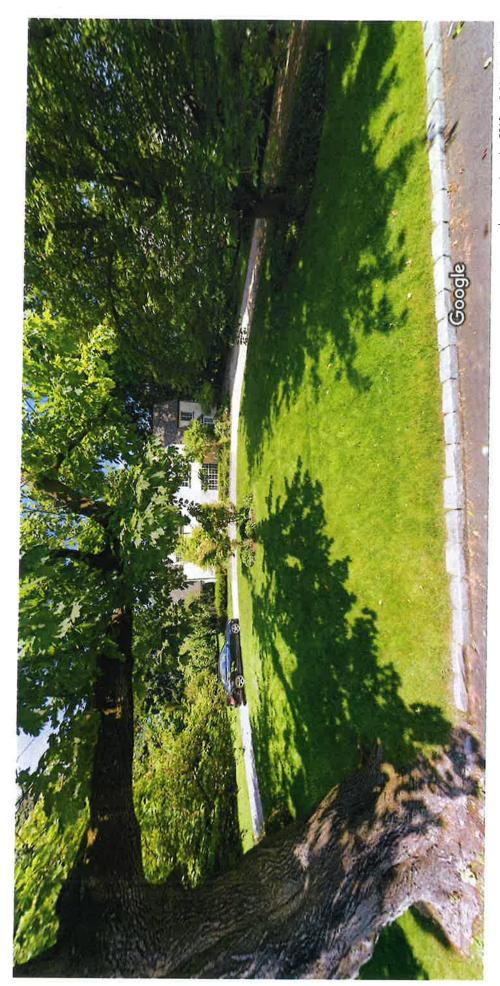


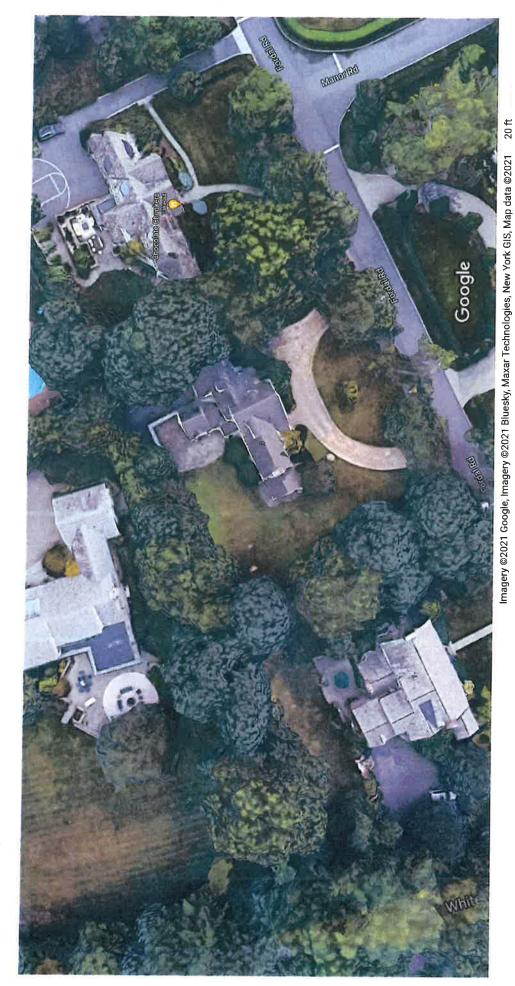
Image capture: Jun 2018 © 2021 Google

Bronxville, New York

Google

Street View

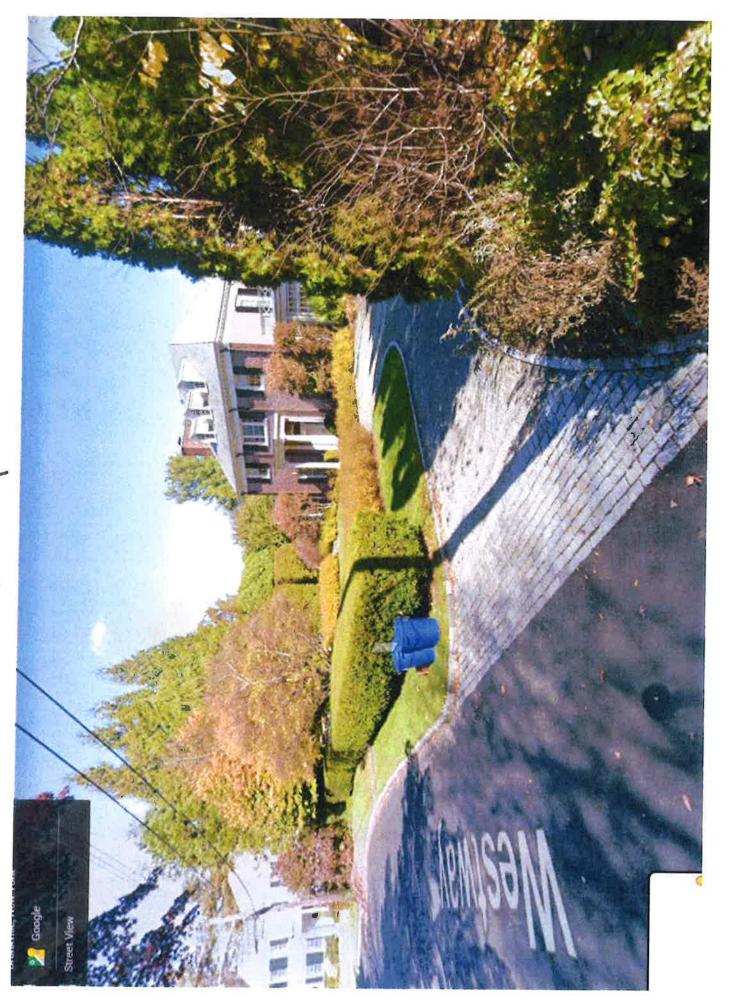


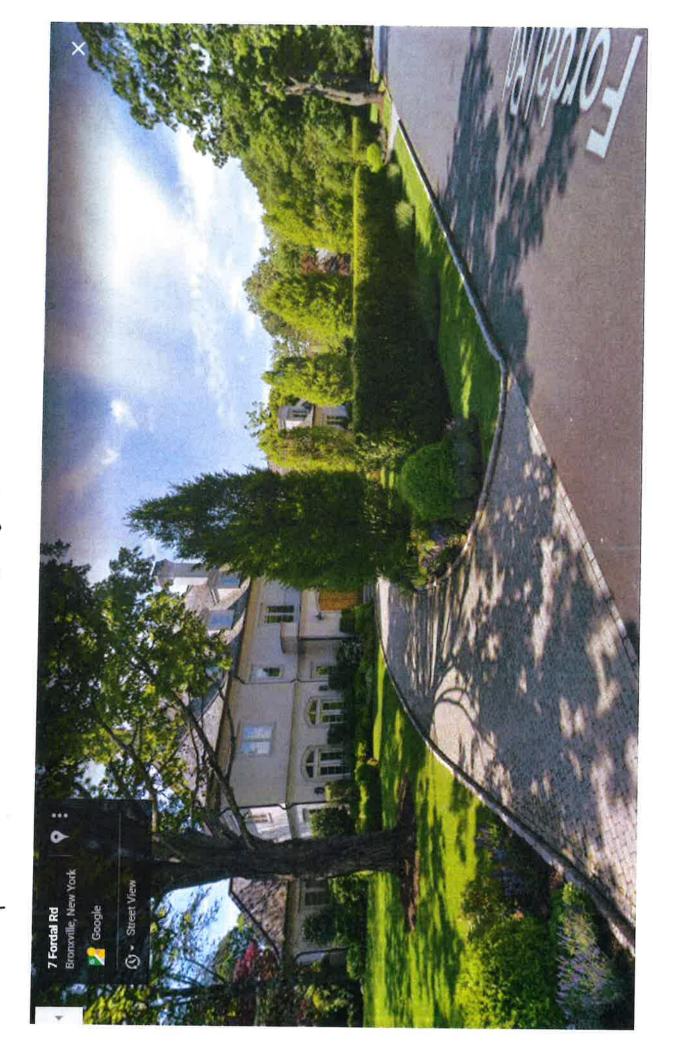


Imagery ©2021 Google, Imagery ©2021 Bluesky, Maxar Technologies, New York GIS, Map data ©2021

# EXHIBIT 4







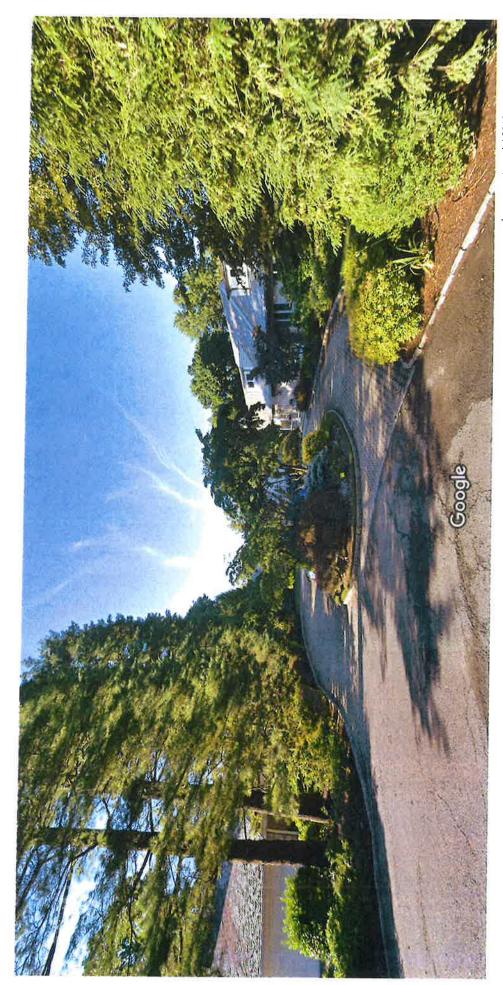


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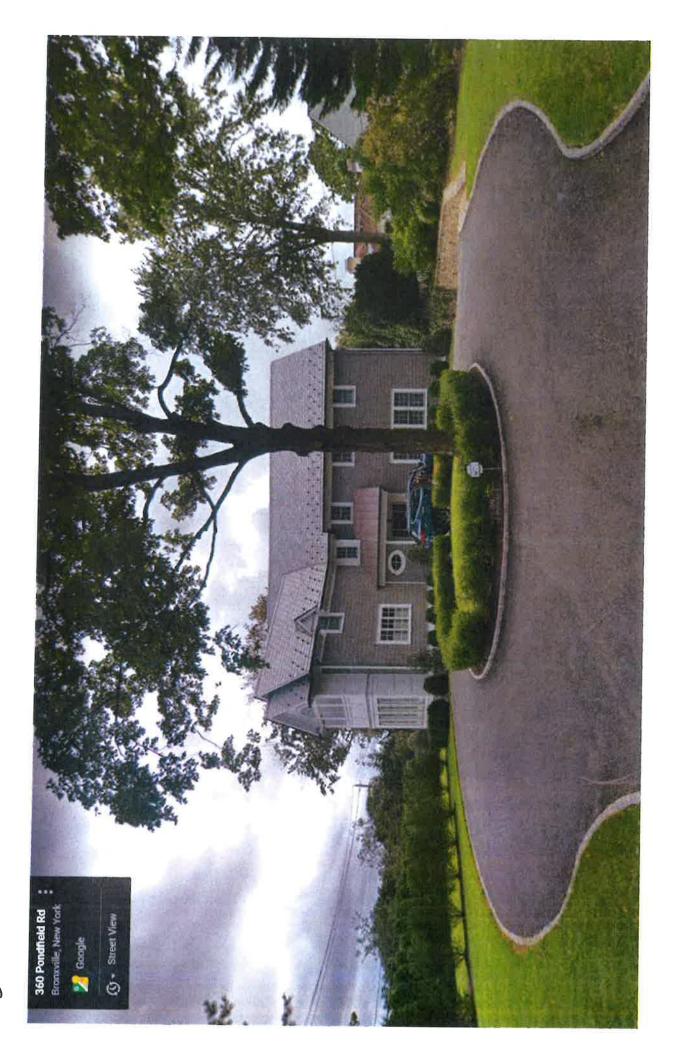
Bronxville, New York

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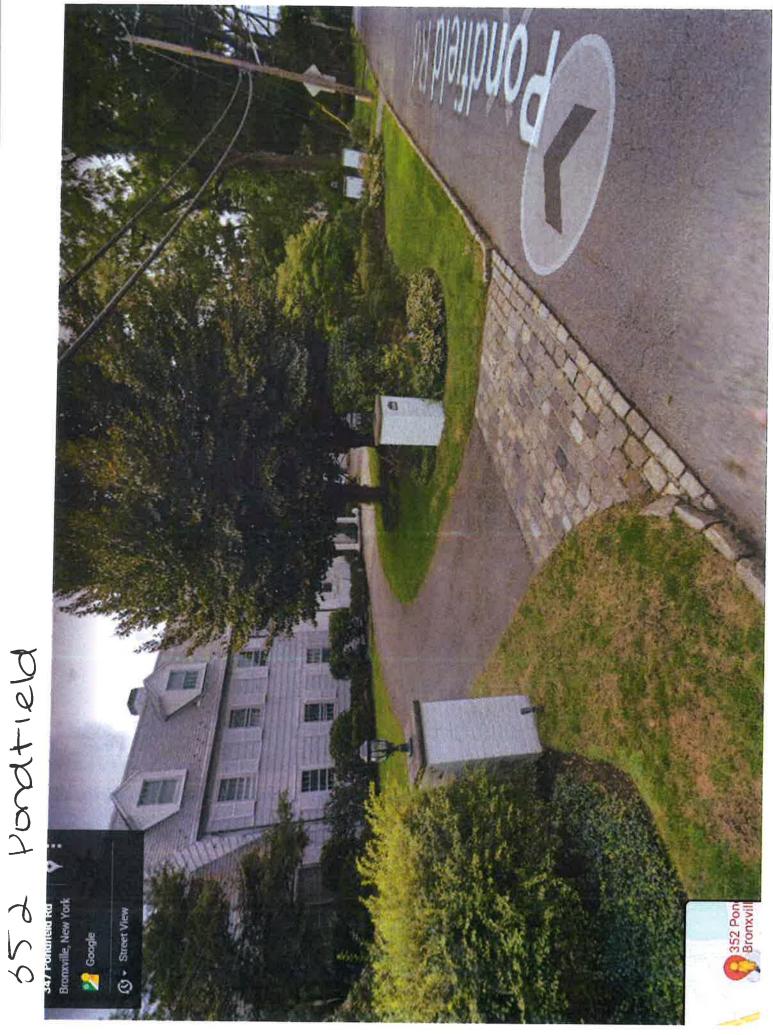
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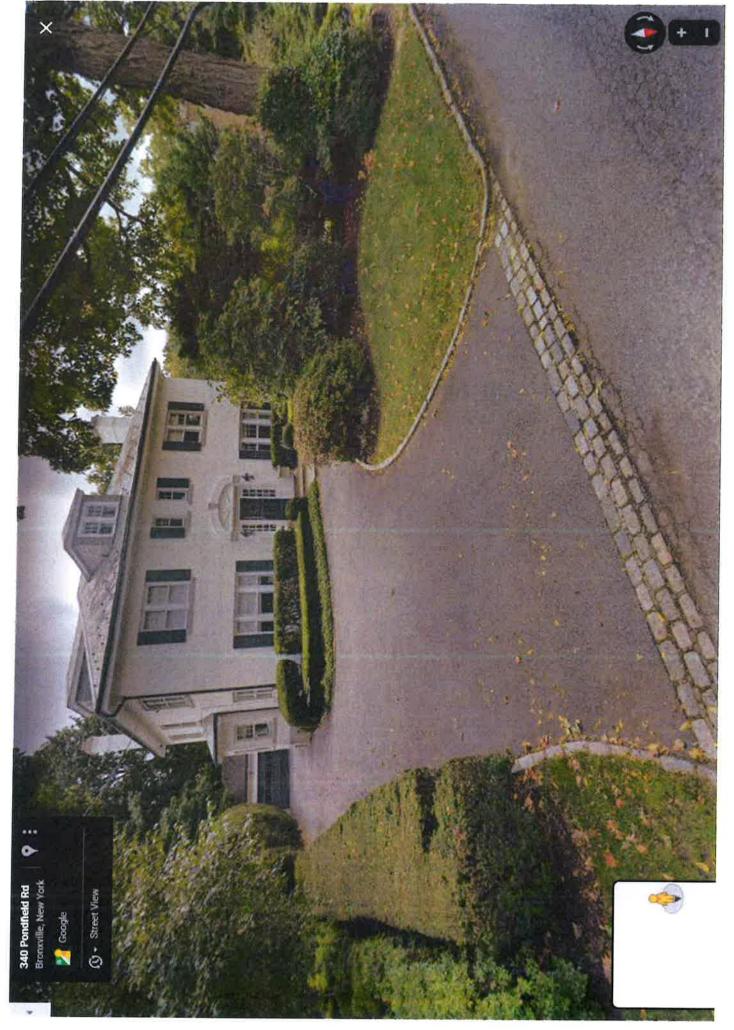




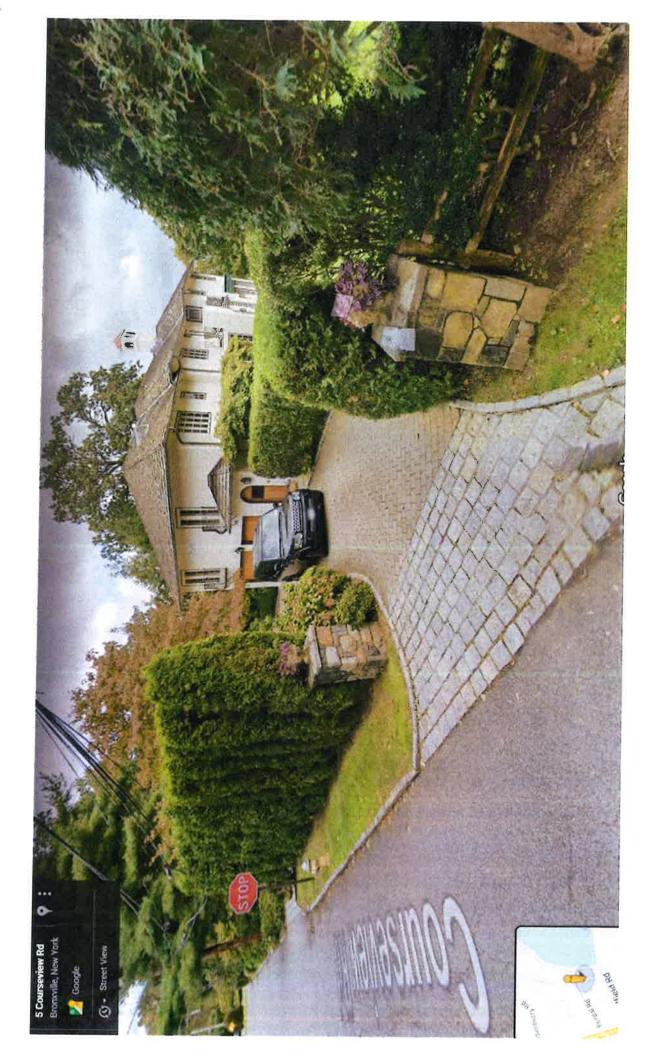


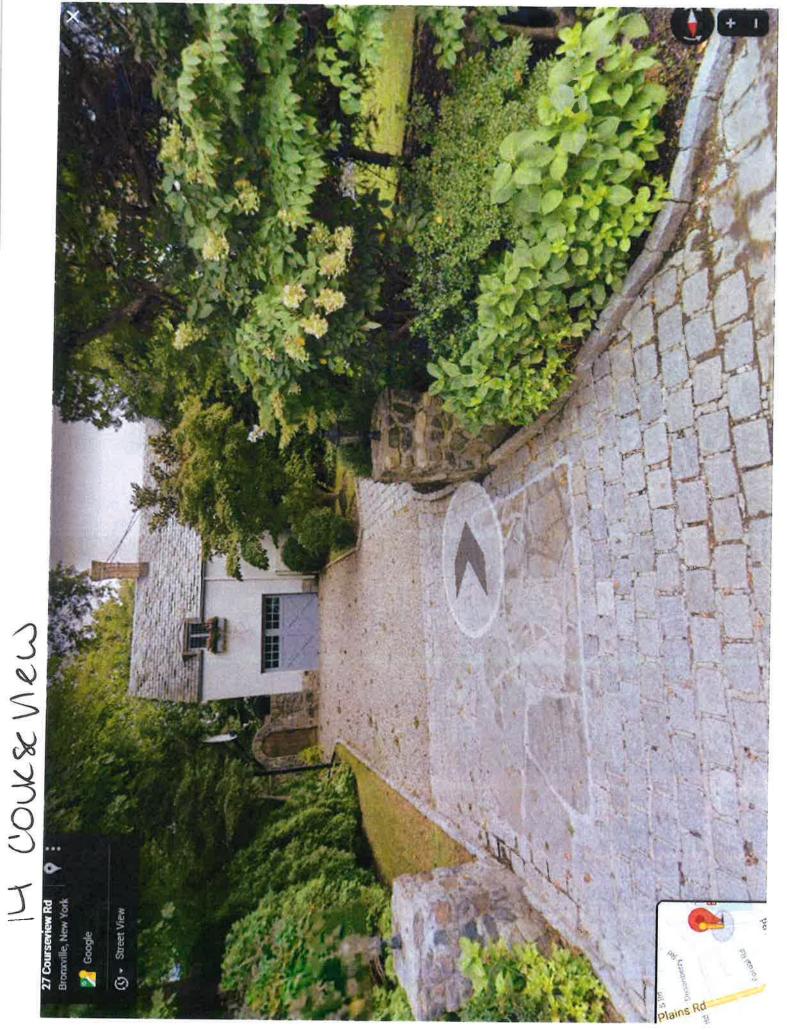












# COURSEMEN

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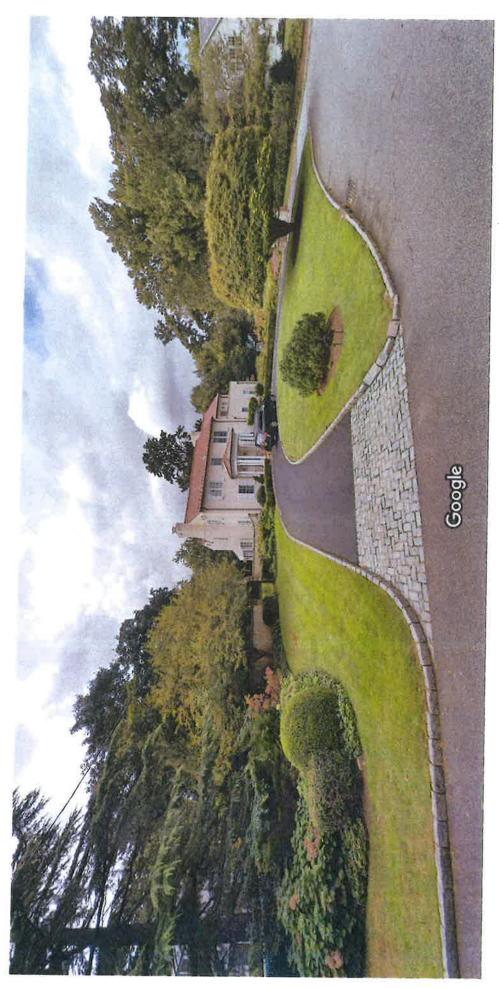


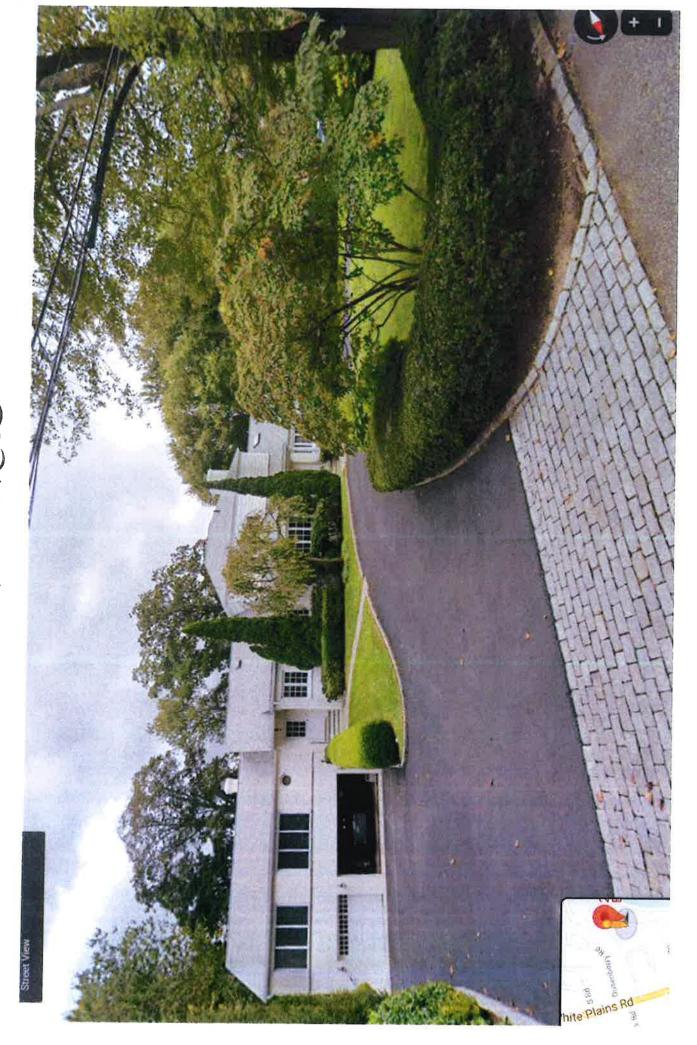
Image capture: Sep 2018 © 2021 Google

Bronxville, New York

Street View

Google







NORTHWAY Bronxville, New York (G . Street View Scoople .

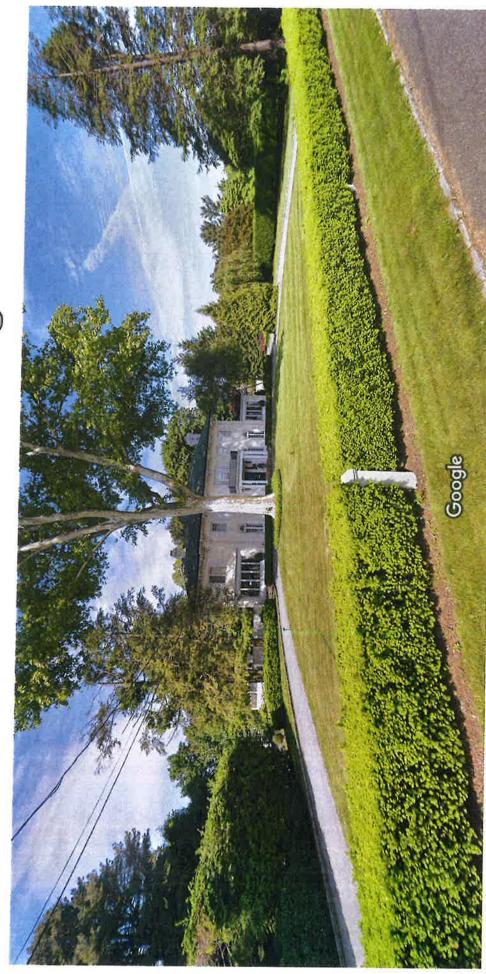


Image capture: Jun 2018 © 2021 Google

Bronxville, New York

Street View

Google



# 14 Eastway

Google Maps 14 Eastway

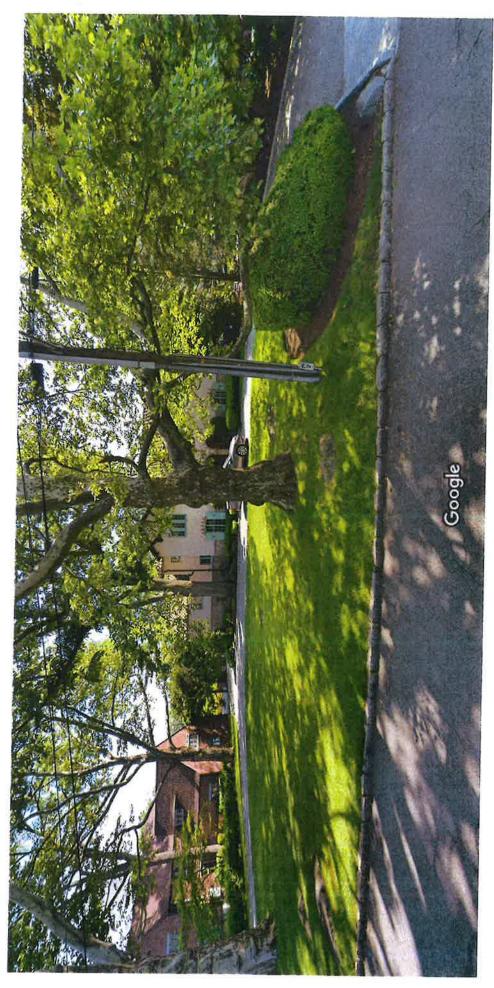


Image capture: Jun 2018 © 2021 Google

Bronxville, New York

Google

Street View



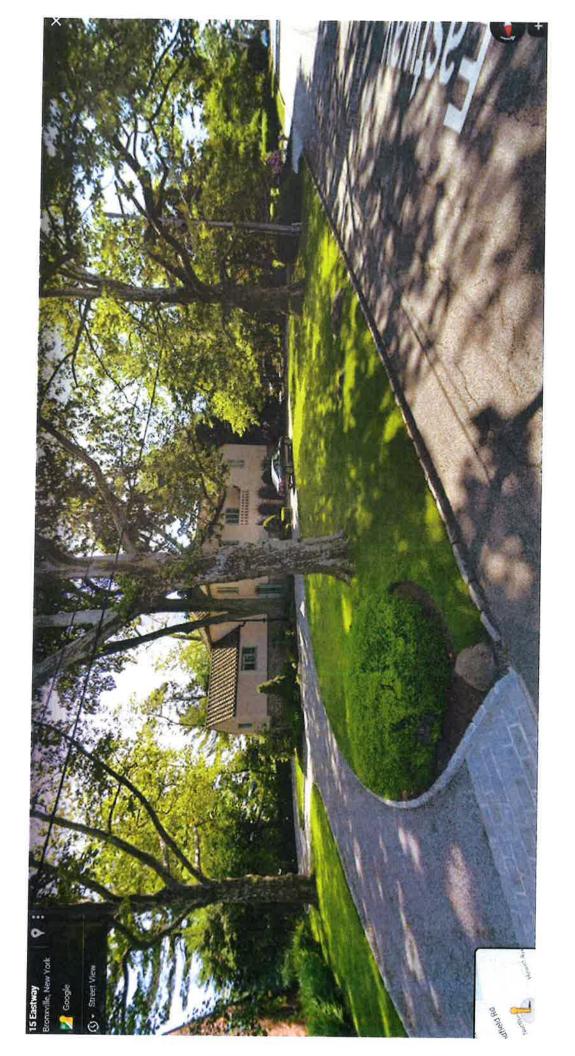




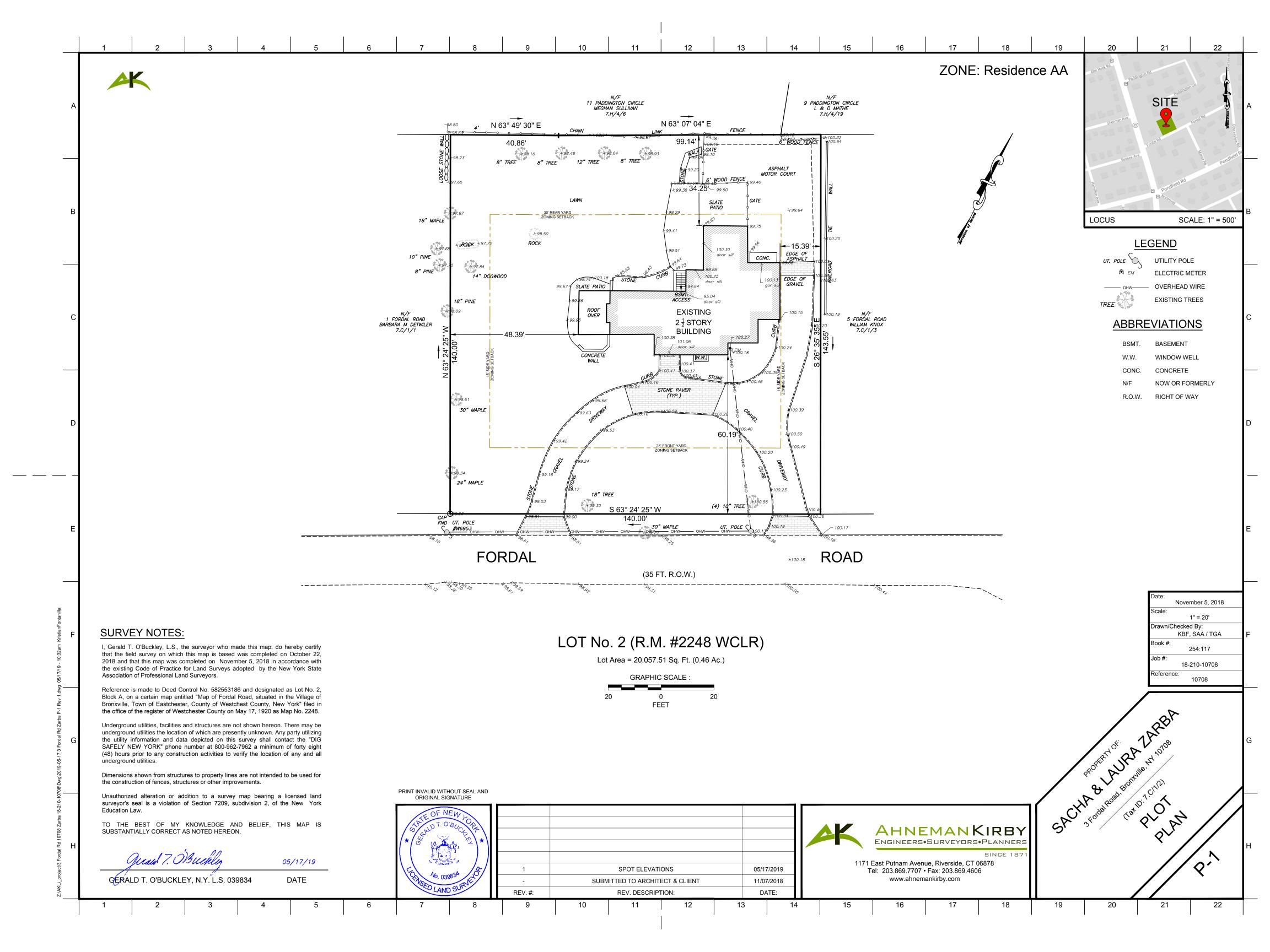
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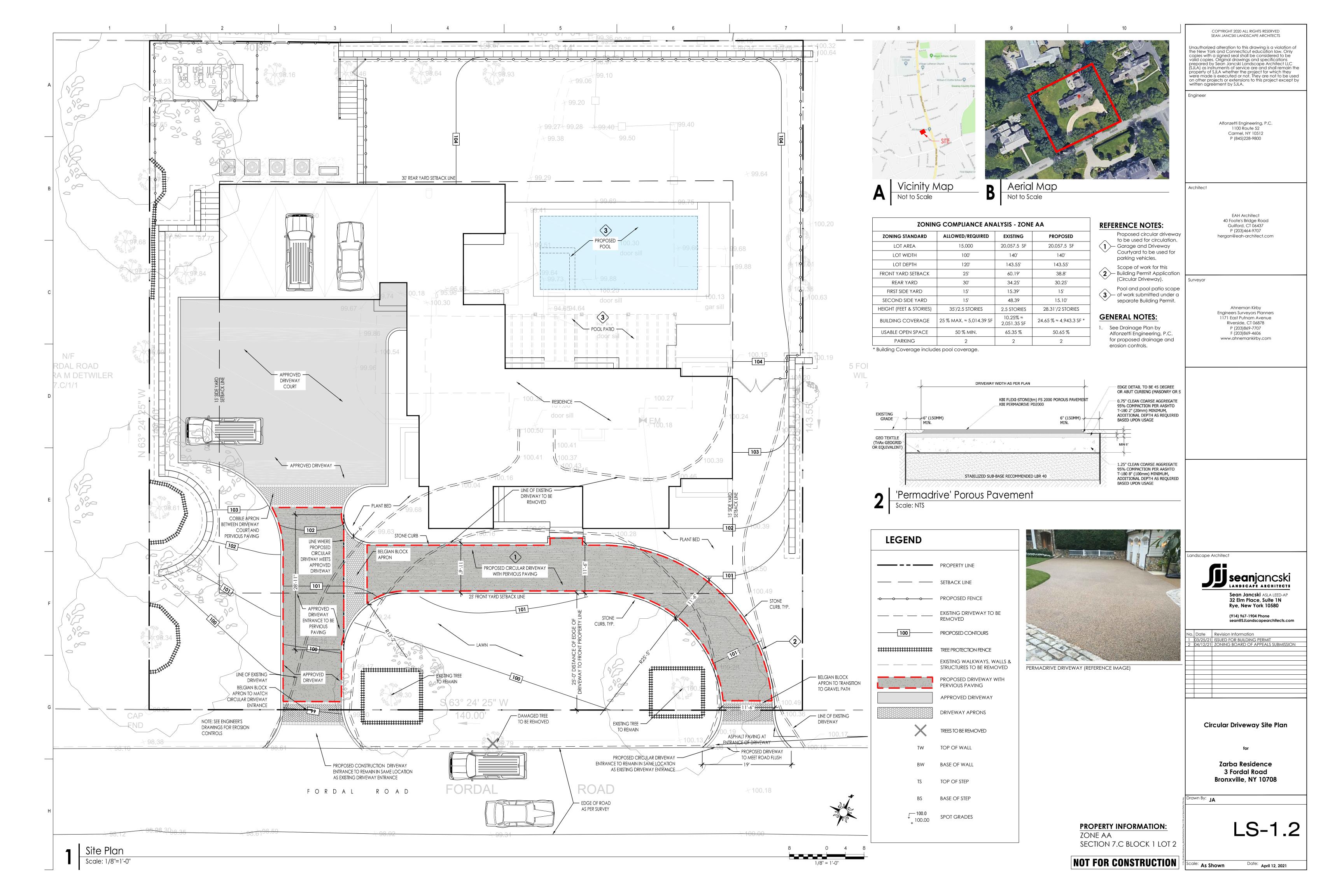
Bronxville, New York

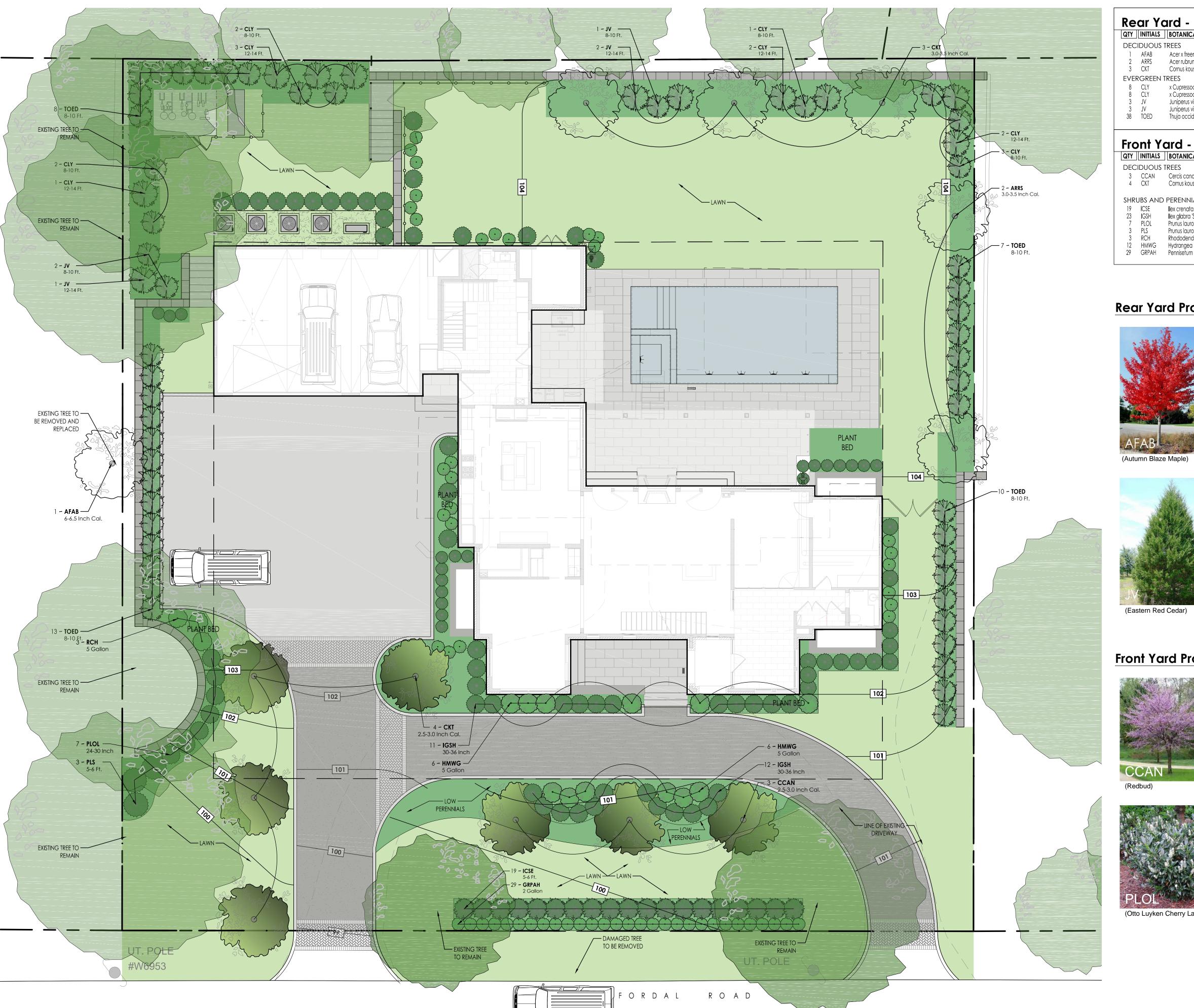
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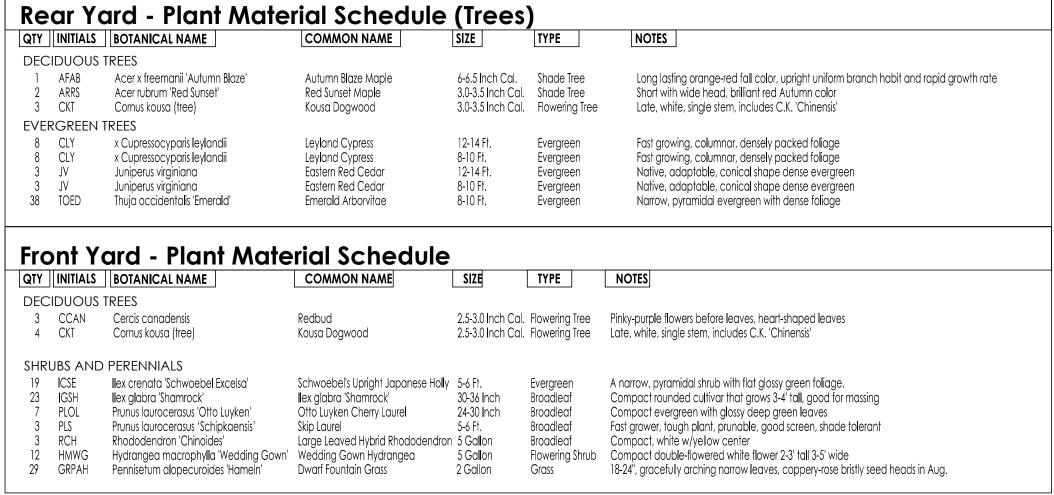
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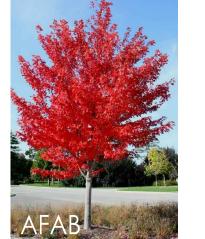








### Rear Yard Proposed Tree Images





(Red Sunset Maple)







### Front Yard Proposed Plant Images







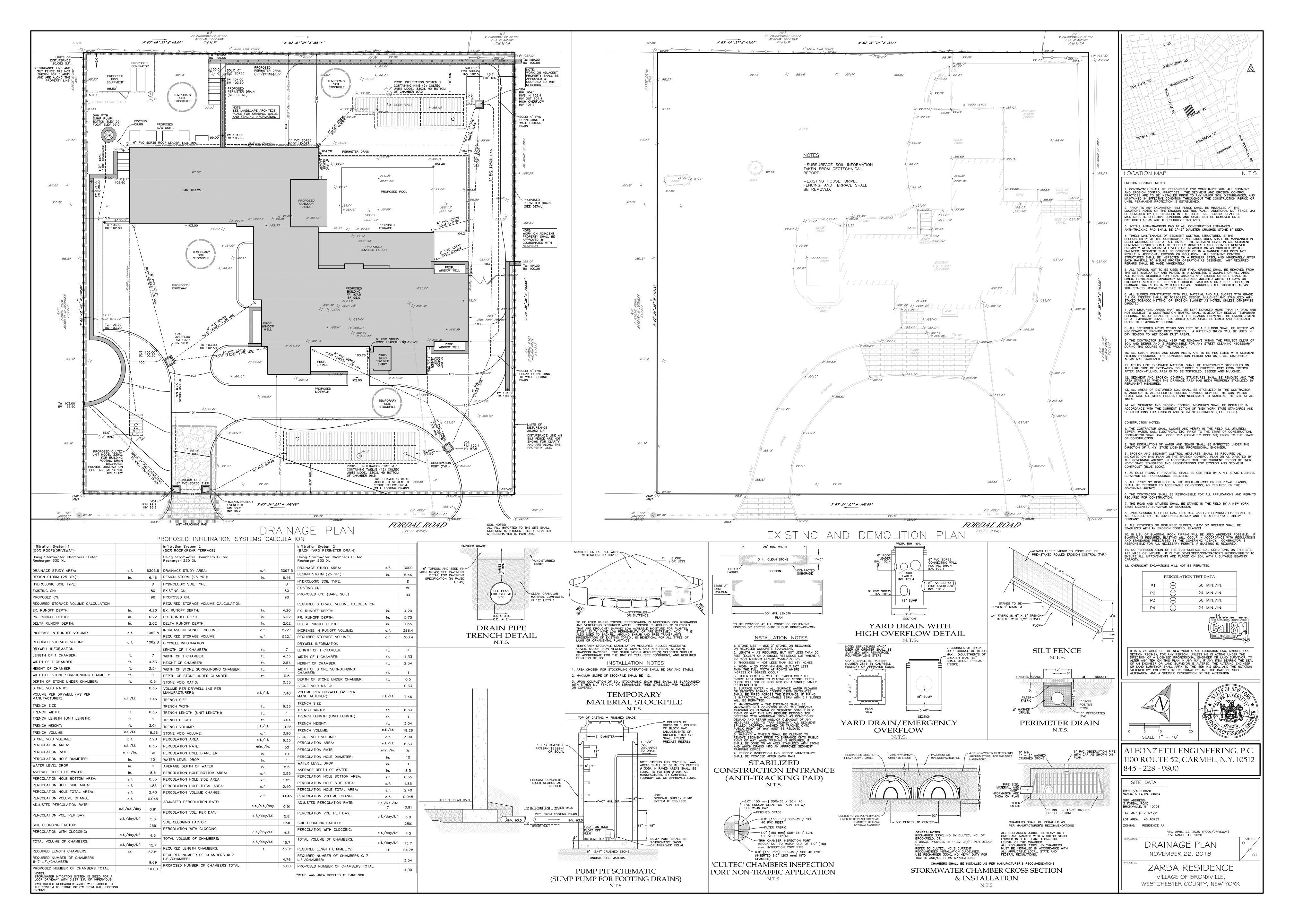














Elevation A - Elevation View of Front of House and Driveway from Fordal Rd Scale: 1' = 10'-0"

Elevation A
April 12, 2021
As Shown
Zarba Residence
3 Fordal Rd
Bronxville, NY



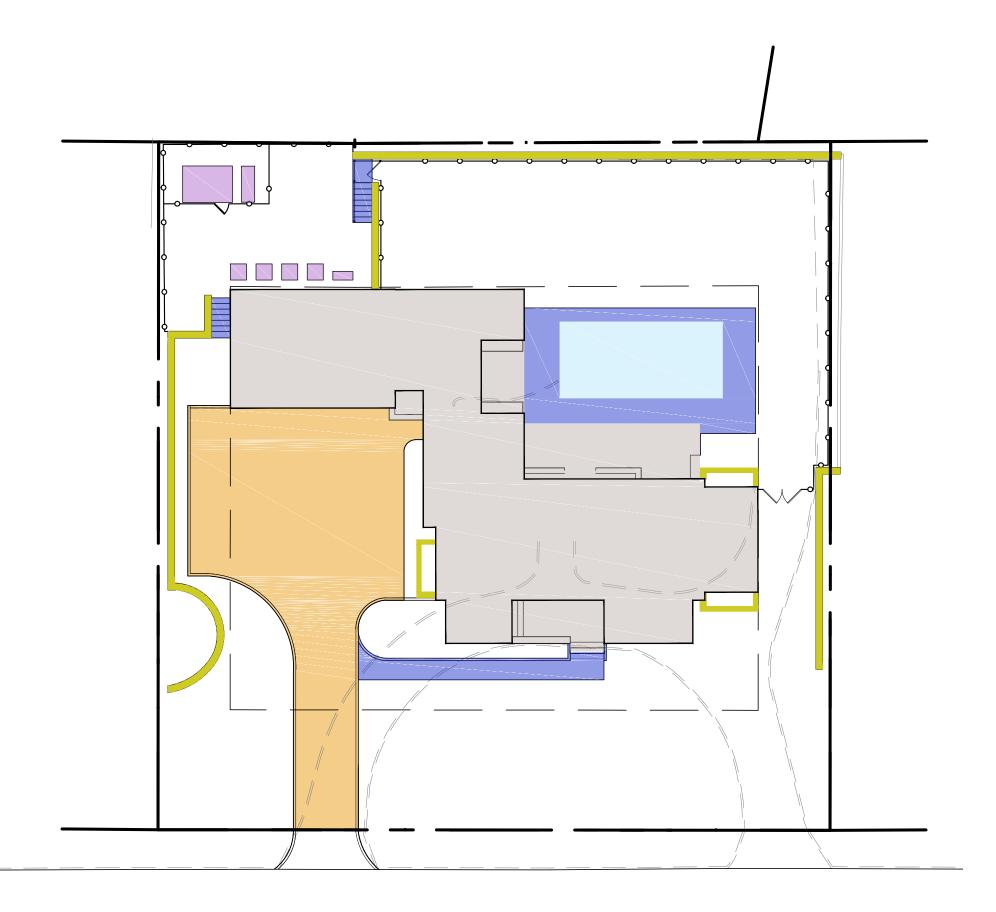


Section B - Section Cut from Fordal Road Through to Front Entrance
| Scale: 3/16" = 1'-0"

**Section B**April 12, 2021
3/16" = 1'-0"

Zaraba Residence 3 Fordal Road Bronxville, NY

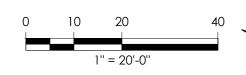




LOT COVERAGE	OVERAGE PROPOSED	
LOT AREA		20,057.51
MAIN BUILDING		4433.3
MECHANICALS		151.3
DRIVEWAY	***************************************	2437.4
PATIOS, WALKWAYS AND STEPS		977.1
WALLS		414.5
POOL		544.0
TOTAL PROPOSED COVERAGE		8957.7
	REQUIRED/ ALLOWED	PROPOSED
BUILDING COVERAGE	25 % MAX.	24.79 %
USABLE OPEN SPACE	50 % MIN.	55.30 %

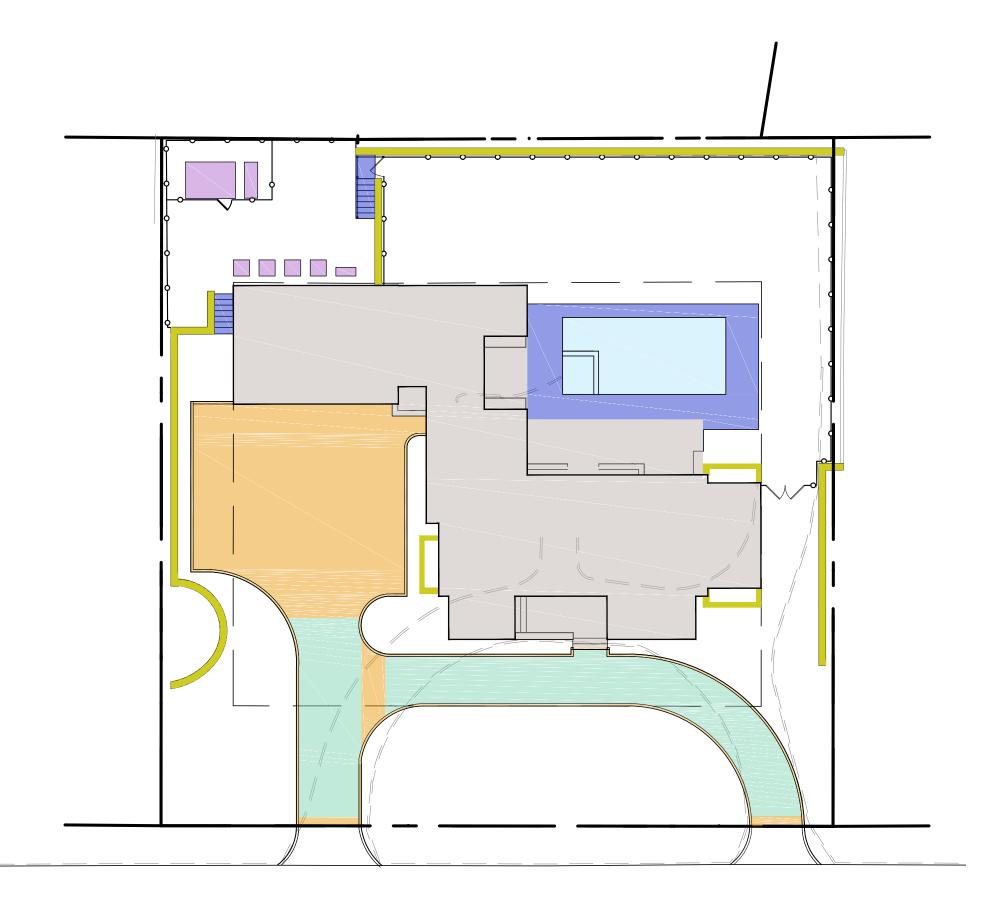
**Zarba Residence** April 12, 2021 1" = 20'-0"

3 Fordal Road Bronxville, NY Usable Open Space Sketch (No Circular Driveway)





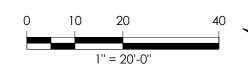




	1	
LOT COVERAGE	PROPOSED	
LOT AREA		20,057.51
MAIN BUILDING		4433.3
MECHANICALS		151.3
DRIVEWAY	***************************************	2107.7
PERVIOUS DRIVEWAY		1515.4
PATIOS, WALKWAYS AND STEPS		727.0
WALLS		414.5
POOL		544.0
TOTAL PROPOSED COVERAGE		9893.3
	REQUIRED/ ALLOWED	PROPOSED
BUILDING COVERAGE	25 % MAX.	24.79 %
USABLE OPEN SPACE	50 % MIN.	50.65 %

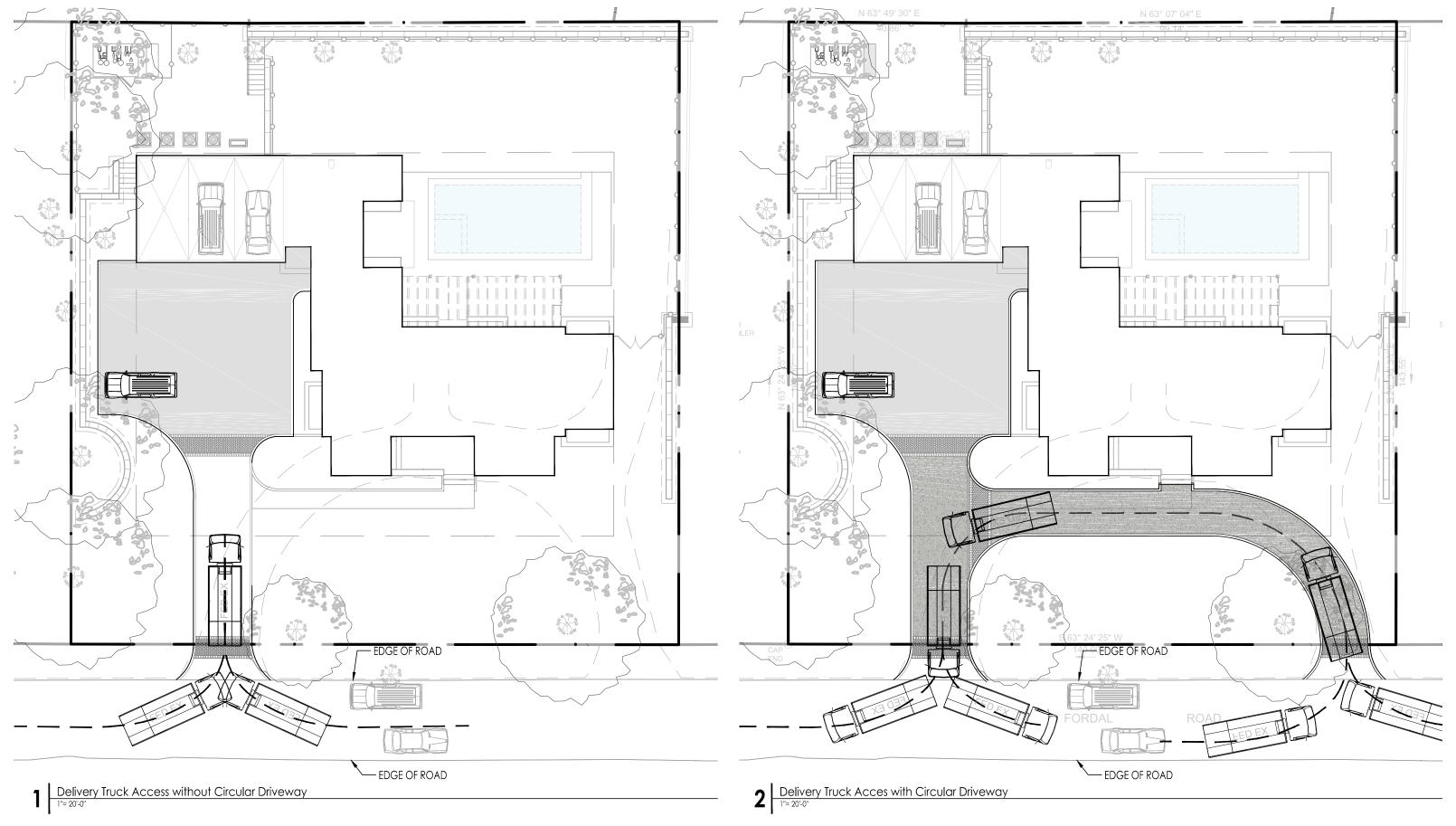
**Zarba Residence** April 12, 2021 1" = 20'-0"

3 Fordal Road Bronxville, NY Usable Open Space Sketch with Circular Driveway









**Driveway Use Diagram** April 12, 2021 Scale: As Shown

Zarba Residence 3 Fordal Rd Bronxville, NY



32 Elm Place - Suite 1N Rye, New York 10580 (914) 967-1904 Phone SJLandscapeArchitects.com