



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: May 22, 2023

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:

- 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

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 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 existing 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 of 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.)

An aerial photograph of the site (from Google Maps, 2023) is shown below for reference.



Zoning Comments

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

Planning Comments

2. 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.
3. We appreciate the gravel removal west of the main driveway and restoration of the stream bank with the installation of the “proposed landscape berm.” Please provide details of the height and plant materials proposed for this berm feature as part of the landscape plan (which were not included on sheet 3).
4. We note that on sheet 3 a rain garden is proposed east of the main driveway. We note that on existing conditions sheet 4, about a dozen large trees (including one 24” and one 16”) are located within this rain garden area but are not shown as “to be removed.” Typically when a rain garden is constructed, and underdrain system must be installed, which would require the clearing of all existing vegetation. Please clarify what will happen to the large existing trees if a rain garden is installed in this area indicated.
5. We note that in the northeast area of the Arborist parking lot (closest to the existing dwelling), the removal of five trees (two are 14” diameter) is proposed, to make way for two overnight truck parking spaces. Could these not be placed on an already cleared and disturbed part of the site? Please provide additional information on the parking demand for the various types of vehicles proposed to be parked on the site. Are 29 automobile parking spaces needed? Are truck parking spaces needed? Please consider whether the gravel parking area expansion proposed, as compared to the existing gravel area, is necessary for the proposed operations. If proposed additional parking can be reduced, it will lessen the size of the ZBA variance need for the impervious surfaces ratio.

GML/SEQRA Comments

6. GML review of the project by the Rockland County Planning Department will be needed as the site fronts on two County roads. The project application must be circulated to the Village of New Hempstead for their review and comments per GML 239-nn.
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. We will defer to the opinion of the Planning Board Attorney regarding how re-affirming this Negative Declaration should be handled, given the Court’s holding in this case.

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