

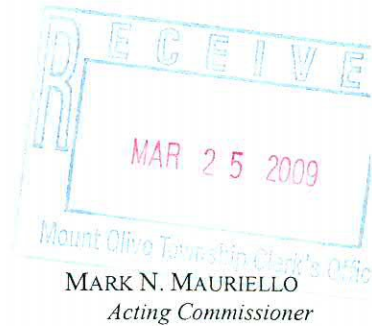


## State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Watershed Management  
Bureau of Watershed Regulation  
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JON S. CORZINE  
Governor



cc: Admin  
G. Buczynski

Date:

Larry I. Kron, Esq.  
Nusbaum, Stein, Goldstein, Bronstein & Kron  
Counsellors at Law  
20 Commerce Boulevard  
Succasunna, New Jersey 07876

MAR 20 2009

Re: George Blasko, Preliminary and Final Site Plan  
Block: 8301, Lot(s): 11 & 12  
Mount Olive Township, Morris County  
Program Interest No.: 435434  
Activity No.: CSD070002

Dear Mr. Kron:

This is in response to your letter of February 9, 2009 regarding the subject project. On January 22, 2009, the New Jersey Department of Environmental Protection (Department) issued a determination letter for the above referenced project based on a review to determine the applicability of the New Jersey Highlands Water Protection and Planning Act (Highlands Act, N.J.S.A. 13:20) as well as the requirements defined in the Statewide Water Quality Management Planning (WQMP) Rules at N.J.A.C. 7:15. That review determined the proposed project to be *Not-Exempt/Consistent*. The *Not-Exempt* determination was based on the Department's conclusion that the buried pool and partial patio area, which were present at the land surface in 1986, do not meet the criteria for exemption #4 ["Reconstruction for any reason of any building or structure within 125 percent of the footprint of the **lawfully existing impervious surfaces** on the site on August 10, 2004, provided that the reconstruction or development does not increase the lawfully existing impervious surface by one-quarter acre or more." (N.J.A.C. 7:38-2.3(a)4.)]

Attached to your letter was correspondence from Catherine Natafalusy, the Planning Administrator of the Township of Mount Olive, that states that she conducted a site inspection of the subject property and found the in-ground pool which had been filled and covered with dirt had been exposed. Photographs were also included of the exposed areas in question. In your letter, you requested that the determination be reconsidered and the exemption be granted.

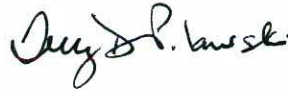
As defined in the New Jersey Highlands Water Protection and Planning Act Rules at N.J.A.C. 7:38-1.4, "Impervious surface means any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements."

Please be advised that since the pool and partial patio area were buried below the ground surface prior to the date of enactment of the Highlands Act, they were considered abandoned and not functional and, therefore, would not be considered impervious surface that "lawfully existed" on August 10, 2004. [Note: The exact date the pool and partial patio area were buried is unknown, but it was prior to 2002, as these structures do not appear on the surface in the aerial photography from 2002.] Thus, the Department's January 22, 2009 determination stands.

Further, let it be noted that the recent activity undertaken (exposure of the in-ground swimming pool and surrounding concrete patio area) was "disturbance" under the Highlands Act. Be advised that any activity undertaken on this property needs to be in compliance with the Highlands Act.

Please place the program interest number and the activity number found above at the top of all written correspondence submitted to the Department. If you have any questions or require further assistance, please call Jennifer Desmond at (609) 984-6888.

Sincerely,



Terry Pilawski, Chief  
Bureau of Watershed Regulation

c: George Blasko  
James Glasson, P.E., Civil Engineering, Inc.  
Lisa M. Lashway, Mount Olive Township Clerk  
Russell Brown, Mount Olive Township Construction Official  
Mount Olive Township Planning Board  
Mount Olive Township Environmental Commission  
Morris County Planning Board  
Morris County Environmental Commission  
Christine Ross, NJ Highlands Council  
Barbara Baus, NJDEP, Bureau of Coastal & Land Use Compliance & Enforcement  
Armand Perez, NJDEP, Bureau of Coastal & Land Use Compliance & Enforcement  
Diane Dow, NJDEP, Bureau of Inland Regulation  
Barry Miller, NJDEP, Bureau of Watershed Regulation  
Jennifer Desmond, NJDEP, Bureau of Watershed Regulation  
Abigail Amutah, NJDEP, Bureau of Watershed Regulation  
Bureau of Watershed Regulation – File