

Village of Wesley Hills
Planning Board – July 13, 2009
(Special Meeting)

The meeting was called to order by Marshall Katz, Chairman, at 7:35 p.m.

Present: Marshall Katz-Chairman, Don Isenberg, Uri Kirschner, Ester Ben-Dov-Shucht-First Alternate, William Fried-Second Alternate

Also Present: Ben Selig-Village Attorney, Liz Mello-Village Engineer, Michael Bontje-Village Consultant, Janice Golda-Deputy Village Clerk

Absent: Vera Brown-Deputy Chairman, Marvin Finker, Frank Brown-Deputy Village Attorney, Jeff Osterman-Village Planner

SPECIAL PERMIT AND SITE PLAN APPLICATION AND PUBLIC HEARING CONTINUATION OF ROCKLAND TREE EXPERTS CO. INC., D/B/A/ IRA WICKES FOR AN EXISTING ARBORIST SERVICE. Affecting property located on the south side of McNamara Road, -0- feet west from the intersection of Union Road. Known as Tax Parcel ID#42.13-1-22 on the Ramapo Tax Map.

Ira Emanuel, Esq. explained to the Board and the public the background on the studies conducted for air quality and vibration. Mr. Ed Potenta of Potenta Environmental Consultants was introduced to present report findings. Mr. Potenta explained that the technical methodology used to address the air quality and vibration issues were also reviewed in depth by the Village consultant B. Laing Associates prior to conducting the studies.

Mr. Potenta explained that the air quality and vibration studies were conducted with respect to operations on the site, i.e., truck activity associated with startups and return of truck vehicles (19) and idling. Mr. Potenta explained one other issue raised was about the low frequency sound that caused vibration, for example, in windows. Mr. Potenta said that for the air quality they looked at carbon monoxide and particulate levels, particularly the inhalable particulates (PM2.5). The methodology followed, which is a screening analysis, is sanctioned by the USEPA and the NYS Dept of Environmental Conservation. Mr. Potenta explained that a screening analysis makes numerous extremely conservative assumptions about-- emissions, meteorology, windspeed--factors that affect localized concentrations of pollution and with “worst case” assumptions can predict air quality levels adjacent to this facility. It was explained that the net result of the screening analysis is a very conservative group model and when concentrations of carbon monoxide and PM2.5 don’t exceed local air quality standards for these pollutants, one can be assured there is no impact from this project. A screening analysis is a first step approach and if there are violations to the standards, then a more detailed analysis is conducted.

Mr. Potenta stated that the Village consultant, B. Laing Associates, requested “worst case” scenarios included in the study. All reports were reviewed by B. Laing Associates. Also

included, except for the particulate PM2.5 analysis, were autos that could be parked on site, i.e, customer and employee parking lot. Mr. Potenta then proceeded to present the report data results. Mr. Potenta indicated that even though the 19 trucks have 2 shifts for departure, between 7 a.m. & 8 a.m. and between 8 a.m. & 9 a.m., as a worst case it was assumed all 19 trucks departing occurred during the same period. Mr. Potenta informed the Board that the emissions from 19 trucks are very low in comparison to the standard. The one-hour standard is 35 ppm for carbon monoxide and the 8-hour standard is 9 ppm and the report levels are well below the standard.

Mr. Potenta explained that the standard for PM2.5 is 35 micrograms per cubic meter over a 24-hour average. The report result for current operations was .11 and the worst case scenario had the same value indicating the effect is significantly lower than the standard.

Marshall Katz asked the Village consultant Michael Bontje of B. Laing Associates for feedback on the report presented so far. Mr. Bontje responded that his firm was asked to determine compliance or non-compliance to the Village's standards and explained the objective was to make the analysis as quantitative as possible in regard to air quality and vibration. Mr. Bontje explained that the emission standards used are set by the NYSDOT and are accepted by NYSDEC. Mr. Bontje confirmed that the data results came in significantly lower than the standard. Uri Kirschner asked Mr. Bontje if anything else should have been tested in the process. Mr. Bontje replied that carbon monoxide and PM2.5 are the dominant contributors from all the sources and the accepted methodology by the NYSDOT and NYSDEC and should these two pass, then the likelihood of failure on any others is extremely rare.

Mr. Potenta then reviewed the testing on dust emissions and odor control. He stated that there were no observable clouds of dust coming up from the vehicles maneuvering on the site. Mr. Potenta recommended the following maintenance measures to control dust: Spread gravel uniformly throughout the site, spray the ground under drought conditions, and maintain low travel speeds across site. With odor control, all consultants agreed to look at the exhaust from the vehicles and if there was compliance with the pollutant standards for carbon monoxide and PM2.5, there shouldn't be an issue for odor. Marshall Katz asked about the impact from working with mulch and Mr. Potenta responded the regulation does not apply to a process but rather the type of activity conducted on the site. Michael Bontje concurred. Mr. Emanuel, Esq., also responded that there will not be any mulching or chipping processes conducted on site, only storage capability in three-sided bins.

Mr. Potenta presented the vibration analysis. He explained that the measurements were taken at three points on the property lines, 1) nearest property line to the site activity, 2) property line near the closest residence to the truck activity, 3) an ambient level to capture the type of vibration levels and low frequency sound levels from local traffic on the road. A question was raised as to how long were the receptors stationed at each point. Mr. Potenta responded that they took a series of readings at each location each independent from the other. Mr. Potenta reported that vibration levels at locations 1 & 2 were well below the standards which included worst case scenarios. Uri Kirschner asked about the vibration on windows and Mr. Potenta explained that the sensation on a window is coming from non-regulated sound

created movement not ground born vibration. For location 3, the data showed how significant the levels could be if the vehicles were traveling very close to the property. Mr. Potenta summarized that based on the measurements, there is no vibration impacting the adjacent residences and any levels coming from activity on the site are well below standards and compliant with the local code.

Mr. Bontje explained that the analysis is as quantitative as possible, that the monitoring devices used are standard, and that the results are directly comparable to the Village standard. William Fried asked according to the chart (Figure 13) for location 3 (traffic from the road) why is there more vibration from cars versus the trucks on the site? Mr. Bontje responded that there is a bit more proximity to the measuring point and that the cars are moving which causes friction on the ground and subsequently more vibration. Trucks traveling on or off the site are going at a slower speed than cars traveling 20 to 30 m.p.h. on the road. Mr. Bontje confirmed that the quantitative vibration levels monitored are in compliance with the quantitative Village standards.

Marshall Katz opened the meeting to the public. Mrs. Rivka Schoor of 692 New Hempstead Road was concerned about the pollutants and runoff from the property into the groundwater and streams. Mr. Emanuel responded that the water quality was tested (EAF Part 3) and it was compared to the standards by the Rockland County Health Dept and the NYSDEC. Mr. Emanuel mentioned that per the water quality test, the water tested from the downstream well was cleaner than the water tested from the upstream well and that United Water confirmed that there was no infiltration from surface water into the well.

Neil Marcus of 32 McNamara Road in Spring Valley commented that anything which impacts on his quality of life that is not normally found in a residential area is a problem. Marshall Katz asked Mr. Marcus to be more specific. Mr. Marcus had questions about the identified uses that were being evaluated, the testing methodology and the conclusions reached from the test data. Mr. Marcus commented that tests can be shaped to achieve any type of results and questioned whether the tests accurately tested for conditions that are going to exist. Mr. Marcus asked Mr. Bontje if he was familiar with the history and specifics of this special permit. Mr. Bontje responded no.

Ben Selig, Village attorney, explained that B. Laing Associates was retained by the Village to review Potenta Environmental's methodology process and the findings/results. Mr. Selig explained to Mr. Marcus that any other topic(s) that are foreign to these objectives are not mundane to this analysis. Mr. Selig stated that all present are aware that there is pending litigation in the courts challenging the propriety of the ordinance passed by the Village Board under which this special permit is being applied for. Mr. Selig said that this issue is not presently before this Board. What is before this Board is whether or not the EAF conforms to the presently approved special permit law.

Mr. Marcus proceeded to ask Mr. Bontje what operating conditions were identified for testing. Mr. Bontje responded for air quality, fleet emission factors were used including factors for potentially heavier trucks. Mr. Marcus questioned the 3-minute idling time used for the test. Mr. Potenta explained that the state standard calls for no more than 3 minutes of

idling and Rockland County mirrors the state standard. Mr. Potenta explained that the truck idling factor was used for the vibration testing not the air quality testing. Mr. Bontje further explained that these types of vehicle emissions are tested and monitored by the USEPA yearly since the 1970's and they developed a set of emission factors for carbon monoxide and particulates for tail pipe emissions under various conditions which are compiled in a tabular form as the model. Mr. Bontje explained that this is the accepted methodology in the State of New York and the worst case assumption used in this study were trucks idling for one hour to increase the emission level which is approx. 20 times higher than the NYS idling standard.

Mr. Marcus asked Mr. Bontje if there were any on-site arborist activities not involving trucks factored in? Mr. Bontje responded the standard that can be measured is for vehicles. Mr. Marcus asked if there were any additional uses contemplated in the testing, i.e., vehicle maintenance, loading and/or discharging. Marshall Katz asked the applicant if they were fixing the vehicles on site and the applicant responded only maintenance such as check oil/fluids, adjust valves are done and the engine is off. Mr. Marcus asked if the transfer of materials from/to storage bins and vehicles was part of the testing since it is a permitted use and Mr. Bontje replied it is beyond the scope of this particular testing and that there are in the State of New York best management practices available to control dust and wind born erosion.

Mr. Marcus asked if conditions from additional on-site traffic from deliveries of fuel, chemicals, gravel and maintenance supplies were included in the air quality testing. Mr. Bontje responded that since these deliveries would more than likely not occur during the a.m.startup/p.m.return periods, thus additional traffic would be assumed and calculated under the worst case scenario condition for idling. Mr. Bontje was asked by the Board if the additional activities inherent on this site could contribute the same or a greater amount of potential pollutants than the worst case scenario that's been considered. Mr. Bontje responded no. Mr. Marcus' remaining questions on diesel emissions were answered by Mr. Bontje and Mr. Potenta.

Mr. Marcus inquired about ZBA decisions and its binding authority on this case and Mr. Selig responded that the ZBA determination is irrelevant to the proceedings before this Board at this time. Mr. Selig explained to Mr. Marcus that the only issue before the Planning Board is whether or not the applicant is entitled to a special permit pursuant to the stipulation of settlement and the special permit law that was passed.

Mr. Marcus proceeded with questions on public health, safety and welfare and Mr. Bontje answered all his questions. Mr. Selig summarized Mr. Bontje's findings to Mr. Marcus and explained that the methodology used by the applicant is proper and appropriate and the application of that methodology leads him (Mr. Bontje) to the conclusion that activity conducted on this site conforms to the currently existing and applicable standards set forth in the ordinance passed by this Village and in fact are well below them. Mr. Selig informed Mr. Marcus that if he feels that the methodology and testing is inappropriate, he is welcome to submit another report. Marshall Katz confirmed with Mr. Bontje that when carbon monoxide and PM2.5 fall below the standards, then as a rule other components would

generally be equal if there are standards for them. Mr. Marcus then read views published in scientific literature on diesel emissions and the public health.

Mr. Marcus asked Mr. Bontje if odors from transportation vehicles could be objectionable? Mr. Bontje responded that reception to odors is a very, very personal thing for people and dependent on individual sensitivities and is the reason why this testing was conducted as quantitatively as possible. Mr. Potenta commented that the neighbors surrounding the applicant's site live on local roadways and the volume of traffic from these roadways will generate more odors from vehicle exhausts than the 19 vehicles on site.

Marshall Katz explained that the odor resulting from how the mulch is stored, i.e., bins, on the site can be reviewed by the Board. should the containers not be satisfactory to protect the neighbors. Mr. Selig stated that part of the stipulation of the settlement on this case was that grinding or chipping of trees or tree parts or preparation of mulch or other materials from organic decomposition and storage of mulch, except in approved containers, is prohibited.

Mr. Marcus asked if proposed uses could be more objectionable to neighbors by reason of noise, traffic, odor, or vibration? Mr. Bontje responded that traffic, odor and vibration were already discussed and that the noise studies that were covered in the EAF Part 3 were in compliance to the Rockland County Sanitary Code voice standards. Mr. Marcus questioned why the full standard of operating trucks were not required during the noise testing as was the case with air quality and vibration? Mr. Emanuel responded that there is a letter in the EAF as part of Exhibit 7 dated December 17, 2007 which reported conformance to the RC Sanitary Code. Mr. Marcus' questions on operating conditions during the testing were responded to by Marshall Katz.

Janice Golda asked Mr. Marcus if he was going to submit his questions as a document for the record and he responded yes.

Mr. Marcus requested adjourning the public hearing for a couple of months so he can present expert witnesses to address the SEQR issues. Mr. Emanuel requested information on topics and reports that will be presented so there can be a review by all consultants prior to the meeting. Mr. Marcus responded that the presentation will be verbal only and the 3 subjects that will be covered are water, chemicals and health. Mr. Selig said after these expert presentations additional time would be granted to the applicant if needed for a response. Janice Golda asked Mr. Marcus to submit a general outline on the topics prior to the meeting.

Marshall Katz motioned to adjourn the public hearing until September 23, 2009.

William Fried seconded.

Vote: Marshall Katz-Yes, Don Isenberg-Yes, Uri Kirschner-Yes, Ester Ben-Dov-Shucht-Yes, William Fried-Yes

Motion Approved

Meeting adjourned 10:33 p.m.

