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September 19, 2008

(Via Certified Mail)

Village of Yorkville
PO Box 222
Yorkville, NY 13495-0222

Attn: Village Board Members
c/o: Helen Petruccione, Village Clerk

Dear Village Board Members:

Please accept the following letter on behalf of my parents, Robert & Barbara Ross, who reside at 77 Cross Street in the Village of Yorkville, NY.

Regarding the Holy Trinity Cemetery – Ross Complaint, please answer the following:

1. Regarding the capacity of the 12-inch pipe in Douglas Avenue, in a 2-12-01 letter (copy attached), Mr. Zangrilli wrote (my emphasis):

*“They [the Holy Trinity Cemetery] have also **agreed to limit the discharge rate from a 25 year storm to approximately 0.5 cfs.**”*

2. In a 4-7-05 letter (copy attached), Mr. Zangrilli echoed this requirements when he wrote (my emphasis):

*“The Village of Yorkville restriction on **the 25 year storm discharge rate of 0.5 CFS was never changed.**”*

3. To the contrary, in a 6-18-08 report by the Whitestown Town Engineer, on page 3-3 (copy attached) he reported that:
 - a. His modeling of the Cemetery resulted in the 25 year storm having a current discharge rate of **5.42 cfs**, and
 - b. The 12-inch pipe in Douglas Avenue has a capacity of **4.6 cfs**, in lieu of the **0.5 cfs** calculated by Mr. Zangrilli.
 - c. The Town Engineer then goes on to conclude that the results of his modeling and calculations support a conclusion that the Cemetery project complies with Village of Yorkville requirements.
4. Yesterday, we were informed by the Observer-Dispatch newspaper that the Town has stated that Mr. Zangrilli made a “mistake” in 2001 when he calculated the 12-inch pipe capacity. Therefore, it now appears that Mr. Zangrilli supports the Town Engineer’s determination that this 12-inch pipe has a capacity of 4.6 cfs.
5. That being the case, please respond to the following:
 - a. The original requirement was **0.5 cfs** during the **25 year** storm event.
 - b. However, the Town Engineer calculated that discharge from the Cemetery, based on current conditions, is **5.42 cfs** during the **25 year** storm event.

c. Since a discharge rate of 5.42 cfs **exceeds** the calculated pipe capacity of 4.6 cfs, how does this satisfy Village requirements?

6. What are the revised requirements now being mandated by the Village Engineer? Are we to understand that the 25 year requirement has now also been rescinded and the 10 year storm has become the new design criteria?

With all due respect, are we to understand that Village requirements will continue to *evolve* as necessary to accommodate the Town Engineer's calculations?

On a side note;

On 6-30-08, I submitted a FOIL request to access Mr. Zangrilli's records regarding the Holy Trinity Cemetery. It was my hope this would provide an opportunity to review his hydraulic calculations for the subject 12-inch pipe.

On 7-26-08, I received a response from the Village Clerk that I would not be allowed access to Mr. Zangrilli's Holy Trinity Cemetery – Ross Complaint records on the basis that he is not an employee of the Village and his records are not in the possession of the Village.

On 7-31-08, in accordance with FOIL, I filed an appeal with the Village Board. Per the Board's August meeting minutes, you directed Village Attorney Dillon to respond to my appeal. His response has never been received and a recent FOIL request confirms that Mr. Dillon never prepared a response.

Perhaps Mr. Dillon is hesitant to respond because he is aware that these calculations were prepared at the direction of the Village and according to Robert Freeman, Executive Director of the Committee on Open Government, Advisory Opinion FOIL-AO-13646 (<http://www.dos.state.ny.us/coog/ftext/13646.htm>), dated October 15, 2002 (my emphasis), he wrote:

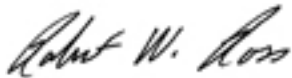
*...documents **need not be in the physical possession** of an agency to constitute agency records; so long as they are **produced, kept or filed for an agency, the courts** have held they constitute "agency records", **even if they are maintained apart from an agency's premises.***

Not so surprising, the Town of Whitestown has responded similarly in denying us access to Shumaker Engineering's records regarding the Holy Trinity Cemetery – Ross Complaint.

In closing, you should have just as much concern with what we believe to be the lack of confidence on display by Shumaker and Zangrilli in apparently refusing to open up their documentation to scrutiny. Perhaps you should be even more concerned with the apparent failure of the Town and Village to embrace the "open government" concept endorsed by NYS Freedom-of-Information Laws.

We await your response.

Regards,



Robert W. Ross, PE

Cc: Robert & Barbara Ross (email)
Deputy Mayor Thomas - Village of Yorkville (usps)
Trustee Deluca – Village of Yorkville (usps)
Al Zangrilli – Village Engineer (email)
Linda Shumaker, Partner – Shumaker (email)
Jim Cummings, Partner – Shumaker (email)
John Franz, Partner – Shumaker (email)

Mayor Petruccione – Village of Yorkville (usps)
Trustee Leone – Village of Yorkville (usps)
Trustee Spellman – Village of Yorkville (usps)
John Dillon - Village Attorney (usps)
Joe Bayer, Partner – Shumaker (email)
Vernon Myers, Partner – Shumaker (email)



ZANGRILLI ENGINEERING

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February 12, 2001

Town of Whitestown
Planning Board
8 Park Avenue
Whitesboro, New York 13492

Attention: Karl Schrantz,
Acting Chairman

Re: Holy Trinity Cemetery
Whitestown, New York

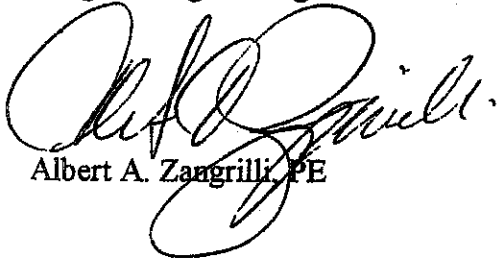
Dear Mr. Schrantz:

The Village of Yorkville, representatives from Holy Trinity Cemetery and I met to discuss changes to the outlet of the proposed detention basin at the cemetery. Holy Trinity Cemetery has agreed to constrict the outlet from the detention basin to an equivalent of a 6 inch diameter pipe. This will be done by installing a reducing fitting at the inlet end of the discharge pipe. They have also agreed to limit the discharge rate from a 25 year storm to approximately 0.5 cfs. I have enclosed copies of information provided by Grever & Ward, Inc. with regard to these changes. These changes are acceptable to the Village of Yorkville. With these changes, the Village of Yorkville will allow the connection of the discharge pipe to their storm sewer system.

Should you have any questions or comments concerning this matter, please contact me.

Very truly yours,

Zangrilli Engineering

A handwritten signature in black ink, appearing to read "Albert A. Zangrilli". The signature is fluid and cursive, with a large initial "A" and "Z".

Albert A. Zangrilli, PE

cc: Michael Mahoney, Mayor
Carl Graziadei, Village Attorney
Mark Lazaroski
Gregory A. Hamlin



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April 7, 2005

Robert W. Ross, PE
198 Thompson Street
Halifax, Ma 02338

Re: Holy Trinity Cemetery

Dear Mr. Ross:

In regard to the information you requested concerning the Holy Trinity Cemetery expansion, I offer the following.

1. The Village of Yorkville restriction on the 25 year storm discharge rate of 0.5 CFS was never changed.
2. The Village does not have a topographic map of Douglas Avenue.
3. The Village has never received a response to my June 13, 2002 letter concerning incomplete grading.
4. The Village has never received a response to my October 22, 2004 letter concerning the missing reducer, incomplete grading and schedule for completion.

If you need any further assistance with this problem, please contact me.

Very truly yours,

Zangrilli Engineering

Albert A. Zangrilli, PE

cc: Village of Yorkville

TABLE 1
FULL BUILD-OUT SCENARIO⁽¹⁾
(ALL SITE RUN-OFF COLLECTED AND DETAINED)

Storm Frequency	Run-off Toward Douglas Avenue Prior to Project (cfs)	Stormwater Basin Outlet with Reducer (cfs)	Flow through Emergency Spillway (cfs)⁽²⁾	Peak Elevation in Basin (Ft.)
2	4.67	1.19	0.00	504.24
10	21.53	1.59	0.00	507.33
25	33.29	1.75	0.00	508.75
50	38.69	1.81	0.00	509.35
100	50.04	1.92	0.00	510.51
		Pipe Capacity at Douglas Avenue is 4.6 cfs		

Notes:

- (1) Calculations based on site characteristic data as submitted by Grever & Ward, Inc.
(2) 0.00 cfs indicates that the emergency spillway is not receiving flow from the stormwater basin.

TABLE 2
CURRENT CONDITION SCENARIO (STORMWATER BASIN + BYPASS)⁽¹⁾

Storm Frequency	Bypass Flow (cfs)	Outlet from Basin (cfs)	Total Outflow from Site (cfs)⁽²⁾	12-inch Village Pipe Capacity (cfs)
2	0.32	1.19	1.43	4.6
10	2.45	1.56	3.74	4.6
25	4.06	1.70	5.42	4.6
50	4.82	1.75	6.19	4.6
100	6.42	1.86	7.81	4.6

Notes:

- (1) Current build-out based on existing site conditions based on SCE observations on June 11, 2008.
(2) Total outflow from site is bypass flow combined with outlet from basin routed through the grassed swale and measured at catch basin "C".

As noted in the tables above, both scenarios indicate that run-off from the modeled storm events that enters the stormwater management basin is contained within the stormwater management basin without over topping through the spillway. This condition was required by the Village of Yorkville in its letter from the Village Engineer dated January 11, 2001.