

Article VII Permitted Uses and Bulk Regulations

HEAD OF THE HARBOR
SEP 1 2026
RECEIVED *Mo Lu*

☐ § 165-23 Permitted uses for Districts A, A-1, B and B-1.

[Amended 2-9-1991 by L.L. No. 4-1991]

In these districts, no structure or premises shall be used and no structure or group of structures or part of a structure shall be erected, constructed, enlarged, altered, restored, converted or relocated or shall be designed to be used, in whole or in part, except for one of the principal or special uses and one or more of the accessory uses set forth below, except that agricultural pursuits and guesthouses may be included on the same premises as a one-family dwelling.

A. Permitted principal uses.

- (1) A one-family dwelling.
- (2) Village Hall, Village Court, Village Police Station and other Village uses.
- (3) Village park, wildlife preserve and natural park reservation.

B. Permitted special uses. The following uses are permitted subject to compliance with the requirements set forth in this § 165-23B and in §§ 165-35, 165-36, 165-37 and 165-38:

- (1) Churches and other places of religious worship located on adequate sites and with adequate provision for parking at times of maximum attendance or use of the premises, with landscaping and controls over lighting and signs as may be required so as to protect and not adversely affect adjoining properties and with means of ingress and egress which are properly related to the street system.

- (2) Nonprofit academic day or preparatory schools organized pursuant to the Education Law of the State of New York and chartered by the Board of Regents of the University of the State of New York, located on adequate sites and complying with the provisions of § 165-23B(1).

- (3) Agricultural pursuits, provided that:
[Amended 5-12-1990 by L.L. No. 3-1990]

- (a) No manure or odor- or dust-producing substance or use thereof shall be stored or permitted within 100 feet of any side or rear lot line or within 150 feet of any front lot line;

- (b) A fence is installed to prevent livestock or poultry from straying, of a design and appearance appropriate to the surrounding neighborhood, which is thereafter maintained in sound condition; and

- (c) The operations are confined to the farm under cultivation and are conducted in such manner as not to cause harm or annoyance to residents or adjacent properties.^[1]

[1] *Editor's Note: Original Section 410.24, which dealt with guesthouses and which immediately following this section, was repealed 5-12-1990 by L.L. No. 3-1990*

- (d) Except as otherwise allowed under New York Agriculture and Markets Law § 305-a(1) on premises within a county-adopted state-certified agriculture district, agricultural pursuits shall not include any use which causes or allows public assembly for purposes of attending a social event or an entertainment event, and, instead, agricultural pursuits shall be limited to the growing of crops, raising of livestock and sale of livestock products as defined in § 301 of the New York Agriculture and Markets Law.

[Added 5-21-2008 by L.L. No. 2-2008; amended 1-15-2014 by L.L. No. 2-2014]

- (4) Wholesale plant nursery, provided that:

[Added 10-18-2006 by L.L. No. 2-2006]

- (a) The minimum lot area is five acres;
 - (b) Any such use shall be located within the B Residential District and within 500 feet of New York State Highway 25A, which shall be the principal means of ingress and egress to and from the property;
 - (c) Retail sales are prohibited;
 - (d) Greenhouses, excepting temporary (with plastic removed annually no later than April 1, excepting unusual, adverse weather conditions, in which event any such plastic shall be removed by May 1) plastic over-wintering structures, are prohibited;
 - (e) Accessory uses such as landscaping services and the display of sample landscaping materials are permitted, provided the landscaping service shall be an integral component of and not independent of the nursery business, shall be owned and operated by the same person or persons as operating the nursery and shall employ no more than five persons on the site, exclusive of no more than three part-time employees on the site and exclusive of seasonal workers who are primarily located off site, and provided further that the display of landscaping materials (not plants) shall be limited in area to 5,000 square feet; and
 - (f) Any such use shall maintain a vegetated buffer of no less than 50 feet on all boundaries; however, if adjacent to the historical district of Route 25A, such use shall maintain a natural buffer of 200 feet and an historic buffer of 500 feet.
 - (g) Any regular use of chemical pesticides, fungicides, fertilizers, or other agricultural chemicals shall be subject to review and approval by the Environmental Review Board or its designee and the Joint Coastal Commission.
- (5) Wireless communications towers and antennas, subject to the following:
[Added 7-18-2007 by L.L. No. 5-2007]

- (a) Definitions. As used in this subsection, the following terms shall have the meanings set forth below:

ALTERNATIVE TOWER STRUCTURE

Any man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

ANTENNA

Any exterior transmitting or receiving device, including dish antenna, mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communications signals.

BACKHAUL NETWORK

The lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long-distance providers, or the public switched telephone network.

FAA

The Federal Aviation Administration.

FCC

The Federal Communications Commission.

NISSEQUOGUE FARM, LLC.

November 2023

STATEMENT OF OPERATION

The following is a statement of operations for your consideration regarding the application of Nissequogue Farm, LLC. (**Applicant**) for a special use permit to operate a wholesale plant nursery at 654 North Country Road pursuant to Section 165-23 B. (4) of the Head of the Harbor Village Code.

The property is owned by Ogden St. James Holding Company, LLC., (**St James Holding**). The Applicant operates a wholesale nursey business and Ogden's Design & Plantings, Inc. (**Ogden's Design**) provides landscaping service as an integral component of the nursey business. The hours of operation are 8 am to 6:00 pm, Monday through Saturday. Ms. Ogden is the owner and operator of all three entities.

History:

The property was acquired by **St. James Holding** in August of 2006 from the Kusick family who had, for many years, used the property in the course of their business as "Nurserymen & Landscape Contractors" as well as their place of residence. The **Applicant**, in conjunction with **Ogden's Design**, has continue to operate and use the property for similar purposes (the Ogden residence, the Applicant's wholesale nursery and the related/integral landscaping business) in a similar manner. It is the **Applicant's** intention to continue these uses, consistent with the requirements of the Village Code.

Nissequogue Farm, LLC:

The **Applicant** utilizes the property to grow and hold plants for wholesale use, display of sample landscapes materials and for the growing of hard to cultivate plants and specimen sized (larger than typically available) plants used by **Ogden's Design**.

Ogden's Design and Plantings, Inc.:

Ogden's Design is a licensed landscape design and installation company which provides landscape and hardscape installation and maintenance services. **Ogden's Design** utilizes the property to collect landscape materials from the Applicant for offsite delivery to **Ogden's Design's** customers. Additionally, Ogden's landscaping equipment and materials are stored on the property at discreet screened locations.

Site Plan:

A full proposed site plan has been submitted for Village review and comment. Without limitation, the plan locates current and proposed structures, provides for buffers, screening, and storage areas, and provides ingress and egress as well as internal pervious gravel driveway. The following information is, in many respects, a summary of the specifics illustrated in the site plan itself.

Land Use:

The property is used for the creative display of gardens, growing plants and storage of equipment and material necessary for the running of the nursery and landscaping company. The **Applicant** has used, and will continue to use, the property in a manner that allows it to highlight its abilities. In this regard the **Applicant** has integrated beautiful gardens throughout the nursery including the entrance and carefully camouflaged equipment and storage areas.

Plant and Landscape materials:

Some plant materials are in the ground, and some are in pots. Various plant materials are stored in temporary greenhouses, often referred to as hoop houses that are covered in plastic and removed annually within the months of April and May. Landscaping materials such as hardscape masonry products, gravel and mulch are dispersed within the center of the property in small and separate areas and total just under 3,000 sf of area where up to 5,000sf is permitted. These materials are not on display as there are no public retail sales. Some of the materials are used to support the Applicant's operations and some are utilized by Ogden's Design.

Vegetated Buffer:

The property is surrounded by natural trees, shrubs, and other plant species, providing a significant buffer on property boundaries. In conjunction with the planted and potted material arranged in natural but organized groupings, a near infinite buffer between the historical district of Route 25, boarding properties and any of the permitted operations exists now.

Property access:

The property is accessed by one ingress and egress curb cut on Route 25A that is 28'-0" wide at the property line. This curb cut has been approved by the New York State Department of Transportation.

Interior gravel driveway:

A pervious gravel drive loops through the interior of the site. Its layout within the vegetated buffer and interior of the site allows for screening of vehicles and persons from the property boundaries. The pervious drive offers screened positioning of vehicles and equipment that serve the Applicant and Ogden's Design.

Irrigation and Fertilizers:

The plantings are irrigated from an existing well. Water conservation is practiced by slow drip watering on the ground and overhead spray. Natural slow released fertilizers are used selectively for nursery stock and display gardens. There are no pesticides used in conjunction with the nursery or the landscaping businesses.

Storm water retention:

The soil type, grading, and bulk of planted specimen on the property reflects a well-drained and contained condition for storm water retention and the retention of water produced from irrigation practices. There is no visible run off to neighboring properties or roadways. There are several drain inlets and a storm water retention basin servicing the gravel driveway that have been working effectively for years.

Buildings, accessory structures, and sheds:

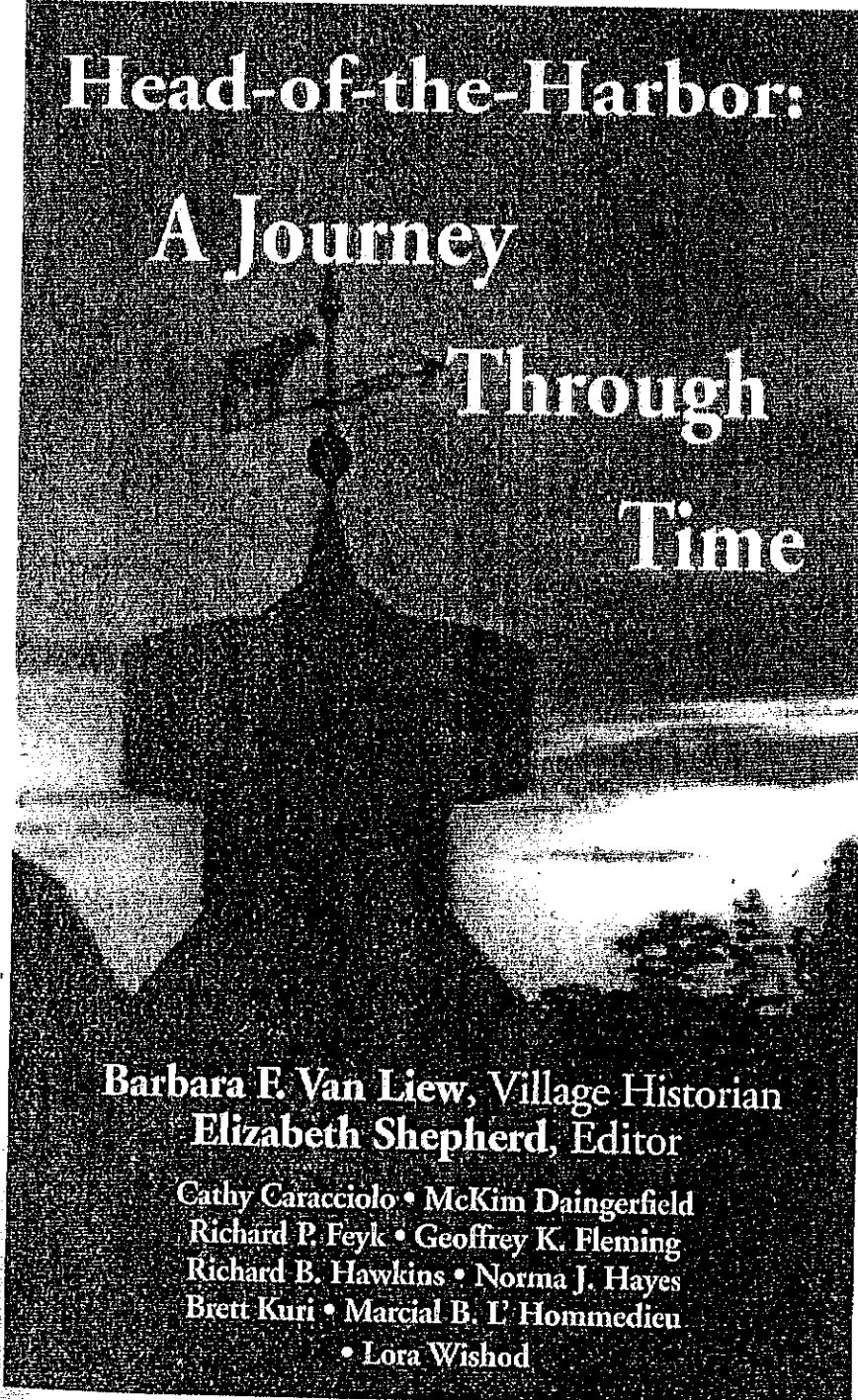
On lot 1 there is a 3,176 square foot two story barn frame house that has common living space on the first floor and sleeping space on the second floor for staff of Ogden's Design. There is a 465 square foot home office within the house on the ground floor that supports the Applicant's administrative and booking functions. On the same lot and in proximity is a 390 square foot accessory structure that houses tools and small equipment used by the Applicant and a 95 square foot framed shed.

On lot 2 there is a 95 square foot shed structure that houses irrigation supplies.

On lot 3 there is a 2,674 square foot ranch style house with an attached garage that is owned and occupied by Ms. Ogden. Vehicular access is by way of the gravel drive isle loop. The house utilizes a 99 square foot shed, vegetable garden and patio.

Site lighting:

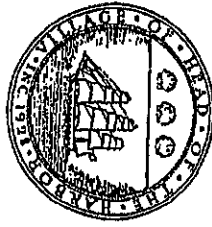
There is a minimal amount of site lighting around the structures found on the site that would be considered customary to residential properties.



Head-of-the-Harbor: A Journey Through Time

Barbara F. Van Liew, Village Historian
Elizabeth Shepherd, Editor

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Richard P. Feyk • Geoffrey K. Fleming
Richard B. Hawkins • Norma J. Hayes
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FRONT COVER: William ("Bunny") Lawson (1901-1950) contemplates his catch.
Richard Caracciolo has identified these as freshwater fish. J. L. Mallamo collection.
TITLE PAGE: Weathervane on Winthrop Taylor's barn at Deepwells Farm. Courtesy
Suffolk County Department of Parks.

Dedicated To

Miss Mildred Smith of Mills Pond House
First president of the Smithtown Historical Society
and
distinguished resident of Head-of-the-Harbor.

After selling off most of their land for development, the Wickses kept the remaining four and a half acres for their family homes and the greenhouses whose best crop was Halloween. The witch will stand until the farm is sold.

• Norma J. Hayes

Norman Keil Nurseries

If you buy a poinsettia at Christmas, the chances are it came from Norman Keil's Nurseries on Fifty Acre Road. Behind a peaceful landscape of seasonal plantings Keil presides over acres of greenhouses, with a fleet of trucks and other equipment poised for action. He employs from sixty to ninety people, depending on the season. However, his is a year-round wholesale nursery with four main crops sold to such retailers as Costco, King Kullen, and Shop & Shop, to garden centers, and public entities like the New York City Parks Department and the Port Authority.

Here in the village, as well as on twenty acres in Mattituck, Keil grows mainly annuals and bulbs. For Easter there are lilies and hydrangeas started in the cold of winter in his vast heated greenhouses. Spring annuals, such as impatiens and coleus, follow. In June come tulip and hyacinth bulbs for Christmas with poinsettias following a few weeks later. Huge fans keep the air circulating in the summer heat. Between crops, the greenhouses are sterilized with a disinfectant spray to prevent any horticultural problems. Chrysanthemums, ornamental cabbages, and various perennials are grown in Mattituck both in greenhouses and in open fields.

In 1925, his father, Otto Keil, began the family's first nursery in Huntington, which his brother Otto now runs. Norman came here in 1972 and hopes his son will follow in the business. They live next door where they can keep an eye on operations.

• Elizabeth Shepherd

Nissequogue Nursery

Next to the Mills Pond House on land once farmed by the Mills family is the five-acre organic nursery created by the Kusicks family: Joseph, Barbara, and their son Michael. Father and son began with a small hemlock nursery at their Nissequogue home. When the Mills property became available, they expanded operations, eventually moving there. With the old barn as a backdrop they came to focus more on perennials and organically grown vegetables than on shrubs



The old Mills family barn collapsed a day or so after barn historian Gregory Huber took these photographs. Gregory Huber photograph.

and trees. Visually these plantings enhance the open area required under the special historic district provision of the village code (Chapter 107). This covers the historic area along North Country Road, extending to a depth of 500 feet from the road. When the Kusicks subdivided the property, the Planning Board required a 200-foot natural buffer between the road and any new construction in order to preserve the historic vista.

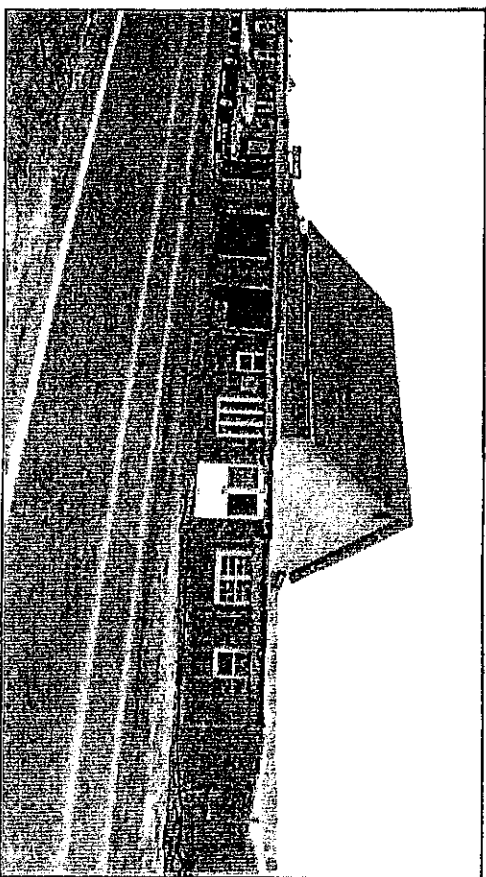
The Kusicks' Brown Gold Compost was at the core of the enterprise. Fueled by manure from local horse farms and leaves collected by the town, three piles of compost were usually "cooking" on the farm at any given time. Michael turned the piles by tractor or more slowly, in the case of the pile behind the greenhouse, with a shovel. This pile was aerated as cooler air from the greenhouse passed through its cinderblock foundation and the carbon dioxide and ammonia produced by the compost warmed the building. Perennial snapdragons and geraniums were sprouting there by Christmas, broccoli and lettuce by Valentine's Day. Unless outdoor temperatures dropped well below freezing, the compost provided all the warmth the tender young plants need.

When thoroughly broken down by worms, decay bacteria, and fungi, compost has a sweet woody smell. Spread on the planting beds, it allowed intensive cultivation while surplus Brown Gold was packed in bags and sold.

The approach to the farm was planted with perennials and flowering shrubs and a market in cut flowers has developed. A member and later chairman of the Architectural Review Board, Joe applied his knowledge of plants to proper siting and landscaping of new structures.

In 1995, the Kusicks visited an exhibit at Mills Pond House where a painting of their barn by P. Fusco caught their eye. Though it was not for sale, they persisted, and eventually the artist consented to sell it. The very night they hung the painting over their mantle, the barn itself, buffeted by intense winter winds, collapsed. The painting still hangs over the mantle.

• Elizabeth Shepherd with additions by BVL



The old barn that serves as the BB & GG farm stand changes and grows as the Borellas' farm itself changes. Gregory Huber photograph.

BB & GG Farm

Following in the farming tradition of Head-of-the-Harbor is the Borella family. The BB & GG farm was established in 1959 by Leo and Marie (Habes) Borella. From farming families in the Hicksville and Plainview areas, they raised four sons: Bill, Bob, Gary, and Glenn. Apart from Glenn, a mechanic, all are involved in the family business, working fifty acres in Head-of-the-Harbor and 150 in Yaphank. Before the creation of the Avalon Preserve, the Borellas farmed what are now the wildflower meadows as well as the Perry Farm. Their barn, an historic landmark built in 1798, serves as their farm stand.

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Bill, who lives with his wife and children in his parents' house on the farm, always had a love for the soil. He looked forward to coming home from school so he could work in the fields. At nine, he grew and sold his own tomatoes and peppers in a box alongside North County Road and later from a roofed wagon. While the Borellas still grow the delicious sweet corn and other produce enjoyed by local families, unlike their parents they no longer truck potatoes, cabbages, corn, and tomatoes to Hunter's Point markets. They have gradually shifted their focus to meet the landscaping needs of families in the new developments.

Having expanded their temporary greenhouses, they can grow more annuals and perennials. They stock balled and burlapped trees and shrubs purchased from wholesalers on and off island. And they grow flats of vegetable seedlings to sell to customers as well as to plant in their own fields.

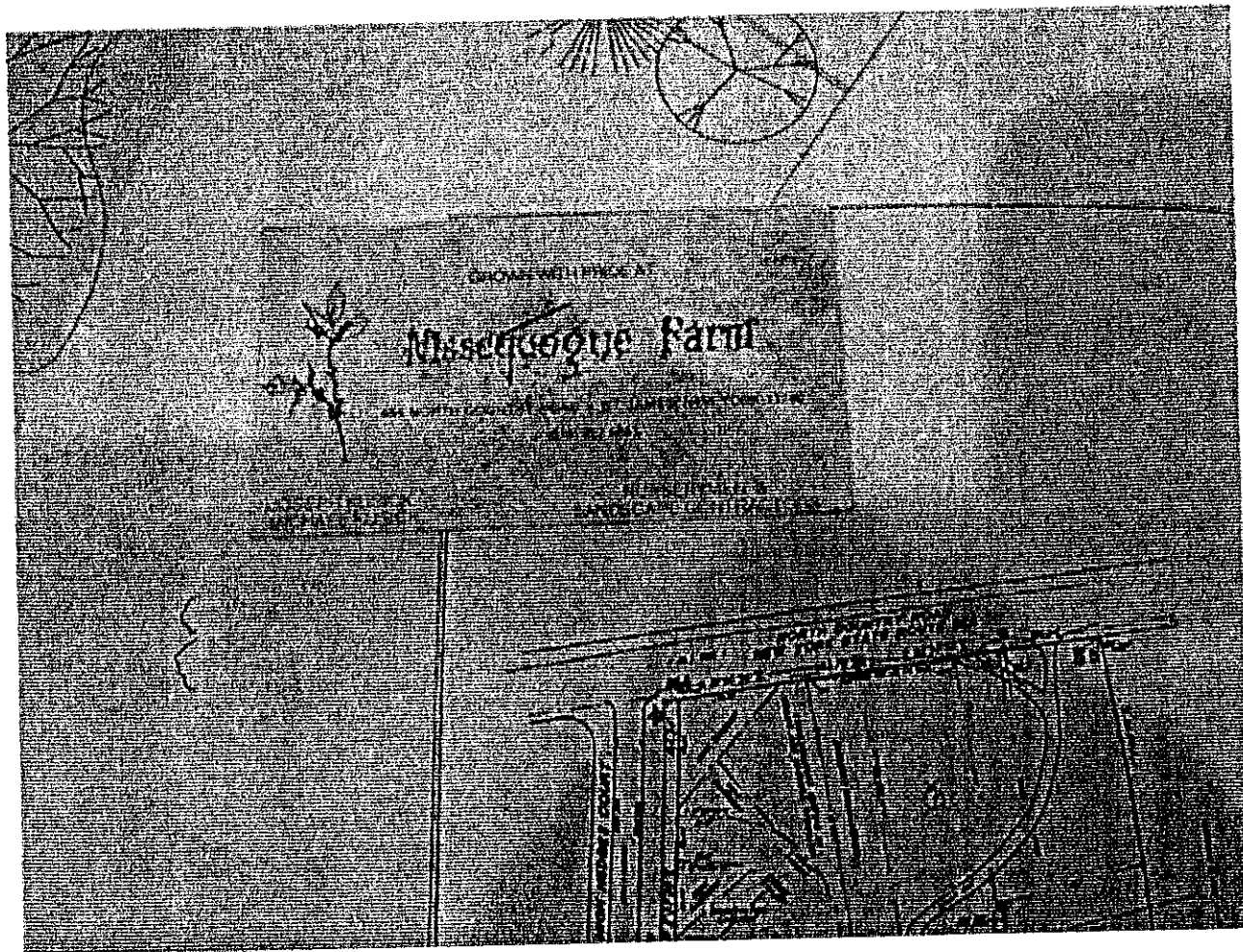
From about St. Patrick's Day when they open the farm stand until just before Christmas, Bill is on the farm from 6:30 A.M. until after P.M. every day. His brothers keep similar hours. During the summer they hire five or six laborers while Leonna advises customers about the needs of various plants. In the winter days are shorter; the brothers nurse tender stock through the cold and make plans for the next season. Aiming as their parents did to please their customers, the brothers always have us coming back for more.

• Norma J. Hayes with additions by BVJ

A St. James Barn

Like the Mills family barn, the Borella barn does not conform to any standard ever described in any book on barns that has ever been published in North America. There have been several dozen books written on this topic in the last forty years that have appealed to the casual reader. However, only a very few have been produced with any scholarly treatment. None of these books have ever focused on the style found in these St. James barns.

The Mills barn actually had a greater level of authenticity than its sister across the road. Its internal structure was far more exposed, which can assist us to a greater understanding of the one that is still standing. Unfortunately, the Borella barn has much of its internal framing and support system covered with new wood in various areas which prevent a clear view of how the entire structure was fabricated. However, it has an internal structure very similar to the barn that came down.



Memorandum to the Village Board of Trustees

October 7, 2024

Re: Site Plan/Special Use Application
S.C.T.M # 0801-5.-2-34.20, 34.21 & 34.22
NISSEQUOGUE FARM
650 NORTH COUNTRY ROAD

The Planning Board is in receipt of a Site Plan and Special Use Application made July 2023. The Application concerns real property located in Suffolk County, New York, and is submitted by Nissequogue Farm (herein after referred to as the "Applicant"). The proposed development is located at 650 North Country Road on property designated as S.C.T.M # 0801-5.-2-34.20, 34.21 & 34.22, (herein after referred to as the "Site"). The Applicant submitted a revised site plan dated June 3, 2024.

The proposed project (the "Proposed Action") seeks the legalization of the operation of a wholesale nursery (known as "Nissequogue Farm" or the "Nursery") comprised of three separate tax lots consisting of a total of 4.99 acres (Lot 1 - 1.955 acres, Lot 2 - 1.040 acres and Lot 3 - 1.004 acres); the largest Lot -- Lot 1 -- fronts on North Country Road and the two smaller lots (Lots 2 and 3) are located behind Lot 1; the three Lots functionally operate as a single parcel. Lot 1 is improved with a two-story residence and office building (2,700 sq. ft.), as well six seasonal greenhouses (7,024 sq. ft.) and two sheds (391 sq. ft. and 185 sq. ft. respectively). Lot 2 is improved with a shed (95 sq. ft.) and three seasonal greenhouses (3,213 sq. ft.). Lot 3 is improved with a one-story residence (2,184 sq. ft.) and two sheds (410 sq. ft. and 101 sq. ft.). The Site also contains planting stock areas, soil and material storage areas, a dumpster and gravel and asphalt driveways throughout the site.

The proposed site plan proposes two additional improvements: (a) a new 13' X 40' pole barn (520 sq. ft.) on the west side of Lot 3; (b) the relocation of the existing 95 sq. ft. shed on Lot 1 approximately 10' to the east; and (c) a new fence and gate on Lot 3. The Site is located in the Village's B-Residence Zoning District and pursuant to the Village's Zoning Code, a "Wholesale Plant Nursery" is classified as a Special Permit Use within said Zoning District. A duly noticed public hearing on the Proposed Action was conducted, at which time all interested parties were provided an opportunity to be heard on this matter.

The Planning Board has considered the Site Plan, and all other materials submitted by the Applicant in support of this proposal, the comments of Village staff and consultants made via memoranda to the Planning Board (which memoranda are incorporated herein by reference),

Involved Agency comments, the verbal commentary made during the Planning Board's meetings pertaining to the review and evaluation of the Proposed Action, and the comments of the public.

Applicant has addressed and incorporated feedback received from the Village Planning Board and their consultants in connection with the submission of past iterations of the site plan.

The Board finds that the Nursery has been in operation for many years and no change to the intensity of the use of the Site is proposed. The location of the Nursery on North Country Road permits direct access, and its continued operation is consistent with the other uses along the North Country Road corridor. As such, the location and size of the use, the nature and intensity of the operations and the size of the Site in connection thereto as well as the location of the Site with respect to access streets is such that the Proposed Action will be in harmony with the appropriate and orderly development of the district in which it is located as per Village Code §165-36 A. Pursuant to Village Code § 165-36 B, the location nature and height of the buildings, walls and fences and the nature and extent of the landscaping on the Site are such that they will not hinder or discourage the appropriate development and use of adjacent lands and buildings. The Site is bounded by existing residences to the west and south and the Mills Pond Gallery to the east and no additional development is available in the immediate vicinity of the Site. In addition, the nursery use is consistent with the character of the relevant portion of North Country Road as well as the BB & GG Farms & Nursery operation located on the opposite side of North Country Road. The Proposed Action proposes no change to the existing operation of the Site. As such, the operations will not be more objectionable to nearby properties than the current use in conformance with Village Code § 165-36 C and there is no proposed change to the existing parking configuration and there currently exists a centrally located gravel parking area, thus, parking space will be adequate for the size of the use and properly located as per Village Code § 165-36 D. The existing residences at the Site are served by existing sanitary sewage disposal systems and as per the proposed site plan, there is a dumpster in use for the disposal of refuse. Thus, there are adequate arrangements for maintenance, refuse removal and sewage disposal as required by Village Code § 165-36 E. The Applicant has paid appropriate fees pursuant to Village Code § 165-36 F and complies with the additional standards set forth in Village Code 165-23 B (4) – with any noncompliance constituting a lawful, preexisting non-conforming condition.

The Board further finds that the Special Use Permit should issue. As indicated above, the operations of the use at the Site will not be any more objectionable to nearby properties, the location and size of the use the nature and intensity of the operations conducted in connect with the use, the size and the location of the site with respects to streets giving access to it are in harmony with the appropriate and orderly development of the district in which the Site is located. Finally, the location, nature and height of the proposed improvements and the proposed landscaping will not hinder or discourage appropriate development and use of adjacent properties.

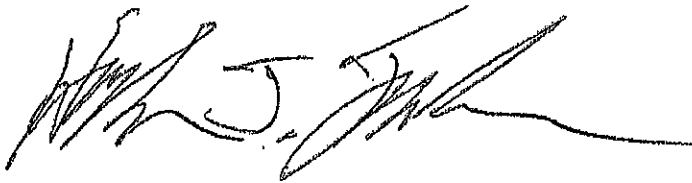
The Planning Board notes that the proposal will require certain variance relief. Pursuant to review by the Village Building Department, and the Building Inspector letter issued on July 25, 2024, the dumpster, various greenhouses and concrete foundation as well as existing and proposed driveways shall variances which should be sought from the Village Zoning Board of Appeals.

In addition, it appears that this is a Type I Action under SEQRA, and that a Negative Declaration should be adopted as the Proposed Action will not result in any significant adverse environmental impacts.

We submit the following recommendations:

The Planning Board thus recommends the approval of this Application as currently proposed, without condition.

In addition, the Planning Board further recommends that the Board of Trustees elect to be designate itself as lead agency for the purposes of SEQRA. *See Village Code § 81-17 Designation of responsible agency by Board of Trustees.* ("Where there is a question as to which agency shall be the responsible agency, the Board of Trustees shall designate the responsible agency.").

A handwritten signature in black ink, appearing to be "W. J. [unclear]", written in a cursive style.



August 1, 2025

Ref: 22675.00

Brian T. Egan, Esq
Village Counsel
Village of Head of the Harbor
500 NY-25A
St. James, NY 11780

Re: Traffic Engineering Review
Application of Nissequogue Farm, LLC
650 NY Route 25A
Village of Head of the Harbor, NY

Dear Mr. Egan:

At your request, VHB Engineering, Surveying, Landscape Architecture and Geology, P.C. (VHB) has conducted a review of the above-referenced application with regard to traffic and transportation-related operations. The application involves the legalization of the existing operating nursery located at 650 NY 25A, also known as Ogden's Design and Planting, Inc. The nursery is currently open and operating but requires a special permit from the Village to continue operations. It should be noted that the nursery does not provide retail services; instead, it functions as a boutique, growing plants and offering design services, materials and installation for clients with landscaping projects.

To conduct our review, VHB was provided with the Proposed Site Plan prepared by John Cuniffe, Architect, recently dated March 21, 2024. As depicted on that plan, the site is accessed via a driveway located on NY 25A. Within the property, there are multiple buildings, including a home that is partially used as an office for the nursery, as well as numerous greenhouses and fields for growing purposes. Our review includes an evaluation of the current access point on NY 25A regarding its suitability for the site's use, as well as an assessment of the internal traffic circulation and adequacy of parking provided on the property. Additionally, reviews of area traffic volumes and crash experience were also conducted. The details of our review are included in our letter below.

Site Access

As stated above, the site is accessed via a single driveway on the south side NY 25A. To determine the adequacy of this access, the available sight distance was evaluated and traffic observations were performed to determine the operating parameters of the intersection.

Sight Distance Analysis

To determine whether there is adequate sight distance at the driveway for drivers entering and exiting to safely detect oncoming vehicles, and vice versa, measurements were taken to assess the available sight distance in both



directions of travel along NY 25A. These measurements were then compared to the relevant standards detailed in the American Association of State Highway and Transportation Officials (AASHTO) publication, "A Policy on Geometric Design of Highways and Streets." For the purposes of this analysis, a design speed of 40 miles per hour (posted speed limit plus 5 miles per hour) was used. This evaluation revealed the following:

NY 25A at Site Driveway: Using guidelines set forth in the American Association of State Highway and Transportation Officials (AASHTO) *A Policy for the Design of Highways and Streets* the critical stopping sight distance for a 40 mph roadway is 305 feet. Based upon our measurements, the available sight distance extends approximately 500 feet to the west and 360 feet to the east. Therefore, adequate stopping sight distance is provided at this intersection with respect to the relevant standards and the position of the access drive to the sight is appropriate relative to the geometry of NY 25A.

Traffic Operations and Area Traffic Volumes

To evaluate the operation of the site access drive, traffic counts were conducted on NY 25A at the site on Friday, April 25, 2025, from 4:30 PM to 6:30 PM to represent a typical weekday p.m. peak hour, and on Saturday, April 26, 2025, from 11:00 AM to 2:00 PM to represent a typical Saturday midday peak hour. These time periods were selected to represent the expected peak periods of operation for the use (based on the hours of operation) relative to the peak periods for area traffic. Based on the count data, the peak hour of traffic during the weekday p.m. period occurred from 4:30 PM to 5:30 PM, while the peak hour of traffic during the Saturday midday period occurred from 12:45 PM to 1:45 PM. The volume diagram of these peak hours and full turning movement counts are shown in Attachment A to this letter.

To analyze these results, capacity analyses were performed using the traffic analysis software Synchro (Version 12), a computer program developed by Trafficware Ltd. Synchro is a comprehensive software package for modeling and optimizing traffic operations. This analysis methodology was used to evaluate the ability of an intersection or roadway to efficiently handle the number of vehicles using the driveway during a particular peak hour. The Synchro analysis determined the delay and Level of Service (LOS) for the peak hours at the site access drive. The LOS definitions and capacity analysis worksheets are included in Attachment B. The results are shown in Table 1.

Table 1 Synchro Capacity Analysis

Intersection	Approach	Lane Group	Weekday PM Peak Hour		Saturday Midday Peak Hour	
			Delay ^a	LOS ^b	Delay	LOS
NY 25A at Site Driveway (Unsignalized)	EB	TR	0.0	A	0.0	A
	WB	LT	0.0	A	0.0	A
	NB	LR	17.7	C	38.7	E

EB, WB, NB = Eastbound, Westbound, or Northbound approach

L, T, R = Left-turn, Through, or Right-turn movement

^a Average delay in seconds per vehicle

^b Level of service



Based on the results in Table 1, the volume of traffic entering was minimal during the peak hours and therefore did not experience any delay during either peak hour. The exiting approach experiences delays associated with an LOS C during the weekday PM period and a LOS E during the Saturday Midday period. Because this is a minor approach to a major state arterial highway in the form of NY 25A, this level of delay is typical of entry to a highway of this nature and acceptable in that the operation of the driveway does not interrupt traffic flow on the state highway, nor does it create undue hazard or deleterious conditions.

Based on the observations, it is noted that the peak number of trips observed during a single peak hour entering or exiting the property was 5 vehicles. To understand how this volume relates to area traffic conditions, it was compared to the level of background traffic in this area. This background traffic level was determined by reviewing data available from the New York State Department of Transportation (NYSDOT) Traffic Data Viewer, which includes historical automatic traffic recorder counts for the study area, including the traffic volume on NY 25A. The most recent area count was conducted in March 2023, during which the peak two-way traffic volume occurred from 5:00 p.m. to 6:00 p.m. on an average weekday, recording 1,703 vehicles on the roadway. Comparing this to the 5 vehicles generated by the nursery, the nursery represents only 0.3 percent of the total volume of traffic on NY 25A during the peak hour. Because this is well below the average daily fluctuation in area traffic volumes, which is approximately 5%, it can be stated that the operation of the nursery does not have any significant impact on area traffic operations.

Crash Experience

A review was conducted of the crash experience on NY 25A in the vicinity of the property. The aim was to determine if there are any underlying patterns of crashes in the area that could be influenced by the operation of the site access drive. For this analysis, crash data was obtained for the most recent three-year period available (September 2021 through August 2024) for the portion of NY 25A from Gate Road to Mill Pond Road. The full crash data detail is included in Attachment C, and the data is summarized in Table 2.

Table 2 Three-Year Area Crash Data Summary

Intersection	Accident Severity				Total	Accident Type															
	Fatality	Injury	Property Damage	Non-Reportable		Rear End	Overtaking	Right Angle	Left Turn	Right Turn	Fixed Object	Head On	Sideswipe	Pedestrian	Bicycle	Parked Vehicle	Backing	Run Off The Road	Animal	Other	Unknown
NY 25A from Gate Road to Mill Pond Road	0	6	7	0	13	1	1	3	1	1	0	0	1	0	0	0	0	0	0	5	0



Of the 13 collisions that occurred on this section of NY 25A, six involved an injury while seven involved property-damage only. The most common collision type was right-angle collision, which primarily had the apparent contributing factor of a driver failing to yield the right-of-way. The five "other" collisions consisted of two collisions with animals, one collision with a tree, one collision with a motor vehicle, and one unknown collision. From a review of the data it is noted that none of the reported collisions occurred at the site access drive itself.

Overall, given the traffic volume on NY 25A, as well as the underlying geometry of the roadway and various points of access from other surrounding properties and roadways, the level of crash activity is not unusual. Based on this, there does not appear to be an underlying safety hazard and the operation of the site access drive for the nursery does not appear to impact the crash experience in the vicinity of the site.

Site Circulation and Parking

The property is accessed via a single drive off NY 25A; this access drive is approximately 20 feet wide and transitions from asphalt pavement (where it meets the state highway) to a gravel drive aisle leading to the interior of the site. Given the low level of traffic generated by this use, this access drive is adequate to accommodate the types of vehicles that access the site.

Interior drive aisles and parking areas are generally made up of gravel pavement, with only smaller areas made up of asphalt paving. Observations indicate that the types of vehicles that traverse the interior portions of the site generally do not have any trouble navigating throughout on these areas. It is noted that the widths of these aisles are variable, often providing adequate dimensions to accommodate only one vehicle. However, given the low level of site-generated traffic and the types of vehicles present, this does not present an undesirable condition, and the site can adequately accommodate the volume and type of traffic generated.

Gravel parking areas are also provided in some areas of the property where vehicle activity is present, such as the buildings utilized for offices and the residence. Based on the low level of traffic generated by the use, these areas are adequate to accommodate the activity generated.

Overall, given the low level of activity and the nature of the nursery use, the site is well-designed to accommodate the traffic associated with the existing operation.

Conclusions

VHB has conducted a transportation engineering review for the application to legalize the existing nursery use located at 650 NY 25A in St. James, New York.

- › Because the nursery is not primarily utilized for retail services, the use experiences relatively low levels of peak period traffic activity. The current access drive operates with acceptable levels of delay and does not impact the flow of traffic on NY 25A
- › There is adequate sight distance provided at the driveway to the property to safely detect oncoming vehicles before exiting and vice versa.

Ref: 22675.00
Nissequogue Farms, LLC
Head of the Harbor, NY
August 1, 2025
Page 5



- › The site is well designed for the level of and type of traffic present and provides adequate parking for the use. Overall, the layout of the site provides for good internal circulation.
- › The crash review shows that the traffic associated with the development does not have a significant impact on the rate of crash occurrence within the Study Area.

Based on the above, it is our opinion that the operation of the existing nursery does not result in any deleterious impacts to area traffic conditions and this element is not an impediment to the issuance of a special use permit. Please call with any questions regarding the above evaluation.

Sincerely,

VHB Engineering, Surveying, Landscape Architecture and Geology, P.C.

A handwritten signature in cursive script that reads "Aaron Machtay".

Aaron Machtay, PE
Transportation Project Manager

AM/ba

September 9, 2025

Village of Head of the Harbor
Board of Trustees
500 N. Country Road
St. James, New York 11780

To members of the Board of Trustees,

The Planning Board submits this letter addressing the special permit application of Nissequogue Farm, LLC ("Applicant"). The board recommends approval of the application without condition for the reasons set forth below.

The Application

Applicant operates a wholesale plant nursery at 650 North Country Road, which consists of three lots identified by the following tax map numbers: 0801-005.00-02.00-034.020, 0801-005.00-02.00-034.021, and 0801-005.00-02.00-034.022 (together the "Property"). Ogden St James Holding Company LLC is the owner of the three lots. Applicant submitted an application in 2023 for a special use permit to maintain the wholesale nursery use pursuant to Section 165-23(B)(4) of the Village Code. The Board of Trustees referred the application to this Board in accordance with Section 165-36 of the Village Code. At the October 8, 2024 meeting, this Board issued a letter recommending approval of the application without condition. After receipt and review of the letter, the Board of Trustees determined at their October 16, 2024 meeting that an independent traffic study should be submitted.

The Village retained VHB Engineering to conduct a traffic impact study. On August 1, 2025, VHB submitted a review of the traffic and transportation-related impact of Applicant's operations. Applicant's architect appeared at the August 12, 2025 Planning Board meeting to discuss the traffic report. Applicant's representative contended that the report concluded that the Applicant's operation would not have a harmful impact on traffic conditions in the area.

Standard and Criteria

Section 165-36 sets forth the criteria that the Planning Board should consider in its referral letter to the Board of Trustees for special use permit applications.

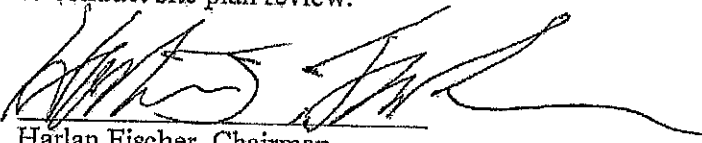
Analysis

The Board adopts the findings and conclusions set forth in its prior letter recommending approval without conditions. The traffic report submitted by VHB concluded that "the operation of the existing nursery does not result in any deleterious impacts to area traffic conditions and this element is not an impediment to the issuance of a special use permit." After review of the report, the Board sees no reason to disturb its prior recommendation.

VHB reached its conclusion after reviewing sight distance at the Property's driveway, traffic volumes, crash experience, and site circulation and parking. According to the report, the sight distance at the driveway for vehicles entering and exiting the driveway extends approximately 500 feet to the west and 360 feet to the east. Under the guidelines of the American Association of State Highway and Transportation Officials, this is more than sufficient sight distance to safely enter and exit the driveway. The Applicant's contribution to traffic volumes in the area was found to be *de minimis*. Even during its peak hour, Applicant had no more than five vehicles entering or exiting the Property. The crash experience analysis found that the portion of NY Route 25A adjoining the Property (Gate Road to Mill Pond Road) did not have unusual or elevated levels of car accidents. Finally, VHB observed no issues with site circulation and parking as traffic volumes to the site were relatively low for the area. The Board finds the traffic study to be thorough, well-documented, and credible.

Conclusion

The Board reaffirms its findings and conclusions set forth in its prior letter recommending approval of the Application without conditions. After review of the traffic study the Board sees no reason to disturb those findings. The Board thus recommends the approval of this Application as currently proposed, without condition. The Board notes that even after issuance of the special use permit, Applicant will require variances from the ZBA and site plan approval from this Board. The recommendation herein does not constitute a waiver of this Board's authority to conduct site plan review.

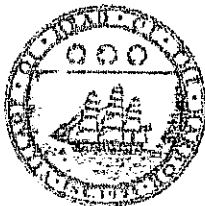


Harlan Fischer, Chairman

Village of
Head-of-the-Harbor

HARLAN J. FISCHER
Chair

PLANNING BOARD
SALLY A. LYNCH
DALE SALZBERG
JAN COUGHLAN
DANIEL DRESCH



ROBERT O'SHEA
Building Inspector

DANIEL FALASCO
Village Engineer

PATRICK CLEARY
Village Planner

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Phone (631) 584-5550
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HeadoftheHarborNY.gov

November 5, 2025

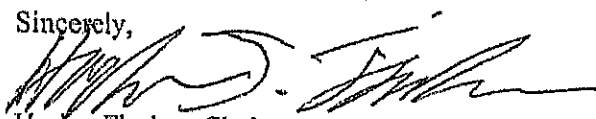
Village of Head of the Harbor
Zoning Board of Appeals
500 N. Country Road
St. James, New York 11780

To members of the Zoning Board of Appeals,

The Planning Board submits this letter addressing the Zoning Board of Appeals application of Nissequogue Farm, LLC. The variances requested are part of Nissequogue Farm's application for a special use permit to maintain its wholesale nursery use at 650 North Country Road pursuant to Section 165-23(B)(4) of the Village Code. After review of the proposed site plan and other application documents, this Board issued a letter dated October 7, 2024 to the Board of Trustees recommending approval of the special use permit application. The Board of Trustees then requested a traffic study from Applicant. The Planning Board reviewed the traffic study and issued a letter dated September 9, 2025 finding that the study demonstrated no material traffic or parking issues resulting from Applicant's nursery use. In that letter the Board again recommended approval of the special use application.

For the reasons set forth in the October 7, 2024 and September 9, 2025 letters (enclosed herein), the Board recommends approval of Applicant's request for variance relief from the Zoning Board of Appeals. The recommendation herein does not constitute a waiver of this Board's authority to conduct site plan review.

Sincerely,



Harlan Fischer, Chairman

ZONING BOARD OF APPEALS
VILLAGE OF HEAD OF THE HARBOR

-----X
In the Matter of the Application of

Nissequogue Farm LLC
650-654 North Country Rd.
St. James, New York 11780

RESOLUTION
Adopted: December 15, 2025

SCTM #0801-005.00-02.00-034.020,
0801-005.00-02.00-034.021, and
0801-005.00-02.00-034.022.

-----X
Application of Nissequogue Farm LLC seeking to maintain a wholesale plant nursery requiring the following variances:

- (i) a refuse dumpster located 187.85' from the North property line, where the Village Code § 165-23(B)(4)(F) requires 200'; and
- (ii) a greenhouse 34.4' from the West side property line, Village Code § 165-23(B)(4)(F) requires a minimum side-yard setback of 50', and
- (iii) a greenhouse 33.5' from the West side property line Village Code § 165-23(B)(4)(F) requires a minimum side-yard setback of 50', and
- (iv) a greenhouse 43.7' from the West side property line Village Code § 165-23(B)(4)(F) requires a minimum side-yard setback of 50', and
- (v) a greenhouse 42.6' from the West side property line Village Code § 165-23(B)(4)(F) requires a minimum side-yard setback of 50', and
- (vi) a greenhouse 45' from the West side property line Village Code § 165-23(B)(4)(F) requires a minimum side-yard setback of 50', and
- (vii) a concrete foundation 12.9' from the West side property line Village Code § 165-23(B)(4)(F) requires a minimum side-yard setback of 50', and
- (viii) existing and proposed driveways lie within the required 50' vegetated buffer on the East side property line, Village Code § 165-23(B)(4)(F).

The subject property is located at 650-654 North Country Road, St. James, New York, SCTM: 0801-005.00-02.00-034.020, 0801-005.00-02.00-034.021, and 0801-005.00-02.00-034.022 (the "Property") in the Residential B zoning district.

WHEREAS, Nissequogue Farm LLC, operates a wholesale plant nursery on the Property, and has applied for the area variance relief set forth above as well as a special use permit to maintain the wholesale nursery use pursuant to Section 165-23(B)(4) of the Village Code; and

WHEREAS, the Property has been used by Applicant as a wholesale plant nursery since 2006 with virtually all of its structures existing prior to the enactment of the pertinent provisions of the zoning code; and

WHEREAS, the Zoning Board of Appeals (the "Zoning Board" or the "Board") has reviewed the documents in the record concerning the Application, including but not limited to the proposed site plan of John Cuniffe with a latest revision date of June 3, 2024, letters from the Village Planning Board dated October 7, 2024, September 9, 2025, and November 5, 2025 recommending approval of the variance and special permit applications, a Long EAF, and a VHB traffic and parking study dated July 18, 2025; and

WHEREAS, the relief sought is related almost exclusively to existing structures with only the proposed driveway improvements lying within the 50-foot vegetated buffer required under Village Code § 165-23(B)(4)(F); and

WHEREAS, the new, altered, and relocated structures consist of the following:

- i) a proposed 13 by 40-foot equipment storage shed on parcel 22
- ii) a proposed four-foot fence and gate on parcel 22
- iii) a reduction of three existing hoop houses on the southeastern portion of parcel 21 so that the three hoop houses are more than 50 feet away from the nearest property line
- iv) removal of landscaping material on the southeastern portion of parcel 21 so that the storage of landscaping materials is at least 50 feet away from a property line
- v) the relocation of an existing shed on the northwestern portion of parcel 21 so that it is more than 50 feet away from the nearest property line
- vi) a new 76 by 15.2-foot hoop house on parcel 21 lying approximately 62 feet from the western and southerly property lines
- vii) the relocation of a shed on parcel 20 so that it is further from the easterly property line
- viii) a new 41.2 x 12-foot brick patio adjoining the two-story dwelling on parcel 20
- ix) a pervious gravel driveway along the eastern end of parcel 20 running south to parcel 22
- x) a Belgian block apron and two 3 x 3 stone pillars at the driveway entrance of parcel 20.

WHEREAS, the Zoning Board of Appeals, after due notice, held a Public Hearing on the Application on December 15, 2025, at which Applicant was represented by Howard Bergson, Esq.; and

WHEREAS, pursuant to Village Law 7-712-b(3)(b), the Board's review of so much of the instant application as seeks area variance relief includes weighing the benefit to the applicant if the variance is granted against the detriment to the health, safety and welfare of the neighborhood or community by such grant, and in so doing considers the following:

(1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the grant of an area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance; and

WHEREAS, Village Law also directs that the Board, in granting area variances, "grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community" (Village Law 7-712-b(3)(c)); and

WHEREAS, the Board has reviewed the SEQRA Part 1 Full Environmental Assessment Form (FEAF) submitted by Applicant; and

WHEREAS all testimony and evidence has been carefully considered and based on the documents in the record and the testimony at the Hearing, the Zoning Board finds as follows:

1. The relief requested will not produce an undesirable change to the nature and character of the neighborhood or a detriment to nearby properties. The Property has long held a nursery with said use operating for decades without issue. With the exception of the driveway extension, the variances are required for structures that have long existed without issue. Applicant is proposing to reduce the Property's non-conformities by relocating two sheds outside of the 50-foot buffer, reducing the size of three hoop houses so they are outside the 50-foot buffer, and reducing the size of the landscaping material storage area so that it is outside the 50-foot buffer.

The hoop houses themselves are not imposing structures that dominate the area landscape and visuals. They are short, narrow, and their coverings are removed during much of the year. The Property is very well-screened by a thick wall of oaks, mature trees, and dense mixed brush. Along the western and southwestern property lines, this screening is typically around 50 feet in depth. Along the Property's western boundary with the Mills Pond Cemetery, which is owned by the Town of Smithtown, the screening is still approximately 15 feet or more in depth. While the screening is slightly less along the eastern and southeastern boundaries, it averages approximately 25 feet in depth. Along the northeastern boundary and North Country Road, a thick barrier of plantings obscures public views of the Property. The dumpster is also screened by an adjacent wall of cedar trees. The proposed driveway extension and fence and gate are well-screened and at least 260 feet from the street. These proposed additions are unlikely to be materially visible from the street.

The structures are also a great distance from any neighboring residence or primary commercial building. The closest structures would be the concrete foundation and the

proposed hoop house on the southwest corner of the Property, which would lie approximately 50 feet and 100 feet respectively from the residence at 5 High Hedges Court. However, the foundation is largely buried in the ground and not visible. The hoop house is, as previously mentioned, not a tall or imposing structure. The screening here is also at its densest and thickest, measuring approximately 50 feet in width from the property line. Importantly, the proposed hoop house is also conforming to all setback requirements.

2. The benefit sought cannot be achieved by some method, feasible for the Applicant to pursue, other than with the area variance relief requested. With the exception of the driveway improvements, the variances are for existing structures. Removing the foundation would disturb the vegetation and trees that have grown over and adjacent to it. Relocating the hoop houses on the west side of the Property would disrupt the Property's irrigation and drainage systems and is not feasible given the utility poles and wires that lie immediately east of these five hoop houses. Relocating the dumpster would require the removal of several mature cedar trees. The location of the driveway extension along the eastern portion of the Property is necessary to create the circular flow of traffic that Applicant seeks.
3. The requested variances range from minor to significant. The variance for the dumpster is 6%. The variances for the western hoop houses are 10%, 12.6%, 14.8%, 31.2%, and 33%. While the 31.2% and 33% variances are numerically significant, these hoop houses are adjacent to the Mills Pond Cemetery and about 200 feet from the residence at 5 High Hedges Court. The variance for the concrete foundation is 74.2%. While numerically significant, for the reasons set forth above, the foundation will not have a material impact on neighboring properties. At its closest point, the driveway extension is 25.25 feet from the eastern property line, constituting a 49.5% variance. Again, while numerically significant, the driveway is at grade, well-screened, nearly 200 feet from the Smithtown Art Council building to the east, and an even greater distance from the street. Altogether, while some of these variances are numerically significant, this factor does not necessitate denial given the factors discussed herein.
4. The evidence before the Board does not indicate that the requested variances would have an impact on the physical or environmental conditions in the neighborhood. The variances are almost exclusively for pre-existing conditions, and there is no documented history of these structures having a negative physical or environmental impact on the area. Applicant would also be bringing several accessory structures into compliance with Village Code's setback requirements.

Further, after review of Applicant's Part 1 FEAF, and the questions set forth in Parts 2 and 3 of the FEAF, this Board finds that the Application will not result in any significant adverse impacts on the environment.

5. The hardship here is at least partly self-created, however, this factor is not in and of itself dispositive.

WHEREAS the Zoning Board finds the granting of the requested relief will not result in any perceivable detriment to the health, safety and welfare of the neighborhood or community and as such the benefit to the Applicant if the relief is granted clearly outweighs same.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Board of Appeals of the Incorporated Village of Head of the Harbor,

THAT, the Board declares itself lead agency for the Application pursuant to SEQRA;

THAT, the Board determines that the Application is a Type 1 Action;

THAT, the Board adopts the FEAF Parts 2 and 3 attached hereto and issues a negative declaration for the Application; and

THAT, the Board grants the Application.

WHEREUPON, the foregoing resolution was duly adopted by a unanimous vote at the December 15, 2025 Hearing by the Zoning Board, with members present voting as follows:

Joseph Bollhofer, Chair:	Aye
Bill Anderson:	Aye
John Lovett:	Aye
Alyson Svatek:	Aye
Mark Zuckerman:	Aye

Joseph Bollhofer

Joseph Bollhofer, Chair
Zoning Board of Appeals

Filed in the Office of the Village Clerk on the 13th day of January, 2026.

Margaret O'Keefe

Margaret O'Keefe, Village Clerk

