



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: June 25, 2024

cc: Glenn McCreedy, P.E., Village Engineer
Bruce Minsky, 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:

- EAF Part III Supplement, for Rockland Tree Expert Co., Inc., d/b/a Ira Wickes/Arborist, signed by Ira M. Emanuel, Esq., Emanuel Law P.C., dated June 20, 2024.
- FEAF Part III Exhibit 11, Traffic Impact Information: review of RC Highway Department data and traffic study conducted for Yeshiva Darchei Noam, prepared by Frederick P. Clark Associates, Inc., dated January 2003.
- Wickes Arborist Traffic Impact Study, prepared by Harry Baker & Associates, dated February 12, 2024.
- Water Testing Report, #YST82D, for Jim Wickes, collected May 13, 2024, by Simplelab, dated May 21, 2024.
- Certificate of Analysis, for YST82D, Tap Score Report, for Jim Wickes, dated June 19, 2024.
- Planning Board Traffic Engineering Consultant's Report, from Richard D'Andrea PE, Colliers Engineering, to Planning Board, dated June 10, 2024.

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. **The ZBA cannot act until the Planning Board concludes its SEQRA review.**

Planning Comments

2. Comments 2 through 5 of our previous memorandum, dated January 11, 2024, have been resolved.

GML/SEQRA Comments

3. 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 with the submission of a revised traffic study and water testing results.**

4. 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. As requested by the Planning Board at its meeting held on July 26, 2023, the applicant has provided an EAF Part III, with updated water testing and a new traffic impact study. The new traffic study dated February 12, 2024, was reviewed by a traffic engineering consultant retained by the Wesley Hills Planning Board, **Richard D'Andrea, PE., of Colliers Engineering. His summary conclusion in his review letter dated June 10, 2024, states:**

Based on our review of the Project, the addition of six (6) additional employees along with the addition of the gated emergency access driveway will not result in any significant traffic-related impacts in the vicinity of the site. The six (6) additional employees will not result in a significant change in the operations of the long-standing Wickes Arborists use. The above comments should be addressed to clarify the analysis and other items; however, the resulting changes will not significantly change the analysis results and conclusions of the report.

The Planning Board should ask the applicant's traffic consultant, Mr. Baker, to address Mr. D'Andrea's request for additional information.

5. We will **defer to the Village Engineer's review of the water testing** results.
6. **The Planning Board should discuss whether the traffic information and water testing results, as submitted, will be sufficient to make a decision to amend its previous negative declaration for this project, or whether any additional information will be required.**

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
 - 4, Landscaping & Erosion Control Plan
 - 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.
- Site Plan Set, 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
- 4, Landscaping & Erosion Control Plan
- 5, Details

Items Reviewed for our Previous Memorandum, dated January 11, 2024

- 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)