



Memorandum

To: Village of Wesley Hills Planning Board

From: Jonathan T. Lockman, AICP

Re: IJJ, LLC, dba Ira Wickes, Arborist, 11 McNamara Road
SBL# 42.14-1-22

Date: January 11, 2024

cc: Matthew Trainor, P.E., Village Engineer
Frank Brown, Esq., Planning Board Attorney
Alicia Schultz, Deputy Village Clerk
John Layne, Building Inspector
Ira Emanuel, Esq., for the Applicant
Rachel Barese, P.E., for the Applicant

Received and reviewed for this memorandum:

- Responses to GML Review, Letter from Ira Emanuel, Esq., Emanuel Law P.C., to Planning Board, Application for Site Plan/Special Permit, for IJJ LLC, dated January 3, 2024.
- Responses to Brooker and NPV memoranda, Village of New Hempstead/John Lange, Wesley Hills Fire Inspector, RC Sewer District #1, RC Center for Environmental Health, and RC Highway Dept.; from CivilTec Engineering + Surveying, dated January 3, 2024.
- Site Plan Set, 7 Sheets, for Ira Wickes Arborists, stamped by Rachel Barese, P.E., Civil Tec Engineering and Surveying PC, dated December 7, 2022, with latest revision date of January 3, 2024, as follows:
 - 1, Site Plan
 - 2, Existing Condition Plan
 - 3, Grading, Drainage & Utilities Plan
 - 4, Landscaping & Erosion Control Plan
 - 5, 6, Details
 - 7, Lighting Plan (by Visual, dated October 11, 2023)

Project Summary

The subject application is for a site plan approval and special permit for an existing Arborist operation. The Village of Wesley Hills Planning Board approved a site plan and special permit in May of 2010. However, the project was subject to a legal challenge. The SC Appellate division, 2nd Department annulled the approvals on November 24, 2021. The Court annulled the approvals because of the lack of a practical access to a second major road, and impervious surfaces in excess of 0.25 (25%). The applicant's attorney has provided a comprehensive history of the case in the Narrative Summary, should the Board wish to understand further details.

The 2.21-acre (gross) subject lot is located in the R-35 District at the southwest corner of McNamara Road (C.R. 67) and Union Road (C.R. 80). The applicant is proposing to continue to use the existing two-story concrete block commercial building as well as the two-story frame dwelling that already exists on the property. In response to the Court's first objection to the 2010 approvals, a new proposed feature is a grasscrete emergency gated fire access drive off Union Road. In response to the Court's second objection to the 2010 approvals, the applicant will apply for a ZBA variance for the excess impervious surfaces. (In its 2010 approvals, the Planning Board relied upon the interpretation that the excess impervious surface was a legally nonconforming preexisting condition for which a variance was not required – and the Court did not agree.)

Zoning Comments

1. A ZBA variance will be required for impervious surface ratio as proposed at 0.46.

Planning Comments

2. Regarding comment 2 of our previous memorandum dated May 22, 2023, **we have no problem with the gated emergency access drive connecting the east parking area to Union Road.** We believe this would satisfy the condition of the Court decision without any undue adverse impact to Union Road. The grasscrete installation will provide a lawn appearance and will not add impervious surfaces to the site. **A comment letter was received from the Fire Inspector dated July 10, 2023, and the latest design on sheet 1 of the site plan set indicates it will be 26 feet in width as requested.**
3. Regarding comment 3 of our previous memorandum, we appreciate the gravel removal west of the main driveway and restoration of the stream bank with the installation of the "proposed landscape berm." As requested, the height and plant materials proposed for this berm feature are now indicated on the landscaping plan (sheet 4), and our comment has been resolved.
4. Regarding comment 4 of our previous memorandum, the tree removals required for the construction of the proposed rain garden are now shown, and our comment has been resolved.
5. Regarding comment 5 of our previous memorandum, the proposed removal of five trees to make way for two overnight truck parking spaces, remains on the plans, as requested by the Planning Board. Our comment has been resolved.

GML/SEQRA Comments

6. GML review of the project by the Rockland County Planning Department was required as the site fronts on two County roads. The project application was also circulated to the Village of New Hempstead for their review and comments per GML 239-nn.

A GML review letter was received, dated July 24, 2023. The applicant's attorney has provided responses to comments in a letter dated January 3, 2024. **The applicant has not requested the Planning Board to override any of the GML comments.**

A comment letter from the Village of New Hempstead was received, dated August 1, 2023, prepared by Village Planner John Lange. The applicant's engineer has provided responses to

comments in a letter dated January 3, 2024. **New Hempstead's comments have been addressed, except for the requested traffic study and percolation tests, which have not yet been conducted.**

7. Before the previous approval of this project, by resolution 10-16, the Planning Board granted a negative declaration of environmental significance for this unlisted action. At the last Planning Board meeting where this matter was discussed on July 26, 2023, the applicant promised an EAF Part III submittal reviewing the previous neg dec and its supporting background documents and updating any of the supporting documentation that needed new, refreshed information to reflect any changed conditions since 2016. The applicant indicated that a new traffic study will be undertaken, in response to comments from New Hempstead (see comment 6 above). **Please submit a part III SEQRA document as discussed.**

Please let me know if you have any questions or comments regarding this review.

Items Submitted on or about July 21, 2023

- Responses to RC Highway Dept., from Rhonda Smith, CivilTec Engineering + Surveying, dated July 13, 2023.
- Letter from Elizabeth Mello, P.E., Rockland County Center for Environmental Health, dated July 17, 2023.
- Site Plan Set (identical to those submitted in May 2023), 5 Sheets, for Ira Wickes Arborists, stamped by Rachel Barese, P.E., Civil Tec Engineering and Surveying PC, dated December 7, 2022, as follows:
 - 1, Site Plan
 - 2, Existing Condition Plan
 - 3, Grading, Drainage & Utilities Plan
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 - 5, Details

Items Reviewed for our Previous Memorandum, dated May 22, 2023

- Application for Site Plan/Special Permit, for IJJ LLC, dated March 20, 2023.
- Narrative Summary, re: Rockland Tree Expert Co., Inc., by Ira Emanuel, Esq., Emanuel Law P.C., dated March 16, 2023.
- Water Quality Assessment, by Environmental Management Ltd., and Geovation Engineering, P.C., dated March 30, 2007.
- Document entitled "Copy of Best Management Plan for preparation and storage of plant health materials, Exhibit 4," with transmittal letter, submitted by James Wickes, dated August 3, 2006 (contains NYSDEC Publication DSHM-PES-05-03 Pesticide Storage Guidelines, with latest revisions August 11, 2005).
- Resolutions 10-16 Negative Declaration, 10-17 Special Permit, and 10-18 Site Plan, of the Planning Board of the Village of Wesley Hills
- Stipulation of Settlement, Justice Court, Village of Wesley Hills, in re: "People of the State of New York v. Ira Wickes Arborist/Ira F. Wickes Jr. and Esther Wickes, signed September 8, 2004.

- Supreme Court of the State of New York, Appellate Division: Second Judicial Department, In the Matter of Neil Marcus, appellant v. Planning Board of the Village of Wesley Hills, et al., Decision and Order, dated November 24, 2021.
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