The Planning Board of the Village of Montebello held a meeting on Tuesday, September 14, 2010 at the Montebello Community Center, 350 Haverstraw Road, Montebello, New York. Chairman Rubin called the meeting to order at 7:22 p.m. and led everyone in the Pledge of Allegiance.

PRESENT

Al Rubin, Chairman
Jane Burke, Member
Michael Iatropoulos, Member
Anthony Caridi, Member
Thomas Ternquist, Member
Melanie Golden, Member

OTHERS

Ira Emanuel, Assistant Village Attorney
Robert Geneslaw, Village Planner
Martin Spence, Village Engineer
Gloria Scalisi, Planning & Zoning Clerk

Chairman Rubin questioned the Assistant Village Attorney, Ira Emanuel, on the legality of having a Planning Board meeting on Election Day. Mr. Emanuel stated that since it is not a legal holiday the Planning Board meeting can be scheduled on Election Day, therefore the November 8, 2011 Planning Board meeting stands.

Fried Subdivision – Public Hearing
Preliminary and Final Subdivision Approval

> Application of Richard J. Fried, for approval of a 2 lot subdivision entitled "Fried Subdivision" consisting of 2 lots from 3.65 +/- acres located on the northwest side of Spook Rock Road approximately 500 feet north of Viola Road in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 41.14, Block 1, Lot 65 in a RR-50 Zone. A subdivision of the subject property into two lots was previously approved by the Planning Board on March 15, 2007. The owner/applicant failed to file the approved plat in a timely manner, and the prior approval expired.

The Applicant's Engineer, Anthony Celentano from A. R. Celentano Land Surveying, was in attendance. Mr. Celentano stated that in 2007 the Applicant received Final Approval for Subdivision but the map was never filed. Mr. Celentano informed the Planning Board that the Maps given to them are the same from 2007 therefore the Applicant are asking for Re-Approval so that the maps can be signed.

Mr. Robert Geneslaw, Village Planner, briefly discussed the August 31, 2010 CDRC minutes (copy attached).

Mr. Emanuel discussed Rockland County Department of Planning's letter dated September 1, 2010 (copy attached).

Chairman Rubin briefly discussed the Rockland County Highway Department's letter dated September 10, 2010 (Copy attached).

Member Burke questioned the revision date of May 14, 2007 on the Plan since it is a date that is after the Final Approval date. Mr. Celentano replied that the applicant was required to add certain map notes as part of the Final Approval from the Planning Board prior to the Chairman's signature.

Mr. Emanuel stated that as part of the process plans/maps get changed after the Final Resolution to incorporate the changes required by the Planning Board prior to the Chairman's signature.

No one else wishing to comment. Member Iatropoulos made a motion to close the Public Hearing, seconded by Member Ternquist. Upon vote, the motion carried unanimously.

State Environmental Quality Review
Negative Declaration
Notice of Determination of Non-Significance

Project: FRIED SUBDIVISION

VILLAGE OF MONTEBELLO, NEW YORK

Date: September 14, 2010

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act – SEQR) of the Environmental Conservation Law.

The Planning Board of the Village of Montebello as the lead agency has determined that the proposed action described below will not have a significant environmental impact, and a Draft Environmental Impact Statement will not be prepared.

Name of Action: Fried Subdivision

SEQR Status: Unlisted

Conditioned Negative Declaration: No

Description of Action: Subdivision approval for a two lot subdivision in the RR-50 district with an existing residence on one lot.

Location: On the west side of Spook Rock Road, opposite Marget Ann Lane. Existing lot is designated on the Town of Ramapo Tax Map as lot 41.17-1-65.

Reasons Supporting this Determination:

1. **The purpose of the subdivision is to create one additional lot. Future construction of a dwelling will be subject to site plan approval by the Planning Board.**

2. The applicant has addressed and incorporated all relevant comments of all agencies.

3. **No endangered or threatened species are known to exist on the site.**

4. The project sponsor has prepared a stormwater management plan that meets the Village requirement of no net increase in peak discharge. A detailed drainage plan will be prepared as part of the site plan approval process.

5. No other significant impacts are anticipated.

Note: This proposal received a Negative Declaration on February 13, 2007 but the plat approval expired. The applicant's engineer has stated that the plan is unchanged.

Chairman Rubin made a motion to approve Negative Declaration for Re-Approval of Subdivision for the "Fried Subdivision" application, seconded by Member Burke. Upon vote, the motion carried unanimously.

Mr. Ira Emanuel, Assistant Village Attorney, read the Resolution into the record:

RESOLUTION PB- 03 OF 2010
Granting Approval of a Subdivision Entitled
"Fried"

WHEREAS, an application has been made by Richard J. Fried for final approval of a subdivision plat entitled "Fried" dated July 13, 2006, last revised February 22, 2010, affecting premises designated as Section 41.17, Block 1, Lot 65 on the Tax Map of the Town of Ramapo; and

WHEREAS, a subdivision of this property into two lots was previously approved by this Board on March 13, 2007, but the plat was never filed and the approval expired on or about March 8, 2008; and

WHEREAS, the applicant asserts that the plat submitted now is the same plat as was approved by this Board in 2007, with the only changes being that the conditions imposed by this Board at the time of final approval have been incorporated into the new plat; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, a negative declaration was issued by this Board on September 14, 2010; and

WHEREAS, because this is a subdivision of one lot into two lots, on which there is an existing home, this Board has decided to combine preliminary and final approval into a single final approval; and

WHEREAS, on September 1, 2010, the Rockland County Planning Department recommended modifications to proposed final plat; and

WHEREAS, a public hearing was held on September 14, 2010; and

NOW, THEREFORE, be it

RESOLVED, that the plat entitled "Fried" dated July 13, 2006, last revised February 22, 2010, affecting premises designated as Section 41.17, Block 1, Lot 65 on the Tax Map of the Town of Ramapo, be and hereby is approved, and the Chairman is hereby authorized to sign same and to permit same to be filed in the office of the Rockland County Clerk, upon payment of any and all outstanding fees to the Village of Montebello, subject to the following:

1. Rockland County Planning Department conditions as stated in its memorandum dated September 1, 2010, except that items 4 and 5 shall be applied to the site plan review of lot 1.

2. This Board finds that, based upon studies previously conducted, there is a need for additional park and recreation land within the Village, that this need shall be increased as a result of the increase in population which will result from the proposed project, and that there is insufficient land available in the premises to be subdivided to warrant setting aside a portion thereof for parks or recreation, and therefore directs that money be paid to the Village in lieu of land in the amount set forth in the Village's Schedule of Fees for one lot.

3. Signature of the Chairman of the Rockland County Drainage Agency pursuant to the requirements of section 13-A of the Rockland County Stream Control Act (L. 1975, Ch. 846, as amended).

4. This Board hereby retains jurisdiction to review and approve a site development plan of Lot 1 prior to the issuance of a building permit for said lot. A note to that effect shall be added to the plat. Site development plan approval of Lot 1 is needed because, at this time, the applicant has no current plans to construct a dwelling on Lot 1, and therefore this Board does not have necessary information relating to such issues as drainage, location of the entry drive, sight distance from the entry drive, impact of subsurface disposal systems, and other normal planning engineering data.

MOTION: Chairman Rubin

SECOND: Member Burke

MEMBERS PRESENT:	**YEA or NAY**
Al Rubin, Chairman	Yea
Jane Burke, Vice Chairman	Yea
Michael Iatropoulos, Member	Yea
Anthony Caridi, Member	Yea
Thomas Ternquist, Member	Yea
Melanie Golden, Member	Yea

Upon vote, the Resolution carried unanimously.

Weinberger Subdivision
Final Subdivision Re-Approval

> Application of George Weinberger, 1757 East 23rd Street, Brooklyn, New York 11229 for Final Subdivision Re-Approval for a subdivision entitled "Weinberger Subdivision" consisting of 84.25 acres of which approximately 17.62 are wetlands. The subject property is located on the south side of Grandview Avenue approximately 900 feet east of Spook Rock Road and west of Martha Road and is known and designated on the Ramapo Tax Map as Section 41.13, Block 2, Lots 5 and 6 and Section 41.17, Block 1, Lots 5 and 6 in a RR-50 Zone. The Applicant received Final Approval for 46 proposed building lots, plus one lot for open space on July14, 2009 and a first 90 day extension on December 8, 2009. The second 90 day extension expired on July 9, 2010.

Mr. George Weinberger was in attendance along with the Applicant's Attorney, Burt Dorfman, and the Applicant's Engineer, Dennis Rocks, from Leonard Jackson Associates. Mr. Dorfman stated that the Weinberger Subdivision received final approval in July of 2009 and needed more time for some minor administrative items. Mr. Emanuel stated that he has been working closely with Mr. Dorfman to have everything ready for the chairman's signature but the time ran out. Mr. Emanuel stated that it is a big complex project and the decision was made internally among Village staff that they would rather ask the applicant for a re-approval than try to get everything done in a compressed period of time and miss something.

Mr. Ira Emanuel, Assistant Village Attorney, read the Resolution into the record:

RESOLUTION PB-04 OF 2010
Reinstating Approval of a Subdivision Entitled
"Weinberger"

WHEREAS, a subdivision plat entitled "Weinberger" consisting of 54 sheets, dated and last revised as set forth in Schedule A annexed hereto and made a part hereof (hereinafter, the "Plan Set"), affecting premises designated as Section 41.13, Block 2, Lot 5 and 6, and Section 41.17, Block 1, Lots 5 and 6 on the Tax Map of the Town of Ramapo was approved by this Board at its meeting of July 14, 2009, subject to a number of conditions; and

WHEREAS, the applicant failed to timely file the plat in the Office of the Rockland County Clerk, and this Board's approval therefore expired; and

WHEREAS, the applicant has resubmitted the plat which was previously approved by this Board, without any changes; and

WHEREAS, there have been no significant changes in environmental conditions in the area previously reviewed by this Board in connection with this project; and

WHEREAS, this Board reaffirms the SEQRA Findings Statement adopted July 14, 2009; and

WHEREAS, the variances previously granted by the Zoning Board of Appeals are still valid; and

WHEREAS, a public hearing was held with respect to the subject plat and closed on June 9, 2009.

NOW, THEREFORE, be it

RESOLVED, that the plat entitled "Weinberger" consisting of 54 sheets, dated and last revised as set forth in Schedule A annexed hereto and made a part hereof, affecting premises designated as Section 41.13, Block 2, Lot 5 and 6, and Section 41.17, Block 1, Lots 5 and 6 on the Tax Map of the Town of Ramapo, previously approved by this Board, be and hereby is re-approved and reinstated, and the Chairman is hereby authorized to sign same and to permit same to be filed in the office of the Rockland County Clerk, upon payment of any and all outstanding fees to the Village of Montebello, subject to the following:

1. The approval granted herein is based upon the Plan Set, and there shall be no deviations from the Plan Set except as specifically set forth herein or as expressly permitted by the subdivision regulations of the Village of Montebello without the express prior permission and approval of this Board. This condition and all other conditions hereof, shall be binding upon the applicant, its successors and assigns, including, without limitation, the subsequent owners of individual lots in the subdivision. A note to this effect shall be endorsed upon the plat to be filed in the Office of the Rockland County Clerk, or, if the plat is to be filed in sections, upon each section of the plat to be filed.

2. Rockland County Planning Department conditions as stated in its memorandum dated June 12, 2007, except to the extent that said conditions relate to the approval of the Rockland County Highway Department. Said approval is dealt with below.

3. Conditions of the Rockland County Highway Department letter dated June 4, 2007, provided, however, that (a) the dedication referred to in item 1 of said letter shall be offered to the Village of Montebello; and (b) this Board has fully considered pedestrian traffic, and has determined that a pedestrian crossing count analysis is not needed, and that no sidewalks shall be built anywhere in the subdivision, including along Grandview Avenue. To the extent that the foregoing is considered a recommended modification of the Rockland County Planning Department, they are to be deemed overridden.

4. All conditions and findings of the Findings Statement issued as a result of the Environmental Impact Statement completed herein.

5. All conditions of the Preliminary Approval dated June 12, 2007.

6. All items contained in the memoranda of Brooker Engineering, PLLC, the Village's engineering consultant, dated June 9, and June 30, 2009.

7. All items contained in the letter of Robert Geneslaw, the Village's planning consultant, dated June 8, 2009.

8. As agreed to by the applicant, the litigation commenced by the applicant against the Village of Montebello in the Supreme Court of the State of New York, County of Rockland, under Index No. 2004-5589, shall be formally discontinued in all respects, without award to applicant, prior to the signing of the plat by the Chairman of this Board.

9. This Board reaffirms its finding that, based upon studies previously conducted, there is a need for additional park and recreation land within the Village, that this need shall be increased as a result of the increase in population which will result from the proposed project, and that there is insufficient land available in the premises to be subdivided to warrant setting aside a portion thereof for parks or recreation, and therefore directs that money be paid to the Village in lieu of land in the amount set forth in the Village's Schedule of Fees.

10. If plans submitted for a building permit or certificate of occupancy for any individual home show a deviation of any finished floor elevations of ±2 feet, as compared with the finished floor elevations shown on the Plan Set approved by this Board herein, then such lot shall return to this Board for individual site plan review prior to the issuance of a building permit, certificate of occupancy or subsequent inspection. It shall be a condition of this approval, binding upon the applicant, its successors and assigns that the Building Inspector may issue a stop work order on construction on any lot where such a deviation exists without the approval of this Board.

11. Houses shown on the plans in the Plan Set without basement floor elevations (denominated "B.F.") shall not have basements or below grade stories.

12. All conditions and provisions of the SWPPP (Stormwater Pollution Prevention Plan) unless modified by the Village Engineer.

13. All conditions contained in the resolution of the Village Board approving the use of average density.

14. The applicant has requested permission to file the approved plat in the Office of the Rockland County Clerk in four sections, pursuant to the provisions of section 7-728.7(b) of the Village Law. A plan for sectional filing is included in the Plan Set upon which this Board has granted this approval. The applicant is hereby granted permission to file the approved plat in four sections, as set forth in the Plan Set drawings dated January 22, 2008, last revised June 17, 2009, and designated sheets SPSEC A, B, C and D, respectively, provided, however, that Section A thereof shall be filed first; Section B thereof may be filed after Section A is filed, but not before Section A is filed; Sections C and D thereof may be filed at any time after Sections A and B are filed, but not before Sections A and B are filed. Nothing herein shall be deemed to compel the filing of any of said Sections.

15. Plat note 34 shall be deleted from the plat. The existing easement to Home Gas Company, running generally through proposed lots 1, 2, 3, 4, 5, 6, 7, and 47 in the southerly portion of the premises, shall be extinguished of record in the Office of the Rockland County Clerk, and the notation of said easement shall be removed from the Plan Set prior to the signing of the plat by the Chairman.

16. Landscaping and screening surrounding the storm water management facilities located between proposed lots 14 and 15 shall be reviewed and approved by the Village's said Engineering Consultant and the Village's Planning Consultant, Robert Geneslaw.

17. Signature of the Chairman of the Rockland County Drainage Agency pursuant to the requirements of section 13-A of the Rockland County Stream Control Act (L. 1975, Ch. 846, as amended); and be it further

RESOLVED, that the following elements are hereby clarified, but are not intended to represent a change to the prior approval:

a. The open space created as a result of this approval shall be irrevocably offered to the Village prior to, or simultaneously with, the signing of the first section plat by the Chairman;

b. Payments for park and recreation needs shall be calculated, using the then-current schedule of fees, on a section-by-section basis, with the payment for each section to be made prior to the signing of that section's plat;

c. Traffic control signs are considered to be improvements required to be installed by the applicant/developer;

d. The applicant/developer shall be responsible for maintaining all roads, culverts, drainage ways and other improvements until such time as they are accepted by the Village; and all similar existing features associated with development of the subdivision until construction and development are completed.

- END-

[See Schedule "A" Attached]

SCHEDULE "A" - WEINBERGER SUBDIVISION LIST OF DRAWINGS			
NO.	**DESCRIPTION**	**ORIGINAL DATE**	**LATEST REVISION DATE**
1	TITLE SHEET	5/16/2007	6/17/09
2	FINAL SUBDIVISION PLAT	8/9/2007	6/17/09
3	KEYMAP & SITE OVERVIEW PLAN	5/16/2007	5/4/09
4	LAYOUT PLAN (1 OF 4)	8/9/2007	6/17/09
5	LAYOUT PLAN (2 OF 4)	8/9/2007	6/17/09
6	LAYOUT PLAN (3 OF 4)	8/9/2007	6/17/09
7	LAYOUT PLAN (4 OF 4)	8/9/2007	6/17/09
8	GRADING AND DRAINAGE PLAN (1 OF 4)	5/16/2007	6/17/09
9	GRADING AND DRAINAGE PLAN (2 OF 4)	5/16/2007	6/17/09
10	GRADING AND DRAINAGE PLAN (3 OF 4)	5/16/2007	6/17/09
11	GRADING AND DRAINAGE PLAN (4 OF 4)	5/16/2007	6/17/09
12	UTILITY PLAN (1 OF 4)	5/16/2007	6/17/09
13	UTILITY PLAN (2 OF 4)	5/16/2007	6/17/09
14	UTILITY PLAN (3 OF 4)	5/16/2007	6/17/09
15	UTILITY PLAN (4 OF 4)	5/16/2007	6/17/09
16	EROSION CONTROL PLAN (1 0F 4)	5/16/2007	6/17/09
17	EROSION CONTROL PLAN (2 0F 4)	5/16/2007	6/17/09
18	EROSION CONTROL PLAN (3 0F 4)	5/16/2007	6/17/09
19	EROSION CONTROL PLAN (4 0F 4)	5/16/2007	6/17/09
20	ROAD PROFILES (1 OF 4)	5/16/2007	6/17/09
21	ROAD PROFILES (2 OF 4)	5/16/2007	6/17/09
22	ROAD PROFILES (3 OF 4)	5/16/2007	6/17/09
23	ROAD PROFILES (4 OF 4)	5/16/2007	6/17/09
24	STORM PROFILES (1 OF 4)	5/16/2007	5/4/09
25	STORM PROFILES (2 OF 4)	5/16/2007	5/4/09
26	STORM PROFILES (3 OF 4)	5/16/2007	5/4/09
27	STORM PROFILES (4 OF 4)	5/16/2007	5/4/09
28	SANITARY PROFILES (1 OF 2)	5/16/2007	5/4/09
29	SANITARY PROFILES (2 OF 2)	5/16/2007	5/4/09
30	WATER MAIN PROFILES (1 OF 2)	5/16/2007	5/4/09
31	WATER MAIN PROFILES (2 OF 2)	5/16/2007	5/4/09
32	WATER CONSTRUCTION DETAILS	5/16/2007	5/4/09

33	CONSTRUCTION DETAILS (1 OF 4)	5/16/2007	6/17/09
34	CONSTRUCTION DETAILS (2 OF 4)	5/16/2007	5/4/09
35	CONSTRUCTION DETAILS (3 OF 4)	5/16/2007	6/17/09
36	CONSTRUCTION DETAILS (4 OF 4)	10/17/2007	6/17/09
37	CULVERT DETAILS	5/16/2007	5/4/09
38	CULVERT & UTILITY PROFILES	1/14/2008	5/21/09
39	STORMWATER POLLUTION PREVENTION PLAN	5/16/2007	5/21/09
40	PLANTING PLAN	5/16/2007	6/17/09
41	TREE SURVEY (1 OF 4)	5/16/2007	5/21/09
42	TREE SURVEY (2 OF 4)	5/16/2007	5/4/09
43	TREE SURVEY (3 OF 4)	5/16/2007	5/4/09
44	TREE SURVEY (4 OF 4)	5/16/2007	6/17/09
45	EXISTING TREE SCHEDULE	5/16/2007	5/4/09
SEC-A	SECTION A PLAN	1/10/2008	6/17/09
SEC-B	SECTION B PLAN	1/10/2008	6/17/09
SEC-C	SECTION C PLAN	1/10/2008	6/17/09
SEC-D	SECTION D PLAN	1/10/2008	6/17/09
SPSEC-A	FINAL SUBDIVISION PLAT SECTION A	1/22/2008	6/17/09
SPSEC-B	FINAL SUBDIVISION PLAT SECTION B	1/22/2008	6/17/09
SPSEC-C	FINAL SUBDIVISION PLAT SECTION C	1/22/2008	6/17/09
SPSEC-D	FINAL SUBDIVISION PLAT SECTION D	1/22/2008	6/17/09
INFO	INFORMATION DRAWING - SITE SURVEY (SURVEY PREPARED BY WILLIAM D. YOUNGBLOOD DATED MARCH 7, 2007)		

MOTION: Member Iatropoulos

SECOND: Member Ternquist

MEMBERS PRESENT:	**YEA or NAY**
Al Rubin, Chairman	Yea
Jane Burke, Vice Chairman	Yea
Michael Iatropoulos, Member	Yea
Anthony Caridi, Member	Yea
Thomas Ternquist, Member	Yea
Melanie Golden, Member	Yea

Upon vote, the Resolution carried unanimously.

Brian Novie
Tree Removal

> Application of Brian Novie, 50 Westgate Road, Montebello, New York, 10901 located on the south side of Westgate Road approximately 50 feet from the intersection of Kings Gate Road in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 40.19, Block 1, Lot 42 in a RR-50 Zone. Mr. Novie exceeded the permitted approval for tree removal as determined by the Village Engineer.

Chairman Rubin recused himself from the Brian Novie Tree Removal application. Vice Chairman Burke will hear the application.

Brian and Marina Novie, 50 Westgate Road, Montebello, New York, were in attendance.

Mr. Novie stated that he requested to take down 18 trees; 15 trees were dead or dying and 3 trees were to be taken down as of right. The tree permit was approved for 8 trees that were dying and 3 live trees for a total of 11 trees to be taken down. Mr. Novie stated that the company that they hired, Perfect Cut Tree Removal, took down a total of 14 trees. Mr. Novie stated that they had never told the Tree Removal Company that they were not approved to take down all of the 18 trees originally applied for. Mr. Novie stated that they cut down more dead and dying trees than they were allowed.

Vice Chairman Burke asked the applicants the date and time that the 14 trees were taken down. Mr. Novie stated that it happened August 10, 2010. Vice Chairman Burke questioned the Applicants about a Violation in 2009 in which they removed 6 trees without a permit. Vice Chairman Burke asked the Applicants if they have now taken down a total of 20 trees in a two year period. Mr. Novie replied that it is correct.

Mrs. Novie stated that the previous violation was already taken care of and they have paid a fine.

Vice Chairman Burke asked the Applicant why they need to take down all of these trees. Mr. Novie stated that the trees were covered with poison ivy, vines and the backyard was not usable because a neighbor dumped garbage and beer bottles into his yard. Mr. Novie stated that they believed their neighbor was selling drugs in the backyard easement. Mr. Novie also stated that a lot of shrubbery was dying and trees were bent over. Mr. Novie continued to state that the poison ivy was encroaching onto the lawn. Mr. Novie was afraid of contracting Lyme disease from his backyard. Mr. Novie stated that his Mother-in-law had received multiple tick bites in which she required medical attention. Mr. Novie stated that they wanted to keep the yard clean and safe for health reasons.

Mr. Geneslaw read the CDRC minutes dated August 31, 2010 (copy attached).

Martin Spence, Village Engineer, reviewed his memo dated September 13, 2010 (copy attached).

Mr. Spence stated that on page 2 of his memo in the tree remediation/Compensatory Plan the applicant should provide the Planning Board with a remediation/compensatory plan.

Mr. Emanuel asked the Village Engineer if the plan needs to be prepared by a licensed professional engineer. Mr. Spence replied that the plan needs to be prepared by a licensed professional engineer and also have a current survey. Mr. Spence stated that recently (within the last 2 weeks) the Applicants submitted a land disturbance application to the building department.

Member Ternquist asked the Village Engineer if the 3 extra trees cut down by Perfect Cut were healthy trees. Mr. Spence replied that the Applicant was approved to take down 8 dead or dying trees and 3 as of right trees. The Applicant went over the approved amount of 11 trees to be taken down.

Member Iatropoulos questioned the bylaws of the Village if the "Cutters" of the trees need to be certified therefore can the Village revoke their certification if they cut more than the allowable amount of trees.

Mr. Emanuel replied that it is a license not a certification—a license is merely permission to operate in the Village. Mr. Emanuel informed the Board that at the CDRC meeting the professionals discussed the need to work with the tree cutters to get their prospective in the tree removal process.

Vice Chairman Burke was deeply distressed with the Applicants over the Civil Compromise Agreement of 2009. Vice Chairman Burke stated that in the 2009 Agreement, which the applicants signed, the Novies were to follow proper procedure with regard to any improvements and tree removal concerning 50 Westgate Road, Montebello, New York. Any Violation of the terms of the agreement would result in new charges being issued against the Novies.

Vice Chairman Burke stated that the community has existed for a long time and trees have a purpose.

Vice Chairman Burke entered Mr. Al Rubin's letter dated August 30, 2010 into the record (Copy attached).

Al Rubin, 16 Kings Gate Road, Suffern, New York, 10901, stated that he is a neighbor of the Novies and his home abuts 50 Westgate Road. The Applicants removed more than 6 trees in 2009. There was never an actual count because the trees and evidence of tree removal was gone by the time someone from the Village went to investigate. Mr. Rubin believes it was closer to 12 to 15 trees that were removed. The trees were 35 to 50 feet tall. Mr. Rubin believes the Applicants were looking to clear cut their backyard so that they can open up the vista for their pool. Mr. Rubin stated that Village Law states, if read correctly, no more than 8 trees per lot in a 2 year period or 12 trees per lot in a 6 year period. The only way to circumvent the law is with Planning Board approval. Mr. Rubin stated that the 3 non-dead as of right trees that were allowed to be removed on the Novie Tree Removal permit should not have been granted because it goes against Village law. Mr. Rubin believes that drainage should be carefully looked at because 50 Westgate Road abuts 4-5 homes.

Marina Novie, 50 Westgate Road, Montebello, New York stated that in April 2009 they applied for permits after the fact, 3 trees were dead and 3 trees were alive. Mrs. Novie stated that they cut

down 6 trees without a permit and they paid a fine. Mrs. Novie stated that in 2010 Perfect Cut had an estimate to remove 15 dead or dying ash and elm trees and remove 3 live trees in the front. The 3 live trees were oak and elm trees, Mrs. Novie explained that Mr. Novie is severely allergic to oak and that was one of the reasons that they needed to remove these trees. Mrs. Novie stated that the Village had a different opinion than Perfect Cut and they were given a permit to remove 8 dead/dying trees and 3 live trees. Mrs. Novie stated that they left Perfect Cut alone to do their work. Mrs. Novie explained that both Mr. Novie and she went to work. Mrs. Novie stated that she noticed something wasn't right when she came home but "is not in business to get poor minority man who is doing the job in trouble or fired."

Member Golden asked the applicant if she marked the trees that were supposed to be removed. Mrs. Novie replied that she tied green ribbon around the trees to be removed. Mrs. Novie stated that as a result the 3 live trees that were approved to be removed were not removed. One of the trees is close to the house and is causing problems on the roof. Mrs. Novie stated that only 3 trees in the 2 year period were alive and count for her as of right removal.

Member Iatropoulos believes that there should be an inventory of the trees from the time the Applicants purchased the property through the present. Member Iatropoulos believes the actions of the Applicants are very egregious.

Vice Chairman Burke explained that vines can be cut and poison ivy can be sprayed, there is no need to remove trees for that reason.

Member Golden stated her concern and outrage at the pattern of disregard for the Village Tree Law and the violation of the Civil Compromise Agreement that the Applicant signed. Member Golden asked Mr. Emanuel, Assistant Village Attorney, who is responsible on the follow-up of the Violation of the Civil Compromise. Member Golden also questioned the role of the Planning Board in this situation. Mr. Emanuel stated that if the Civil Compromise was in fact violated it is a matter for Jonathan Ripps the Village Prosecuting Attorney, along with the Village Engineer and the Building Inspector.

Mr. Emanuel read Section 176-6B3 of the Village Code for clarification on the number of trees allowed to be removed. In reference to remediation and the Planning Boards responsibility Mr. Emanuel referenced Section 176-7 C & D of the Village Code. Basically the Planning Board, in addition to the prosecution of fines, require that there be a compensatory planting plan by replacing in kind each and every tree removed, cut down or destroyed in violation of the chapter.

Member Golden asked the Village Engineer if a tree inventory is possible. Mr. Spence stated it would difficult to recreate what was there before therefore he is comfortable with the facts of his memo to the Planning Board.

Mr. Spence stated that the Applicants need to submit a comprehensive plan showing any land disturbance detailing the fill to be brought in—need a plan showing existing contours, existing grades as well as proposed contours, proposed grades and proposed quantity of fill.

Member Iatropoulos stated that there should be a plan with existing trees with digital pictures from the Village Engineer. Mr. Spence replied that once the Village receives a comprehensive plan from the Applicants showing existing trees then a review can be made.

Vice Chairman Burke would like a Public Hearing to be held when the Applicants come back to the Planning Board so that the surrounding neighbors can voice their opinions on the Applicants comprehensive plan.

Mrs. Novie stated that the property has been neglected and abandoned and now they would like to clean and utilize the property for their 2 year olds.

Mr. Novie stated that at the moment the view from the backyard is to the neighbors' tennis court and in the future they will plant trees.

Member Iatropoulos would like a Public Hearing to be held as well as visitation to the property.

Vice Chairman Burke would like the Applicants to come back for the November 9, 2010 Planning Board meeting. The deadline for the meeting is October 14, 2010 in order to send out the Public Hearing materials.

Member Ternquist believes the Public Hearing should be for the Comprehensive Mitigation Plan. Vice Chairman Burke agrees and thinks the Applicants should not be heard until they bring in a comprehensive plan and Mr. Spence's recommendations have been followed.

Vice Chairman Burke would like the Planning Board to visit the property prior to the November Planning Board meeting. The Planning Board along with the Applicants has set Sunday, September 19, 2010 at 12 p.m. as a visitation day.

Mr. Emanuel explained to the Applicants that they need to work on the tree remediation plan and a current survey with topographic information that the Village Engineer requested.

Member Iatropoulos made a motion to adjourn the Brian Novie Tree Removal application to the November 9, 2010 Planning Board meeting, seconded by Member Ternquist. Upon vote, the motion carried unanimously.

New Business

Member Iatropoulos made a motion to adjourn the meeting, seconded by Member Ternquist. Upon vote, the motion carried unanimously. The meeting adjourned at 9.00 p.m.

The members of the Planning Board went into a workshop session which ended at 9:45 p.m.

Appendix:

VILLAGE OF MONTEBELLO
CDRC MINUTES

CDRC Meeting Date: ___August 31, 2010_____

Project Name: Fried Subdivision—Richard J. Fried
___

Map Date: __July 13, 2006 Latest Revision Date 2/22/10
_____

Subdivision__√_ Amended Site Plan___ Special Permit___ Sign Plan___ Wetlands Permit__

Preliminary__√_____ Final__√___ Informal Discussion _____ Tree Removal_____

Application ready for Board? Yes_____ No_____

Last day for Board Decision: _____

SEQRA Status: _____

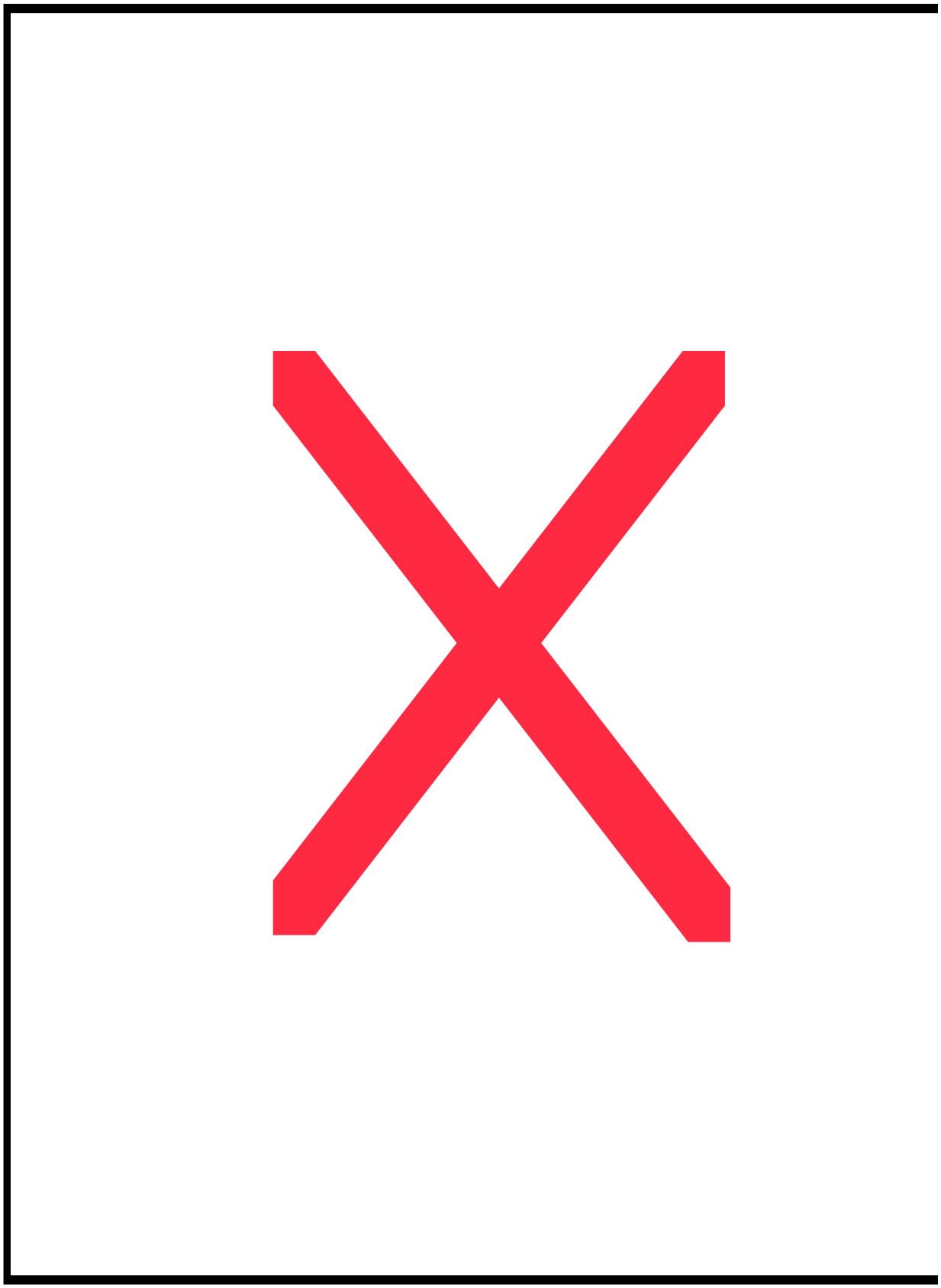
Professional Fees- (LL #3 of 1991)

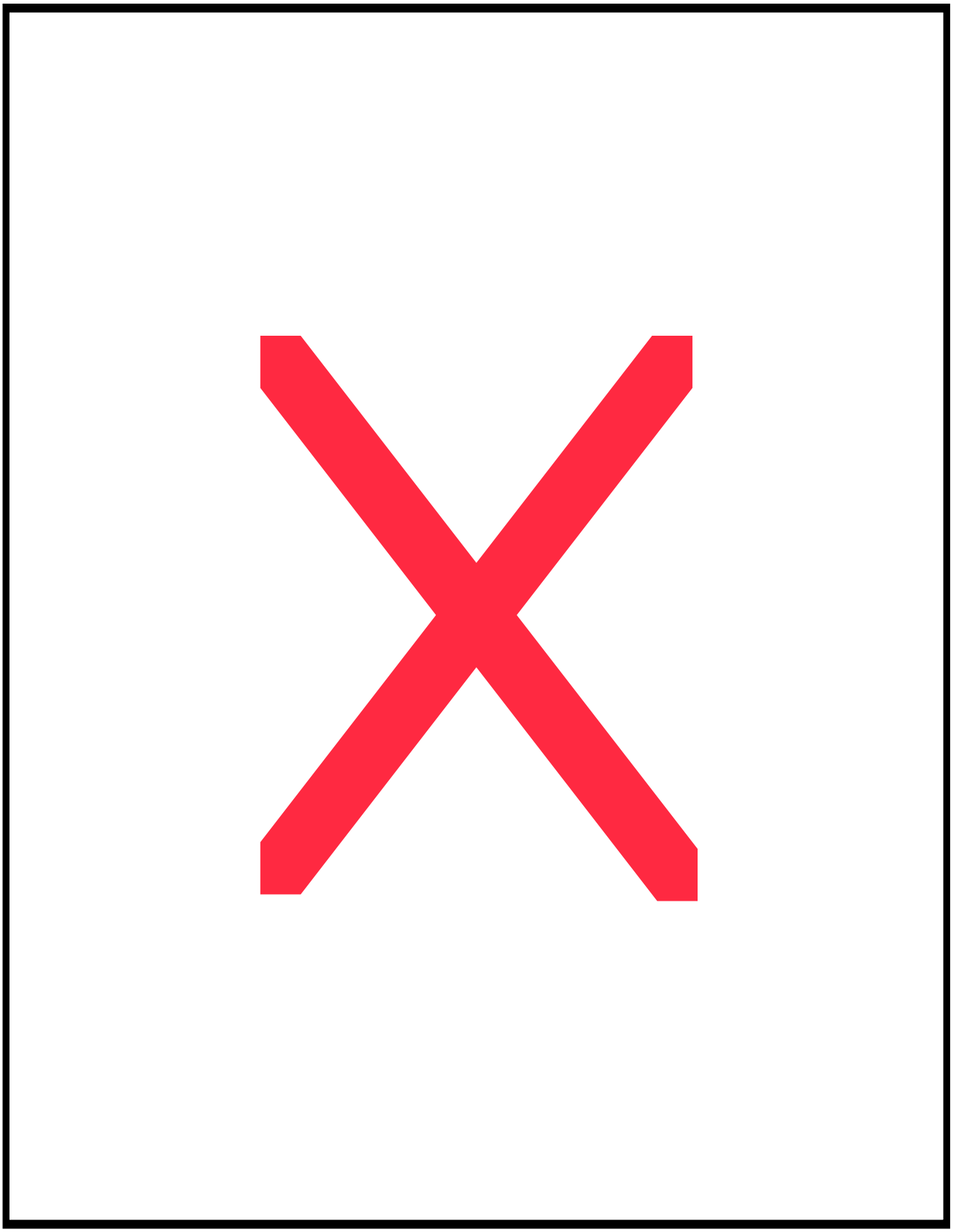
Date of Last Bill	Amount	Paid	Outstanding

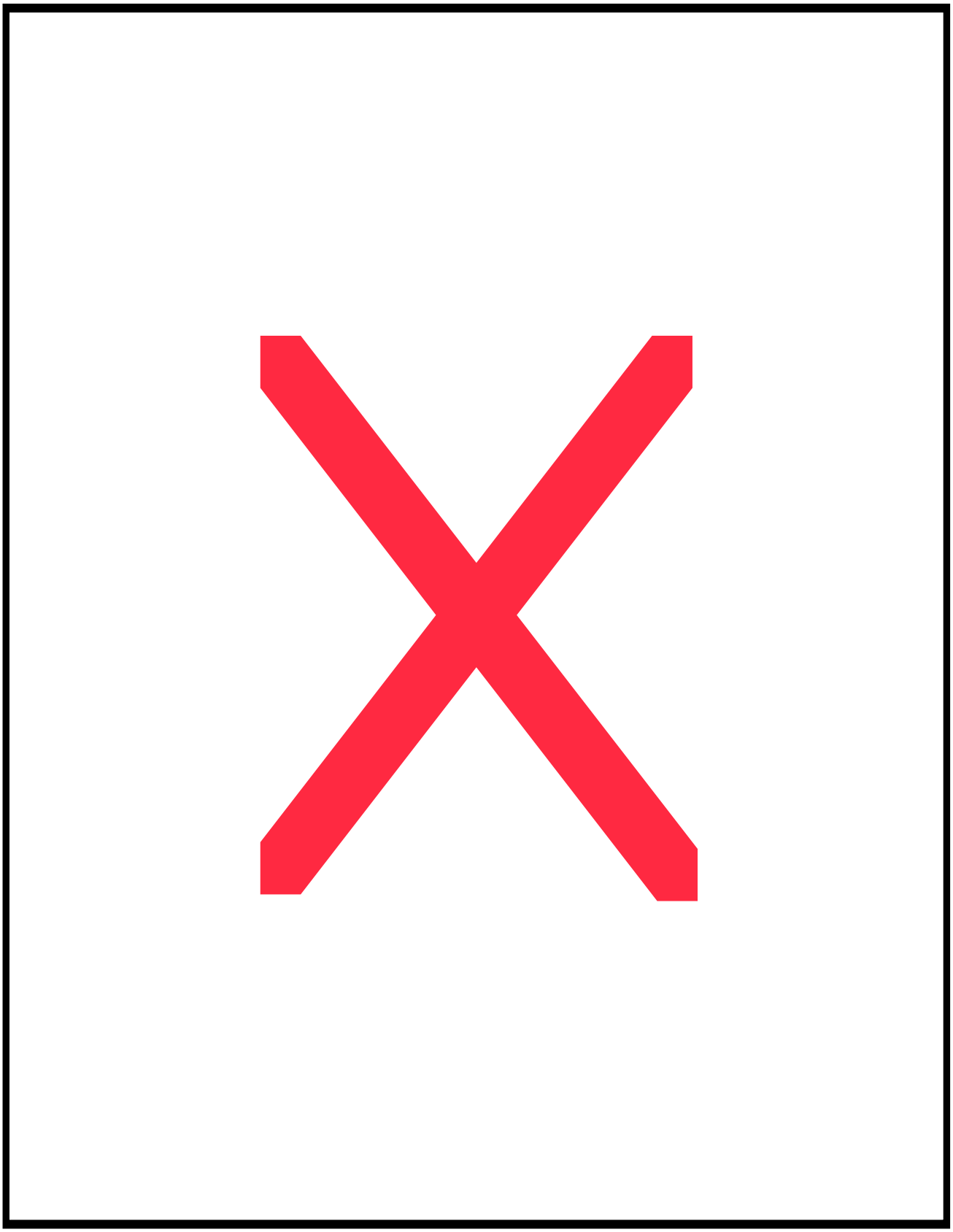
FAILURE TO PAY OUTSTANDING FEES MAY RESULT IN THE DENIAL OF APPLICATION OR REFUSAL TO CONTINUE PROCESSING.

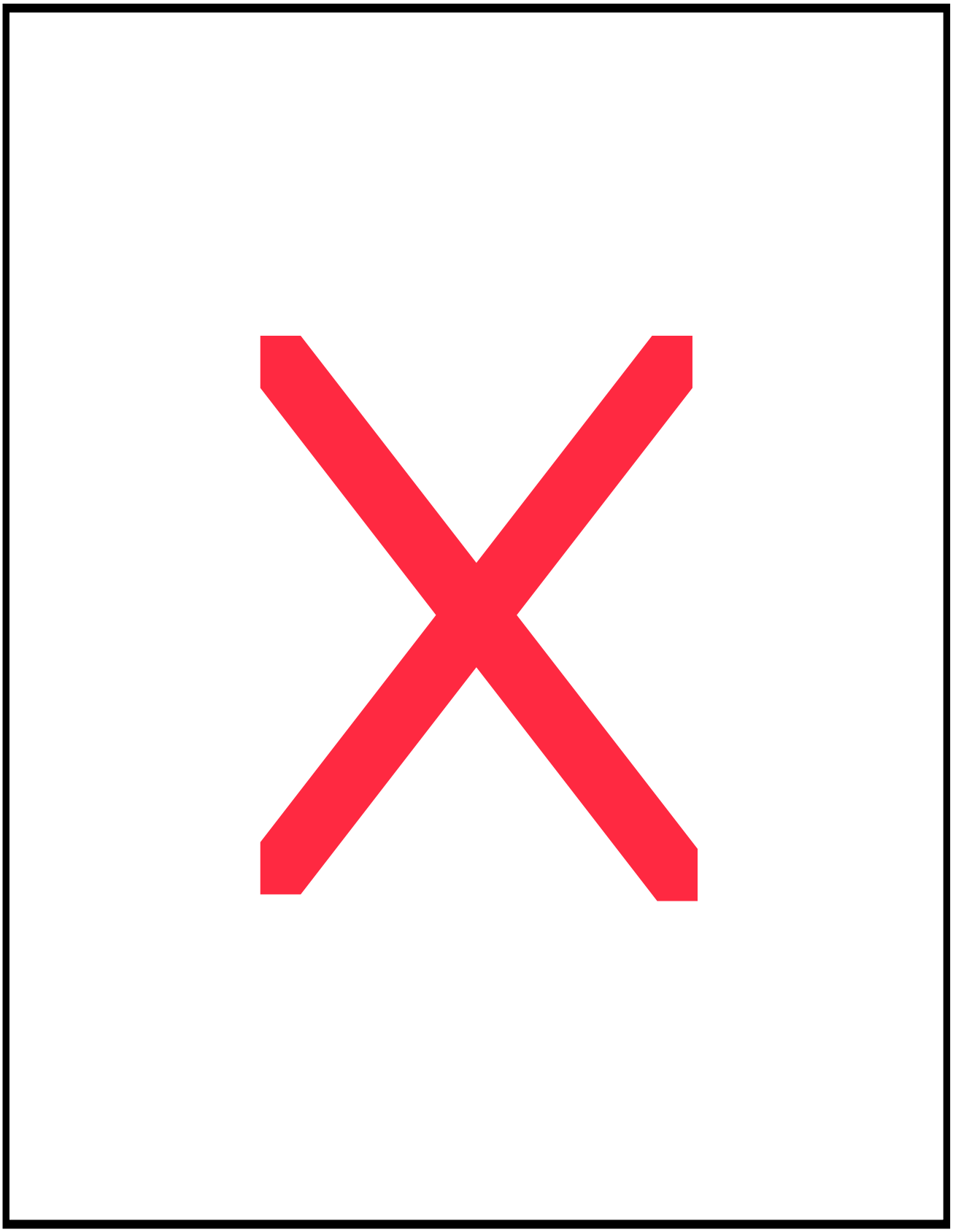
Remarks:

1. See Building Inspector's letter dated 8/30/10.
2. Will require Rockland County Planning Department 239 review.
3. Planning Board combined Preliminary and Final Subdivision approval at first application.









VILLAGE OF MONTEBELLO
CDRC MINUTES

CDRC Meeting Date: ___August 31, 2010_____

Project Name: BRIAN NOVIE—TREE REMOVAL
___

Map Date: _____
_____

Subdivision___ Amended Site Plan___ Special Permit___ Sign Plan___ Wetlands Permit__

Preliminary_____ Final___ Informal Discussion _____ Tree Removal__√_____

Application ready for Board? Yes_____ No_____

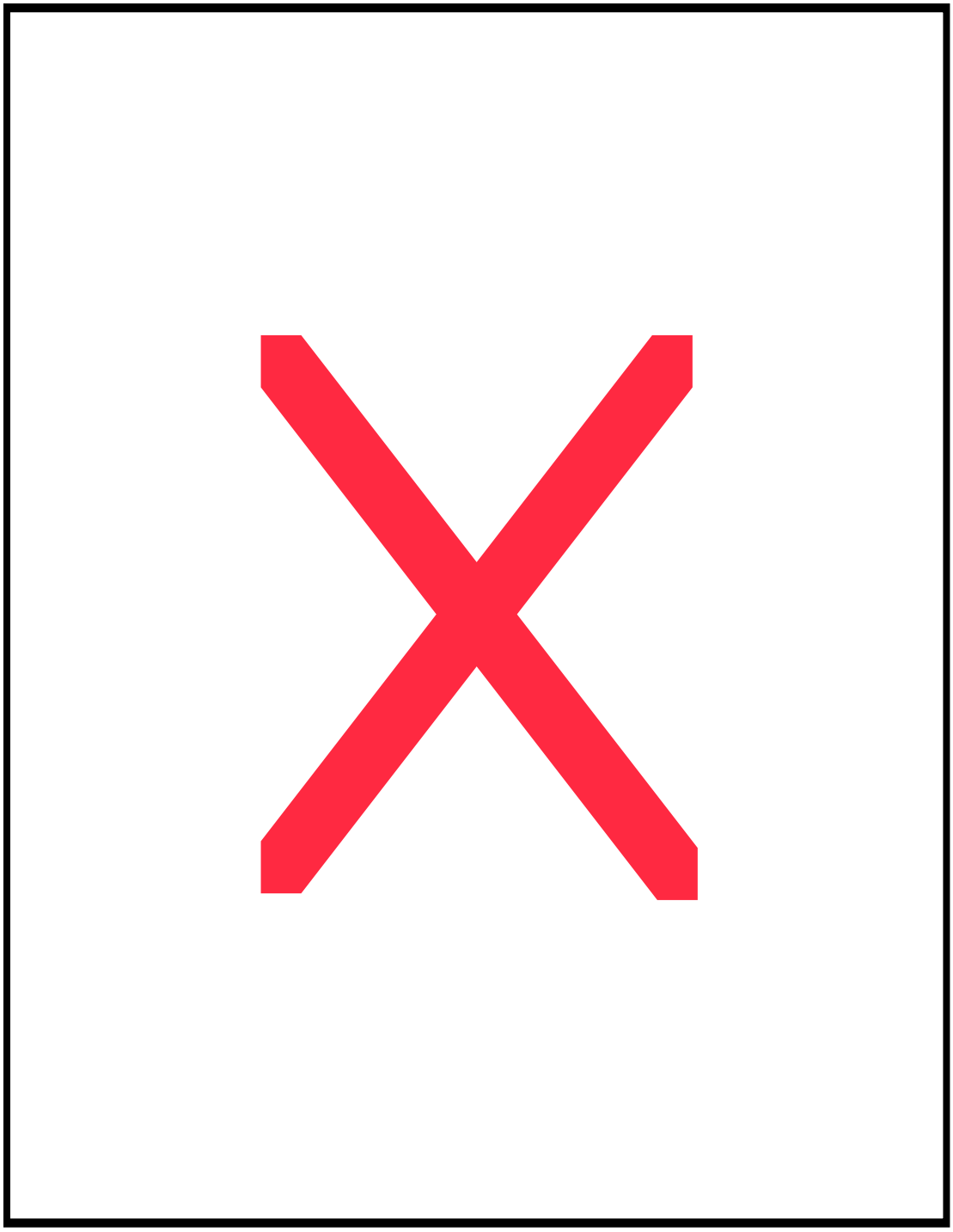
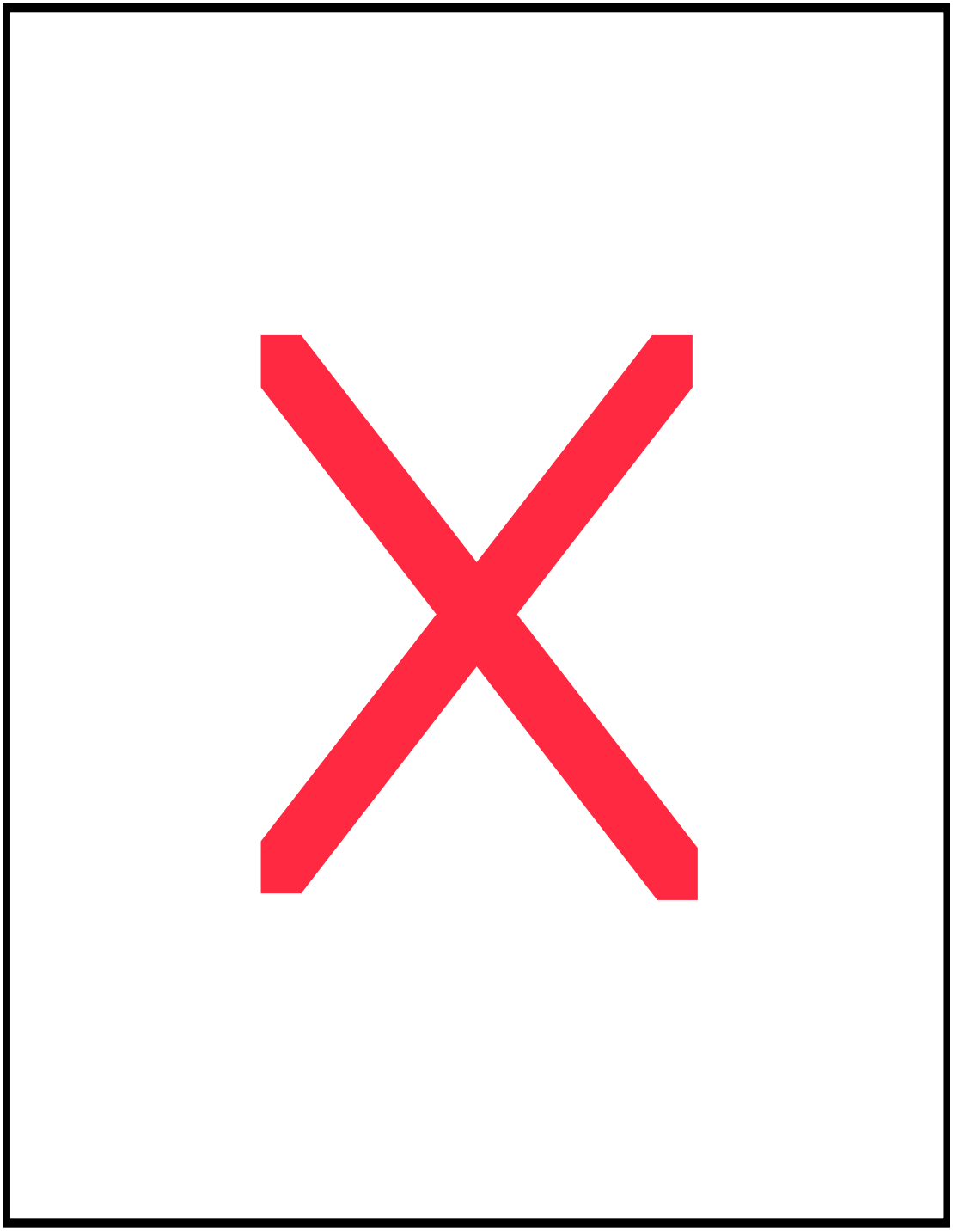
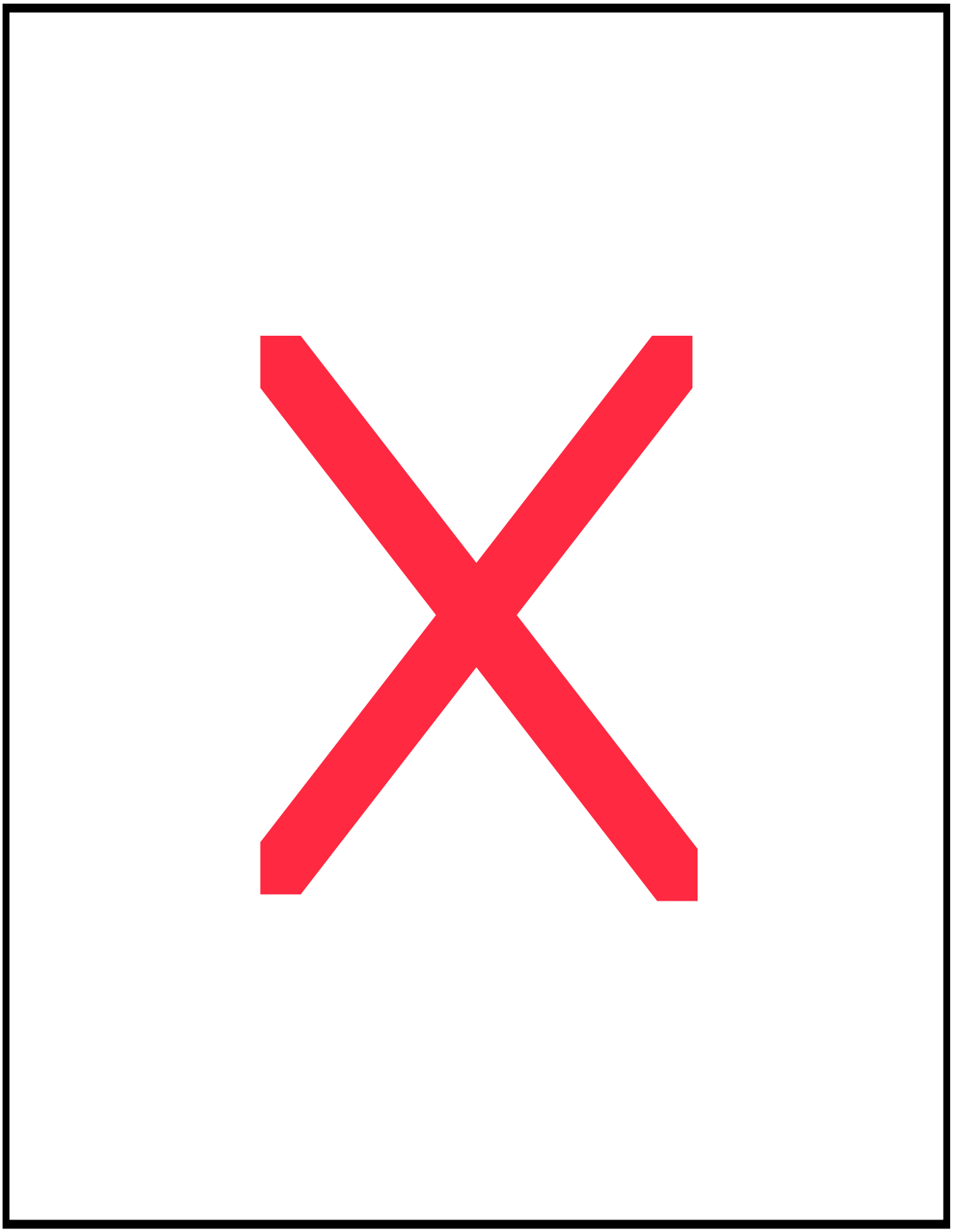
Last day for Board Decision: _____

SEQRA Status: _____

Professional Fees- (LL #3 of 1991)

Date of Last Bill	Amount	Paid	Outstanding

FAILURE TO PAY OUTSTANDING FEES MAY RESULT IN THE DENIAL OF APPLICATION OR REFUSAL TO CONTINUE PROCESSING.

Remarks:

1. See letters from Building Inspector dated 8/30/10 and Neighbor dated 8/30/10.
2. Martin Spence summarizes recent history.
3. Violation is for 3 trees taken down over the amount permitted.
4. Martin Spence does not designate which trees may be taken down.
5. CDRC suggests plot plan with proposed grading and limits of disturbance prepared by a licensed Professional Engineer based on a current survey to be provided for Planning Board review; conforming tree planting plan; mitigation plan.
6. Board Members should review Montebello Code Section 176-7.C and D. (Penalties for offenses for matters within Planning Board jurisdiction).