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December 5, 2013

*via Fedex*

Hon. JoAnn Hanson, Chairperson  
Village of Tuxedo Park Planning Board  
80 Lorillard Road  
P.O. Box 31  
Tuxedo Park, NY 10987

**Re: Lot Line Change  
Mary J. Diem & The Diem Family Credit Trust  
Tax Lot 104-1-16.1 and 16.2**

Dear Chairperson Hanson & Members of the Planning Board:

This office represents the interests of Mary J. Diem with respect to a desired lot line change involving her properties on West Lake Road.

The lots involved have, to say the least, a "colorful" history. The two lots - tax parcel 104-1-16.1 at 1.4± acres and 16.2 at 2.1± acres - are the former Stienway-Barber property.<sup>1</sup> The grand home originally built on Lot 16.2 around the turn of the 20<sup>th</sup> century was destroyed by fire in 1953. The smaller home on Lot 16.1 was built at about the same time and remains today. In 1990 the late Robert Diem and his wife Mary acquired both lots from the Barber family and, in 1995, sought to construct a home on Lot 16.2. The Building Inspector denied the building permit application citing the Village's 4-acre zoning requirement for house lots. Litigation ensued and resulted in a decision favorable to the Diems.<sup>2</sup>

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<sup>1</sup> These lots are the original Tuxedo Park lots laid out in TPA in the 1890's as lots 200 and 201, respectively. Tax Lot 16.1 is owed by the applicant Mary J. Diem and Lot 16.2 by the Diem Family Credit Trust.

<sup>2</sup> The courts held that the two lots had never merged and they preexisted the Village's Zoning Law, that as such Lot 16.2 was a lawful nonconforming lot and qualified for a building permit. See *Diem v. Teitelbaum*, 253 A.D.2d 823 (2<sup>nd</sup> Dept., 1998), lv. den. 92 N.Y.2d 817 (1998) and related documents.

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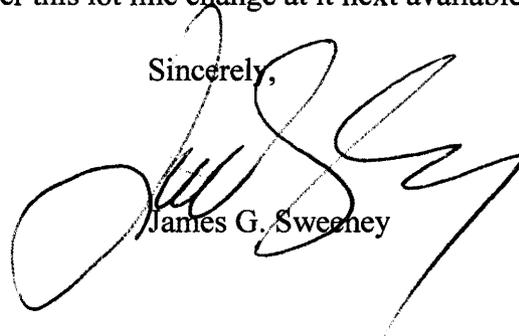
In 2000, Diem's building permit application for a new home on Lot 16.2 was again denied by the Building Inspector. In 2001 that denial was overruled by the BZA.<sup>3</sup> A building permit was subsequently issued and the new home on that lot was completed in 2007.

Because of the placement of the original home on Lot 16.1 in close proximity to the original lot line there is very little usable territory on the easterly side of the lot. The desired lot line change would afford Lot 16.1 a good deal of added usable territory without impacting the viability of Lot 16.2 with its new home. Also, it would render the area of the two lots equal.

Submitted herewith is a survey done by John McGloin, LS, showing the two lots, the respective homes on each and the desired lot line adjustment (shaded area to be annexed to Lot 16.1). Also enclosed is a short form SEQRA EAF.

I would ask that the Board consider this lot line change at its next available meeting.<sup>4</sup>

Sincerely,



James G. Sweeney

JGS/aa  
Enclosures

cc: **(via Regular Mail letter only)**  
Mary Diem

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<sup>3</sup> See decision of the BZA, *In the Matter of the Diem Family Credit Trust* filed in the Village Clerk's office May 7, 2001.

<sup>4</sup> It is my understanding that Mrs. Diem has already paid the necessary application fee and escrow fee and, thus, those items are not included herewith.