DECISION BY THE TOWN BOARD OF THE TOWN OF GREENBURGH IN THE
MATTER OF BROADVIEW CIVIC ASSOCIATION v. TOWN OF GREENBURGH

APPEAL OF TREE PERMITS TP-07-53 – 295 KNOLLWOOD ROAD

MEMBERS PRESENT: Paul J. Feiner, Supervisor
FOR DECISION               Sonja Brown, Councilwoman
                                            Diana Juettner, Councilwoman
                                            Kevin Morgan, Councilman
                                            Francis Sheehan, Councilman

PROPERTY LOCATION: 295 Knollwood Road

SUMMARY:
Robert Reninger, on behalf of the Broadview Civic Association (the Appellant), appeals Tree Removal Permit TP-07-53 issued by the Town Forestry Officer for the removal of trees at 295 Knollwood Road (Mount Vernon Health Center DBA Greenburgh Health Center). The appeals are hereby denied for the reasons set forth in the Findings section.

HISTORY:
On December 3, 2007, the Town Forestry Officer conducted a site visit and verified all 73 trees designated for removal by the Planning Board in case PB 03-05 had been appropriately marked.

On December 5, 2007, the Town Forestry Officer sent notice of his preliminary approval of Tree Removal Permit TP-07-53 to adjoining property owners. The Town Forestry Officer, in determining who should be notified, appropriately relied on Town Code § 260-4D(7)(a), which states: “All decisions or determinations made by the Forestry Officer approving applications pursuant to this chapter shall be sent to adjoining property owners and to the Conservation Advisory Council.” The notice states that an appeal must be filed by December 19, 2007.


FINDINGS:
The jurisdiction of the Town Board in Tree Removal Permit appeals is limited to § 260-D(7)(b), which states: “Any person aggrieved, affected or interested in the determination or decision of the Forestry Officer shall have the right, within 10 days from receipt of the decision of the Forestry Officer, to appeal to the Town Board, which shall review the decision. Any decision or determination of the Forestry Officer which is appealed to the Town Board shall be stayed pending review by the Town Board.” On December 5, 2007, notice of preliminary approval of Tree Removal Permit TP-07-53 was sent to adjoining property owners with instructions how to appeal the determination. Based on the notice, an appeal had to be filed by December, 19, 2007. The appeal in this case was filed on December 19, 2007. Therefore, pursuant to § 260-D(7)(b), the appeal was timely filed.
Even though the appeal was filed timely, an appeal can only be taken from decisions of the Town Forestry Officer, as specified in the notice. Actions of the Planning Board, Records Access Officer, Building Inspector and others are not subject to appeal through a Tree Removal Permit appeals process. The Town Board’s appeal jurisdiction is limited to reviewing “the decision.” Issues not contained in the decision are not appealable through this appeal process. This appeal must be dismissed since the details contained in the letter appealing Tree Removal Permit TP-07-53 do not address the contents of the notice of preliminary approval sent to adjoining neighbors, or the 73 trees planned to be removed should the permit be issued. Issues contained in the Appellant’s appeal letter that are unrelated to the Tree Removal Permit were also raised in its appeal letter of Tree Removal Permits TP-07-43 and TP-07-44, and have been addressed and dismissed by this board in our April 29, 2008 decision of that appeal.

Accordingly, the Appellant’s appeal of the determination of the Town Forestry Officer for Tree Removal Permits TP-07-53 is hereby denied and the matter is dismissed.

On a motion duly made by Francis Sheehan, seconded by Diana Juettner, at a publicly noticed April 29, 2008 Special Meeting of the Town Board, the above decision to deny the appeal was approved by the following vote:

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<thead>
<tr>
<th>Name</th>
<th>Vote</th>
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<tr>
<td>Supervisor Paul Feiner</td>
<td>Yes</td>
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<tr>
<td>Councilwoman Sonja Brown</td>
<td>Yes</td>
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<td>Councilwoman Diana Juettner</td>
<td>Yes</td>
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<td>Councilman Kevin Morgan</td>
<td>Yes</td>
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<tr>
<td>Councilman Francis Sheehan</td>
<td>Yes</td>
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Dated: April 29, 2008

By Order of the Town Board of the Town of Greenburgh