



74 Lafayette Avenue, Suite 501, Suffern, NY 10901
Tel: 845.357.4411

September 30, 2024

Village of Wesley Hills
432 Route 306
Wesley Hills, New York 10952

Attn: Village of Wesley Hills Village Board

Re: 91 Spook Rock Road
Review of Escrow Release Request

Dear Honorable Mayor & Village Board of Trustees,

The Village of Wesley Hills Building Department has requested that our office review the status and potential release of escrow currently withheld by the Village with respect to the property located at #91 Spook Rock Road, a lot previously approved as Lot 2 as designated on the approved 'Hurwitz Subdivision'. The previously approved dwelling has been constructed on Lot 2 and our office is in the process of reviewing as-built surveys and documentation to determine substantial compliance with the approved plans and field changes. Escrow was posted in December 2023 for the amount of \$37,000 by the developer Zahav Group, Inc for a Temporary Certificate of Occupancy. The escrow amount was generally based on Brooker Engineering's 'Revised As-built Review (x2)' dated December 11, 2023, in which our office recommended a certain escrow amount to be posted if the Building Department was prepared to issue a Temporary Certificate of Occupancy at that time. The two most notable outstanding issues included relocation of the installed driveway and implementation of the plantings as approved by the Planning Board.

It is our understanding that the developer, Zahav Group, Inc., has sold the property and it is currently under new ownership. Our office believes that the responsibility of obligations should have been transferred by the developer to the new property owner at the time of the sale; however, we are not aware of the details of the sale and are under the assumption that this did not occur. It appears that the new property owner has elected to complete the outstanding items outlined in our previous letter dated December 11, 2023, without the original developer (Zahav Group, Inc.) who has posted the escrow. It shall be noted that the filed Escrow Agreement specified that a portion of the escrow posted (\$14,500) be held for completion of all such work except for implementation of a revised landscaping plan to be approved by the Planning Board of the Village of Wesley Hills and the remaining portion (\$22,500) be held with respect to implementation of the revised landscaping plan.

Our office has recently received a revised as-built survey titled 'Update for 91 Spook Rock Road' prepared by Anthony R. Celentano PLS last revised September 24, 2024. A site visit was most recently performed on September 30, 2024. Our office provides the following recommendations based upon Section 1a and 1b of the full Escrow Agreement, a copy of the full executed Escrow Agreement is attached for reference:

Section 1a of the Escrow Agreement - \$14,500:

As the current relationship between the current property owner and the developer is unclear, our office requests that the Village Attorney opine regarding the appropriate procedure to ensure completion of the remainder of the work except for implementation of landscaping plan. Part of the work to be completed included relocation of the driveway stem leading from Spook Rock Road to Lot 2. It should be noted that Lot 1 of the subdivision received a variance on April 17, 2024, at the Village of Zoning Board of Appeals meeting, subject to conditions, to permit a impervious surface ratio of 0.29. A portion of the Lot 1 driveway was proposed to be removed as part of the approved subdivision plans, but not completed at the request of the Lot 1 property owner.

Our office performed a general review of the revised as-built survey dated September 24, 2024, and it appears that the driveway was not relocated but rather enlarged resulting in the need for a new variance for impervious surface ratio (currently provided: 0.25, allowed: 0.20). As the time to complete the work as noted in the agreement has lapsed and it is believed that ownership of the property has transferred, it is unclear if the Village maintains the ability to utilize the funds to complete the work as noted in Section 2 of the agreement considering this agreement is with Zahav Group, Inc. and not the current property owner. Our office requests that the Village Attorney opine with respect to the obligation of responsibility and validity of current Escrow Agreement with Zahav Group, Inc. Please note that the as-built survey has not been reviewed in detail at this time; however, due to the outstanding issues involving the driveway, **our office believes that a portion of the escrow in the amount of \$14,500 should be withheld by the Village at this time.**

Section 1b of the Escrow Agreement - \$22,500:

As part of the Escrow Agreement (Section 1b), the sum of \$22,500 would be returned to Zahav Group, Inc. upon completion of implementation of a revised landscaping plan to be approved by the Planning Board of the Village of Wesley Hills. At the March 27, 2024, Planning Board meeting, Resolution #24-4 (attached for your reference) was approved resolving that the 'aforementioned plat for the Hurwitz Subdivision is hereby revised to delete Note 32' and further resolved 'that the currently existing plantings on Lot 2 of the Hurwitz Subdivision are hereby accepted as representing satisfactory implementation of the Planting & Erosion Control Plan associated with the said subdivision'. As per the Planning Board Resolution, compliance with the approved planting plan is no longer required prior to issuance of Certificate of Occupancy. At the time of our site visit, it is our opinion that the current existing plantings provides sufficient screening to the neighboring properties. **Therefore, our office recommends the release of a portion of the escrow in the amount of \$22,500 to Zahav Group, Inc. at this time.**

As noted above, a detailed review of the revised as-built recently submitted has not been completed at this time and a review letter for the property will be submitted to the Building Department under separate cover at a future date. **This letter of recommendation is subject to Village Attorney review and concurrence.**

Sincerely,

Devon Palmieri

WESTON & SAMPSON, PE, LS, LA, Architects, PC
Devon Palmieri, EIT
Engineer III

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ESCROW AGREEMENT

In consideration of the issuance by the Village of Wesley Hills of a certificate of occupancy for the dwelling located at 91 Spook Rock Road in the Village of Wesley Hills (identified on the Town of Ramapo Tax Map as Section 40.16, Block 1, Lot 10.22) before the completion of all construction items, Zahav Group, Inc. does hereby deposit with the Village of Wesley Hills the sum of \$37,000.00, which funds shall be held in escrow by the Village of Wesley Hills upon the following conditions:

1. In the event that such unfinished construction items, as set forth in the attached letter of Brooker Engineering dated December 11, 2023, including, without limitation, (a) driveway relocation work, (b) implementation of a revised landscaping plan to be approved by the Planning Board of the Village of Wesley Hills, (c) additional landscaping work set forth in said letter of Brooker Engineering, and (d) final as-built drawing, are completed to the satisfaction of Brooker Engineering no later than May 30, 2024, the said sum shall be returned to Zahav Group, Inc. as follows:

a. Upon completion of all such work except for implementation of a revised landscaping plan to be approved by the Planning Board of the Village of Wesley Hills, together with confirmation in writing from Brooker Engineering that such work has been performed to its satisfaction, the sum of \$14,500.00 shall be returned to Zahav Group, Inc.

b. Upon completion of implementation of a revised landscaping plan to be approved by the Planning Board of the Village of Wesley Hills, together with confirmation in writing from Brooker Engineering that such work has been performed to its satisfaction, the sum of \$22,500.00 shall be returned to Zahav Group, Inc.

2. In the event such items are not completed to the satisfaction of Brooker Engineering within such time, the Village of Wesley Hills is hereby authorized to arrange for the performance of such work by a contractor or contractors of its choice. In such event, the expense of such work shall be paid out of the escrow funds, and, in addition, the Village shall be entitled to pay to itself out of the escrow funds, separately for each of item a and item b set forth in Paragraph 1 hereinabove which remains incomplete, the sum of \$1,000.00 plus 10% of such actual construction expenses to defray the expenses of the Village

relating to causing such construction work to be performed. Any balance of such escrow funds remaining after payment for all such work required shall be returned to Zahav Group, Inc.

3. In the event that the deposited sum of \$37,000.00 is insufficient to pay the cost of the aforesaid work and related administrative expenses of the Village of Wesley Hills as set forth hereinabove, then Zahav Group, Inc. will remit to the Village of Wesley Hills an additional amount that shall be calculated to be the difference between the Village's costs and expenses and \$37,000.00.

4. Zahav Group, Inc. does hereby agree to apply to the Planning Board of the Village of Wesley Hills forthwith for approval of a revision to the landscaping plan incorporated into the approval of the subdivision map titled "Subdivision Plat for Hurwitz", which was approved by the Planning Board of the Village of Wesley Hills by Resolution # 18-7. Such application shall include a proposed revised landscaping plan. Zahav Group, Inc. agrees to appear before the Planning Board at its next meeting on January 3, 2024 in furtherance of such application, to pay all required application and appearance fees therefor, and to be bound by the decision of the Planning Board to be rendered upon its application.

5. Zahav Group, Inc. does hereby agree to hold the Village of Wesley Hills harmless for any damages sustained as a result of any activities authorized by this Agreement and hereby agrees that it shall have no recourse against the Village of Wesley Hills for any claims whatsoever arising out of this Agreement, including the selection of contractors by the Village.

6. In the event that any funds are to be returned to Zahav Group, Inc. at any time pursuant to this Agreement, the Village of Wesley Hills is authorized to withhold from said funds the amount of \$250.00 as to each such remittance as an administrative fee together with any funds owed to the Village of Wesley Hills for professional fees rendered by the Village's engineering consultant or the Village Attorney in connection with this project. In the event that the funds to be remitted are insufficient to cover the funds owed to the Village for such administrative fee and professional fees, the additional amount owed by Zahav Group, Inc. shall be paid to the Village forthwith.

7. In the event that Zahav Group, Inc. fails to pay any additional amounts that may be owed to the Village of Wesley Hills pursuant to the provisions of this Agreement, Kamran Amona agrees to be personally responsible for the payment of such amounts.

The undersigned, by signing this Escrow Agreement, confirms

the consent of Zahav Group, Inc. and Kamran Amona individually to the terms set forth herein.

Dated: Wesley Hills, New York

December , 2023

Zahav Group, Inc.

By: 
KAMRAN AMONA, President

STATE OF NEW YORK)
COUNTY OF ROCKLAND) ss:

On the 29th day of December in the year 2023 before me, the undersigned, a Notary Public in and for said State, personally appeared KAMRAN AMONA, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

CAMILLE GUIDO-DOWNEY
NOTARY PUBLIC STATE OF NEW YORK
RESIDING IN ROCKLAND COUNTY
NO. 01GU6337245
MY COMMISSION EXPIRES 02/22/2024



ZAHAV GROUP INC.
2 Powderhorn Dr.
Suffern, NY 10901

5226

1-725/2260

Dec 29-2013
Date

Pay to the
Order of

Village of West Hill
thirty seven thousand

\$ 37,000⁰⁰/₁₀₀

Dollars

Photo
Safe
Deposit
Outlets on Back

North East Community Bank

For E. S. Sauer

[Signature]

MP

⑆ 226072511⑆ 005 0431089⑈ 5226

RECEIVED

DEC 11 2023

December 11, 2023

Village of Wesley Hills
432 Route 306
Wesley Hills, New York 10952

VILLAGE OF WESLEY HILLS



BROOKER ENGINEERING

a division of Weston & Sampson

74 Lafayette Avenue, Suite 501, Suffern, NY 10901
Tel: 845.357.4411

Attn: Alicia Schultz, Building Department

Re: 91 Spook Rock Road
Revised As-built Review (x2)

Dear Ms. Schultz,

Our office has reviewed the "Final Survey for 91 Spook Rock Rd.", prepared by Anthony Celentano, P.L.S. last revised November 8, 2023 and additional documentation provided by the Applicant. A site visit was last performed on November 27, 2023. At this time, we do not recommend the issuance of a Certificate of Occupancy. We offer the following comments:

1. Front yard, side yard, and rear yard to be designated as they were in the approved Plot Plan. As-built survey to designate the same yards as approved. Front yard, side yard, and total side yard to be reviewed and corrected in the Bulk Table.
2. Our approximate calculations indicate a greater area for the macadam driveway within the front yard. Front yard impervious ratio and maximum impervious surface calculations to be revised/confirmed to include the macadam driveway/front yard area as it was for the approved Plot Plans. A variance may now be required.
3. The macadam drive shown on the survey appears to encroach the property to the north, Tax Lot #40.16-1-10.21. Approved subdivision plans also included partial removal of pavement on Lot#1. It is noted that a letter from the neighboring property has been provided indicating that they agree to have a portion of the driveway for the subject property remain on their property. However, the driveway has been constructed differently than that of which is shown on the approved "Subdivision Plat for Hurwitz". Our office believes that the driveway should be reconstructed as it was proposed, or the project return to the Planning Board to record any necessary easements for the driveway encroachment. Our office defers to the Village Attorney regarding the appropriate course of action.
4. As requested in our final approval letter dated November 22nd, 2021:
 - a. All the plantings shown on the Planting and Erosion Control Plan from the approved planting plan for "Subdivision Plat for Hurwitz" shall be installed. Our site visit noted insufficient landscaping in regards to quantity, species, and sizes.

It appears that there has been disturbance beyond the approved clearing limit line near the northwest corner of the property. It appears that approximately twelve (12) trees that were proposed to remain appear to have been removed. The Applicant has indicated that the trees removed were dead prior to construction and other trees on the property (originally proposed to be removed) were protected due to field changes. Our office recommends an as-built tree survey be provided once the final landscaping and planting are implemented to determine if sufficient screening is provided to neighboring properties. A reappearance before the Planning Board may be necessary for revised plans and consideration for additional landscaping. Our office defers to the Village regarding the appropriate course of action.

5. As-built survey to be updated to reflect only installed drainage items. The survey appears to have carry-over from the proposed footing/basement drainpipe location and inverts.
6. Earthen berm to be installed with positive conveyance of runoff from the installed driveway to the drywell. As-built survey to be updated with installed location of berm and additional/updated topography to demonstrate positive conveyance and as-built conditions once installed.
7. Please note that Certificate of Approvals for individual sewage disposal systems for Tax Lot #40.16-1-10.21 and Tax Lot #40.16-1-10.22 prepared by Rockland County Department of Health dated November

2, 2023 have been provided to our office; however, signed copies of the original were not included. Please provide signed copies of the original document for our records.

8. Final landscaping including topsoil, seeding and fine grading to be completed. The drywell grate plug is to remain and all erosion control measures to remain/be installed and maintained until final landscaping is completed.
9. Silt fence has been installed immediately along the downslope perimeter of the site. Silt fence to be maintained until final stabilization is achieved.
10. Please note that a Certificate of Compliance for Water Well Permit WW-21-049 prepared by Jeremy Erlich of Rockland County Department of Health dated November 7, 2023 has been provided to our office.
11. Please note that a drainage certification letter prepared by Anthony Celentano, P.E., dated November 8, 2023 has been provided to our office.

Should the Applicant wish to seek a modification to the driveway, they should do so as soon as possible with applications to the appropriate Board (Item #1 noted below). Should the Building Department be prepared to issue a Temporary Certificate of Occupancy at this time, we recommend that the applicant first be required to post the following escrow:

1. Macadam Driveway Relocation or Planning Board Approval	\$5,000
2. Plantings as per Approved Subdivision Planting Plan or Planning Board Approval	\$15,500
3. Final landscaping, including topsoil, seeding, fine grading. Installation of earthen berm along south of property.	\$5,500
4. Revised As-built Survey	<u>\$4,000</u>
Total	\$30,000

We recommend that the weather dependent work (Item #2 & 3 noted above) be completed by May 30, 2023. Once the work is completed, applicable documentation provided, and revised as-built is submitted, our office will verify compliance.

Sincerely,

Devon Palmieri

WESTON & SAMPSON, PE, LS, LA, Architects, PC
 Devon Palmieri, EIT
 Engineer III

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