

**ZONING BOARD OF APPEALS  
REGULAR MEETING AGENDA**

The Brooklyn Zoning Board of Appeals Commission will hold a regularly scheduled meeting on Tuesday April 4, 2023, at 6:30 p.m. at the Clifford B. Green Memorial Meeting Center, 69 South Main Street, Brooklyn, CT on the following:

**3 WAYS TO ATTEND: IN-PERSON, ONLINE, AND BY PHONE**

<b>In-Person:</b> <b>Clifford B. Green Meeting Center, Suite 24, 69 South Main Street, Brooklyn, CT</b>	
<b>Online:</b> <b>Click link below:</b> <a href="https://us06web.zoom.us/j/5075752217">https://us06web.zoom.us/j/5075752217</a>	<b>OR</b> <b>Go to Zoom.us ,</b> <b>click Sign In</b> <b>On the top right, click Join a Meeting</b> <b>Enter meeting ID: 507 575 2217</b> <b>Enter meeting password:</b>
<b>Phone: Dial 1 646 558 8656 US Toll</b> <b>Enter meeting number: 507 575 2217</b> <b>Enter meeting password:</b> <b>You can bypass attendee number by pressing #</b>	

**Call to Order:**

**Seating of Alternates:**

**Approval of Minutes:**

**Election of Officers:**

**Public Hearing:**

**Public Hearing Closes**

**Unfinished Business:**

**New Applications Received:**

**1. ZBA23-001 530 Wauregan Road – Map 30 Lots 97, 97-1 & 97-2, Wayne & Leslie Jolley.**  
RA Zone. Appeal of Decision made by ZEO on March 6, 2023.

**Other Business:**

**Adjourn**

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**Bruce Parsons, Chairman**



BROOKLYN ZONING BOARD OF APPEALS  
APPLICATION

FEE: \$250.00 / STATE FEE: \$60 / PUBLICATION FEE: \$450 = \$460<sup>00</sup>  
CHECK# 10665

APPLICATION # 23-001 DATE SUBMITTED 03/07/2023

APPLICANT: Wayne & Leslie Jolley

MAILING ADDRESS: 42 Junior Ave Danielson, CT 06239

PROPERTY OWNER: (if different) Wayne & Leslie Jolley

MAILING ADDRESS: 42 Junior Ave Danielson, CT 06239

PROPERTY LOCATION: 530 Wauregan Rd Brooklyn, CT 06234

MAP: 30 LOT: 97,97-1,97-2 ACRES: 64 +/-

ZONE: RA R-30 VCD R-10 NC PC RB I-1 (circle one)

Is Property within 500' of a municipal boundary? yes

Application is submitted for approval of the following (check all that apply):

Variance of the Zoning Regulations, Section(s) \_\_\_\_\_  
The variance being requested is \_\_\_\_\_

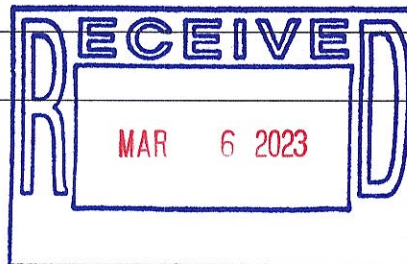
Appeal of an order, requirement or decision of the ZEO under Sec. 17.2 of the Brooklyn Zoning Regulations.

Locational Approval for the dealing in or repairing motor vehicles (CGS 14-54), motor vehicle recycler's yard or motor vehicle recycler's business (CGS 14-67i), or sale of gasoline or other product intended for use in the propelling of motor vehicles using combustion type engines (CGS 14-321).

Complete Description of Project (attach additional sheets if necessary):

Appeal of Decision  
ZEO on March 6, 2023

Specify the hardship if applying for a variance. A hardship cannot be strictly financial and must be related to the condition of the land.



**BROOKLYN ZONING BOARD OF APPEALS**

**The following information must accompany each application at the time of submittal:**

1. A plot plan prepared as determined by the ZBA, either:
  - by a licensed land surveyor, to A-2 survey standard OR
  - not an A2 survey but sufficiently accurate to allow the members to reach an informed decision.
2. A copy of the permit denial from the Zoning Officer.
3. Check payable to the Town of Brooklyn.
4. Confirmation that Notices to Abutters have been sent as follows:
  - The applicant shall, at his own expense, send notice of the application at least 15 days prior to the date of the public hearing. Form will be provided by the Town.
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5. If the proposed activity is located within a Drinking Water Supply Aquifer Area (see attached map) then the Public Water Supply Aquifer Area Project Notification Form must be completed and attached to the application.

**NOTE:**

- It is the responsibility of the applicant to contact the Building Inspector, Inland Wetlands and Watercourses Agent and Fire Marshal to determine if other permits are required.
- See Article 17 of the Brooklyn Zoning Regulations for the powers and duties of the Board and the criteria for decision-making regarding variances. All criteria must be addressed in the information provided to the Board.
- **Lack of accurate information may cause the Board to deem that the application is an incomplete application and may be grounds for denial.**

**SUBMIT APPLICATIONS TO THE BROOKLYN LAND USE OFFICE, 69 SOUTH MAIN STREET,  
SUITE 23 BROOKLYN, CT 06234.**

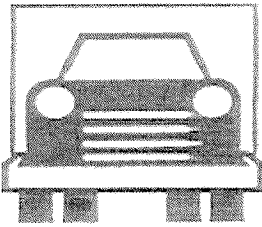
**The undersigned applicant(s) and owner(s) hereby state that the information contained in this application and in all documentation provided is complete, true and accurate to the best of my/our knowledge.**

Wayne Jolley 3-7-23  
Applicant Date

Wayne Jolley 3-7-23  
Property Owner Date

# ADVERTISE

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# STEPHEN J. ADAMS

## Attorney at Law

158 Main Street, Suite 7  
P.O. Box 682, Putnam, CT 06260  
Telephone: 860-928-6528 • Fax 860-963-9007  
E-mail sja@sjalawyer.com • www.sjalawyer.com

### Attorney Adams Is Now Accepting Clients In The Following Areas Of Practice:

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*Attorney Adams has over 30 years of experience in the General Practice  
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## Town of Brooklyn, Connecticut

### DECISION OF ZONING ENFORCEMENT OFFICER

Town of Brooklyn, Decision of Zoning Enforcement Officer Re Claims of Legal, Pre-existing, Non-Conforming Uses at 530 Wauregan Road (Assessors Map 30, Lots 97, 97-1 and 97-2), owned in part by Wayne L. Jolley. By letter dated March 6, 2023, Margaret Washburn, Zoning Enforcement Officer for the Town of Brooklyn, issued a decision that with respect to the property known as 530 Wauregan Road the following uses are not legal, pre-existing non-conforming uses:

1. Importing raw material to the location.
2. Processing the imported raw material to clean usable material.
3. Excavating raw material on site for processing.
4. Processing on site excavated raw material to clean usable material.
5. Selling processed materials to customers.

This notice of decision was published by the Town of Brooklyn, Zoning Enforcement Officer. Aggrieved parties may appeal the decision of the Zoning Enforcement Officer to the Brooklyn Zoning Board of Appeals within thirty (30) days of this notice in accordance with Connecticut General Statutes Section 8-7.

By Margaret Washburn, Brooklyn Zoning Enforcement Officer



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CONTRACTOR



PREFERRED  
CONTRACTOR



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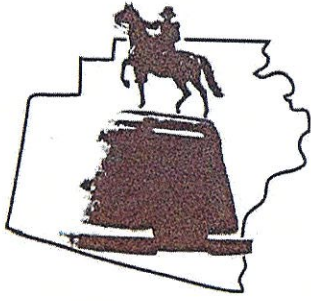
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TOWN OF BROOKLYN  
Land Use Department  
69 South Main Street • Suite 22  
BROOKLYN, CONNECTICUT 06234  
860-779-3411 Ext. 12

CERTIFIED #

7022 0410 0002 7291 4436

Elizabeth Wilson, Town Clerk  
Town of Killingly  
172 Main St.  
Killingly, CT 06239

March 16, 2023

Dear Ms. Wilson,

In accordance with CGS Section 8-7.d., you are hereby notified that the Town of Brooklyn Zoning Board of Appeals has received the enclosed appeal of a decision by the Zoning Enforcement Officer.

Sincerely,

*Margaret Washburn*

Margaret Washburn  
ZEO/WEO/Blight Enforcement Officer  
69 South Main Street, Suite 23  
Brooklyn, CT 06234  
(860) 779-3411 ext. 31  
Mon. – Thurs. 8:00 am – 3:30 pm  
[m.washburn@brooklynct.org](mailto:m.washburn@brooklynct.org)



BROOKLYN ZONING BOARD OF APPEALS  
APPLICATION

FEE: \$250.00 / STATE FEE: \$60 / PUBLICATION FEE: \$450 = \$460<sup>00</sup>  
CHECK# 10665

APPLICATION # 23-001 DATE SUBMITTED 03/07/2023

APPLICANT: Wayne & Leslie Jolley

MAILING ADDRESS: 42 Junior Ave Danielson, CT 06239

PROPERTY OWNER: (if different) Wayne & Leslie Jolley

MAILING ADDRESS: 42 Junior Ave Danielson, CT 06239

PROPERTY LOCATION: 530 Wauregan Rd Brooklyn, CT 06234

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ZONE: RA R-30 VCD R-10 NC PC RB I-1 (circle one)

Is Property within 500' of a municipal boundary? yes

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The variance being requested is \_\_\_\_\_

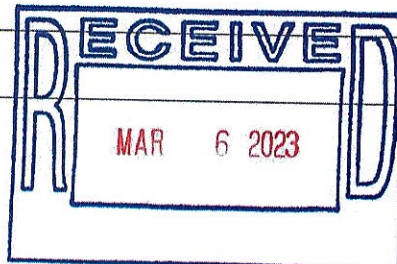
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Complete Description of Project (attach additional sheets if necessary):

Appeal of Decision  
ZEO on March 6, 2023

Specify the hardship if applying for a variance. A hardship cannot be strictly financial and must be related to the condition of the land.



**BROOKLYN ZONING BOARD OF APPEALS**

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5. If the proposed activity is located within a Drinking Water Supply Aquifer Area (see attached map) then the Public Water Supply Aquifer Area Project Notification Form must be completed and attached to the application.

**NOTE:**

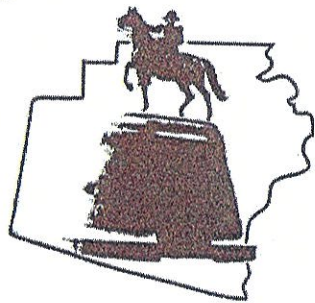
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SUBMIT APPLICATIONS TO THE BROOKLYN LAND USE OFFICE, 69 SOUTH MAIN STREET,  
SUITE 23 BROOKLYN, CT 06234.

The undersigned applicant(s) and owner(s) hereby state that the information contained in this application and in all documentation provided is complete, true and accurate to the best of my/our knowledge.

Wayne Jolley 3-7-23  
Applicant Date

Wayne Jolley 3-7-23  
Property Owner Date



TOWN OF BROOKLYN  
Land Use Department  
69 South Main Street • Suite 22  
BROOKLYN, CONNECTICUT 06234  
860-779-3411 Ext. 12

CERTIFIED

7022 0410 0002 7291 4429

Wayne L. Jolley  
Jolley Concrete & Block  
42 Junior Avenue  
Danielson, CT 06239

March 6, 2023

Dear Mr. Jolley,

I have accepted your letter of January 12, 2023 as a request by you that I render a decision with regard to your claim that the property that you own an interest in at 530 Wauregan Road (Assessors Map 30, Lots 97, 97-1 and 97-2) has established a number of legally existing, non-conforming uses that pre-date the zoning regulations of the Town of Brooklyn. You listed the following five business uses that you assert were established on the property:

1. Importing raw material to the location.
2. Processing the imported raw material to clean usable material.
3. Excavating raw material on site for processing.
4. Processing on site excavated raw material to clean usable material.
5. Selling the processed material to customers.

I have assumed that by “raw material” you are referring to unprocessed earth materials such as sand and gravel.

You submitted a number of anecdotal memos and letters from various people who confirmed that each of them witnessed some element of the five activities that you seek to have declared as legally existing, non-conforming uses.

As I indicated to you, it is your burden to prove a sufficient number of acts or business transactions to show that the property was employed for the various business uses you claimed. Although I requested that you provide some further evidence of the business activities you listed such as invoices, business records, maps, plans, photos or other such evidence, you have not provided me with any of these requested materials.

In regard to the business uses listed in your letter dated 1/12/23, I have not received sufficient proof in order to deem that any of the five uses are to be considered pre-existing, non-conforming uses. It appears that if these activities occurred at all prior to the inception of zoning regulations in the Town of Brooklyn that such uses were incidental to the construction of Foxtail Campground.

As you are aware, the ongoing, on-site sand and gravel excavation and processing uses have been approved by Special Permits for the years 1990 – 2022. The importation and processing of off-site



material was included in special permit approvals until recent permit action taken by the Planning and Zoning Commission.

You successfully appealed the exclusion of the off-site importation and processing of earth material and the Commission thereafter granted you a special permit that included that activity.

Based on the evidence you have produced and my research, I am not able to conclude that the 5 business uses listed by you in your 1/12/23 letter predate the adoption of zoning regulations in Brooklyn.

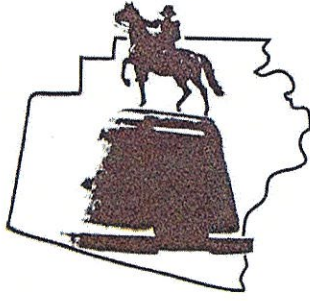
Sincerely,

*Margaret Washburn*

Margaret Washburn  
ZEO/WEO/Blight Enforcement Officer  
69 South Main Street, Suite 23  
Brooklyn, CT 06234  
(860) 779-3411 ext. 31  
Mon. – Thurs. 8:00 am – 3:30 pm  
[m.washburn@brooklynct.org](mailto:m.washburn@brooklynct.org)

CC: Austin Tanner Jana Roberson, Peter Alter





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69 South Main Street • Suite 22  
BROOKLYN, CONNECTICUT 06234  
860-779-3411 Ext. 12

CERTIFIED #

7022 0410 0002 7291 4443

D. Talbot, Town Clerk  
Town of Plainfield  
8 Community Ave.  
Plainfield, CT 06374

March 16, 2023

Dear D. Talbot,

In accordance with CGS Section 8-7.d., you are hereby notified that the Town of Brooklyn Zoning Board of Appeals has received the enclosed appeal of a decision by the Zoning Enforcement Officer.

Sincerely,

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ZEO/WEO/Blight Enforcement Officer  
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BROOKLYN ZONING BOARD OF APPEALS  
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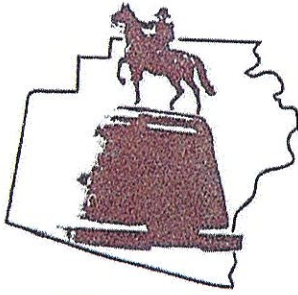
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Applicant Date

Wayne Jolly 3-7-23  
Property Owner Date





TOWN OF BROOKLYN  
Land Use Department  
69 South Main Street • Suite 22  
BROOKLYN, CONNECTICUT 06234  
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Sincerely,

*Margaret Washburn*

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ZEO/WEO/Blight Enforcement Officer  
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Brooklyn, CT 06234  
(860) 779-3411 ext. 31  
Mon. – Thurs. 8:00 am – 3:30 pm  
[m.washburn@brooklynct.org](mailto:m.washburn@brooklynct.org)

CC: Austin Tanner Jana Roberson, Peter Alter

## Margaret's Report for the 4/4/2023 ZBA Regular Meeting

### New Applications Received:

**1. ZBA23-001 530 Wauregan Road – Map 30 Lots 97, 97-1 & 97-2, Wayne & Leslie Jolley.** RA Zone. Appeal of Decision made by ZEO on March 6, 2023.

Date submitted: March 6, 2023

Date received: April 4, 2023

A public hearing must be scheduled. No action can be taken on an appeal on the date of receipt.

### **In accordance with Section 9.G.1.1 of the Brooklyn Zoning Regulations,**

#### **1. Appeals –**

d. The ZBA shall have the authority to hear and decide upon any appeal where it is alleged that there is an error in the order, requirements, decision or determination of any official charged with the enforcement of these Regulations.

e. No question of hardship shall be involved in such an appeal, and the action of the ZBA thereon shall be limited to the question of whether or not, and to what extent such order, requirement, decision, or determination was a correct interpretation of the subject provision of these Regulations.

### **In accordance with Section 9.G.2 of the Brooklyn Zoning Regulations,**

1. All appeals to the ZBA from an order, requirement, decision or determination of any official charged with the enforcement of these Regulations shall be taken within fifteen (15) calendar days of such order, requirement, decision or determination.

2. Such appeals shall be made in writing on a form prescribed by the ZBA and shall be accompanied by a filing fee to cover the cost of processing the appeal.

3. When acting on an appeal from a decision of the Zoning Enforcement Officer, the Board shall have all the powers of such Officer, but only to the extent that the Board's actions deal directly with the subject of such

appeal.

4. The Board may reverse, affirm wholly or partly, or may modify any order, requirement or decision appealed from and make such order, requirement or decision as in its opinion should be made.

**In accordance with Section 9.G.1.4 of the Brooklyn Zoning Regulations,**

**Action Documentation-**

1. Whenever the ZBA makes a decision, it shall include the reason for its decision in its minutes as part of the

record and, for a variance application, shall also indicate:

- a. the specific provision of these Regulations which was varied,
- b. the extent of the variance,
- c. the specific hardship upon which its decision was based, and
- d. its findings with regard to the criteria listed in Section 9.G.3.

2. In exercising any of its authority, the ZBA may attach any conditions and safeguards as may be required to

protect the public health, safety and general welfare, and to ensure ongoing compliance with these

Regulations. Violation of such conditions and safeguards shall be deemed to be a violation of these

Regulations.

3. The Board shall send, by certified mail, a copy of its decision to the applicant within fifteen (15) days after such decision is rendered.

4. The Board shall cause notice of the approval or denial of any application to be published within fifteen (15)

days after such decision is rendered in a newspaper having a substantial circulation in Brooklyn.

5. In any case in which such notice is not published within the fifteen-day period after a decision has been

rendered, the person who submitted such application may provide for the publication of such notice within

ten (10) days thereafter.

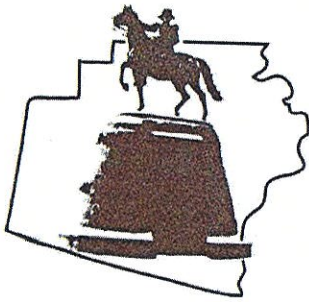
6. Any variance granted by the ZBA shall only become

**In accordance with CT General Statutes, Section 8-7:**

**Sec. 8-7. Appeals to board. Hearings. Effective date of exceptions or variances; filing requirements.** The concurring vote of four members of the zoning board of appeals shall be necessary to reverse any order, requirement or decision of the official charged with the enforcement of the zoning regulations or to decide in favor of the applicant any matter upon which it is required to pass under any bylaw, ordinance, rule or regulation or to vary the application of the zoning bylaw, ordinance, rule or regulation. An appeal may be taken to the zoning board of appeals by any person aggrieved or by any officer, department, board or bureau of any municipality aggrieved and shall be taken within such time as is prescribed by a rule adopted by said board, or, if no such rule is adopted by the board, within thirty days, by filing with the zoning commission or the officer from whom the appeal has been taken and with said board a notice of appeal specifying the grounds thereof. Such appeal period shall commence for an aggrieved person at the earliest of the following: (1) Upon receipt of the order, requirement or decision from which such person may appeal, (2) upon the publication of a notice in accordance with subsection (f) of section 8-3, or (3) upon actual or constructive notice of such order, requirement or decision. The officer from whom the appeal has been taken shall forthwith transmit to said board all the papers constituting the record upon which the action appealed from was taken. An appeal shall not stay any such order, requirement or decision which prohibits further construction or expansion of a use in violation of such zoning regulations except to such extent that the board grants a stay thereof. An appeal from any other order, requirement or decision shall stay all proceedings in the action appealed from unless the zoning commission or the officer from whom the appeal has been taken certifies to the zoning board of appeals after the notice of appeal has been filed that by reason of facts stated in the certificate a stay would cause imminent peril to life or property, in which case proceedings shall not be stayed, except by a restraining order which may be granted by a court of record on application, on notice to the zoning commission or the officer from whom the appeal has been taken and on due cause shown. The board shall hold a public hearing on such appeal in accordance with the provisions of section 8-7d. Such board may reverse or affirm wholly or partly or may modify any order, requirement or decision appealed from and shall make such order, requirement or decision as in its opinion should be made in the premises and shall have all the powers of the officer from whom the appeal has been taken but only in accordance with the provisions of this section. Whenever a



zoning board of appeals grants or denies any special exception or variance in the zoning regulations applicable to any property or sustains or reverses wholly or partly any order, requirement or decision appealed from, it shall state upon its records the reason for its decision and the zoning bylaw, ordinance or regulation which is varied in its application or to which an exception is granted and, when a variance is granted, describe specifically the exceptional difficulty or unusual hardship on which its decision is based. Notice of the decision of the board shall be published in a newspaper having a substantial circulation in the municipality and addressed by certified mail to any person who appeals to the board, by its secretary or clerk, under his signature in any written, printed, typewritten or stamped form, within fifteen days after such decision has been rendered. In any case in which such notice is not published within such fifteen-day period, the person who requested or applied for such special exception or variance or took such appeal may provide for the publication of such notice within ten days thereafter. Such exception or variance shall become effective upon the filing of a copy thereof (A) in the office of the town, city or borough clerk, as the case may be, but, in the case of a district, in the offices of both the district clerk and the town clerk of the town in which such district is located, and (B) in the land records of the town in which the affected premises are located, in accordance with the provisions of section 8-3d.



TOWN OF BROOKLYN  
Land Use Department  
69 South Main Street • Suite 22  
BROOKLYN, CONNECTICUT 06234  
860-779-3411 Ext. 12

Michelle Sigfridson, Chairman  
Brooklyn Planning & Zoning Commission  
69 South Main Street  
Brooklyn, CT 06234

February 16, 2023

Re: Brooklyn Sand and Gravel, 530 Wauregan Road (Assessors Map 30, Lots 97, 97-1 and 97-2)

Dear Madam Chairman Sigfridson and Commission Members,

Please refer to the attached correspondence.

The options for the decision regarding grandfathering of the 5 items listed in Wayne Jolley's letter received on 1/31/2023 may be handled as suggested below.

1. Planning & Zoning Commission decides that:
  - a) PZC should make the decisions, or
  - b) ZEO should make the decisions.

If a), The PZC renders a decision on each of the 5 items. The decision on each item does not have to be the same.

If b), The ZEO renders a decision on each of the 5 items. The decision on each item does not have to be the same.

I look forward to discussing the matter with you.

Respectfully submitted,

*Margaret Washburn*

Margaret Washburn  
ZEO/WEO/Blight Enforcement Officer  
69 South Main Street, Suite 23  
Brooklyn, CT 06234  
(860) 779-3411 ext. 31  
Mon. – Thurs. 8:00 am – 3:30 pm  
[m.washburn@brooklynct.org](mailto:m.washburn@brooklynct.org)

CURRENT OWNER		TOPO.	UTILITIES	STRT./ROAD	LOCATION	CURRENT ASSESSMENT	
JOLLEY WAYNE L & LESLIE A	524 WAUREGAN RD					Code	Assessed Value
BROOKLYN, CT 06234-2403						2-2	114,600
Additional Owners:						3-1	462,300
						3-2	40,300
							80,200
							323,700
							28,200

RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	q/u	w/i	SALE PRICE	V.C.
JOLLEY WAYNE L & LESLIE A	78/ 872	01/16/1985				265,614	
JOLLEY FREDERICK F	78/ 757	12/26/1984	U	I		265,613	
N E SAVINGS BANK	78/ 747	12/26/1984	U	I			
BROOKLYN LAND CORPORATION	76/ 821	01/04/1984	U	I			
MERCIER & SONS INC	64/ 350	06/14/1977	U	I		240,000	
JOLLEY FREDERICK F	37/ 122	10/15/1962	U	I			

EXEMPTIONS		Amount	Code	Description	Number	Amount	Comm. Int.
Total:							

ASSESSING NEIGHBORHOOD		Street Index Name	Tracing	Batch
574 WAUREGAN RD	0001/A			2015

NOTES	
Appraised Bldg. Value (Card) Appraised XF (B) Value (Bldg) Appraised OB (L) Value (Bldg) Appraised Land Value (Bldg) Special Land Value Total Appraised Parcel Value Valuation Method: Adjustment:	

OTHER ASSESSMENTS		Yr.	Code	Assessed Value	Yr.	Code	Assessed Value
Total:							
Total:		333,700		333,700	Total:	432,100	520,000

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BUILDING PERMIT RECORD		Permit ID	Issue Date	Type	Description	Amount	Insp. Date	% Comp.	Date Comp.	Comments
Total:										

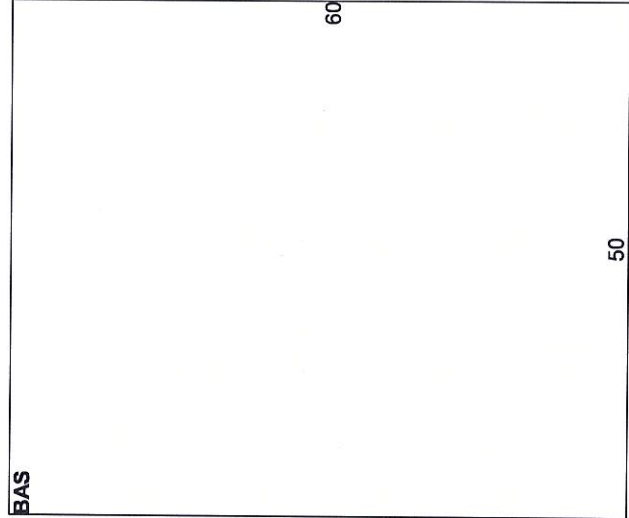
VISIT/ CHANGE HISTORY		Date	Type	IS	ID	Cd.	Purpose/Result
Total:							
Net Total Appraised Parcel Value							617,200

LAND LINE VALUATION SECTION		Zone	D	Front	Depth	Units	Unit Price	Acre	I. Factor	S.A. Disc	C. Factor	ST.
2	3300 AUTO V S&S	R10				0	SF	0.00	1.0000	0	1.0000	1.00
Total Card Land Units:												
Total Card Land Area:												19.72 AC

APPRAISED VALUE SUMMARY		Yr.	Code	Assessed Value	Yr.	Code	Assessed Value
Total:							
Total:		333,700		333,700	Total:	432,100	520,000



CONSTRUCTION DETAIL			CONSTRUCTION DETAIL (CONTINUED)									
Element	Cd.	Ch.	Description	Element	Cd.	Ch.	Description					
Style	25		Service Shop									
Model	96		Ind/Comm									
Grade	02		Below Average									
Stories	1											
Occupancy												
Exterior Wall 1	27		Pre-finish Metl									
Exterior Wall 2												
Roof Structure	03		Gable/Hip									
Roof Cover	09		Enam Mtl Shing									
Interior Wall 1	01		Minim/Masonry									
Interior Wall 2												
Interior Floor 1	03		Concr-Finished									
Interior Floor 2												
Heating Fuel	02		Oil									
Heating Type	03		Hot Air-no Duc									
AC Type	01		None									
Bldg Use	3300		AUTO V S&S									
Total Rooms												
Total Bedrms												
Total Baths												
Heat/AC	00		NONE									
Frame Type	05		STEEL									
Baths/Plumbing	02		AVERAGE									
Ceiling/Wall	02		CEILING ONLY									
Rooms/Prms	02		AVERAGE									
Wall Height	16											
% Comm Wall												
<b>OB-OUTBUILDING &amp; YARD ITEMS(L) / XF-BUILDING EXTRA FEATURES(B)</b>												
Code	Description	Sub	Sub Description	L/B	Units	Unit Price	Yr	Gde	Dp Rt	Cnd	%Cnd	Apr Value
<b>BUILDING SUB-AREA SUMMARY SECTION</b>												
Code	Description	Living Area	Gross Area	Eff. Area	Gross Area	Unit Cost	Undeprec. Value					
BAS	First Floor	3,000	3,000	3,000	3,000	70.75	212,247					
<b>Ttl Gross Liv/Lease Area:</b>							3,000	3,000	3,000			212,247



No Photo On Record

CURRENT OWNER		TOPO	UTILITIES	STRT / ROAD	LOCATION	CURRENT ASSESSMENT	
JOLLEY WAYNE L & LESLIE A						Code 5-1	Appraised 38,800
524 WAUREGAN RD			SUPPLEMENTAL DATA			Assessed 27,200	
BROOKLYN CT 06234-2540			490 PEN OVERLAY	DEVRIGH SUBDIV. SURVEY # DEV LOT			
			FIRE DIST SEWER	Census # 9051			

RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	QU	VI	SALE PRICE	VC
JOLLEY WAYNE L & LESLIE A		0079 0657	05-21-1985	V		28,500	
JOLLEY WAYNE L & LESLIE A		0079 0654	05-21-1985	U		0	
BROOKLYN LAND CORPORATION		0076 0821	01-04-1984	U		0	
MATHERNE CLARENCE E & DOROTHY L		0068 1033	07-26-1979	U		0	
MERCIER & SONS INC		0064 0350	06-14-1977	U		0	
Total						38,800	27,200

EXEMPTIONS		Amount	Description	Number	Amount	Comm Int
Year	Code					
Total		0.00				

ASSESSING NEIGHBORHOOD		Code	Description	Tracing	Batch
Nbhd	Nbhd Name	B			
0001					

NOTES	
ABUTS 564 WAUREGAN ACCESS LOT TO SAND & GRAVEL	
Appraised Bldg. Value (Card) 0	
Appraised Xf (B) Value (Bldg) 0	
Appraised Ob (B) Value (Bldg) 0	
Appraised Land Value (Bldg) 38,800	
Special Land Value 0	
Total Appraised Parcel Value 38,800	
Valuation Method C	

BUILDING PERMIT RECORD		Amount	Insp Date	% Comp	Date Comp	Comments
Permit Id	Issue Date					

LAND LINE VALUATION SECTION															
B Use Code	Description	Zone	LA	Land Type	Land Units	Unit Price	Size Adj	Site Index	Cond.	Nbhd.	Nbhd. Adj	Notes	Location Adjustmen	Adj Unit P	Land Value
1	1300 VACANT	RA			0.950	AC	36,000	1.03070	5	1.00	0050	1.100			38,800
Total Card Land Units 0.950   AC														Parcel Total Land Area 0.9500	Total Land Value 38,800

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CONSTRUCTION DETAIL		CONSTRUCTION DETAIL (CONTINUED)	
Element	Cd	Description	Description
99 00		Vacant Land Vacant	
<b>CONDO DATA</b>			
Parcel Id	C	Ownr	S
Adjust Type	Code	Description	Factor%
Condo Flr			
Condo Unit			
<b>COST / MARKET VALUATION</b>			
Building Value New			0
Year Built			1
Effective Year Built			
Depreciation Code			
Remodel Rating			
Year Remodeled			
Depreciation %			
Functional Obsol			
External Obsol			
Trend Factor			
Condition			
Condition %			
Percent Good			
RCNLD			
Dep % Ovr			
Dep Ovr Comment			
Misc Imp Ovr			
Misc Imp Ovr Comment			
Cost to Cure Ovr			
Cost to Cure Ovr Comment			

No Sketch

OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)										
Code	Description	L/B	Units	Unit Price	Yr Blt	Cond. Cd	% Gd	Grade	Grade Adj.	Appr. Value
<b>BUILDING SUB-AREA SUMMARY SECTION</b>										
Code	Description	Living Area	Floor Area	Eff Area	Unit Cost	Undeprac Value				
Ttl Gross Liv / Lease Area		0	0	0	0	0				

CURRENT OWNER		JOLLEY WAYNE L & LESLIE A	
524 WAUREGAN RD		BROOKLYN CT 06234-2540	
SUPPLEMENTAL DATA		490 PEN OVERLAY DEVRIGH SUBDIV. PINE ACRES SURVEY # 5/36 DEV LOT Census # 9051	
FIRE DIST SEWER			

RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	Q/U	V/I	SALE PRICE	VC
JOLLEY WAYNE L & LESLIE A	0079	0657	05-21-1985	U	I	0	
JOLLEY WAYNE L & LESLIE A	0079	0654	05-21-1985	U	I	0	
BROOKLYN LAND CORPORATION	0076	0821	01-04-1984	U	I	0	
MERCIER & SONS INC	0064	0350	06-14-1977	U	I	0	
JOLLEY FREDERICK F	0037	0122	10-15-1962	U	V	0	
Total		26800		38,300		26,800	

EXEMPTIONS		OTHER ASSESSMENTS	
Year	Code	Description	Amount
Total		0.00	

ASSESSING NEIGHBORHOOD	
Nbhd	B
Nbhd Name	Tracing
0001	

ABUTS 588 WAUREGAN  
 ACCESS LOT TO SAND & GRAVEL

BUILDING PERMIT RECORD								
Permit Id	Issue Date	Type	Description	Amount	Insp Date	% Comp	Date Comp	Comments

VISIT / CHANGE HISTORY					
Date	Id	Type	Is	Cd	Purpose/Result
07-08-2020	MM			13	Field Review
10-30-2019	KN			61	Field Check

LAND LINE VALUATION SECTION															
B Use Code	Description	Zone	LA	Land Type	Land Units	Unit Price	Size Adj	Site Index	Cond.	Nbhd.	Nbhd. Adj	Notes	Location Adjustmen	Adj Unit P	Land Value
1	1300 VACANT	RA			0.920	AC	36,000	1.05072	5	1.00	0050	1.100		1.0000	38,300

Total Card Land Units														0.920	AC	Parcel Total Land Area		0.9200	Total Land Value		38,300
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**APPRAISED VALUE SUMMARY**

Appraised Bldg. Value (Card) 0  
 Appraised Xf (B) Value (Bldg) 0  
 Appraised Ob (B) Value (Bldg) 0  
 Appraised Land Value (Bldg) 38,300  
 Special Land Value 0  
 Total Appraised Parcel Value 38,300  
 Valuation Method C

**APPRAISED VALUE SUMMARY**

Total Appraised Parcel Value 38,300



CONSTRUCTION DETAIL		CONSTRUCTION DETAIL (CONTINUED)	
Element	Description	Element	Description
99 00	Vacant Land Vacant		
<b>CONDO DATA</b>			
Parcel Id	C	Ownr	S
Adjust Type	Code	Description	Factor%
Condo Fir			
Condo Unit			
<b>COST / MARKET VALUATION</b>			
Building Value New			
Year Built			0
Effective Year Built			
Depreciation Code			
Remodel Rating			
Year Remodeled			1
Depreciation %			
Functional Obsol			
External Obsol			
Trend Factor			
Condition			
Condition %			
Percent Good			
RCNLD			
Dep % Ovr			
Dep Ovr Comment			
Misc Imp Ovr			
Misc Imp Ovr Comment			
Cost to Cure Ovr			
Cost to Cure Ovr Comment			

No Sketch

OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)										
Code	Description	L/B	Units	Unit Price	Yr Bilt	Cond. Cd	% Gd	Grade	Grade Adj.	Appr. Value
<b>BUILDING SUB-AREA SUMMARY SECTION</b>										
Code	Description	Living Area	Floor Area	Eff Area	Unit Cost	Undeprec Value				
Ttl Gross Liv / Lease Area		0	0	0	0	0				0



CURRENT OWNER	TOPO.	UTILITIES	STRT./ROAD	LOCATION	DESCRIPTION	Appraised Value	Assessed Value
JOLLEY WAYNE L & LESLIE A					COM BLDG	114,600	80,200
524 WAUREGAN RD					IND LAND	462,300	323,700
BROOKLYN, CT 06234-2403					IND BLDG	40,300	28,200
Additional Owners:							
<b>SUPPLEMENTAL DATA</b> Other ID: 30/097 DEED RESTRICTED CENSUS 9051 FIRE DISTRICT EASEMENT SEWER GIS ID: 490 PENALT DEV RIGHT SUBDIVISION SURVEY # 20/96 DEV LOT # ASSOC PID#							

RECORD OF OWNERSHIP	BK-VOL/PAGE	SALE DATE	g/u	w/	SALE PRICE	V.C.
JOLLEY WAYNE L & LESLIE A	78/872	01/16/1985			265,614	
JOLLEY FREDERICK F	78/757	12/26/1984	U	I	265,613	
N E SAVINGS BANK	78/747	12/26/1984	U	I		
BROOKLYN LAND CORPORATION	76/821	01/04/1984	U	I		
MERCIER & SONS INC	64/350	06/14/1977	U	I	240,000	
JOLLEY FREDERICK F	37/122	10/15/1962	U	I		
<b>Total:</b> 333,700						

EXEMPTIONS			OTHER ASSESSMENTS				
Year	Type	Description	Code	Description	Number	Amount	Comm. Int.
<b>Total:</b>							

ASSESSING NEIGHBORHOOD		
NBHD/ SUB	Street Index Name	Batch
0001/A		2015

**NOTES**  
 FUNC=USE  
 2.90 AC ADDED FRM 30/95 V479 P259  
 V 503 P 143 SPECIAL PERMIT ADDITIONAL SAND AND GRAVEL  
 REC HALL & GRAVEL BANK "LOOKS LIKE OLD FISH & GAME CLUB BLDG-USED FOR STORAGE-POOR CONDITION  
 COMMON DRIVE/IN BACK-RIGHT SIDE - BEHIND #534  
 NO HEAT/WATER

BUILDING PERMIT RECORD										
Permit ID	Issue Date	Type	Description	Amount	Insp. Date	% Comp.	Date Comp.	Comments	Date	Purpose/Result
B-15-65	12/29/2015	EL	Electric	1,000		0	02/19/2013	200 AMP ELECTRICAL	06/30/2014	Measure+2Visit
9104	12/27/2012	CM	Commercial	49,000		100	10/01/1991	NEW ELECTRICAL SE	06/24/2014	Measure+1Visit
2566	04/09/1991	CM	Commercial	5,000		100		TRAILER, GRAVEL	PI 03/26/2013	BAA - Change
									04/26/2012	Change - P&Z
									02/08/2012	Change - P&Z

LAND LINE VALUATION SECTION										
B #	Use	Zone	Front Depth	Units	Unit Price	I. Factor	S.A. Disc	Acre	ST. Idx	Notes- Adj
1	4110 S&G MDL-96	RA		5.50 AC	75,000.00	1.0000	0	1.0000	1.00	EXCAVATION AREA
1	4110 S&G MDL-96			14.22 AC	3,500.00	1.0000	0	1.0000	1.00	
<b>Total Card Land Units:</b> 19.72 AC										
<b>Parcel Total Land Area:</b> 19.72 AC										
<b>Total Land Value:</b> 462,300										

**NET TOTAL APPRAISED PARCEL VALUE** 617,200



CONSTRUCTION DETAIL			CONSTRUCTION DETAIL (CONTINUED)		
Element	Cd.	Ch.	Element	Cd.	Ch.
Style	48	Warehouse			
Model	96	Ind/Comm			
Grade	01	Minimum			
Stories	1				
Occupancy	1				
Exterior Wall 1	04	Single Siding			
Exterior Wall 2					
Roof Structure	03	Gable/Hip			
Roof Cover	03	Asph/F GlS/Cmp			
Interior Wall 1	01	Minimum/Masonry			
Interior Wall 2					
Interior Floor 1	03	Concr-Finished			
Interior Floor 2					
Heating Fuel	01	Coal or Wood			
Heating Type	01	None			
AC Type	01	None			
Bldg Use	3160	COMM WHSE			
Total Rooms					
Total Bedrms					
Total Baths					
Heat/AC	00	NONE			
Frame Type	02	WOOD FRAME			
Baths/Plumbing	00	NONE			
Ceiling/Wall	06	CEIL & WALLS			
Rooms/Prtms	02	AVERAGE			
Wall Height	8				
% Conn Wall					

OB-OUTBUILDING & YARD ITEMS(L) / XF-BUILDING EXTRA FEATURES(B)										
Code	Description	Sub	Unit Price	Yr	Gde	Dp	Rt	Chd	%Cnd	Apr Value
	Replace Cost		85,696							
	AYB		1950							
	EYB		1967							
	Dep Code		P							
	Remodel Rating									
	Year Remodeled									
	Dep %		48							
	Functional Obsinc		5							
	External Obsinc									
	Cost Trend Factor		1							
	Condition									
	% Complete		47							
	Overall % Cond		40,300							
	Apprais Val		0							
	Dep % Ovr									
	Dep Ovr Comment									
	Misc Imp Ovr		0							
	Misc Imp Ovr Comment									
	Cost to Cure Ovr		0							
	Cost to Cure Ovr Comment									

BUILDING SUB-AREA SUMMARY SECTION						
Code	Description	Living Area	Gross Area	Eff. Area	Unit Cost	Undeprc. Value
BAS	First Floor	3,360	3,360	3,360	24.11	81,018
PTO	Patio	0	888	44	1.19	1,061
UBM	Basement, Unfinished	0	600	150	6.03	3,617
<b>Ttl. Gross Liv/Lease Area:</b>					<b>3,360</b>	<b>85,696</b>

CONSTRUCTION DETAIL			CONSTRUCTION DETAIL (CONTINUED)		
Element	Cd.	Ch.	Element	Cd.	Ch.
Style	40	BAS			
Model					
Grade					
Stories					
Occupancy					
Exterior Wall 1					
Exterior Wall 2					
Roof Structure					
Roof Cover					
Interior Wall 1					
Interior Wall 2					
Interior Floor 1					
Interior Floor 2					
Heating Fuel					
Heating Type					
AC Type					
Bldg Use					
Total Rooms					
Total Bedrms					
Total Baths					
Heat/AC					
Frame Type					
Baths/Plumbing					
Ceiling/Wall					
Rooms/Prtms					
Wall Height					
% Conn Wall					



DOCKET NO. LND HHD CV-19-6119135-S: SUPERIOR COURT  
BROOKLYN SAND & GRAVEL, LLC, : JUDICIAL DISTRICT OF  
ET AL. :  
V. : HARTFORD  
PLANNING AND ZONING COMMISSION  
OF THE TOWN OF BROOKLYN : DECEMBER 2, 2020

**MEMORANDUM OF DECISION**

The plaintiffs, Brooklyn Sand & Gravel, LLC (“BS&G”), Wayne Jolley and Leslie Jolley, appeal from the decision of the Brooklyn Planning and Zoning Commission (the “Commission”) on July 2, 2019. That decision approved a special permit, but contained a condition (“Condition 4”) which prohibited the importation of any offsite material. The parties have filed briefs and a remote hearing occurred on August 25, 2020.<sup>1</sup>

**Statement of Facts**

BS&G is a Connecticut limited liability company of which Wayne Jolley and his wife, Leslie Jolley, are members. The Jolleys own the property on which BS&G operates, which is comprised of three parcels totaling approximately 64 acres located east of Wauregan Road and west of the Quinebaug River in Brooklyn, Connecticut, known as 530 Wauregan Road and designated by the Brooklyn Assessor’s Map 30 Lot 97, Lot 97-1, and Lot 97-2 (collectively, the “subject property”).

**FILED**

DEC - 2 2020

**HARTFORD J.D.**

---

1

The time between the filing of the last brief, February 21, 2020, and the date of the hearing was due to the COVID-19 pandemic and its restrictions on in-person court proceedings.

12900



The subject property is located in a residential-agricultural (“RA”) zone. Section 3.4.4.4 of the Brooklyn Zoning Regulations allows gravel banks in the RA zone subject to special permit approval. ROR 45 at 21.

The Brooklyn Zoning Regulations concerning gravel banks provide:

13.5.4 - The commission may allow the processing of sand and gravel on the site. Processing shall be restricted to screening, washing, crushing and sorting. Material processed on site shall be:

13.5.4.1 - Material that is excavated on site, and

13.5.4.2 - Material excavated off-site and transported to the subject site for processing provided that the annual quantities of same does not exceed that processed and mined on site.

The subject property has been used for the operation of a sand and gravel bank and processing facility since the 1950s, before the adoption of zoning regulations in Brooklyn. After the town adopted zoning regulations, a special permit was required for sand and gravel operation. Prior to 2019, BS&G operated under a special permit that required annual renewals and allowed for the removal of a specified amount of gravel. When the specified amount of material was close to being exhausted BS&G applied for a new permit on March 5, 2019.

Condition 6b in the 2017 and 2018 permit renewals provided that “[t]he quantity of imported material may not exceed mined material in accordance with the Brooklyn Zoning Regulations Sec. 13.5.4.2 as measured by truckloads and converted to cubic yards.” ROR 65. The permits required that BS&G file quarterly reports which indicated the truckloads imported and the record indicates that BS&G had filed quarterly reports in compliance with the permits.

The March 5, 2019 application for a new special permit (the “Application”) requested continued excavation and processing of both excavated and imported material. The Application

requested removal of 218,000 cubic yards of sand and gravel at the subject property in three phases.<sup>2</sup>

In the same time frame as the Application, BS&G also obtained a Wetland Permit for “Continuation of gravel excavation and processing operations” with no changes proposed within regulated areas. ROR 13 at 1; ROR 31 at 7. BS&G also applied to the Brooklyn Zoning Board of Appeals (“ZBA”) for a number of variances relating to the operation of the sand and gravel bank at the subject property. One of the variances sought permission to increase the amount of imported material.

The Commission accepted the Application on March 6, 2019. It was advised by Jana Roberson, the Town Planner (“Roberson”), that BS&G had applied for four variances to be heard by the ZBA on March 26, 2019. The Commission decided to postpone the public hearing on the Application until after the ZBA had ruled on the variances. In addition, the Commission decided to submit a memorandum to the ZBA in an attempt to influence the decision on BS&G’s variances. One member of the Commission, Austin Tanner, opposed the memorandum based on previous advice by the Town counsel, which had stated that the ZBA and the Commission were two separate entities and should not interfere with each other’s proceedings. However, the remaining Commission members including the Commission chair, Michelle Sigfridson (“Sigfridson”), favored attempting to influence the ZBA’s decision.

Sigfridson labeled the variance concerning the importation of material as an attempt to obtain a permit for stand-alone processing: “to me, requesting this variance seems like they’re trying to completely bypass our regulations that we’ve specifically discussed whether or not we want to allow

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<sup>2</sup>

The amount of cubic feet to be excavated ultimately decreased from the amount sought in the initial form of the Application.



stand-alone processing facilities and decided as a Board that we don't." ROR 81 at 4. Sigfridson signed the memorandum to the ZBA dated April 23, 2019. The memorandum was six pages long and advised the ZBA that the variances sought by BS&G were not "in harmony with the general purpose and intent of the Zoning Regulations." ROR 83 at 3.

Rather than sending the memorandum to the ZBA, the Commission had one of its members, Vice Chair, Carlene Kelleher, appear at the ZBA hearing and read the memorandum into the record. The ZBA listed the memorandum as one of the deciding factors in its denial of all of BS&G's variances.

The public hearing on the Application commenced on May 21, 2019. David Held, P.E., BS&G's civil engineer, presented the Application for BS&G. He explained that 112,000 cubic yards of material could be extracted from the subject property in two phases. Phase one was expected to be completed in 2019 and phase two would be completed by the end of 2020. Held provided evidence showing that BS&G had complied with existing permits. It kept all truck traffic off of Maynard Road and maintained a tree buffer between the adjacent properties. BS&G submitted quarterly reports which documented the number of truck trips per quarter and the volume of imported material brought to the site. These reports demonstrated compliance with the previous permit's requirement that the average number of truck trips per day not exceed 60, with 80 truck trips per day as a maximum. Roberson confirmed that BS&G had complied with the truck reporting requirements and also noted that the "zoning regulations specifically allow the importation of material for processing." ROR 41 at 27. Roberson also told the Commission that the Town Engineer had reviewed the 2019 application and noted only a few questions, which Held addressed.

After Held's presentation, the public was allowed to comment on the Application. There was

strong neighborhood opposition to the Application. Thirty-two neighbors signed a petition of opposition. The petition provided, in part, the following:

We the residence[sic] of Rt 205, also known as Wauregan Road Brooklyn Connecticut, feel that Brooklyn Sand and Gravel LLC has overstayed their welcome. We are opposed to any continuation of this operation.

Mr Jolly[sic] has totally disregarded the zoning regulation pertaining to the amount of material that is allowed to be imported.

Allowing Brooklyn Sand and Gravel to continue to operate will diminish our property values and make it difficult if not impossible to sell our homes for fair market value. No one will want to purchase a house so close to a commercial processing gravel operation, and we doubt that the town of Brooklyn would be willing to compensate the nearby residence[sic] with a tax reduction.

ROR 22.

Several people stated that on certain dates they had counted more truck traffic than the previous permit allowed. In light of these statements, Held suggested that BS&G would pay for an outside consultant to count trucks. Town Planner Roberson agreed that truck counters would be a solution to ascertaining the accurate number of truck trips:

If you really want to know what the truck traffic is, you have to count the trucks and it maybe something this Commission wants to consider. And I put this on my guidance document that you could potentially as a condition of approval require continuous traffic counters at the entrance of the site so we would know for sure because certainly it's going to vary considerably from day to day.

ROR 43 at 10, 29.

However, Sigfridson dismissed the option of truck counters during the public hearings and during deliberation, the Commission declined BS&G's offer to pay for a formal truck count and there were no formal truck counts done. The record contains no expert testimony concerning truck trips and no other evidence to support the claims in the neighbors' petition that the plaintiffs had



“totally disregarded the zoning regulation pertaining to the amount of material that is allowed to be imported.” See p. 5 *infra* and ROR 22.

Held was present when a site walk was conducted by the Commission on May 29, 2019. During the walk, the Commission members observed only one truck enter the BS&G facility. While several neighbors had testified about noise from the gravel operation, Jana Roberson reported that during the site walk:

I think there was a general agreement that the sound of the processing equipment was not very loud, especially from where we were standing. This was the nearest house.

ROR 42 at 3.

Jean Fleming was one of the neighbors who voiced his opposition to BS&G’s continued operations and in particular, the continued importation of material. He spoke several times at the public hearing on May 21, 2019. After Mr. Fleming spoke a second time, Sigfridson acknowledged on the record that Fleming was her father. She went on to assure the audience that the Commission intended to disallow processing of imported material by BS&G. Sigfridson stated, “I’m thinking about additional conditions or curtailing the importation somewhat if not entirely.” ROR 43 at 27.

The Commission met on July 2, 2019, to deliberate on the Application. Sigfridson stated:

I just want to mention too, there’s been some discussion amongst the members of this Commission as to how a motion should be structured if your feeling is that you do not want to approve an application, whether it’s even appropriate to do a motion to deny. I think we’ve for the most part been operating under the assumption that a motion to deny works and is fine. A vote not to approve has the same effect, doesn’t it?

ROR 44 at 2.

Roberson, the town planner, presented a draft motion to approve a special permit, which was



based on the 2018 renewal and on a gravel special permit granted to another applicant. Like the 2018 renewal permit, the draft allowed for the importation of material for processing as long as it did not exceed the amount of excavated material. Condition 4 of the draft provided:

The quantity of imported material may not exceed mined material in accordance with the Brooklyn Zoning Regulations as measured by truckloads and converted to cubic yards. Material excavated on-site will be counted in the year that it is excavated. Imported material will be counted in the year that it is brought on site. Stockpiled material shall not be counted towards the excavation or importation volume.

ROR 47 at 1. Condition 7 of the draft provided:

A continuous vehicle counter shall be installed along the entrance on Wauregan Road to monitor vehicle trips. Daily vehicle trip reports shall be included in the quarterly monitoring reports. The average shall not exceed 60 trips per day and the maximum daily trips shall not exceed 80 trips per day.

ROR 47 at 2. Roberson explained that the truck counters were a feasible method of ensuring compliance with the above conditions. Other Commission members began to discuss the implementation of truck counts. Sigfridson suggested that rather than worry about truck counts, the Commission merely prohibit the importation of materials.

One Commission member, Tanner, stated that the approval of the permit allowing excavation of 112,000 cubic yards “would have achieved the goal of giving an end date to the business.” ROR 44 at 6. However, Sigfridson insisted that allowing processing of imported material encouraged BS&G to continue its business. Commission member D’Agostino suggested that the Commission allow phase one fully, prohibit phase two to enable BS&G to sunset its business gently. Sigfridson’s response to that suggestion was to replace the condition 4 proposed by Roberson:

#4 is the condition that would relate to imported material and how it would be counted. I would proposed that that be stricken and replaced by something that says that no material shall be imported to the site . . . .

*Id.* at 22.

Ultimately, Condition 4 was redrafted to state: “Material excavated on site may be processed, but no off-site material shall be imported to the site for processing or other uses after August 1, 2019.” ROR 28. The proposed Condition 7 was eliminated.

The Commission voted 5-1 to approve the permit with Condition 4. The Commission did not accompany its decision with a formal statement of the reasons for imposing Condition 4. The decision was published in the newspaper on July 12, 2019, and recorded on August 7, 2019. This appeal was timely commenced by service on the Brooklyn Assistant Town Clerk on July 29, 2019.

#### Aggrievement and Ruling

The Jolleys own the subject property and BS&G is the applicant for the special permit to which Condition #4 is attached. Therefore, BS&G and the Jolleys are statutorily aggrieved as a matter of law under Connecticut General Statutes § 8-8. *Goldfield v. Planning & Zoning Commission*, 3 Conn. App. 172, 176, 486 A.2d 646 (1985). Because Condition 4 adversely impacts the Jolleys’ and BS&G’s investment and interest in the property, they are also classically aggrieved. *West Farms Mall, LLC v. West Hartford*, 279 Conn. 1, 13, 901 A.2d 649 (2006).

The standard for judicial review of administrative decisions made by municipal planning and zoning commissions is whether the agency acted illegally, arbitrarily, or in abuse of its discretion. *Gagnon v. Municipal Planning Commission*, 10 Conn. App. 54, 56-57, 521 A.2d 589, cert. denied, 203 Conn. 807, 525 A.2d 521 (1987). “When considering an application for a special exception, a zoning authority acts in an administrative capacity, and its function is to determine whether the proposed use is expressly permitted under the regulations, and whether the standards set forth in the regulations and statutes are satisfied.” *Daughters of St. Paul, Inc. v. Zoning Board of Appeals*, 17



Conn. App. 53, 56, 549 A.2d 1076 (1988).

The plaintiffs have presented a number of reasons why the Commission's imposition of Condition 4 was illegal. While the court will address all arguments, it finds that one argument is sufficient to vitiate the imposition of Condition 4: the Chair of the Commission had a conflict of interest and not only failed to recuse herself, but used her influence and clear predisposition against the Application to gain approval of Condition 4 even when there were viable alternatives.

During the public hearing, Sigfridson's father, Mr. Fleming, who lives across the street from the BS&G facility, voiced his opinion that the Commission should prohibit the importation part of the permit. Sigfridson acknowledged that she had grown up across the street from the facility. She failed to recuse herself. Instead, she continued, not as a passive member of the Commission, but as the leading proponent of the Commission's unusual course of influencing the actions of the ZBA with respect to the plaintiffs' variance requests. While the BS&G and the Town Planner, Roberson, as well as various Commission members, suggested that the importation of material could be effectively monitored by various means such as truck counts, Sigfridson continually steered the Commission away from compromise and towards her father's position, which wanted to end BS&G's business and saw the prohibition on importing material as the best way to do so.

"[Connecticut General Statutes] Section 8-11 provides that no member, directly or indirectly interested in a personal or financial sense in 'any matter' coming on for a decision or hearing of the commission may participate in that hearing." *Thorne v. Zoning Commission*, 178 Conn. 198, 202, 423 A.2d 861(1979). A personal interest is defined as:

A personal interest is either an interest in the subject matter or a relationship with the parties before the zoning authority impairing the impartiality expected to characterize each member of the zoning authority. A personal interest can take the form of

favoritism toward one party or hostility toward the opposing party; it is a personal bias or prejudice which imperils the open-mindedness and sense of fairness which a zoning official in our state is required to possess.

*Anderson v. Zoning Commission*, 157 Conn. 285, 290-91, 253 A.2d 16 (1968).

“This prophylactic rule serves the salutary purposes of promoting public confidence in the fairness of the decision-making process and preventing the public official from placing himself in a position where he might be tempted to breach the public trust bestowed upon him.” *Gaynor-Stafford Industries, Inc. v. Water Pollution Control Authority*, 192 Conn. 638, 649-50, 474A.2d 752, cert. denied, 469 U.S. 932, 105 S. Ct. 328, 83 L. Ed. 2d 265 (1984). “It is axiomatic that the appearance of impropriety created by a public official’s participation in a matter in which he has a pecuniary or personal interest is alone sufficient to require disqualification.” *Brunswick v. Inland Wetlands Commission*, 29 Conn. App. 634, 639, 617 A.2d 466 (1992).

The determination as to whether an interest is sufficient to disqualify is a factual one. *Thorne, supra*, at 205. In *Thorne*, the chair of a zoning commission moderated the public hearing and voted in favor of the zoning change at issue. The chair’s parents and sister owned and lived in property adjacent to the plaintiffs’ property and benefitted from the zone change. On appeal, the defendant claimed that § 8-11 did not apply to zoning changes and that the chair’s interest was too remote to require disqualification under that section. The court disagreed, stating:

There was . . . no error in the judgment of the trial court finding that Byrne was “directly or indirectly,” in a “personal or financial sense,” interested in the decision of the commission redesignating the plaintiffs’ property from a business to a residential zone. *Section 8-11 of the General Statutes clearly requires that a member of the zoning commission or board shall disqualify himself when the decision of the zoning authority could inure to his benefit, and forbids a member of a zoning commission or board of appeals from participating in any matter in which he has a personal interest in the outcome. . . .* While we make it clear that there is no evidence that Byrne exercised any improper influence upon the commission, and we impute



no such impropriety to him, we conclude that, *in view of the chairman's interest in the zone change, as evidenced by the close proximity of his parents' and sisters' residences to the plaintiff's property and by his interest on their behalf in maintaining the residential character of the locality, the court did not err in holding the commission's action a nullity as to the plaintiffs' property.*

(Emphasis added.) *Thorne, supra*, at 204-205.

In this case, Sigfridson's personal interest was virtually identical to that of the chair in *Thorne* and, by itself, would warrant her disqualification. However, unlike the chair in *Thorne*, Sigfridson clearly exercised improper influence upon the Commission, including her encouragement that the Commission take the extremely unusual and, arguably improper, action to influence the ZBA and her repeated refusal to even consider measures suggested by other Commission members and the town planner which would have obviated the need for Condition 4.

The defendant argues that § 8-11 should not disqualify Sigfridson because the plaintiffs did not demand her disqualification at any hearing. However, Connecticut courts allow raising a conflict of interest claim for the first time on appeal to the Superior Court. See *Nazarko v. Conservation Commission*, 50 Conn. App. 548, 553, 717 A.2d 850, cert. denied, 247 Conn. 941, 723 A.2d 318 (1998); *Fruscianti v. Westbrook Zoning Board of Appeals*, Superior Court, judicial district of Middlesex, Docket No. 60825, 1992 WL 91670 (April 7, 1992, *Higgins, J.*) (6 Conn. L. Rptr. 298); *East Street Residential Partnership v. East Granby Planning & Zoning Commission*, Superior Court, judicial district of Hartford, Docket No. 366173, 1990 WL 284338 (May 22, 1990, *Smith, J.*) (1 Conn. L. Rptr. 653).

As stated above, unlike the chair in *Thorne*, who had a disqualifying conflict of interest, but did not seek to improperly influence the Commission, Sigfridson was the chief antagonist with respect to the Application. The record shows that she had predetermined to prohibit importation



before the public hearing commenced.

“The law does not require that members of zoning commissions must have no opinion concerning the proper development of their communities. It would be strange, indeed, if this were true.” *Furtney v. Zoning Commission*, 159 Conn. 585, 594, 271 A.2d 319 (1970). The decisive question in determining whether a commission member was predisposed for or against something is whether she had actually made up her mind prior to the public hearing without hearing any arguments. This involves a question of fact as to which the plaintiffs have the burden of proof. *Cioffoletti v. Planning and Zoning Commission*, 209 Conn. 544, 555, 552 A.2d 796 (1989).

In *Marmah, Inc. v. Greenwich*, 176 Conn. 116, 405 A.2d 63 (1978), the Supreme Court upheld the trial court’s finding that “the commission acted with predisposition and predetermination” and its “actions were capricious, unreasonable and illegal” when it denied the plaintiff’s site plan application. In *Marmah*, the commission initially denied the plaintiff’s site plan application to construct a post office. Shortly thereafter it scheduled a public hearing on a proposed amendment to the zoning regulations to delete the use sought by the plaintiff. The commission then declined to consider the site plan application based on a pretext that there was no quorum and then scheduled the plaintiff’s hearing on the same night as the hearing to amend the regulations. The court further found:

The commission’s overt consideration of the site plan [was] casual and perfunctory. The commission appeared to be favoring opponents of the application throughout the public meeting at which it was discussed. Representatives of the [plaintiff] were not permitted to question the representative capacity, or the technical credentials, of those who spoke or wrote in opposition to the application. There was no expert testimony about traffic, architectural design or building design, other than the approvals of [the plaintiff’s] application by the defendant town’s traffic department, architectural review board, and building department. Nonetheless, the commission voted to disapprove the site plan on the grounds of increased traffic and unsatisfactory parking

layout, as well as the absence of a request for new facilities by the postal authorities.

*Marmah, supra*, at 118.

The behavior of the Commission here, under Sigfridson's leadership was similar to that of the commission in *Marmah*. The Commission repeatedly rescheduled the special permit hearing to await the ZBA's decision on BS&G's variance applications. The Commission improperly sought to influence the decision of the ZBA as set forth above. After the Commission had guided the ZBA to deny all variances, including the one which requested an increase in imported material, Sigfridson aggressively promoted the prohibition of importation as part of the special permit.

While this court believes that the conflict of interest discussed above is sufficient to invalidate Condition 4 of the permit, it will address the other arguments raised by the plaintiffs. The plaintiffs argue that the imposition of Condition 4 was arbitrary and illegal in that the Commission violated the prior application rule, the imposition of the Condition was not based on substantial evidence and the imposition of the Condition terminated a pre-existing, nonconforming use. The court agrees.

"There is a well-established concept in the administrative law of this state that prohibits an administrative agency from reversing its prior decision unless the facts and circumstances that resulted in the decision have sufficiently changed to affect materially the reason that produced and supported the decision and no vested rights have intervened." *Grace Community Church v. Planning & Zoning Commission*, 42 Conn. Supp. 256, 270-71, 615 A.2d 1092 (1992). An administrative agency that has acted on a special permit application is not allowed to reverse itself unless there has been a substantial change of circumstances that affects the merits of the case. *Id.*, citing *Rocchi v. Zoning Board of Appeals*, 157 Conn. 106, 111, 248 A.2d 922 (1953); see also



*Laurel Beach Assn. v. Zoning Board of Appeals*, 66 Conn. App. 640, 646, 786 A.2d 1169 (2001).

It appears from the record that the 2019 BS&G application was substantially the same as the 2017 and 2018 applications. The reason why the 2019 application involved a new special permit was that the limit on the amount of material under the previous permit had been exhausted. In both the 2017 and 2018 renewals, the Commission allowed BS&G to import the same amount of material as it excavated. In 2017, BS&G requested removal of 100,000 cubic yards, but removed only 53,000 cubic yards. The 2018 renewal allowed BS&G to remove the remaining 47,000 cubic yards. The 2019 Application requested removal of 112,000 cubic yards over the course of two years, substantially the same relief as the 2017 and 2018 applications.

The 2017 and 2018 permits allowed importing material at a ratio of one to one, as permitted in the Regulations (13.5.4.2). The neighbors who spoke against the Application cited truck traffic and noise. However, notwithstanding the Commission's arguments to the contrary, there was ample evidence that BS&G had complied with the truck trip requirements with respect to the 2017 and 2018 permits. Moreover, in the face of purely anecdotal reports of excess truck trips, BS&G and its engineer offered several times to hire and pay for professional counters, but those offers were rejected. As the Application proposed removing a substantially similar amount of material as the previous permits allowed, the truck traffic would not be substantially different from that allowed in 2017 and 2018.

In *Mason v. Board of Zoning Appeals*, 143 Conn. 634, 124 A.2d 920 (1956), the board denied the new owner of a car repair business a certificate of premises suitability. A similar certificate had been issued to a previous owner for the same location. Neighbors' complaints of noise, smoke and traffic were the reason for the denial. In reversing the action of the board, the court

stated:

When a business has been launched and continuously operated on a site officially declared suitable by a zoning board of appeals, the status of suitability should normally continue. This conforms to the rule of law that, after an administrative agency has made a decision related to the use of real property, it is ordinarily powerless to reverse itself, although it may do so if a change in circumstances has occurred since its prior decision, or other considerations materially affecting the merits of the subject matter have intervened and no vested rights have arisen.

*Id.* at 838-39.

In *Grace Community Church, supra*, the court noted that “[f]or material changes to exist since the prior application, there should be some evidence of changed conditions in the immediate vicinity of the subject property connected with the reason for disapproval of the second application.”

*Id.* at 271. In *Grace Community Church*, there was no evidence of a change in traffic conditions between the time of the first approval and the denial of the second application. The court held that in “the absence of factual findings by the Commission as to how the application was different from the previous one, it should not have denied the special permit.... This is particularly true where the applicant was willing to consider reasonable controls and improvements to prevent traffic problems.”

*Id.* at 272.

Like *Grace Community Church*, there was no evidence in this case or findings by the Commission that there were any changes in conditions between the 2018 permit and the 2019 Application.

The plaintiffs argue that the imposition of Condition 4 was not supported by substantial evidence. The court agrees. The Commission relied on complaints by neighbors about excessive truck traffic, but refused the plaintiffs’s repeated offers to verify the number of trucks. The Commission also gave credence to neighbors’ claims that the plaintiffs had not complied with their



previous permit applications when the record clearly shows that town officials had found compliance. Martha Frankel, the Town's Zoning and Wetlands Agent, noted that "volumes as reported for the past year are compliant with the permit." ROR 70. The Town Planner, Roberson, confirmed that BS&G had complied with the truck reporting requirements. ROR 41 at 27.

The neighbors claimed that allowing BS&G to continue operating would diminish property values because "no one will want to purchase a house so close to a commercial processing gravel operation." Defendant's Brief at 6-7 and ROR 22. Since these neighbors had all purchased their properties 8-35 years ago, when the plaintiffs were already operating the gravel pit, it should have been difficult to credit their testimony that no one would buy a property due to the plaintiffs' operation. There was nothing that showed that the plaintiffs' continued operation and importation would change their property values as the importation amounts requested in 2019 were the same as in 2017 and 2018.

A special permit may be denied only for failure to meet specific standards in the regulations, and not for vague and general reasons. *Cambodian Buddhist Society of Connecticut, Inc. v. Planning & Zoning Commission*, 285 Conn. 381, 431, 941 A.2d 868 (2008). It is an abuse of discretion to deny a special permit application based on unsubstantiated evidence. *Norwalk Yacht Club Corp. v. Zoning Commission*, Superior Court, judicial district of Stamford, Docket No. CV-06-4008012-S, 2010 WL 1667281, at \*7 (March 31, 2010, *Adams, J.*). In *Norwalk Yacht Club*, a yacht club applied for a special permit to remodel its clubhouse. The local homeowner's association opposed the application on the grounds that the club's summer sailing program and increase in the club's membership would generate increased traffic. The zoning commission denied the special permit on the grounds, among other things, that there would be an increase in traffic from the summer sailing

program.

On appeal, the court found that there was no evidence in the record that the renovation of the clubhouse would have any effect on traffic. The court stated that most of the traffic complaints from neighbors involved traffic related to the club's youth sailing program, which the proposed renovations would not affect. The court determined that it would be "unfair and arbitrary to deny a permit when the project applied for would have no adverse effect on the condition complained of."

*Id.* at p. 7.

In *Martland v. Zoning Commission*, 114 Conn. App. 655, 971 A.2d 53 (2009), the court affirmed the trial court's decision that "the requirement of [a] restoration condition was improper," because the record did not contain substantial evidence to support the Commission's imposition of the condition. *Id.* at 667. The condition required the applicant to restore an existing berm, which the Commission found had acted as a noise and physical barrier. The court concluded that the evidence before the Commission that the berm acted as a noise buffer was not substantial because "it is not supported by anything other than speculation and conjecture on the part of those objecting to the plaintiff's proposed activities." *Id.* at 665-66. The court highlighted the absence of "scientific data" comparing the noise levels in the area with and without the berm and stated, "Even if we assume *arguendo* that the noise level would increase as a result of the changes to the berm, the record is devoid of any evidence indicating how much of a noise increase would be permissible before the public health, safety, convenience or property values would be impacted." *Id.*

The plaintiffs further argue that the imposition of Condition 4 improperly terminated a valid, pre-existing, non-conforming use of the property. "It is a fundamental zoning precept in Connecticut . . . that zoning regulations cannot bar uses that existed when the [zoning] regulations were adopted."



*Cioffoletti v. Planning & Zoning Commission*, 24 Conn. App. 5, 8, 284 A.2d 1200 (1991). “Once a nonconforming use is established, the only way it can be lost is through abandonment.” *Taylor v. Zoning Board of Appeals*, 65 Conn. App. 687, 696, 783 A.2d 526 (2001).

The Brooklyn Zoning Regulations were adopted in 1972. Held, a representative of the plaintiff BS&G, testified that the gravel operation had existed since the 1950s. ROR 41 at 12. One of the neighbors, Dessert, testified that over fifty years ago he had attended a hearing where Mr. Jolley discussed the importation of material for his processing plant. The importation of material was a pre-existing, non-conforming use. The imposition of Condition 4 interfered with that use based on insufficient evidence and was unreasonable.

The defendant argues that Condition 4 is an essential component of the special permit and, therefore, if it is invalidated, the whole permit should be invalidated. This is difficult to accept in light of the record. Roberson, the Town Planner, presented the Commission with a draft approval of the Application in which condition 4 provided:

The quantity of imported material may not exceed mined material in accordance with the Brooklyn Zoning Regulations as measured by truckloads and converted to cubic yards. Material excavated on-site will be counted in the year that it is excavated. Imported material will be counted in the year that it is brought on site. Stockpiled material shall not be counted towards the excavation or importation volume.

ROR 47 at 1.

The defendant has failed to cite any cases to support its argument that Condition 4 is an essential component of the Application. “The imposition of a void condition . . . does not necessarily render the whole decision illegal and inefficacious. If the decision is otherwise supported by sufficient grounds as found by the board, a modification of the decision may be decreed with a view toward ending further litigation.” *Parish of St. Andrew’s Protestant Episcopal Church v. Zoning*



*Board of Appeal*, 155 Conn. 350, 354-55, 232 A.2d 916 (1967); see also *Pecora v. Zoning Commission*, 145 Conn. 435, 443-44, 144 A.2d 48 (1958). Under Connecticut General Statutes § 8-8 (l), the court is allowed to “affirm, wholly or partly, or revise, modify or remand the decision from which the appeal was taken in a manner consistent with the evidence in the record before the court.” See also R. Fuller, 9A Connecticut Practice Book Series: Land Use Law and Practice (4<sup>th</sup> Ed. 2015) § 35:1.

For the foregoing reasons the Condition 4 of the special permit is null and void. The court sustains the plaintiffs’ appeal and directs the Commission to approve the special permit adopting the Condition 4 contained in the proposed special permit approval (see p. 18 *infra*), which provides:

The quantity of imported material may not exceed mined material in accordance with the Brooklyn Zoning Regulations as measured by truckloads and converted to cubic yards. Material excavated on-site will be counted in the year that it is excavated. Imported material will be counted in the year that it is brought on site. Stockpiled material shall not be counted towards the excavation or importation volume.

By the court,

/s/ 402017

Aurigemma, J.

W 1288—Warranty Deed, Individual or Corporation

JULIUS BLUMKIND, INC., LAW BLANK PUBLISHERS  
80 EXCHANGE PL. AT BROADWAY, N. Y. C. 10004

THIS IS A LEGAL INSTRUMENT AND SHOULD BE EXECUTED UNDER SUPERVISION OF AN ATTORNEY

**To all People to Whom these Presents shall Come, Greeting:****Know Ye, That** FREDERICK F. JOLLEY of the Town of Brooklyn,  
County of Windham and State of Connecticut

for the consideration of ONE DOLLAR (\$1.00) and other valuable considerations

received to my full satisfaction of MERCIER and SONS, INC., a  
Connecticut corporation with its principal place of business at Brick Yard  
Road in the Town of Brooklyn, County of Windham and State of Connecticut  
mailing address: c/o Foxtail Campground Rt. 205 Brooklyn, Ct.do give, grant, bargain, sell and confirm unto the said MERCIER and SONS, INC.,  
a certain tract or parcel of land with the buildings and improvements  
thereon situated in the Town of Brooklyn, County of Windham, and State of  
Connecticut, bounded and described as follows:A parcel located at the southeasterly intersection of the Allen Hill  
Road with State Highway Route 205.Beginning at the intersection of the southerly highway line of the  
Allen Hill Road with the easterly highway line of State Highway Route 205,  
this being the northwesterly corner of the within described tract; thence  
southeasterly 2040 feet, more or less, along the easterly highway line of  
Route 205; to a corner of lands of Carl and Viola Leone; thence easterly  
508 feet, more or less, to a corner; thence southwesterly 565 feet, more  
or less, to a corner; thence westerly 120 feet, more or less, to a corner  
on the easterly highway line of Route 205, these last three (3) courses  
bounding on lands of Carl and Viola Leone; thence southeasterly 390 feet,  
more or less, along the said easterly highway line of Route 205, to lands  
of the Sacred Heart Church Corporation; thence northeasterly 776 feet,  
more or less, bounding on said Church Corporation, to a corner; thence  
southeasterly 900 feet, more or less, bounding on said Church Corporation  
to the Quinebaug River; thence northeasterly along the Quinebaug River,  
to lands of George Bouthillier; thence westerly 1030 feet, more or less,  
along a wire fence, to a stone wall; thence northwesterly 470 feet, more  
or less, along the stone wall, these last two (2) lines bounding on said  
George Bouthillier, to a wall corner on the southerly highway line of the  
Allen Hill Road; thence westerly 675 feet, more or less, along the said  
highway line of Allen Hill Road, to the point or place of beginning.  
Containing 80 acres, more or less.Together with a fencing agreement as contained in a certain deed from  
Charles Benham to Frank and Viola Leone, dated June 25, 1935, and recorded  
in Volume 25, Page 48 of the Land Records of the Town of Brooklyn.Together with a fencing agreement and a reserved right of way, as con-  
tained in a certain deed from Charles Benham to the Church of the Sacred  
Heart of Jesus, dated April 16, 1924 and recorded in Volume 21, Page 579  
of the Land Records of the Town of Brooklyn.Being subject to rights of the Connecticut Light and Power Company, to  
construct and maintain pole lines across this described tract and as may  
appear of records.

EXCEPTING THEREFROM the following described parcel of land:

A certain tract of land at the southeasterly corner of the intersection of Route #205 and Allen Hill Road in the Town of Brooklyn, County of Windham and State of Connecticut, as shown on a plan entitled "Plan of Land of Frederick F. Jolley - Allen Hill Road & Route 205 - Brooklyn, Connecticut - Kieltyka, Woodis & Pike, Land Surveyors - Scale 1"=40' - April 27, 1977" bounded and described as follows:

Commencing at a concrete highway bound at the southeast corner of the intersection of Route #205 and Allen Hill Road; thence S. 19° 00' 02" E. 200.01' along the easterly line of Route #205 to a drill hole in the stone wall; thence N. 59° 30' 04" E, 325.00' to an iron pin; thence N. 19° 04' 35" W, 200.10' to an iron pin in the southerly line of Allen Hill Road, the last two (2) courses being bounded on the south and east by other land now or formerly of Frederick F. Jolley; thence along the southerly side of Allen Hill Road S. 57° 10' 38" W. 59.76' to an iron pin; thence S. 58° 17' 39" W. 83.78' to an iron pin; thence S. 59° 12' 26" W. 87.03' to an iron pin; thence S. 62° 13' 59" W. 94.37' to a concrete highway bound in the easterly line of Route #205 and the point of beginning.

The above described tract contains 1.44 acres and is a portion of the fourth tract conveyed to Frederick F. Jolley by deed from Ralph W. Fisk and Florence K. Fisk dated October 15, 1962, and recorded in Volume 37, Page 122 and 123, of the Town of Brooklyn Land Records.

SUBJECT TO a utility easement from Frederick F. Jolley to the Connecticut Light and Power Company dated January 19, 1971, recorded in the Brooklyn Land Records, Volume 50, Page 288.

\$264.00 Conveyance Tax received

*Debra M. Theriot*  
Ass't. Town Clerk of Brooklyn



**To Have and to Hold** the above granted and bargained premises, with the appurtenances thereof, unto it the said grantee its successors ~~heirs~~ and assigns forever, to and their own proper use and behoof. And also, I the said grantor do for mysel f my heirs, executors, and administrators, covenant with the said grantee its successors ~~heirs~~ and assigns, that at and until the en sealing of these presents, I am well seized of the premises, as a good indefeasible estate in FEE SIMPLE; and have good right to bargain and sell the same in manner and form as is above written; and that the same is free from all incumbrances whatsoever, except as above stated.

**And Furthermore,** I the said grantor do by these presents bind my sel f and my heirs forever to **WARRANT AND DEFEND** the above granted and bargained premises to it the said grantee its successors ~~heirs~~ and assigns, against all claims and demands whatsoever, except as above stated.

In Witness Whereof, I have hereunto set my hand and seal ~~under the seal of the Superior Court of New London~~ this 14th day of June 19 77.

Signed, Sealed and Delivered in the presence of

*Raymond J. Chabot*  
 Raymond J. Chabot  
*George H. Jackson, III*  
 George H. Jackson, III

*Frederick F. Jolley* (L.S.)  
 Frederick F. Jolley (L.S.)  
 \_\_\_\_\_ (L.S.)  
 \_\_\_\_\_ (L.S.)  
 \_\_\_\_\_ (L.S.)  
 \_\_\_\_\_ (L.S.)  
 \_\_\_\_\_ (L.S.)

State of Connecticut, County of New London ss.: New London, June 14, 1977

On this the 14th day of June 19 77, before me, Raymond J. Chabot the undersigned officer, personally appeared Frederick F. Jolley

known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In Witness Whereof, I hereunto set my hand.

*Raymond J. Chabot*  
 Raymond J. Chabot  
 Commissioner of the Superior Court  
 Title of Officer

State of Connecticut, County of

ss.:

On this the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, before me, the undersigned officer, personally appeared \_\_\_\_\_ who acknowledged himself to be the \_\_\_\_\_

\_\_\_\_\_ of \_\_\_\_\_, a corporation, and that he, as such \_\_\_\_\_, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as

In Witness Whereof, I hereunto set my hand.

Received for record this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 1977 at \_\_\_\_\_ A.M.

Title of Officer

Austin Tanner

FIRST Selectman

Town of Brooklyn

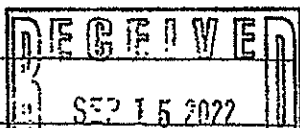
Hello, I hope you're well. I was talking to Wayne Jolley recently and the subject came up about a Gravel bank off Rt. 225 in Brooklyn. It is my understanding that the town is looking for people who might remember the gravel bank prior to existing zoning regulations. I told Wayne that my grand father Herman Frink got gravel or sand (I can't remember which) back in 1967-1968 prior to me going to high school. I went there with my Uncle Albert Frink with the cold truck to get sand or gravel. Back then we had an international cattle truck to move cows or pick up hay in the field. It didn't have a tail gate so it was loaded toward the front so we wouldn't lose it on the road on the way back to the farm. I know I was still in grade school 7th or 8th grade. It was a long time ago. I remember there was a river back then. Anyways if this letter helps in any way good. Take care

Paul Sweet.

260 Newid

maple, CT 06354

cell 860-237-7311



To whom it may concern,

As to the question "were they mining at the Jolley property on RT 205 in Brooklyn prior to zoning" the answer is yes.

I remember as a boy around 1968 going with my dad, Len Albee, to Fred Jolley's property on Rt 205 to ride along with dad as we moved sand and stone in the building of Fox Tail Campground, and also move material for use in the concrete plant off Rt 12 in Danielson. This was from a spot on the property that Fred processed bank run gravel into sand and stone.

Later around 1978 while working for Cliff Green & Sons, I remember going back to the same place to start to process again for them with a portable plant from Rawson MFG.

We moved from Woodward Rd to Rt 205 in 1976 and I always remember processing at that property.



Tim Albee

507 Wauregan Rd

Brooklyn CT 06234

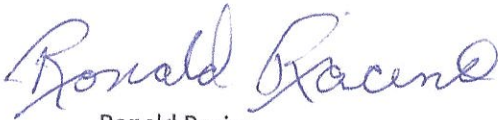
860-319-4271





To whom it may concern,

I am Ronald Racine, owner of Racine and Sons Excavation. I was born July 6<sup>th</sup> 1943 and started my business at around age 19. I purchased stone, for the purposes of installing septic systems, from Fred Jolley all the way back to 1970. I picked up material from the Brooklyn location on RT 205 entering from Fox Tail Campground's main entrance and continued passed the campground and all the way to the south east side of the property where the screening plant was, in the same vicinity of the current processing plant that is where Brooklyn Sand and Gravel now resides. I observed the operation of the screening plant and was aware that the material was being brought in from an outside location to make the stone I was using for my business.

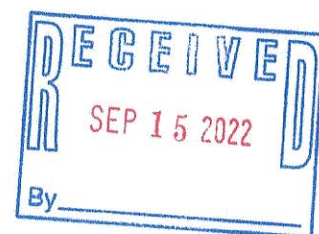


Ronald Racine

17 Ware Rd

Dayville CT 06241

860-234-5022





**Jolley Concrete & Block**  
A Division of Jolley Concrete Inc.  
42 Junior Ave. Danielson CT 06239  
1-860-774-5000 · 1 800-752-5720 (CT) · Fax 860-774-3872



**RECEIVED**

**OCT 20 2022**

To Whom it may concern,

The property listed as 530 Wauregan Rd in Brooklyn on Rt 205 also known today as Brooklyn Sand & Gravel is land which has been used to process imported material for the purposes of sale and use in many construction facets since the 1960s when the property was owned by Fred F. Jolley. Back when Fred purchased the land in the 1960s, he started work on building a campground, which would eventually become Fox Tail Campground. During the construction of the campground is when Fred began processing material with a screening plant and at first using it to make the roads and pads for campers to access the site. Jack Burke remembers using the material to install the swimming pool which has since been filled in, near the recreation hall which still stands to this day. Some of the material was sold for use by others as evidenced by Mr. Racine, who purchased material for septic systems. Processing on the site was observed by many outside the family as evidence in the many letters that have been previously given to the town and more letters yet to be procured by those who are still with able to remember that far back. When Mercier & Sons purchased the property in 1977 they continued to use the property for processing imported material with the same screening plant, continuing the use of the property as it had been used previous. In 1985 when we purchased the property from the bank when Mercier defaulted on his loan with them, we purchased it with the intent to continue using the property in this manner.

For these reasons and many accounts of the properties use before planning and zoning was even in existence, according to the bylaws of the State, the pre-existing non-conforming use should be grandfathered to the property as no one has owned it without the purpose of using it in that manner.

Sincerely,

  
Wayne L. Jolley

President/Owner

Jolley Concrete Inc. and

Brooklyn Sand & Gravel

David Fuss  
Bailey Woods Rd  
Brooklyn Ct.

9/13/2022

RECEIVED

OCT 20 2022

Brooklyn P&Z  
Brooklyn Ct.

**P&Z Members,**

**I am writing in regards to Brooklyn Sand and Gravel and the length of time it has been in the business of producing aggregate.**

**My father bought the farm I am on now in 1966. I recall the local contractors we hired to do construction improvements purchasing and hauling aggregate material from the sight B.S and G. occupies today.**

**It was common practice for farmers and land owners with good gravel to open a gravel pit and sell gravel. The Jolley family put in a screening and sizing plant, that made the product produced there more desirable. With the property being located on a state road it made it easy to access from the local towns.**

**In the 60's and up into the 70's many of the local roads were gravel roads. I recall as a young boy aggregate material being hauled out of what is now B.S. and G. to build and repair local roads. At that time there were small concrete block plants that used material from the Rt. 205 location. In the early days of construction, it was common practice to haul aggregate material to the construction site to mix and build houses, barns and chicken coops. Brooklyn was a large agricultural community and to expand people needed aggregate. This is also true today aggregate products go into the making of the concrete blocks that rebuild the catch basins on state roads that are being repaved now. This material is used to make our lives better in so many ways.**

**If you could follow a truck load of material you would be able to see all the different lives that material impacts. The people that are employed from that truck load of material. This creates a micro economy in our corner of the state. These men and women that material employs. The person that drives the truck, operates the loader, the people that make the concrete, make the concrete blocks. These are the same materials that build or rebuild our schools, the Brooklyn Middle School gym was rebuilt using the block for the wall rebuild, the concrete repoured the sidewalks.**

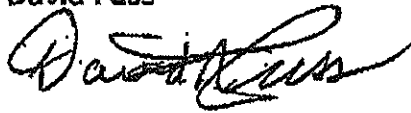


Think of all the people that are employed as a result of these products.

These same people use their pay check and shop at the stores that employ local people, these people are your neighbors, your friends, your relatives, are all impacted in one way or another.

No one could have known 60 years ago when they started that gravel processing operation the impact it would make on all our lives today.

Thank You,  
David Fuss

A handwritten signature in black ink that reads "David Fuss". The signature is written in a cursive style with a large, looping initial "D".

Re: Fox Tail Campground Letter



Jack Burke <jeburke057@yahoo.com >  
10/24/2022 3:08 PM



To: Thomas Jolley

To whom it may concern:

My name is Jack Burke and I am the owner of J&B Transportation, LLC located in Dayville, Ct.

I'm a retired State Police Officer and former Commanding Officer of Troop "K" in Colchester, Ct

I started a trucking business in 1967 and sold, installed and filled swimming pools.

Fred Jolly, owner of Jolly Concrete, hired my company to haul some of his finished products. I also hauled pool water to a swimming pool Fred was installing in a campground he was developing on some of his property on Rt 205 in Brooklyn. During that time he was operating a screening plant on the property to facilitate the building of the campground and he had trucks hauling gravel off the property. I can't be certain of the dates but I believe it was in the late 60's or early 70's.

Sincerely

Jack Burke

RECEIVED

OCT 25 2022

To whom it may concern,

I am Wayne Jolley of 524 Wauregan Rd in Brooklyn CT. I am the owner of Brooklyn Sand & Gravel which is listed as 530 Wauregan Rd. The property that Brooklyn Sand & Gravel now resides is property my father, Fred F. Jolley, owned from the mid-60s to late-70s, I believe from 1966 to 1977. During the time my father owned the property, he built and operated what was Fox Tail Campground. When I was a teenager I helped my father with the construction of the campground by using material that he was screening on the property and I used that material on the property to make roadways, trailer pads, and around the various out-buildings on the property. I operated a bull dozer to spread the material around the various locations on the property. This was all work that was done in the 1960s as I was born in 1950. I loaded sand from the screening plant to various people in the town, including Emerson Nutting who delivered material to Donald Francis for his chicken coops. Ernest Jolly was bringing in the bulk of the material that was imported from off site from various locations around town, including local farmers.

  
Wayne Jolley

524 Wauregan Rd

Brooklyn CT 06234

860-208-7364

RECEIVED

OCT 25 2022





Dear Wayne,

I was waiting in the gravel bank a couple times and started to think back to when I was younger. My dad would take me over to the 205 pit to pick up some gravel for a farm project; back then it would have been for Hillandale. I'm not certain, but I think it was the early 1970's when the pit first opened and visiting it then as a young kid, who would have thought I'd end up driving concrete trucks for your family and Jolley Concrete ten years later!

I can tell you, when I started J. Booth Construction your company and the pits was a great resource for me. Having the pit so close in proximity and the great qualities of your materials really helped make my jobs even more successful. I've truly enjoyed the working relationship we've shared all these years.

Even as a little boy watching big loaders fill up trucks; it was just remarkable. Just thought I would share some very old memories with you.

Yours Truly,

Jim Booth



---

P.O. Box 739 • Brooklyn, CT 06234 • 860.779.2222 • Fax 860.774.1194

[www.hometownheatingllc.com](http://www.hometownheatingllc.com)

October 26, 2022

Allan Rawson  
210 Chase Road  
Putnam, CT 06260

TO: The Town of Brooklyn, CT

Wayne Jolley has asked me to write this letter to recap my experience during the time I ran Brooklyn Sand and Gravel. During the years prior to my lease at Brooklyn, Jolley Concrete was a customer for sand and stone used in concrete that my company (Rawson Sand and Gravel) delivered daily. As Jolley Concrete and our other customers grew, we needed to increase production to satisfy the demand. After discussing the issue with Wayne, he brought me to the Brooklyn S&G property where I viewed an open gravel bank which obviously had been active for many years. Since I had an extra portable wash plant, we formulated an agreement (lease) whereby Rawson Sand & Gravel would operate Brooklyn S&G to produce concrete aggregate for Jolley Concrete.

In order to justify the investment necessary to establish this facility, it was obvious that we needed to locate raw material close by to supplement the gravel remaining on the Brooklyn property. I naturally looked to the Langevin property next door- which was rich in gravel. Since I had a personal relationship with the Langevins, we quickly came to an agreement.

Our engineer made application to Brooklyn Wetlands and Zoning for the gravel removal permit; along with the ability to build a bridge to span the stream separating the properties.

We worked with Zoning Officer Karen Johnson and the Brooklyn Zoning Commission and were able to secure the necessary permits. This bridge gave us access to the power line road that allowed us the ability to secure permits on the Regis, Neimann, Lehto and Salmon properties. We started production there in 1987 and these property permits enabled us to produce material through 1996 when our agreement ended and the equipment was sold to Jolley Concrete.

During this entire period working with the Town of Brooklyn, there was never any mention of the necessity of securing a permit on the Brooklyn Sand and Gravel property. When Wayne told me that the Brooklyn Zoning Commission was questioning his ability to produce material on the site, I was surprised. All those gravel permits during the years we were there surely reinforced the "pre-existing, non-conforming use ("grandfathered") status".



If you have any questions about the operation of Brooklyn Sand and Gravel from 1987 through 1996, feel free to call me (860.919.6413).

Regards,

A handwritten signature in cursive script that reads "Allan Rawson".

Allan Rawson



RECEIVED

DEC - 7 2022

To whom it may concern,

This is David Weaver, long time Brooklyn resident, and longtime employee of Fred Jolley and then his son Wayne Jolley until my retirement in 2004. I started working for Fred somewhere around 1964, before he bought the property in Brooklyn he got from old man Fisk, and then started building Fox Tail Campground. The property that Fred bought was on both sides of Rt 205 going from the Sacred Heart Church all the way passed Allen Hill Rd. I purchased a piece of the that land to build my own house at 451 Wauregan Rd, that I built in '78 and lived there until I moved to Florida after retirement. I drove a concrete mixer for about 40 years for both Fred and Wayne and was involved with many building and construction projects that were done at the Rt 205 property and the main offices of Jolley Concrete, including the block plant and concrete plant in Danielson. While working for Fred, back in the early days, I was cutting down trees off of the property on Rt 205, clearing out the land to make pathways and open areas for the campsites and helped with concrete work there for the recreation hall, tennis court and swimming pool. I was there when he brought in a screening plant in the late 60's and had a few people bringing in materials that were put through that plant and were used on site for the campground and some sold to contractors and shipped off site. Fred used the screening plant there the entire time while the campground was there, and Mercier continued to process and sell material out of the same property when he bought the section of land back in the late 70's, where Brooklyn Sand & Gravel is now. When Mercier lost the property Wayne bought it back in the early 80's and got to work starting up the processing again, under Brooklyn Sand & Gravel.

David P Weaver

David Weaver

Lake Worth Florida 33467



**Jolley Concrete & Block**  
A Division of Jolley Concrete Inc.  
42 Junior Ave. Danielson CT 06239  
1-860-774-5000 · 1 800-752-5720 (CT) · Fax 860-774-3872



1/4/2023

To whom it may concern,

To the issue of whether the site was processing off site material prior to 1995, that would be a definitive yes. The property has been in my name since 1985 and we had been processing there since not long after I acquired the property and installed a bridge over Pine Brook approved by the town to transport the off-site material in the late 80's or early 90's. There were many people that we imported over that bridge immediately following its completion, they were, Dick Regis, Charlie Langevin, Paul Lehto, Clarence Solomon, Ken Niemann Sr, and Don Dubois, who all owned property on the east side of Allen Hill Rd and trucked the material to our site where we had 2 plants performing the processing of that material.

As for the matter of paperwork involving those transactions, we do not have any, as we only keep records back 7 years as that is what is required for tax reasons. But we should be able to get testimonials from those remaining living individuals that we did importation with prior to zoning regulations.

There were also many others that we did import material from other sites not over the bridge on our property over Pine Brook, including Arthur Parent, bringing in material from digging septic systems to my father Fred Jolley, when he owned the property back in the 60s and 70s. Donald Francis used us via Emerson Nutting's trucking company to bring processed material to his chicken coops.

My father owned the property from 1964 to 1977 where he ran a campground and operated a processing plant until he sold it to Mercier & Sons in 1977. Mercier used the property in much the same way until he defaulted on the mortgage and the bank foreclosed it. I ended up purchasing the property from the bank in 1985 at which point I began operating our sand and gravel business.

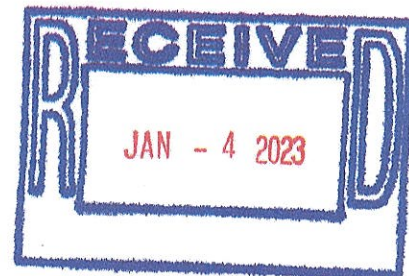
Sincerely,

Wayne L Jolley

President

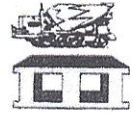
Jolley Concrete Inc.

Brooklyn Sand & Gravel





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42 Junior Ave. Danielson CT 06239  
1-860-774-5000 · 1 800-752-5720 (CT) · Fax 860-774-3872



1/12/2023

To Whom it may concern

To the issue of grandfathering rights on the property used by Brooklyn Sand & Gravel, we've specifically shown that the property has been used prior to planning and zoning's existence in 1972 dating back to 1964 when Frederick F Jolley owned the property. Here is a list of specific uses that we have had many people give testimonials to witnessing prior to 1972:

1. Importing raw material to the location.
2. Processing the imported raw material to clean usable material.
3. Selling the processed material to customers.

We will be providing more testimonials that verify these uses of the property in the coming days.

Sincerely,

Wayne L. Jolley

President

Jolley Concrete Inc.

Brooklyn Sand & Gravel





To whom it may concern,

Through the late 60s and many years later my father, my brother Fred and myself helped work on the campground run by Fred Jolley. We brought equipment to help set up the campground. We brought raw material from our site on Day St in Brooklyn to the site where the screening plant was used to make finished sand and stone, that we later purchased the finished materials to use at sites for new homes and sewer systems. We continued to work on the property even after Fred sold the property to Mercier and Sons in 1977. We hauled material from Mercier's property on Brickyard Rd in Brooklyn from their gravel bank to the location on Rt 205 for processing until the time the Mercier lost the property in the mid 80s.

Sincerely

Cliff Green Jr

Cliff Green Jr.

119 Clearview Dr

Brooklyn CT 06234



To whom it may concern,

My family ran a dairy farm in Canterbury off RT 169 in the late 60's and we didn't have much money back then, so we would sell material to Fred Jolley that we brought to his property on Rt 205 in Brooklyn and bought material that was finished in return trips. We would buy the sand from there to use as bedding sand for the stalls for the dairy cows. I remember seeing the screening plant as a young man in the late 60's when my father would go to and from the property that had a campground and you drove all the way around from the entrance and around to the place where the screening plant was located and they kept all the raw material and the finished sand and stone.

Sincerely



Wayne Laframboise

P.O. Box 467

Brooklyn Ct 06234



RECEIVED

JAN 30 2023

To whom it may concern,

We had a family stone quarry in Sterling that we started back in the 50's and ran into the mid 80's on Valley View Rd name Helene Stone Corporation that my father and uncle ran. We would blast for large slabs stone and the remaining material which we referred to as scrap we sold to Fred Jolley and brought to his property in Brooklyn on RT 205 where he had his campground. The scrap material was sand and small stone that we had no use for. We delivered our scrap material there from the late 60s into the 70s until Fred sold the property.

Sincerely

A handwritten signature in blue ink that reads "Susan Strouse". The signature is written in a cursive style and is underlined.

Susan Strouse

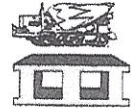
9 Kathleen Dr

Brooklyn CT 06234





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1/12/2023

To Whom it may concern

To the issue of grandfathering rights on the property used by Brooklyn Sand & Gravel, we've specifically shown that the property has been used prior to planning and zoning's existence in 1972 dating back to 1964 when Frederick F Jolley owned the property. Here is a list of specific uses that we have had many people give testimonials to witnessing prior to 1972:

1. Importing raw material to the location.
2. Processing the imported raw material to clean usable material.
3. Excavating raw material on site for processing.
4. Processing on site excavated raw material to clean usable material.
5. Selling the processed material to customers.

We will be providing more testimonials that verify these uses of the property in the coming days.

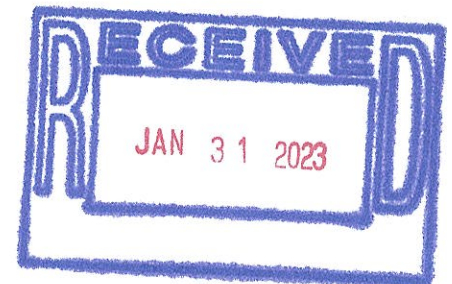
Sincerely,

Wayne L. Jolley

President

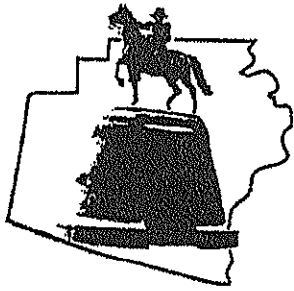
Jolley Concrete Inc.

Brooklyn Sand & Gravel



Synopsis

	Date Received	Name	Use(s) Mentioned Prior to 5/24/72
1.	9/15/22	Paul Sweet	mining
2.	9/15/22	Tim Albee	mining, processing
3.	9/15/22	Ronald Racine	mining, processing & importing
4.	10/20/22	Wayne Jolley	mining, processing & importing
5.	10/20/22	David Fuss	mining, processing
6.	10/25/22	Jack Burke	mining, processing
7.	10/25/22	Wayne Jolley	mining, processing & importing
8.	10/31/22	Jim Booth	mentions "early 1970's"
9.	10/31/22	Allan Rawson	no mention of prior to 5/24/72
10.	12/7/22	David Weaver	processing & importing
11.	1/4/23	Wayne Jolley	processing & importing
12.	1/17/23	Wayne Jolley	processing & importing
13.	1/17/23	Cliff Green Jr.	processing & importing
14.	1/17/23	Wayne Laframboise	processing & importing
15.	1/30/23	Susan Strouse	importing
16.	1/31/23	Wayne Jolley	mining, processing & importing



TOWN OF BROOKLYN  
Land Use Department  
69 South Main Street • Suite 22  
BROOKLYN, CONNECTICUT 06234  
860-779-3411 Ext. 12

Wayne L. Jolley  
Jolley Concrete & Block  
42 Junior Avenue  
Danielson, CT 06239

January 3, 2023

Dear Mr. Jolley,

It is my understanding that you have requested the Brooklyn Zoning Enforcement Officer to render a decision as to whether off-site earth products were being imported to the Brooklyn Sand & Gravel LLC site (Assessor's Map 30 Lot 97, Lot 97-1, and Lot 97-2, collectively the "subject property") and processed on the subject property on a regular basis to establish that use prior to the adoption of zoning regulations.

Prior to 1995, the zoning regulations had no provision for the importation of off-site earth material for on-site processing. Your claim of a grandfathered use as to importation of off-site material and on-site processing must pre-date the adoption of zoning regulations.

The Land Use Department is in receipt of ten letters of support for your request. Please refer to the attached list of letters, with dates stamped received and names of persons who wrote the letters. The Land Use Department is also in receipt of the Memorandum of Decision for Brooklyn Sand & Gravel LLC v. Planning and Zoning Commission of the Town of Brooklyn, dated December 2, 2020.

I hereby request additional information, such as aerial photographs, invoices, trucking manifests, and any other evidence documenting the quantities of materials and the off-site mines from which imported material was regularly brought to the subject property for processing. A listing of the type of processing equipment that was on-site prior to the adoption of zoning regulations should also be provided.

The decision you have requested must be made on the basis of evidence and facts that prove to a reasonable standard that the use was in place before the regulation was adopted, at a level that indicates the establishment of an ongoing use, rather than the occasional processing of earth products.

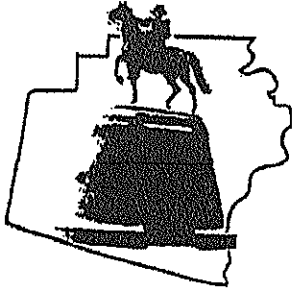


Would you please submit further documentation, if possible, to establish the ongoing use at your earliest convenience? We will make every effort to render a decision as soon as possible after we are in receipt of the additional information in support of your claim of a grandfathered use.

Sincerely,

*Margaret Washburn*

Margaret Washburn  
ZEO/WEO/Blight Enforcement Officer  
69 South Main Street, Suite 23  
Brooklyn, CT 06234  
(860) 779-3411 ext. 31  
Mon. – Thurs. 8:00 am – 3:30 pm  
[m.washburn@brooklynct.org](mailto:m.washburn@brooklynct.org)



TOWN OF BROOKLYN  
Land Use Department  
69 South Main Street • Suite 22  
BROOKLYN, CONNECTICUT 06234  
860-779-3411 Ext. 12

Wayne L. Jolley  
Jolley Concrete & Block  
42 Junior Avenue  
Danielson, CT 06239

January 11, 2023

Dear Mr. Jolley,

I have received your letter dated 1/4/23.

In regards to grandfathering previously existing, nonconforming use(s), the only timeframe that matters is prior to 5/24/72, when zoning was adopted. Any further evidence you can supply must document the use(s) prior to 5/24/72.

I would like to resolve these matters as quickly as possible. I would like you to try to address the specific points described below.

In order for me to render a decision, please submit a formal request specifically listing the use(s) for which you seek approval as a legally existing, non-conforming use or uses.

It isn't clear to me when the use of the property went from Fred Jolley mining to build himself a campground to a business/commercial use as a mining and processing enterprise. I don't have any documentation of if and when Fred's business had a name.

It would also be helpful to me in rendering a decision if you would please submit a chronological property history including evidence of any specific use(s) for which you seek a decision. This chronological property history should list all the related business uses, with dates, if possible, including the operation of the block plant in Killingly.

You may wish to seek assistance from a land use attorney in the preparation of the formal request and the property history requested above.

Please bear in mind that any decision I make regarding your request will be heavily dependent on the facts that you can provide supporting the existence of the use(s) prior to the enactment of zoning regulations.

It would be helpful to me in rendering my decision if you would please submit written testimonials from any family member or land owner who can attest to selling unprocessed material to Fred Jolley from off-site for processing on-site prior to 5/24/72. Specific timeframes would be most helpful.

Your letter received 10/25/22 mentions that "Ernest Jolly was bringing in the bulk of the material that was imported from off site from various locations around town, including local farmers." It will be important to provide dates of such activity and also the frequency with which such activity occurred. A testimonial from Ernest Jolly would be helpful, if possible.

Your letter received 1/4/23 mentions that Arthur Parent brought material to Fred Jolley. A testimonial from Arthur Parent would also be helpful, if possible.

Can you provide some quantitative estimates of the proportion of on-site material to off-site material processed on-site prior to 1972?

Questions that could be answered include:

How much material was imported in any given year prior to 5/24/72?

Where was the material originally excavated, documented by giving a street address, a map and lot number, or an aerial photograph?

How often was material imported in any given year prior to 5/24/72?

I realize that it must be challenging trying to document events from 50 years ago.

I look forward to hearing from you.

Sincerely,

*Margaret Washburn*

Margaret Washburn  
ZEO/WEO/Blight Enforcement Officer  
69 South Main Street, Suite 23  
Brooklyn, CT 06234  
(860) 779-3411 ext. 31  
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1/30/23 Wayne Jolley brought in a 12<sup>th</sup> letter from Susan Strouse.

Wayne states that the 3 uses listed in his 1/12 letter are what he's asking to have grandfathered. At my urging he says he wants to add excavation of raw material and processing of on-site material <sup>to that list</sup>

Wayne states that he is 72 years old. He is a Vietnam veteran. Wayne was discharged in 1971.

Wayne states that he wants excavation to be grandfathered.

his Dad

Wayne states that he filled in the raceway at the old mill. in '69 or '70.

Wayne states that they used to exit the property where his house is now and drive down Rt 205 to get to the old raceway.

Wayne looked at the 1970 aerial photo. He states that the old barn and house are gone now. He built a house for his son there (Christopher), then the son moved ~~to~~ away. The house was sold. Wayne points out where the old gravel pit was.

atty Peter Ridell

Wayne does not want to use ~~a land use~~ attorney in his request for grandfathering.

Wayne says he doesn't have any photographs of the gravel pit before 1972.

I asked Wayne to submit a formal request listing all the activities he wants grandfathered. Dana and I ~~urged~~ urged him to get assistance from a land use attorney.

Wayne says the campground construction started around 1965. He started selling gravel around the same time. Foxtail campground was the only name he used, nothing like Brooklyn Sand + Gravel.

The whole time Fred ran the campground + gravel pit the entrance was where Wayne's house is now. There was no other entrance.

They used to drive from the campground to the mine.

Wayne states that around 1965 all ~~aspects~~ <sup>all</sup> ~~aspects~~ were started around <sup>campground</sup> (1) <sup>onsite</sup> excavating (2) processing (3) selling (4) <sup>off site</sup> importing / processing / selling

Emerson Nutting bought raw material and came back with cellar hole spoils to process at Foxtail.

Jane located a quarry on Valley View Rd in Sterling that may be the same site that the Strauses owned in the late 1960's + 1970's  
Nearly

Joly's.

Steve Joly is Ernest's son. Steve is living in FL but in poor health. Wayne says he either already has a letter from Steve Joly or he will try to get one. I told Wayne that we do not have a letter from Steve Joly.

Fred

1955 Jolley + Sons opened off Junior Ave.  
~~the~~ Fred was getting mat'l from Ernest Joly at first.

Fred F.

1955 Jolley + Sons made ready-mix concrete sold in trucks. Blocks started being produced around 1970. The Joly blocks (mafia blocks) are also made off Junior Ave.

I asked Wayne about Arthur Parent's sons. Wayne can try to get a letter from Arthur Parent's son.

Susan Strause is 72 years old.

Strause, Emerson Nitting, Arthur Parent, Ernest Joly, LaFramboise, would all bring in material from time to time.



Ernest Joly dug a pond for Fred Jolley at the north end of the property with a dam. The pond was for swimming. The dam broke but is still visible. Fred traded pond spoils to Ernest to bring processed material back for campground roads.

Mercier's campground off Brickyard Rd was called "Big Valley" and is now owned by the Greens.

Wayne LaFramboise is 71 years old.

Wayne Jolley by signing this document acknowledges that he read it, understands it and agrees that it is true.

## Margaret Washburn

---

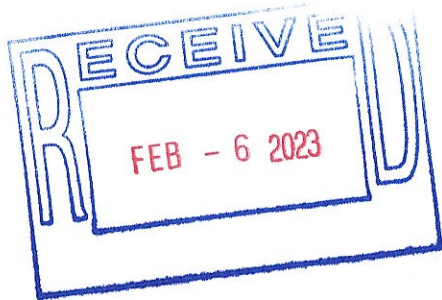
**From:** Wayne Jolley <wjolley@jolleyconcrete.net>  
**Sent:** Monday, February 06, 2023 7:05 AM  
**To:** Margaret Washburn  
**Subject:** Notes  
**Attachments:** BSG Historical Notes.pdf

Margaret,

Here is the transcribed notes from our meeting, and signed to verify their substance.

Thank you

Wayne



## Margaret's Notes



1/30/23 – Wayne Jolley brought in a 12<sup>th</sup> letter from Susan Strouse.

Wayne states that the 3 uses listed in his 1/12 letter are wheat he's asking to have grandfathered. At my urging he says he wants to add excavation of raw material and processing of on-site material to the list. Wayne states that he is 72 years old, he is a Vietnam Veteran. Wayne was discharged in 1971. Wayne states that he wants excavation to be grandfathered.

Wayne states that his dad filled in the raceway at the old mill in '69 or '70.

Wayne states that they used to exit the property where his house is now and drive down RT 205 to get to the old raceway.

Wayne looked at the 1970 aerial photo. He states that the old barn and house are gone now. He built a house for his son there (Christopher). Then the son moved away. The house was sold. Wayne points out where the old gravel pit was.

Wayne does not want to use atty Peter Rydel in his request for grandfathering.

Wayne says he doesn't have any photographs of the gravel pit before 1972.

I asked Wayne to submit a formal request listing all the activities he wants grandfathered. Jana and I urged him to get assistance from a land use attorney.

Wayne says the campground construction started around 1965, He started selling gravel around the same time. Foxtail Campground was the only name he used, nothing like Brooklyn Sand & Gravel.

The whole time Fred ran the campground & gravel pit the entrance was where Wayne's house is now. There was no other entrance.

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Wayne states that around 1965 all uses were started around 1) campground 2) on site excavating 3) processing 4) selling 5) off site importing/processing/selling

Emerson Nutting bought raw material and came back with cellar hole spoils to process at Foxtail.

Jana located a quarry on Valley View Rd in Sterling that may be the same site that the Strouses owned in the late 1960s and early 1970s.

Steve Joly is Ernest Joly's son. Steve is living in FL but in poor health. Wayne says he either already has a letter from Steve Joly or he will try to get on. I told Wayne that we do not have a letter from Steve Joly.

1955 Fred F Jolley & Sons opened off Junior Ave. Fred was getting material from Ernest Joly at first.

1955 Fred F Jolley & Sons made ready mix concrete sold in trucks. Blocks started being produced around 1970. The Jolley blocks (mafia blocks) are also made off Junior Ave.



I asked Wayne about Arthur Parent's sons. Wayne can try to get a letter from Arthur Parent's son.

Susan Strouse is 72 years old. Strouse, Emerson Nutting, Arthur Parent, Ernest Joly, Laframoise, would all bring in material from time to time.

Ernest Joly dug a pond for Fred Jolley at the north end of the property with a dam. The pond was for swimming. The dam broke but is still visible. Fred traded pond spoils to Ernest to bring processed material back for campground roads, while Ernest kept some of the material he could use. Fred also processed material at the campground to make road material and sold or traded other material from the processing.

Mercier's campground off Brickyard Rd was called "Big Valley" and is now owned by the Greens.

Wayne Laframboise is 71 years old.

Wayne Jolley by signing this document, acknowledges that he read it, understands it and agrees that it is true.

Sign: Wayne Jolley

Date: 2-3-23

Wayne Jolley

## Margaret Washburn

---

**From:** Margaret Washburn  
**Sent:** Tuesday, February 07, 2023 1:21 PM  
**To:** Wayne Jolley  
**Subject:** RE: Notes

Received, Wayne. In the interest of concluding the process, will you please submit all related correspondence by February 15, 2023?

Thank you,

Margaret Washburn  
ZEO/WEO/Blight Enforcement Officer  
69 South Main Street, Suite 23  
Brooklyn, CT 06234  
(860) 779-3411 ext. 31  
Mon. – Thurs. 8:00 am – 3:30 pm  
[m.washburn@brooklynct.org](mailto:m.washburn@brooklynct.org)

**From:** Wayne Jolley <wjolley@jolleyconcrete.net>  
**Sent:** Monday, February 06, 2023 7:05 AM  
**To:** Margaret Washburn <M.Washburn@Brooklynct.org>  
**Subject:** Notes

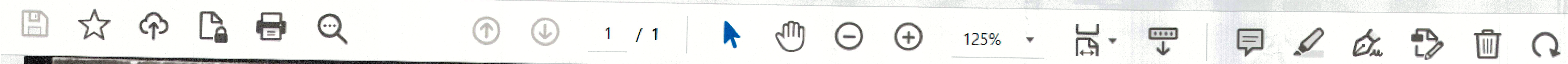
Margaret,

Here is the transcribed notes from our meeting, and signed to verify their substance.

Thank you

Wayne





3-9-70 3284

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CURRENT OWNER		TOPO	UTILITIES	STRT / ROAD	LOCATION	CURRENT ASSESSMENT	
JOLLEY WAYNE L & LESLIE A						Code 5-1	Assessed 27,200
524 WAUREGAN RD			SUPPLEMENTAL DATA			Appraised 38,800	
BROOKLYN CT 06234-2540			490 PEN OVERLAY	DEVRIGH SUBDIV. SURVEY # DEV LOT			
			FIRE DIST SEWER	Census # 9051			

RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	QU	VI	SALE PRICE	VC
JOLLEY WAYNE L & LESLIE A		0079 0657	05-21-1985	V		28,500	
JOLLEY WAYNE L & LESLIE A		0079 0654	05-21-1985	U		0	
BROOKLYN LAND CORPORATION		0076 0821	01-04-1984	U		0	
MATHERNE CLARENCE E & DOROTHY L		0068 1033	07-26-1979	U		0	
MERCIER & SONS INC		0064 0350	06-14-1977	U		0	
Total							

EXEMPTIONS		Amount	Description	Number	Amount	Comm Int
Year	Code					
		0.00				

ASSESSING NEIGHBORHOOD		Tracing	Batch
Nbhd	Nbhd Name		
0001	B		

NOTES	
ABUTS 564 WAUREGAN ACCESS LOT TO SAND & GRAVEL	

BUILDING PERMIT RECORD		Amount	Insp Date	% Comp	Date Comp	Comments
Permit Id	Issue Date					

LAND LINE VALUATION SECTION																			
B Use Code	Description	Zone	LA	Land Type	Land Units	Unit Price	Size Adj	Site Index	Cond.	Nbhd.	Nbhd. Adj	Notes	Location Adjustmen	Adj Unit P	Land Value				
1	1300 VACANT	RA			0.950	AC	36,000	1.03070	5	1.00	0050	1.100			38,800				
Total Card Land Units														0.950	AC	Parcel Total Land Area	0.9500	Total Land Value	38,800

APPRAISED VALUE SUMMARY  
 Appraised Bldg. Value (Card) 0  
 Appraised Xf (B) Value (Bldg) 0  
 Appraised Ob (B) Value (Bldg) 0  
 Appraised Land Value (Bldg) 38,800  
 Special Land Value 0  
 Total Appraised Parcel Value 38,800  
 Valuation Method C

VISIT / CHANGE HISTORY  
 Date 07-08-2020  
 Id MM  
 Type KN  
 Is 13  
 Cd 61  
 Purpose/Result Field Review  
 Field Check

This signature acknowledges a visit by a Data Collector or Assessor

**VISION**

6019  
BROOKLYN, CT

CONSTRUCTION DETAIL		CONSTRUCTION DETAIL (CONTINUED)	
Element	Cd	Description	Description
99 00		Vacant Land Vacant	
<b>CONDO DATA</b>			
Parcel Id	C	Ownr	S
Adjust Type	Code	Description	Factor%
Condo Flr			
Condo Unit			
<b>COST / MARKET VALUATION</b>			
Building Value New			
Year Built			0
Effective Year Built			
Depreciation Code			
Remodel Rating			
Year Remodeled			1
Depreciation %			
Functional Obsol			
External Obsol			
Trend Factor			
Condition			
Condition %			
Percent Good			
RCNLD			
Dep % Ovr			
Dep Ovr Comment			
Misc Imp Ovr			
Misc Imp Ovr Comment			
Cost to Cure Ovr			
Cost to Cure Ovr Comment			

No Sketch

OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)										
Code	Description	L/B	Units	Unit Price	Yr Blt	Cond. Cd	% Gd	Grade	Grade Adj.	Appr. Value
<b>BUILDING SUB-AREA SUMMARY SECTION</b>										
Code	Description	Living Area	Floor Area	Eff Area	Unit Cost	Undeprac Value				
Ttl Gross Liv / Lease Area		0	0	0	0	0				



<b>CURRENT OWNER</b>		<b>TOPO</b>		<b>UTILITIES</b>		<b>STRT/ROAD</b>		<b>LOCATION</b>		<b>CURRENT ASSESSMENT</b>	
JOLLEY WAYNE L & LESLIE A										Description Code Appraised Assessed	
524 WAUREGAN RD		AIR PrcI ID 30/097-01		SUPPLEMENTAL DATA		VAC RSLN		5-1		38,300 26,800	
BROOKLYN CT 06234-2540		OVERLAY		490 PEN		DEVRIGH		5-1		6019	
		FIRE DIST		SUBDIV. PINE ACRES		SURVEY # 5/36				BROOKLYN, CT	
		SEWER		DEV LOT		Census # 9051				<b>VISION</b>	

<b>RECORD OF OWNERSHIP</b>				<b>PREVIOUS ASSESSMENTS (HISTORY)</b>											
BK-VOL/PAGE	SALE DATE	Q/U	V/I	SALE PRICE	VC	Year	Code	Assessed	V	Year	Code	Assessed			
0079 0657	05-21-1985	U	I	0	0	2020	5-1	26,800	2019	5-1	33,000	2018	5-1	33,000	
0079 0654	05-21-1985	U	I	0	0										
0076 0821	01-04-1984	U	I	0	0										
0064 0350	06-14-1977	U	I	0	0										
0037 0122	10-15-1962	U	V	0	0										
Total				26800				Total				33000			

<b>EXEMPTIONS</b>				<b>OTHER ASSESSMENTS</b>			
Year	Code	Description	Amount	Code	Description	Number	Amount
Total				0.00			

<b>ASSESSING NEIGHBORHOOD</b>			
Nbhd	Nbhd Name	Tracing	Batch
0001			

<b>NOTES</b>			
ABUTS 588 WAUREGAN			
ACCESS LOT TO SAND & GRAVEL			
Appraised Bldg. Value (Card) 0			
Appraised Xf (B) Value (Bldg) 0			
Appraised Ob (B) Value (Bldg) 0			
Appraised Land Value (Bldg) 38,300			
Special Land Value 0			
Total Appraised Parcel Value 38,300			
Valuation Method C			

<b>BUILDING PERMIT RECORD</b>				<b>VISIT / CHANGE HISTORY</b>										
Permit Id	Issue Date	Type	Description	Amount	Insp Date	% Comp	Date Comp	Comments	Date	Id	Type	Is	Cd	Purpost/Result
									07-08-2020	MM			13	Field Review
									10-30-2019	KN			61	Field Check
Total Appraised Parcel Value				38,300										

<b>LAND LINE VALUATION SECTION</b>															
B Use Code	Description	Zone	LA	Land Type	Land Units	Unit Price	Size Adj	Site Index	Cond.	Nbhd.	Nbhd. Adj	Notes	Location Adjustmen	Adj Unit P	Land Value
1	1300 VACANT	RA			0.920 AC	36,000	1.05072	5	1.00	0050	1.100		1.0000		38,300
Total Card Land Units				0.920 AC		Parcel Total Land Area		0.9200		Total Land Value		38,300			









CONSTRUCTION DETAIL		CONSTRUCTION DETAIL (CONTINUED)	
Element	Cd. Ch.	Element	Description
Style	48		Warehouse
Model	96		Ind/Comm
Grade	01		Minimum
Stories	1		
Occupancy	1		
Exterior Wall 1	04		Single Siding
Exterior Wall 2			
Roof Structure	03		Gable/Hip
Roof Cover	03		Asph/F GlS/Cmp
Interior Wall 1	01		Minimum/Masonry
Interior Wall 2			
Interior Floor 1	03		Concr-Finished
Interior Floor 2			
Heating Fuel	01		Coal or Wood
Heating Type	01		None
AC Type	01		None
Bldg Use	3160		COMM WHSE
Total Rooms			
Total Bedrms			
Total Baths			
Heat/AC	00		NONE
Frame Type	02		WOOD FRAME
Baths/Plumbing	00		NONE
Ceiling/Wall	06		CEIL & WALLS
Rooms/Prtms	02		AVERAGE
Wall Height	8		
% Conn Wall			

OB-OUTBUILDING & YARD ITEMS(L) / XF-BUILDING EXTRA FEATURES(B)		CONSTRUCTION DETAIL (CONTINUED)	
Code	Description	Sub	Unit Price
	Replace Cost		85,696
	AYB		1950
	EYB		1967
	Dep Code		P
	Remodel Rating		
	Year Remodeled		
	Dep %		48
	Functional Obsinc		5
	External Obsinc		1
	Cost Trend Factor		1
	Condition		
	% Complete		47
	Overall % Cond		40,300
	Apprais Val		0
	Dep % Ovr		0
	Dep Ovr Comment		
	Misc Imp Ovr		0
	Misc Imp Ovr Comment		
	Cost to Cure Ovr		0
	Cost to Cure Ovr Comment		

BUILDING SUB-AREA SUMMARY SECTION		BUILDING SUB-AREA SUMMARY SECTION	
Code	Description	Living Area	Gross Area
BAS	First Floor	3,360	3,360
PTO	Patio	0	888
UBM	Basement, Unfinished	0	600
			150
			24.11
			1.19
			6.03
			81,018
			1,061
			3,617

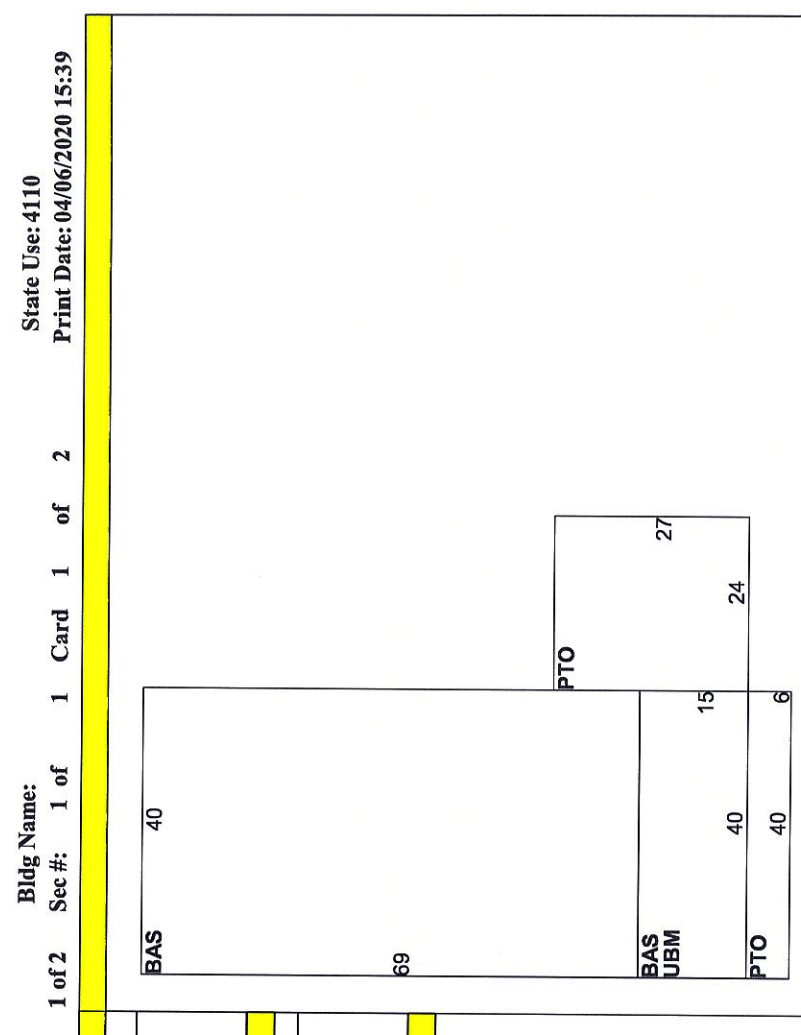
CONSTRUCTION DETAIL		CONSTRUCTION DETAIL (CONTINUED)	
Element	Cd. Ch.	Element	Description
Style	40		
Model			
Grade			
Stories			
Occupancy			
Exterior Wall 1			
Exterior Wall 2			
Roof Structure			
Roof Cover			
Interior Wall 1			
Interior Wall 2			
Interior Floor 1			
Interior Floor 2			
Heating Fuel			
Heating Type			
AC Type			
Bldg Use			
Total Rooms			
Total Bedrms			
Total Baths			
Heat/AC			
Frame Type			
Baths/Plumbing			
Ceiling/Wall			
Rooms/Prtms			
Wall Height			
% Conn Wall			

CONSTRUCTION DETAIL		CONSTRUCTION DETAIL (CONTINUED)	
Element	Cd. Ch.	Element	Description
Style	40		
Model			
Grade			
Stories			
Occupancy			
Exterior Wall 1			
Exterior Wall 2			
Roof Structure			
Roof Cover			
Interior Wall 1			
Interior Wall 2			
Interior Floor 1			
Interior Floor 2			
Heating Fuel			
Heating Type			
AC Type			
Bldg Use			
Total Rooms			
Total Bedrms			
Total Baths			
Heat/AC			
Frame Type			
Baths/Plumbing			
Ceiling/Wall			
Rooms/Prtms			
Wall Height			
% Conn Wall			

OB-OUTBUILDING & YARD ITEMS(L) / XF-BUILDING EXTRA FEATURES(B)		CONSTRUCTION DETAIL (CONTINUED)	
Code	Description	Sub	Unit Price
	Replace Cost		85,696
	AYB		1950
	EYB		1967
	Dep Code		P
	Remodel Rating		
	Year Remodeled		
	Dep %		48
	Functional Obsinc		5
	External Obsinc		1
	Cost Trend Factor		1
	Condition		
	% Complete		47
	Overall % Cond		40,300
	Apprais Val		0
	Dep % Ovr		0
	Dep Ovr Comment		
	Misc Imp Ovr		0
	Misc Imp Ovr Comment		
	Cost to Cure Ovr		0
	Cost to Cure Ovr Comment		

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UBM	Basement, Unfinished	0	600
			150
			24.11
			1.19
			6.03
			81,018
			1,061
			3,617

Ttl. Gross Liv/Lease Area: 3,360 | 4,848 | 3,554 | 85,696





DOCKET NO. LND HHD CV-19-6119135-S: SUPERIOR COURT  
BROOKLYN SAND & GRAVEL, LLC, : JUDICIAL DISTRICT OF  
ET AL. :  
V. : HARTFORD  
PLANNING AND ZONING COMMISSION  
OF THE TOWN OF BROOKLYN : DECEMBER 2, 2020

**MEMORANDUM OF DECISION**

The plaintiffs, Brooklyn Sand & Gravel, LLC (“BS&G”), Wayne Jolley and Leslie Jolley, appeal from the decision of the Brooklyn Planning and Zoning Commission (the “Commission”) on July 2, 2019. That decision approved a special permit, but contained a condition (“Condition 4”) which prohibited the importation of any offsite material. The parties have filed briefs and a remote hearing occurred on August 25, 2020.<sup>1</sup>

**Statement of Facts**

BS&G is a Connecticut limited liability company of which Wayne Jolley and his wife, Leslie Jolley, are members. The Jolleys own the property on which BS&G operates, which is comprised of three parcels totaling approximately 64 acres located east of Wauregan Road and west of the Quinebaug River in Brooklyn, Connecticut, known as 530 Wauregan Road and designated by the Brooklyn Assessor’s Map 30 Lot 97, Lot 97-1, and Lot 97-2 (collectively, the “subject property”).

**FILED**

DEC - 2 2020

**HARTFORD J.D.**

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1

The time between the filing of the last brief, February 21, 2020, and the date of the hearing was due to the COVID-19 pandemic and its restrictions on in-person court proceedings.

12900

The subject property is located in a residential-agricultural (“RA”) zone. Section 3.4.4.4 of the Brooklyn Zoning Regulations allows gravel banks in the RA zone subject to special permit approval. ROR 45 at 21.

The Brooklyn Zoning Regulations concerning gravel banks provide:

13.5.4 - The commission may allow the processing of sand and gravel on the site. Processing shall be restricted to screening, washing, crushing and sorting. Material processed on site shall be:

13.5.4.1 - Material that is excavated on site, and

13.5.4.2 - Material excavated off-site and transported to the subject site for processing provided that the annual quantities of same does not exceed that processed and mined on site.

The subject property has been used for the operation of a sand and gravel bank and processing facility since the 1950s, before the adoption of zoning regulations in Brooklyn. After the town adopted zoning regulations, a special permit was required for sand and gravel operation. Prior to 2019, BS&G operated under a special permit that required annual renewals and allowed for the removal of a specified amount of gravel. When the specified amount of material was close to being exhausted BS&G applied for a new permit on March 5, 2019.

Condition 6b in the 2017 and 2018 permit renewals provided that “[t]he quantity of imported material may not exceed mined material in accordance with the Brooklyn Zoning Regulations Sec. 13.5.4.2 as measured by truckloads and converted to cubic yards.” ROR 65. The permits required that BS&G file quarterly reports which indicated the truckloads imported and the record indicates that BS&G had filed quarterly reports in compliance with the permits.

The March 5, 2019 application for a new special permit (the “Application”) requested continued excavation and processing of both excavated and imported material. The Application



requested removal of 218,000 cubic yards of sand and gravel at the subject property in three phases.<sup>2</sup>

In the same time frame as the Application, BS&G also obtained a Wetland Permit for “Continuation of gravel excavation and processing operations” with no changes proposed within regulated areas. ROR 13 at 1; ROR 31 at 7. BS&G also applied to the Brooklyn Zoning Board of Appeals (“ZBA”) for a number of variances relating to the operation of the sand and gravel bank at the subject property. One of the variances sought permission to increase the amount of imported material.

The Commission accepted the Application on March 6, 2019. It was advised by Jana Roberson, the Town Planner (“Roberson”), that BS&G had applied for four variances to be heard by the ZBA on March 26, 2019. The Commission decided to postpone the public hearing on the Application until after the ZBA had ruled on the variances. In addition, the Commission decided to submit a memorandum to the ZBA in an attempt to influence the decision on BS&G’s variances. One member of the Commission, Austin Tanner, opposed the memorandum based on previous advice by the Town counsel, which had stated that the ZBA and the Commission were two separate entities and should not interfere with each other’s proceedings. However, the remaining Commission members including the Commission chair, Michelle Sigfridson (“Sigfridson”), favored attempting to influence the ZBA’s decision.

Sigfridson labeled the variance concerning the importation of material as an attempt to obtain a permit for stand-alone processing: “to me, requesting this variance seems like they’re trying to completely bypass our regulations that we’ve specifically discussed whether or not we want to allow

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The amount of cubic feet to be excavated ultimately decreased from the amount sought in the initial form of the Application.

stand-alone processing facilities and decided as a Board that we don't." ROR 81 at 4. Sigfridson signed the memorandum to the ZBA dated April 23, 2019. The memorandum was six pages long and advised the ZBA that the variances sought by BS&G were not "in harmony with the general purpose and intent of the Zoning Regulations." ROR 83 at 3.

Rather than sending the memorandum to the ZBA, the Commission had one of its members, Vice Chair, Carlene Kelleher, appear at the ZBA hearing and read the memorandum into the record. The ZBA listed the memorandum as one of the deciding factors in its denial of all of BS&G's variances.

The public hearing on the Application commenced on May 21, 2019. David Held, P.E., BS&G's civil engineer, presented the Application for BS&G. He explained that 112,000 cubic yards of material could be extracted from the subject property in two phases. Phase one was expected to be completed in 2019 and phase two would be completed by the end of 2020. Held provided evidence showing that BS&G had complied with existing permits. It kept all truck traffic off of Maynard Road and maintained a tree buffer between the adjacent properties. BS&G submitted quarterly reports which documented the number of truck trips per quarter and the volume of imported material brought to the site. These reports demonstrated compliance with the previous permit's requirement that the average number of truck trips per day not exceed 60, with 80 truck trips per day as a maximum. Roberson confirmed that BS&G had complied with the truck reporting requirements and also noted that the "zoning regulations specifically allow the importation of material for processing." ROR 41 at 27. Roberson also told the Commission that the Town Engineer had reviewed the 2019 application and noted only a few questions, which Held addressed.

After Held's presentation, the public was allowed to comment on the Application. There was



strong neighborhood opposition to the Application. Thirty-two neighbors signed a petition of opposition. The petition provided, in part, the following:

We the residence[sic] of Rt 205, also known as Wauregan Road Brooklyn Connecticut, feel that Brooklyn Sand and Gravel LLC has overstayed their welcome. We are opposed to any continuation of this operation.

Mr Jolly[sic] has totally disregarded the zoning regulation pertaining to the amount of material that is allowed to be imported.

Allowing Brooklyn Sand and Gravel to continue to operate will diminish our property values and make it difficult if not impossible to sell our homes for fair market value. No one will want to purchase a house so close to a commercial processing gravel operation, and we doubt that the town of Brooklyn would be willing to compensate the nearby residence[sic] with a tax reduction.

ROR 22.

Several people stated that on certain dates they had counted more truck traffic than the previous permit allowed. In light of these statements, Held suggested that BS&G would pay for an outside consultant to count trucks. Town Planner Roberson agreed that truck counters would be a solution to ascertaining the accurate number of truck trips:

If you really want to know what the truck traffic is, you have to count the trucks and it maybe something this Commission wants to consider. And I put this on my guidance document that you could potentially as a condition of approval require continuous traffic counters at the entrance of the site so we would know for sure because certainly it's going to vary considerably from day to day.

ROR 43 at 10, 29.

However, Sigfridson dismissed the option of truck counters during the public hearings and during deliberation, the Commission declined BS&G's offer to pay for a formal truck count and there were no formal truck counts done. The record contains no expert testimony concerning truck trips and no other evidence to support the claims in the neighbors' petition that the plaintiffs had

“totally disregarded the zoning regulation pertaining to the amount of material that is allowed to be imported.” See p. 5 *infra* and ROR 22.

Held was present when a site walk was conducted by the Commission on May 29, 2019. During the walk, the Commission members observed only one truck enter the BS&G facility. While several neighbors had testified about noise from the gravel operation, Jana Roberson reported that during the site walk:

I think there was a general agreement that the sound of the processing equipment was not very loud, especially from where we were standing. This was the nearest house.

ROR 42 at 3.

Jean Fleming was one of the neighbors who voiced his opposition to BS&G’s continued operations and in particular, the continued importation of material. He spoke several times at the public hearing on May 21, 2019. After Mr. Fleming spoke a second time, Sigfridson acknowledged on the record that Fleming was her father. She went on to assure the audience that the Commission intended to disallow processing of imported material by BS&G. Sigfridson stated, “I’m thinking about additional conditions or curtailing the importation somewhat if not entirely.” ROR 43 at 27.

The Commission met on July 2, 2019, to deliberate on the Application. Sigfridson stated:

I just want to mention too, there’s been some discussion amongst the members of this Commission as to how a motion should be structured if your feeling is that you do not want to approve an application, whether it’s even appropriate to do a motion to deny. I think we’ve for the most part been operating under the assumption that a motion to deny works and is fine. A vote not to approve has the same effect, doesn’t it?

ROR 44 at 2.

Roberson, the town planner, presented a draft motion to approve a special permit, which was



based on the 2018 renewal and on a gravel special permit granted to another applicant. Like the 2018 renewal permit, the draft allowed for the importation of material for processing as long as it did not exceed the amount of excavated material. Condition 4 of the draft provided:

The quantity of imported material may not exceed mined material in accordance with the Brooklyn Zoning Regulations as measured by truckloads and converted to cubic yards. Material excavated on-site will be counted in the year that it is excavated. Imported material will be counted in the year that it is brought on site. Stockpiled material shall not be counted towards the excavation or importation volume.

ROR 47 at 1. Condition 7 of the draft provided:

A continuous vehicle counter shall be installed along the entrance on Wauregan Road to monitor vehicle trips. Daily vehicle trip reports shall be included in the quarterly monitoring reports. The average shall not exceed 60 trips per day and the maximum daily trips shall not exceed 80 trips per day.

ROR 47 at 2. Roberson explained that the truck counters were a feasible method of ensuring compliance with the above conditions. Other Commission members began to discuss the implementation of truck counts. Sigfridson suggested that rather than worry about truck counts, the Commission merely prohibit the importation of materials.

One Commission member, Tanner, stated that the approval of the permit allowing excavation of 112,000 cubic yards “would have achieved the goal of giving an end date to the business.” ROR 44 at 6. However, Sigfridson insisted that allowing processing of imported material encouraged BS&G to continue its business. Commission member D’Agostino suggested that the Commission allow phase one fully, prohibit phase two to enable BS&G to sunset its business gently. Sigfridson’s response to that suggestion was to replace the condition 4 proposed by Roberson:

#4 is the condition that would relate to imported material and how it would be counted. I would proposed that that be stricken and replaced by something that says that no material shall be imported to the site . . . .

*Id.* at 22.

Ultimately, Condition 4 was redrafted to state: “Material excavated on site may be processed, but no off-site material shall be imported to the site for processing or other uses after August 1, 2019.” ROR 28. The proposed Condition 7 was eliminated.

The Commission voted 5-1 to approve the permit with Condition 4. The Commission did not accompany its decision with a formal statement of the reasons for imposing Condition 4. The decision was published in the newspaper on July 12, 2019, and recorded on August 7, 2019. This appeal was timely commenced by service on the Brooklyn Assistant Town Clerk on July 29, 2019.

#### Aggrievement and Ruling

The Jolleys own the subject property and BS&G is the applicant for the special permit to which Condition #4 is attached. Therefore, BS&G and the Jolleys are statutorily aggrieved as a matter of law under Connecticut General Statutes § 8-8. *Goldfield v. Planning & Zoning Commission*, 3 Conn. App. 172, 176, 486 A.2d 646 (1985). Because Condition 4 adversely impacts the Jolleys’ and BS&G’s investment and interest in the property, they are also classically aggrieved. *West Farms Mall, LLC v. West Hartford*, 279 Conn. 1, 13, 901 A.2d 649 (2006).

The standard for judicial review of administrative decisions made by municipal planning and zoning commissions is whether the agency acted illegally, arbitrarily, or in abuse of its discretion. *Gagnon v. Municipal Planning Commission*, 10 Conn. App. 54, 56-57, 521 A.2d 589, cert. denied, 203 Conn. 807, 525 A.2d 521 (1987). “When considering an application for a special exception, a zoning authority acts in an administrative capacity, and its function is to determine whether the proposed use is expressly permitted under the regulations, and whether the standards set forth in the regulations and statutes are satisfied.” *Daughters of St. Paul, Inc. v. Zoning Board of Appeals*, 17



Conn. App. 53, 56, 549 A.2d 1076 (1988).

The plaintiffs have presented a number of reasons why the Commission's imposition of Condition 4 was illegal. While the court will address all arguments, it finds that one argument is sufficient to vitiate the imposition of Condition 4: the Chair of the Commission had a conflict of interest and not only failed to recuse herself, but used her influence and clear predisposition against the Application to gain approval of Condition 4 even when there were viable alternatives.

During the public hearing, Sigfridson's father, Mr. Fleming, who lives across the street from the BS&G facility, voiced his opinion that the Commission should prohibit the importation part of the permit. Sigfridson acknowledged that she had grown up across the street from the facility. She failed to recuse herself. Instead, she continued, not as a passive member of the Commission, but as the leading proponent of the Commission's unusual course of influencing the actions of the ZBA with respect to the plaintiffs' variance requests. While the BS&G and the Town Planner, Roberson, as well as various Commission members, suggested that the importation of material could be effectively monitored by various means such as truck counts, Sigfridson continually steered the Commission away from compromise and towards her father's position, which wanted to end BS&G's business and saw the prohibition on importing material as the best way to do so.

"[Connecticut General Statutes] Section 8-11 provides that no member, directly or indirectly interested in a personal or financial sense in 'any matter' coming on for a decision or hearing of the commission may participate in that hearing." *Thorne v. Zoning Commission*, 178 Conn. 198, 202, 423 A.2d 861(1979). A personal interest is defined as:

A personal interest is either an interest in the subject matter or a relationship with the parties before the zoning authority impairing the impartiality expected to characterize each member of the zoning authority. A personal interest can take the form of

favoritism toward one party or hostility toward the opposing party; it is a personal bias or prejudice which imperils the open-mindedness and sense of fairness which a zoning official in our state is required to possess.

*Anderson v. Zoning Commission*, 157 Conn. 285, 290-91, 253 A.2d 16 (1968).

“This prophylactic rule serves the salutary purposes of promoting public confidence in the fairness of the decision-making process and preventing the public official from placing himself in a position where he might be tempted to breach the public trust bestowed upon him.” *Gaynor-Stafford Industries, Inc. v. Water Pollution Control Authority*, 192 Conn. 638, 649-50, 474A.2d 752, cert. denied, 469 U.S. 932, 105 S. Ct. 328, 83 L. Ed. 2d 265 (1984). “It is axiomatic that the appearance of impropriety created by a public official’s participation in a matter in which he has a pecuniary or personal interest is alone sufficient to require disqualification.” *Brunswick v. Inland Wetlands Commission*, 29 Conn. App. 634, 639, 617 A.2d 466 (1992).

The determination as to whether an interest is sufficient to disqualify is a factual one. *Thorne, supra*, at 205. In *Thorne*, the chair of a zoning commission moderated the public hearing and voted in favor of the zoning change at issue. The chair’s parents and sister owned and lived in property adjacent to the plaintiffs’ property and benefitted from the zone change. On appeal, the defendant claimed that § 8-11 did not apply to zoning changes and that the chair’s interest was too remote to require disqualification under that section. The court disagreed, stating:

There was . . . no error in the judgment of the trial court finding that Byrne was “directly or indirectly,” in a “personal or financial sense,” interested in the decision of the commission redesignating the plaintiffs’ property from a business to a residential zone. *Section 8-11 of the General Statutes clearly requires that a member of the zoning commission or board shall disqualify himself when the decision of the zoning authority could inure to his benefit, and forbids a member of a zoning commission or board of appeals from participating in any matter in which he has a personal interest in the outcome. . . .* While we make it clear that there is no evidence that Byrne exercised any improper influence upon the commission, and we impute



no such impropriety to him, we conclude that, *in view of the chairman's interest in the zone change, as evidenced by the close proximity of his parents' and sisters' residences to the plaintiff's property and by his interest on their behalf in maintaining the residential character of the locality, the court did not err in holding the commission's action a nullity as to the plaintiffs' property.*

(Emphasis added.) *Thorne, supra*, at 204-205.

In this case, Sigfridson's personal interest was virtually identical to that of the chair in *Thorne* and, by itself, would warrant her disqualification. However, unlike the chair in *Thorne*, Sigfridson clearly exercised improper influence upon the Commission, including her encouragement that the Commission take the extremely unusual and, arguably improper, action to influence the ZBA and her repeated refusal to even consider measures suggested by other Commission members and the town planner which would have obviated the need for Condition 4.

The defendant argues that § 8-11 should not disqualify Sigfridson because the plaintiffs did not demand her disqualification at any hearing. However, Connecticut courts allow raising a conflict of interest claim for the first time on appeal to the Superior Court. See *Nazarko v. Conservation Commission*, 50 Conn. App. 548, 553, 717 A.2d 850, cert. denied, 247 Conn. 941, 723 A.2d 318 (1998); *Fruscianti v. Westbrook Zoning Board of Appeals*, Superior Court, judicial district of Middlesex, Docket No. 60825, 1992 WL 91670 (April 7, 1992, *Higgins, J.*) (6 Conn. L. Rptr. 298); *East Street Residential Partnership v. East Granby Planning & Zoning Commission*, Superior Court, judicial district of Hartford, Docket No. 366173, 1990 WL 284338 (May 22, 1990, *Smith, J.*) (1 Conn. L. Rptr. 653).

As stated above, unlike the chair in *Thorne*, who had a disqualifying conflict of interest, but did not seek to improperly influence the Commission, Sigfridson was the chief antagonist with respect to the Application. The record shows that she had predetermined to prohibit importation

before the public hearing commenced.

“The law does not require that members of zoning commissions must have no opinion concerning the proper development of their communities. It would be strange, indeed, if this were true.” *Furtney v. Zoning Commission*, 159 Conn. 585, 594, 271 A.2d 319 (1970). The decisive question in determining whether a commission member was predisposed for or against something is whether she had actually made up her mind prior to the public hearing without hearing any arguments. This involves a question of fact as to which the plaintiffs have the burden of proof. *Cioffoletti v. Planning and Zoning Commission*, 209 Conn. 544, 555, 552 A.2d 796 (1989).

In *Marmah, Inc. v. Greenwich*, 176 Conn. 116, 405 A.2d 63 (1978), the Supreme Court upheld the trial court’s finding that “the commission acted with predisposition and predetermination” and its “actions were capricious, unreasonable and illegal” when it denied the plaintiff’s site plan application. In *Marmah*, the commission initially denied the plaintiff’s site plan application to construct a post office. Shortly thereafter it scheduled a public hearing on a proposed amendment to the zoning regulations to delete the use sought by the plaintiff. The commission then declined to consider the site plan application based on a pretext that there was no quorum and then scheduled the plaintiff’s hearing on the same night as the hearing to amend the regulations. The court further found:

The commission’s overt consideration of the site plan [was] casual and perfunctory. The commission appeared to be favoring opponents of the application throughout the public meeting at which it was discussed. Representatives of the [plaintiff] were not permitted to question the representative capacity, or the technical credentials, of those who spoke or wrote in opposition to the application. There was no expert testimony about traffic, architectural design or building design, other than the approvals of [the plaintiff’s] application by the defendant town’s traffic department, architectural review board, and building department. Nonetheless, the commission voted to disapprove the site plan on the grounds of increased traffic and unsatisfactory parking



layout, as well as the absence of a request for new facilities by the postal authorities.

*Marmah, supra*, at 118.

The behavior of the Commission here, under Sigfridson's leadership was similar to that of the commission in *Marmah*. The Commission repeatedly rescheduled the special permit hearing to await the ZBA's decision on BS&G's variance applications. The Commission improperly sought to influence the decision of the ZBA as set forth above. After the Commission had guided the ZBA to deny all variances, including the one which requested an increase in imported material, Sigfridson aggressively promoted the prohibition of importation as part of the special permit.

While this court believes that the conflict of interest discussed above is sufficient to invalidate Condition 4 of the permit, it will address the other arguments raised by the plaintiffs. The plaintiffs argue that the imposition of Condition 4 was arbitrary and illegal in that the Commission violated the prior application rule, the imposition of the Condition was not based on substantial evidence and the imposition of the Condition terminated a pre-existing, nonconforming use. The court agrees.

"There is a well-established concept in the administrative law of this state that prohibits an administrative agency from reversing its prior decision unless the facts and circumstances that resulted in the decision have sufficiently changed to affect materially the reason that produced and supported the decision and no vested rights have intervened." *Grace Community Church v. Planning & Zoning Commission*, 42 Conn. Supp. 256, 270-71, 615 A.2d 1092 (1992). An administrative agency that has acted on a special permit application is not allowed to reverse itself unless there has been a substantial change of circumstances that affects the merits of the case. *Id.*, citing *Rocchi v. Zoning Board of Appeals*, 157 Conn. 106, 111, 248 A.2d 922 (1953); see also

*Laurel Beach Assn. v. Zoning Board of Appeals*, 66 Conn. App. 640, 646, 786 A.2d 1169 (2001).

It appears from the record that the 2019 BS&G application was substantially the same as the 2017 and 2018 applications. The reason why the 2019 application involved a new special permit was that the limit on the amount of material under the previous permit had been exhausted. In both the 2017 and 2018 renewals, the Commission allowed BS&G to import the same amount of material as it excavated. In 2017, BS&G requested removal of 100,000 cubic yards, but removed only 53,000 cubic yards. The 2018 renewal allowed BS&G to remove the remaining 47,000 cubic yards. The 2019 Application requested removal of 112,000 cubic yards over the course of two years, substantially the same relief as the 2017 and 2018 applications.

The 2017 and 2018 permits allowed importing material at a ratio of one to one, as permitted in the Regulations (13.5.4.2). The neighbors who spoke against the Application cited truck traffic and noise. However, notwithstanding the Commission's arguments to the contrary, there was ample evidence that BS&G had complied with the truck trip requirements with respect to the 2017 and 2018 permits. Moreover, in the face of purely anecdotal reports of excess truck trips, BS&G and its engineer offered several times to hire and pay for professional counters, but those offers were rejected. As the Application proposed removing a substantially similar amount of material as the previous permits allowed, the truck traffic would not be substantially different from that allowed in 2017 and 2018.

In *Mason v. Board of Zoning Appeals*, 143 Conn. 634, 124 A.2d 920 (1956), the board denied the new owner of a car repair business a certificate of premises suitability. A similar certificate had been issued to a previous owner for the same location. Neighbors' complaints of noise, smoke and traffic were the reason for the denial. In reversing the action of the board, the court



stated:

When a business has been launched and continuously operated on a site officially declared suitable by a zoning board of appeals, the status of suitability should normally continue. This conforms to the rule of law that, after an administrative agency has made a decision related to the use of real property, it is ordinarily powerless to reverse itself, although it may do so if a change in circumstances has occurred since its prior decision, or other considerations materially affecting the merits of the subject matter have intervened and no vested rights have arisen.

*Id.* at 838-39.

In *Grace Community Church, supra*, the court noted that “[f]or material changes to exist since the prior application, there should be some evidence of changed conditions in the immediate vicinity of the subject property connected with the reason for disapproval of the second application.”

*Id.* at 271. In *Grace Community Church*, there was no evidence of a change in traffic conditions between the time of the first approval and the denial of the second application. The court held that in “the absence of factual findings by the Commission as to how the application was different from the previous one, it should not have denied the special permit.... This is particularly true where the applicant was willing to consider reasonable controls and improvements to prevent traffic problems.”

*Id.* at 272.

Like *Grace Community Church*, there was no evidence in this case or findings by the Commission that there were any changes in conditions between the 2018 permit and the 2019 Application.

The plaintiffs argue that the imposition of Condition 4 was not supported by substantial evidence. The court agrees. The Commission relied on complaints by neighbors about excessive truck traffic, but refused the plaintiffs’s repeated offers to verify the number of trucks. The Commission also gave credence to neighbors’ claims that the plaintiffs had not complied with their

previous permit applications when the record clearly shows that town officials had found compliance. Martha Frankel, the Town's Zoning and Wetlands Agent, noted that "volumes as reported for the past year are compliant with the permit." ROR 70. The Town Planner, Roberson, confirmed that BS&G had complied with the truck reporting requirements. ROR 41 at 27.

The neighbors claimed that allowing BS&G to continue operating would diminish property values because "no one will want to purchase a house so close to a commercial processing gravel operation." Defendant's Brief at 6-7 and ROR 22. Since these neighbors had all purchased their properties 8-35 years ago, when the plaintiffs were already operating the gravel pit, it should have been difficult to credit their testimony that no one would buy a property due to the plaintiffs' operation. There was nothing that showed that the plaintiffs' continued operation and importation would change their property values as the importation amounts requested in 2019 were the same as in 2017 and 2018.

A special permit may be denied only for failure to meet specific standards in the regulations, and not for vague and general reasons. *Cambodian Buddhist Society of Connecticut, Inc. v. Planning & Zoning Commission*, 285 Conn. 381, 431, 941 A.2d 868 (2008). It is an abuse of discretion to deny a special permit application based on unsubstantiated evidence. *Norwalk Yacht Club Corp. v. Zoning Commission*, Superior Court, judicial district of Stamford, Docket No. CV-06-4008012-S, 2010 WL 1667281, at \*7 (March 31, 2010, *Adams, J.*). In *Norwalk Yacht Club*, a yacht club applied for a special permit to remodel its clubhouse. The local homeowner's association opposed the application on the grounds that the club's summer sailing program and increase in the club's membership would generate increased traffic. The zoning commission denied the special permit on the grounds, among other things, that there would be an increase in traffic from the summer sailing



program.

On appeal, the court found that there was no evidence in the record that the renovation of the clubhouse would have any effect on traffic. The court stated that most of the traffic complaints from neighbors involved traffic related to the club's youth sailing program, which the proposed renovations would not affect. The court determined that it would be "unfair and arbitrary to deny a permit when the project applied for would have no adverse effect on the condition complained of."

*Id.* at p. 7.

In *Martland v. Zoning Commission*, 114 Conn. App. 655, 971 A.2d 53 (2009), the court affirmed the trial court's decision that "the requirement of [a] restoration condition was improper," because the record did not contain substantial evidence to support the Commission's imposition of the condition. *Id.* at 667. The condition required the applicant to restore an existing berm, which the Commission found had acted as a noise and physical barrier. The court concluded that the evidence before the Commission that the berm acted as a noise buffer was not substantial because "it is not supported by anything other than speculation and conjecture on the part of those objecting to the plaintiff's proposed activities." *Id.* at 665-66. The court highlighted the absence of "scientific data" comparing the noise levels in the area with and without the berm and stated, "Even if we assume *arguendo* that the noise level would increase as a result of the changes to the berm, the record is devoid of any evidence indicating how much of a noise increase would be permissible before the public health, safety, convenience or property values would be impacted." *Id.*

The plaintiffs further argue that the imposition of Condition 4 improperly terminated a valid, pre-existing, non-conforming use of the property. "It is a fundamental zoning precept in Connecticut . . . that zoning regulations cannot bar uses that existed when the [zoning] regulations were adopted."

*Cioffoletti v. Planning & Zoning Commission*, 24 Conn. App. 5, 8, 284 A.2d 1200 (1991). “Once a nonconforming use is established, the only way it can be lost is through abandonment.” *Taylor v. Zoning Board of Appeals*, 65 Conn. App. 687, 696, 783 A.2d 526 (2001).

The Brooklyn Zoning Regulations were adopted in 1972. Held, a representative of the plaintiff BS&G, testified that the gravel operation had existed since the 1950s. ROR 41 at 12. One of the neighbors, Dessert, testified that over fifty years ago he had attended a hearing where Mr. Jolley discussed the importation of material for his processing plant. The importation of material was a pre-existing, non-conforming use. The imposition of Condition 4 interfered with that use based on insufficient evidence and was unreasonable.

The defendant argues that Condition 4 is an essential component of the special permit and, therefore, if it is invalidated, the whole permit should be invalidated. This is difficult to accept in light of the record. Roberson, the Town Planner, presented the Commission with a draft approval of the Application in which condition 4 provided:

The quantity of imported material may not exceed mined material in accordance with the Brooklyn Zoning Regulations as measured by truckloads and converted to cubic yards. Material excavated on-site will be counted in the year that it is excavated. Imported material will be counted in the year that it is brought on site. Stockpiled material shall not be counted towards the excavation or importation volume.

ROR 47 at 1.

The defendant has failed to cite any cases to support its argument that Condition 4 is an essential component of the Application. “The imposition of a void condition . . . does not necessarily render the whole decision illegal and inefficacious. If the decision is otherwise supported by sufficient grounds as found by the board, a modification of the decision may be decreed with a view toward ending further litigation.” *Parish of St. Andrew’s Protestant Episcopal Church v. Zoning*



*Board of Appeal*, 155 Conn. 350, 354-55, 232 A.2d 916 (1967); see also *Pecora v. Zoning Commission*, 145 Conn. 435, 443-44, 144 A.2d 48 (1958). Under Connecticut General Statutes § 8-8 (l), the court is allowed to “affirm, wholly or partly, or revise, modify or remand the decision from which the appeal was taken in a manner consistent with the evidence in the record before the court.” See also R. Fuller, 9A Connecticut Practice Book Series: Land Use Law and Practice (4<sup>th</sup> Ed. 2015) § 35:1.

For the foregoing reasons the Condition 4 of the special permit is null and void. The court sustains the plaintiffs’ appeal and directs the Commission to approve the special permit adopting the Condition 4 contained in the proposed special permit approval (see p. 18 *infra*), which provides:

The quantity of imported material may not exceed mined material in accordance with the Brooklyn Zoning Regulations as measured by truckloads and converted to cubic yards. Material excavated on-site will be counted in the year that it is excavated. Imported material will be counted in the year that it is brought on site. Stockpiled material shall not be counted towards the excavation or importation volume.

By the court,

/s/ 402017

Aurigemma, J.

W 1286—Warranty Deed, Individual or Corporation

JULIUS BLUMKIND, INC., LAW BLANK PUBLISHERS  
80 EXCHANGE PL. AT BROADWAY, N. Y. C. 10004

THIS IS A LEGAL INSTRUMENT AND SHOULD BE EXECUTED UNDER SUPERVISION OF AN ATTORNEY

**To all People to Whom these Presents shall Come, Greeting:****Know Ye, That** FREDERICK F. JOLLEY of the Town of Brooklyn,  
County of Windham and State of Connecticut

for the consideration of ONE DOLLAR (\$1.00) and other valuable considerations

received to my full satisfaction of MERCIER and SONS, INC., a  
Connecticut corporation with its principal place of business at Brick Yard  
Road in the Town of Brooklyn, County of Windham and State of Connecticut  
mailing address: c/o Foxtail Campground Rt. 205 Brooklyn, Ct.do give, grant, bargain, sell and confirm unto the said MERCIER and SONS, INC.,  
a certain tract or parcel of land with the buildings and improvements  
thereon situated in the Town of Brooklyn, County of Windham, and State of  
Connecticut, bounded and described as follows:A parcel located at the southeasterly intersection of the Allen Hill  
Road with State Highway Route 205.Beginning at the intersection of the southerly highway line of the  
Allen Hill Road with the easterly highway line of State Highway Route 205,  
this being the northwesterly corner of the within described tract; thence  
southeasterly 2040 feet, more or less, along the easterly highway line of  
Route 205; to a corner of lands of Carl and Viola Leone; thence easterly  
508 feet, more or less, to a corner; thence southwesterly 565 feet, more  
or less, to a corner; thence westerly 120 feet, more or less, to a corner  
on the easterly highway line of Route 205, these last three (3) courses  
bounding on lands of Carl and Viola Leone; thence southeasterly 390 feet,  
more or less, along the said easterly highway line of Route 205, to lands  
of the Sacred Heart Church Corporation; thence northeasterly 776 feet,  
more or less, bounding on said Church Corporation, to a corner; thence  
southeasterly 900 feet, more or less, bounding on said Church Corporation  
to the Quinebaug River; thence northeasterly along the Quinebaug River,  
to lands of George Bouthillier; thence westerly 1030 feet, more or less,  
along a wire fence, to a stone wall; thence northwesterly 470 feet, more  
or less, along the stone wall, these last two (2) lines bounding on said  
George Bouthillier, to a wall corner on the southerly highway line of the  
Allen Hill Road; thence westerly 675 feet, more or less, along the said  
highway line of Allen Hill Road, to the point or place of beginning.  
Containing 80 acres, more or less.Together with a fencing agreement as contained in a certain deed from  
Charles Benham to Frank and Viola Leone, dated June 25, 1935, and recorded  
in Volume 25, Page 48 of the Land Records of the Town of Brooklyn.Together with a fencing agreement and a reserved right of way, as con-  
tained in a certain deed from Charles Benham to the Church of the Sacred  
Heart of Jesus, dated April 16, 1924 and recorded in Volume 21, Page 579  
of the Land Records of the Town of Brooklyn.Being subject to rights of the Connecticut Light and Power Company, to  
construct and maintain pole lines across this described tract and as may  
appear of records.

EXCEPTING THEREFROM the following described parcel of land:



A certain tract of land at the southeasterly corner of the intersection of Route #205 and Allen Hill Road in the Town of Brooklyn, County of Windham and State of Connecticut, as shown on a plan entitled "Plan of Land of Frederick F. Jolley - Allen Hill Road & Route 205 - Brooklyn, Connecticut - Kieltyka, Woodis & Pike, Land Surveyors - Scale 1"=40' - April 27, 1977" bounded and described as follows:

Commencing at a concrete highway bound at the southeast corner of the intersection of Route #205 and Allen Hill Road; thence S. 19° 00' 02" E. 200.01' along the easterly line of Route #205 to a drill hole in the stone wall; thence N. 59° 30' 04" E, 325.00' to an iron pin; thence N. 19° 04' 35" W, 200.10' to an iron pin in the southerly line of Allen Hill Road, the last two (2) courses being bounded on the south and east by other land now or formerly of Frederick F. Jolley; thence along the southerly side of Allen Hill Road S. 57° 10' 38" W. 59.76' to an iron pin; thence S. 58° 17' 39" W. 83.78' to an iron pin; thence S. 59° 12' 26" W. 87.03' to an iron pin; thence S. 62° 13' 59" W. 94.37' to a concrete highway bound in the easterly line of Route #205 and the point of beginning.

The above described tract contains 1.44 acres and is a portion of the fourth tract conveyed to Frederick F. Jolley by deed from Ralph W. Fisk and Florence K. Fisk dated October 15, 1962, and recorded in Volume 37, Page 122 and 123, of the Town of Brooklyn Land Records.

SUBJECT TO a utility easement from Frederick F. Jolley to the Connecticut Light and Power Company dated January 19, 1971, recorded in the Brooklyn Land Records, Volume 50, Page 288.

\$264.00 Conveyance Tax received

*Debra M. Theriot*  
Ass't. Town Clerk of Brooklyn

**To Have and to Hold** the above granted and bargained premises, with the appurtenances thereof, unto it the said grantee its successors ~~heirs~~ and assigns forever, to and their own proper use and behoof. And also, I the said grantor do for mysel f my heirs, executors, and administrators, covenant with the said grantee its successors ~~heirs~~ and assigns, that at and until the en sealing of these presents, I am well seized of the premises, as a good indefeasible estate in FEE SIMPLE; and have good right to bargain and sell the same in manner and form as is above written; and that the same is free from all incumbrances whatsoever, except as above stated.

**And Furthermore,** I the said grantor do by these presents bind my sel f and my heirs forever to **WARRANT AND DEFEND** the above granted and bargained premises to it the said grantee its successors ~~heirs~~ and assigns, against all claims and demands whatsoever, except as above stated.

In Witness Whereof, I have hereunto set my hand and seal ~~under the seal of the Superior Court of the State of Connecticut~~ this 14th day of June 19 77.

Signed, Sealed and Delivered in the presence of

*Raymond J. Chabot*  
 Raymond J. Chabot  
*George H. Jackson, III*  
 George H. Jackson, III

*Frederick F. Jolley* (L.S.)  
 Frederick F. Jolley (L.S.)  
 \_\_\_\_\_ (L.S.)  
 \_\_\_\_\_ (L.S.)  
 \_\_\_\_\_ (L.S.)  
 \_\_\_\_\_ (L.S.)  
 \_\_\_\_\_ (L.S.)

State of Connecticut, County of New London ss.: New London, June 14, 1977

On this the 14th day of June 19 77, before me, Raymond J. Chabot the undersigned officer, personally appeared Frederick F. Jolley

known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In Witness Whereof, I hereunto set my hand.

*Raymond J. Chabot*  
 Raymond J. Chabot  
 Commissioner of the Superior Court  
 Title of Officer

State of Connecticut, County of

ss.:

On this the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_, before me, the undersigned officer, personally appeared \_\_\_\_\_ who acknowledged himself to be the \_\_\_\_\_

\_\_\_\_\_ of \_\_\_\_\_, a corporation, and that he, as such \_\_\_\_\_, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as

In Witness Whereof, I hereunto set my hand.

Received for record this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 1977 at \_\_\_\_\_ A.M.

Title of Officer



Austin Tanner

FIRST Selectman

Town of Brooklyn

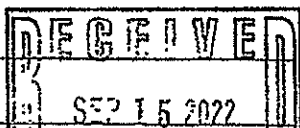
Hello, I hope you're well. I was talking to Wayne Jolley recently and the subject came up about a Gravel bank off Rt. 225 in Brooklyn. It is my understanding that the town is looking for people who might remember the gravel bank prior to existing zoning regulations. I told Wayne that my grand father Herman Frink got gravel or sand (I can't remember which) back in 1967-1968 prior to me going to high school. I went there with my Uncle Albert Frink with the cold truck to get sand or gravel. Back then we had an international cattle truck to move cows or pick up hay in the field. It didn't have a tail gate so it was loaded toward the front so we wouldn't lose it on the road on the way back to the farm. I know I was still in grade school 7th or 8th grade. It was a long time ago. I remember there was a river back then. Anyways if this letter helps in any way good. Take care

Paul Sweet.

260 Newid

maple, CT 06354

cell 860-237-7311



To whom it may concern,

As to the question "were they mining at the Jolley property on RT 205 in Brooklyn prior to zoning" the answer is yes.

I remember as a boy around 1968 going with my dad, Len Albee, to Fred Jolley's property on Rt 205 to ride along with dad as we moved sand and stone in the building of Fox Tail Campground, and also move material for use in the concrete plant off Rt 12 in Danielson. This was from a spot on the property that Fred processed bank run gravel into sand and stone.

Later around 1978 while working for Cliff Green & Sons, I remember going back to the same place to start to process again for them with a portable plant from Rawson MFG.

We moved from Woodward Rd to Rt 205 in 1976 and I always remember processing at that property.



Tim Albee

507 Wauregan Rd

Brooklyn CT 06234

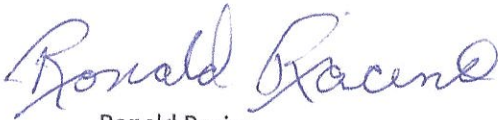
860-319-4271





To whom it may concern,

I am Ronald Racine, owner of Racine and Sons Excavation. I was born July 6<sup>th</sup> 1943 and started my business at around age 19. I purchased stone, for the purposes of installing septic systems, from Fred Jolley all the way back to 1970. I picked up material from the Brooklyn location on RT 205 entering from Fox Tail Campground's main entrance and continued passed the campground and all the way to the south east side of the property where the screening plant was, in the same vicinity of the current processing plant that is where Brooklyn Sand and Gravel now resides. I observed the operation of the screening plant and was aware that the material was being brought in from an outside location to make the stone I was using for my business.

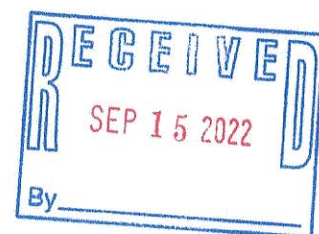


Ronald Racine

17 Ware Rd

Dayville CT 06241

860-234-5022





**Jolley Concrete & Block**  
A Division of Jolley Concrete Inc.  
42 Junior Ave. Danielson CT 06239  
1-860-774-5000 · 1 800-752-5720 (CT) · Fax 860-774-3872



**RECEIVED**

**OCT 20 2022**

To Whom it may concern,

The property listed as 530 Wauregan Rd in Brooklyn on Rt 205 also known today as Brooklyn Sand & Gravel is land which has been used to process imported material for the purposes of sale and use in many construction facets since the 1960s when the property was owned by Fred F. Jolley. Back when Fred purchased the land in the 1960s, he started work on building a campground, which would eventually become Fox Tail Campground. During the construction of the campground is when Fred began processing material with a screening plant and at first using it to make the roads and pads for campers to access the site. Jack Burke remembers using the material to install the swimming pool which has since been filled in, near the recreation hall which still stands to this day. Some of the material was sold for use by others as evidenced by Mr. Racine, who purchased material for septic systems. Processing on the site was observed by many outside the family as evidence in the many letters that have been previously given to the town and more letters yet to be procured by those who are still with able to remember that far back. When Mercier & Sons purchased the property in 1977 they continued to use the property for processing imported material with the same screening plant, continuing the use of the property as it had been used previous. In 1985 when we purchased the property from the bank when Mercier defaulted on his loan with them, we purchased it with the intent to continue using the property in this manner.

For these reasons and many accounts of the properties use before planning and zoning was even in existence, according to the bylaws of the State, the pre-existing non-conforming use should be grandfathered to the property as no one has owned it without the purpose of using it in that manner.

Sincerely,

  
Wayne L. Jolley

President/Owner

Jolley Concrete Inc. and

Brooklyn Sand & Gravel



David Fuss  
Bailey Woods Rd  
Brooklyn Ct.

9/13/2022

RECEIVED

OCT 20 2022

Brooklyn P&Z  
Brooklyn Ct.

**P&Z Members,**

**I am writing in regards to Brooklyn Sand and Gravel and the length of time it has been in the business of producing aggregate.**

**My father bought the farm I am on now in 1966. I recall the local contractors we hired to do construction improvements purchasing and hauling aggregate material from the sight B.S and G. occupies today.**

**It was common practice for farmers and land owners with good gravel to open a gravel pit and sell gravel. The Jolley family put in a screening and sizing plant, that made the product produced there more desirable. With the property being located on a state road it made it easy to access from the local towns.**

**In the 60's and up into the 70's many of the local roads were gravel roads. I recall as a young boy aggregate material being hauled out of what is now B.S. and G. to build and repair local roads. At that time there were small concrete block plants that used material from the Rt. 205 location. In the early days of construction, it was common practice to haul aggregate material to the construction site to mix and build houses, barns and chicken coops. Brooklyn was a large agricultural community and to expand people needed aggregate. This is also true today aggregate products go into the making of the concrete blocks that rebuild the catch basins on state roads that are being repaved now. This material is used to make our lives better in so many ways.**

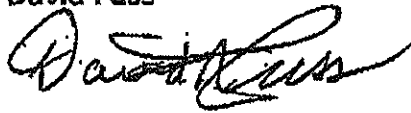
**If you could follow a truck load of material you would be able to see all the different lives that material impacts. The people that are employed from that truck load of material. This creates a micro economy in our corner of the state. These men and women that material employs. The person that drives the truck, operates the loader, the people that make the concrete, make the concrete blocks. These are the same materials that build or rebuild our schools, the Brooklyn Middle School gym was rebuilt using the block for the wall rebuild, the concrete repoured the sidewalks.**

Think of all the people that are employed as a result of these products.

These same people use their pay check and shop at the stores that employ local people, these people are your neighbors, your friends, your relatives, are all impacted in one way or another.

No one could have known 60 years ago when they started that gravel processing operation the impact it would make on all our lives today.

Thank You,  
David Fuss

A handwritten signature in black ink that reads "David Fuss". The signature is written in a cursive style with a large, looping initial "D".



Re: Fox Tail Campground Letter



Jack Burke <jeburke057@yahoo.com >  
10/24/2022 3:08 PM



To: Thomas Jolley

To whom it may concern:

My name is Jack Burke and I am the owner of J&B Transportation, LLC located in Dayville, Ct.

I'm a retired State Police Officer and former Commanding Officer of Troop "K" in Colchester, Ct

I started a trucking business in 1967 and sold, installed and filled swimming pools.

Fred Jolly, owner of Jolly Concrete, hired my company to haul some of his finished products. I also hauled pool water to a swimming pool Fred was installing in a campground he was developing on some of his property on Rt 205 in Brooklyn. During that time he was operating a screening plant on the property to facilitate the building of the campground and he had trucks hauling gravel off the property. I can't be certain of the dates but I believe it was in the late 60's or early 70's.

Sincerely

Jack Burke

RECEIVED

OCT 25 2022

To whom it may concern,

I am Wayne Jolley of 524 Wauregan Rd in Brooklyn CT. I am the owner of Brooklyn Sand & Gravel which is listed as 530 Wauregan Rd. The property that Brooklyn Sand & Gravel now resides is property my father, Fred F. Jolley, owned from the mid-60s to late-70s, I believe from 1966 to 1977. During the time my father owned the property, he built and operated what was Fox Tail Campground. When I was a teenager I helped my father with the construction of the campground by using material that he was screening on the property and I used that material on the property to make roadways, trailer pads, and around the various out-buildings on the property. I operated a bull dozer to spread the material around the various locations on the property. This was all work that was done in the 1960s as I was born in 1950. I loaded sand from the screening plant to various people in the town, including Emerson Nutting who delivered material to Donald Francis for his chicken coops. Ernest Jolly was bringing in the bulk of the material that was imported from off site from various locations around town, including local farmers.

  
Wayne Jolley

524 Wauregan Rd

Brooklyn CT 06234

860-208-7364

RECEIVED

OCT 25 2022





Dear Wayne,

I was waiting in the gravel bank a couple times and started to think back to when I was younger. My dad would take me over to the 205 pit to pick up some gravel for a farm project; back then it would have been for Hillandale. I'm not certain, but I think it was the early 1970's when the pit first opened and visiting it then as a young kid, who would have thought I'd end up driving concrete trucks for your family and Jolley Concrete ten years later!

I can tell you, when I started J. Booth Construction your company and the pits was a great resource for me. Having the pit so close in proximity and the great qualities of your materials really helped make my jobs even more successful. I've truly enjoyed the working relationship we've shared all these years.

Even as a little boy watching big loaders fill up trucks; it was just remarkable. Just thought I would share some very old memories with you.

Yours Truly,

Jim Booth



---

P.O. Box 739 • Brooklyn, CT 06234 • 860.779.2222 • Fax 860.774.1194

[www.hometownheatingllc.com](http://www.hometownheatingllc.com)

HDD 75  
HDD 941

October 26, 2022

Allan Rawson  
210 Chase Road  
Putnam, CT 06260

TO: The Town of Brooklyn, CT

Wayne Jolley has asked me to write this letter to recap my experience during the time I ran Brooklyn Sand and Gravel. During the years prior to my lease at Brooklyn, Jolley Concrete was a customer for sand and stone used in concrete that my company (Rawson Sand and Gravel) delivered daily. As Jolley Concrete and our other customers grew, we needed to increase production to satisfy the demand. After discussing the issue with Wayne, he brought me to the Brooklyn S&G property where I viewed an open gravel bank which obviously had been active for many years. Since I had an extra portable wash plant, we formulated an agreement (lease) whereby Rawson Sand & Gravel would operate Brooklyn S&G to produce concrete aggregate for Jolley Concrete.

In order to justify the investment necessary to establish this facility, it was obvious that we needed to locate raw material close by to supplement the gravel remaining on the Brooklyn property. I naturally looked to the Langevin property next door- which was rich in gravel. Since I had a personal relationship with the Langevins, we quickly came to an agreement.

Our engineer made application to Brooklyn Wetlands and Zoning for the gravel removal permit; along with the ability to build a bridge to span the stream separating the properties.

We worked with Zoning Officer Karen Johnson and the Brooklyn Zoning Commission and were able to secure the necessary permits. This bridge gave us access to the power line road that allowed us the ability to secure permits on the Regis, Neimann, Lehto and Salmon properties. We started production there in 1987 and these property permits enabled us to produce material through 1996 when our agreement ended and the equipment was sold to Jolley Concrete.

During this entire period working with the Town of Brooklyn, there was never any mention of the necessity of securing a permit on the Brooklyn Sand and Gravel property. When Wayne told me that the Brooklyn Zoning Commission was questioning his ability to produce material on the site, I was surprised. All those gravel permits during the years we were there surely reinforced the "pre-existing, non-conforming use ("grandfathered") status".





If you have any questions about the operation of Brooklyn Sand and Gravel from 1987 through 1996, feel free to call me (860.919.6413).

Regards,

A handwritten signature in cursive script that reads "Allan Rawson".

Allan Rawson

RECEIVED

DEC - 7 2022

To whom it may concern,

This is David Weaver, long time Brooklyn resident, and longtime employee of Fred Jolley and then his son Wayne Jolley until my retirement in 2004. I started working for Fred somewhere around 1964, before he bought the property in Brooklyn he got from old man Fisk, and then started building Fox Tail Campground. The property that Fred bought was on both sides of Rt 205 going from the Sacred Heart Church all the way passed Allen Hill Rd. I purchased a piece of the that land to build my own house at 451 Wauregan Rd, that I built in '78 and lived there until I moved to Florida after retirement. I drove a concrete mixer for about 40 years for both Fred and Wayne and was involved with many building and construction projects that were done at the Rt 205 property and the main offices of Jolley Concrete, including the block plant and concrete plant in Danielson. While working for Fred, back in the early days, I was cutting down trees off of the property on Rt 205, clearing out the land to make pathways and open areas for the campsites and helped with concrete work there for the recreation hall, tennis court and swimming pool. I was there when he brought in a screening plant in the late 60's and had a few people bringing in materials that were put through that plant and were used on site for the campground and some sold to contractors and shipped off site. Fred used the screening plant there the entire time while the campground was there, and Mercier continued to process and sell material out of the same property when he bought the section of land back in the late 70's, where Brooklyn Sand & Gravel is now. When Mercier lost the property Wayne bought it back in the early 80's and got to work starting up the processing again, under Brooklyn Sand & Gravel.

David P Weaver

David Weaver

Lake Worth Florida 33467





**Jolley Concrete & Block**  
A Division of Jolley Concrete Inc.  
42 Junior Ave. Danielson CT 06239  
1-860-774-5000 · 1 800-752-5720 (CT) · Fax 860-774-3872



1/4/2023

To whom it may concern,

To the issue of whether the site was processing off site material prior to 1995, that would be a definitive yes. The property has been in my name since 1985 and we had been processing there since not long after I acquired the property and installed a bridge over Pine Brook approved by the town to transport the off-site material in the late 80's or early 90's. There were many people that we imported over that bridge immediately following its completion, they were, Dick Regis, Charlie Langevin, Paul Lehto, Clarence Solomon, Ken Niemann Sr, and Don Dubois, who all owned property on the east side of Allen Hill Rd and trucked the material to our site where we had 2 plants performing the processing of that material.

As for the matter of paperwork involving those transactions, we do not have any, as we only keep records back 7 years as that is what is required for tax reasons. But we should be able to get testimonials from those remaining living individuals that we did importation with prior to zoning regulations.

There were also many others that we did import material from other sites not over the bridge on our property over Pine Brook, including Arthur Parent, bringing in material from digging septic systems to my father Fred Jolley, when he owned the property back in the 60s and 70s. Donald Francis used us via Emerson Nutting's trucking company to bring processed material to his chicken coops.

My father owned the property from 1964 to 1977 where he ran a campground and operated a processing plant until he sold it to Mercier & Sons in 1977. Mercier used the property in much the same way until he defaulted on the mortgage and the bank foreclosed it. I ended up purchasing the property from the bank in 1985 at which point I began operating our sand and gravel business.

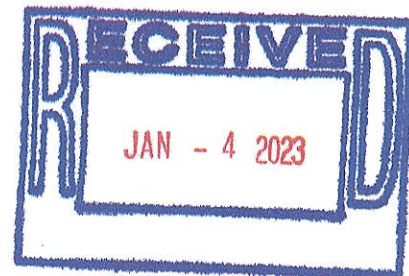
Sincerely,

Wayne L Jolley

President

Jolley Concrete Inc.

Brooklyn Sand & Gravel





**Jolley Concrete & Block**  
A Division of Jolley Concrete Inc.  
42 Junior Ave. Danielson CT 06239  
1-860-774-5000 · 1 800-752-5720 (CT) · Fax 860-774-3872



1/12/2023

To Whom it may concern

To the issue of grandfathering rights on the property used by Brooklyn Sand & Gravel, we've specifically shown that the property has been used prior to planning and zoning's existence in 1972 dating back to 1964 when Frederick F Jolley owned the property. Here is a list of specific uses that we have had many people give testimonials to witnessing prior to 1972:

1. Importing raw material to the location.
2. Processing the imported raw material to clean usable material.
3. Selling the processed material to customers.

We will be providing more testimonials that verify these uses of the property in the coming days.

Sincerely,

Wayne L. Jolley

President

Jolley Concrete Inc.

Brooklyn Sand & Gravel





To whom it may concern,

Through the late 60s and many years later my father, my brother Fred and myself helped work on the campground run by Fred Jolley. We brought equipment to help set up the campground. We brought raw material from our site on Day St in Brooklyn to the site where the screening plant was used to make finished sand and stone, that we later purchased the finished materials to use at sites for new homes and sewer systems. We continued to work on the property even after Fred sold the property to Mercier and Sons in 1977. We hauled material from Mercier's property on Brickyard Rd in Brooklyn from their gravel bank to the location on Rt 205 for processing until the time the Mercier lost the property in the mid 80s.

Sincerely

Cliff Green Jr

Cliff Green Jr.

119 Clearview Dr

Brooklyn CT 06234



To whom it may concern,

My family ran a dairy farm in Canterbury off RT 169 in the late 60's and we didn't have much money back then, so we would sell material to Fred Jolley that we brought to his property on Rt 205 in Brooklyn and bought material that was finished in return trips. We would buy the sand from there to use as bedding sand for the stalls for the dairy cows. I remember seeing the screening plant as a young man in the late 60's when my father would go to and from the property that had a campground and you drove all the way around from the entrance and around to the place where the screening plant was located and they kept all the raw material and the finished sand and stone.

Sincerely



Wayne Laframboise

P.O. Box 467

Brooklyn Ct 06234





RECEIVED

JAN 30 2023

To whom it may concern,

We had a family stone quarry in Sterling that we started back in the 50's and ran into the mid 80's on Valley View Rd name Helene Stone Corporation that my father and uncle ran. We would blast for large slabs stone and the remaining material which we referred to as scrap we sold to Fred Jolley and brought to his property in Brooklyn on RT 205 where he had his campground. The scrap material was sand and small stone that we had no use for. We delivered our scrap material there from the late 60s into the 70s until Fred sold the property.

Sincerely

A handwritten signature in blue ink that reads "Susan Strouse". The signature is written in a cursive style and is underlined.

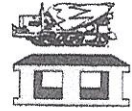
Susan Strouse

9 Kathleen Dr

Brooklyn CT 06234



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1-860-774-5000 · 1 800-752-5720 (CT) · Fax 860-774-3872



1/12/2023

To Whom it may concern

To the issue of grandfathering rights on the property used by Brooklyn Sand & Gravel, we've specifically shown that the property has been used prior to planning and zoning's existence in 1972 dating back to 1964 when Frederick F Jolley owned the property. Here is a list of specific uses that we have had many people give testimonials to witnessing prior to 1972:

1. Importing raw material to the location.
2. Processing the imported raw material to clean usable material.
3. Excavating raw material on site for processing.
4. Processing on site excavated raw material to clean usable material.
5. Selling the processed material to customers.

We will be providing more testimonials that verify these uses of the property in the coming days.

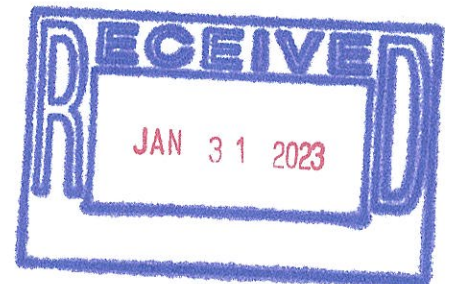
Sincerely,

Wayne L. Jolley

President

Jolley Concrete Inc.

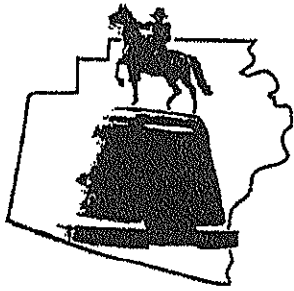
Brooklyn Sand & Gravel





Synopsis

	Date Received	Name	Use(s) Mentioned Prior to 5/24/72
1.	9/15/22	Paul Sweet	mining
2.	9/15/22	Tim Albee	mining, processing
3.	9/15/22	Ronald Racine	mining, processing & importing
4.	10/20/22	Wayne Jolley	mining, processing & importing
5.	10/20/22	David Fuss	mining, processing
6.	10/25/22	Jack Burke	mining, processing
7.	10/25/22	Wayne Jolley	mining, processing & importing
8.	10/31/22	Jim Booth	mentions "early 1970's"
9.	10/31/22	Allan Rawson	no mention of prior to 5/24/72
10.	12/7/22	David Weaver	processing & importing
11.	1/4/23	Wayne Jolley	processing & importing
12.	1/17/23	Wayne Jolley	processing & importing
13.	1/17/23	Cliff Green Jr.	processing & importing
14.	1/17/23	Wayne Laframboise	processing & importing
15.	1/30/23	Susan Strouse	importing
16.	1/31/23	Wayne Jolley	mining, processing & importing



TOWN OF BROOKLYN  
Land Use Department  
69 South Main Street • Suite 22  
BROOKLYN, CONNECTICUT 06234  
860-779-3411 Ext. 12

Wayne L. Jolley  
Jolley Concrete & Block  
42 Junior Avenue  
Danielson, CT 06239

January 3, 2023

Dear Mr. Jolley,

It is my understanding that you have requested the Brooklyn Zoning Enforcement Officer to render a decision as to whether off-site earth products were being imported to the Brooklyn Sand & Gravel LLC site (Assessor's Map 30 Lot 97, Lot 97-1, and Lot 97-2, collectively the "subject property") and processed on the subject property on a regular basis to establish that use prior to the adoption of zoning regulations.

Prior to 1995, the zoning regulations had no provision for the importation of off-site earth material for on-site processing. Your claim of a grandfathered use as to importation of off-site material and on-site processing must pre-date the adoption of zoning regulations.

The Land Use Department is in receipt of ten letters of support for your request. Please refer to the attached list of letters, with dates stamped received and names of persons who wrote the letters. The Land Use Department is also in receipt of the Memorandum of Decision for Brooklyn Sand & Gravel LLC v. Planning and Zoning Commission of the Town of Brooklyn, dated December 2, 2020.

I hereby request additional information, such as aerial photographs, invoices, trucking manifests, and any other evidence documenting the quantities of materials and the off-site mines from which imported material was regularly brought to the subject property for processing. A listing of the type of processing equipment that was on-site prior to the adoption of zoning regulations should also be provided.

The decision you have requested must be made on the basis of evidence and facts that prove to a reasonable standard that the use was in place before the regulation was adopted, at a level that indicates the establishment of an ongoing use, rather than the occasional processing of earth products.

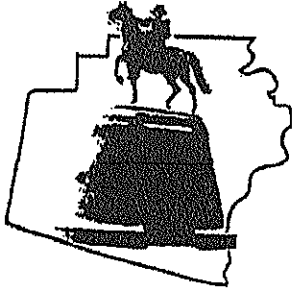


Would you please submit further documentation, if possible, to establish the ongoing use at your earliest convenience? We will make every effort to render a decision as soon as possible after we are in receipt of the additional information in support of your claim of a grandfathered use.

Sincerely,

*Margaret Washburn*

Margaret Washburn  
ZEO/WEO/Blight Enforcement Officer  
69 South Main Street, Suite 23  
Brooklyn, CT 06234  
(860) 779-3411 ext. 31  
Mon. – Thurs. 8:00 am – 3:30 pm  
[m.washburn@brooklynct.org](mailto:m.washburn@brooklynct.org)



TOWN OF BROOKLYN  
Land Use Department  
69 South Main Street • Suite 22  
BROOKLYN, CONNECTICUT 06234  
860-779-3411 Ext. 12

Wayne L. Jolley  
Jolley Concrete & Block  
42 Junior Avenue  
Danielson, CT 06239

January 11, 2023

Dear Mr. Jolley,

I have received your letter dated 1/4/23.

In regards to grandfathering previously existing, nonconforming use(s), the only timeframe that matters is prior to 5/24/72, when zoning was adopted. Any further evidence you can supply must document the use(s) prior to 5/24/72.

I would like to resolve these matters as quickly as possible. I would like you to try to address the specific points described below.

In order for me to render a decision, please submit a formal request specifically listing the use(s) for which you seek approval as a legally existing, non-conforming use or uses.

It isn't clear to me when the use of the property went from Fred Jolley mining to build himself a campground to a business/commercial use as a mining and processing enterprise. I don't have any documentation of if and when Fred's business had a name.

It would also be helpful to me in rendering a decision if you would please submit a chronological property history including evidence of any specific use(s) for which you seek a decision. This chronological property history should list all the related business uses, with dates, if possible, including the operation of the block plant in Killingly.

You may wish to seek assistance from a land use attorney in the preparation of the formal request and the property history requested above.

Please bear in mind that any decision I make regarding your request will be heavily dependent on the facts that you can provide supporting the existence of the use(s) prior to the enactment of zoning regulations.

It would be helpful to me in rendering my decision if you would please submit written testimonials from any family member or land owner who can attest to selling unprocessed material to Fred Jolley from off-site for processing on-site prior to 5/24/72. Specific timeframes would be most helpful.



Your letter received 10/25/22 mentions that "Ernest Jolly was bringing in the bulk of the material that was imported from off site from various locations around town, including local farmers." It will be important to provide dates of such activity and also the frequency with which such activity occurred. A testimonial from Ernest Jolly would be helpful, if possible.

Your letter received 1/4/23 mentions that Arthur Parent brought material to Fred Jolley. A testimonial from Arthur Parent would also be helpful, if possible.

Can you provide some quantitative estimates of the proportion of on-site material to off-site material processed on-site prior to 1972?

Questions that could be answered include:

How much material was imported in any given year prior to 5/24/72?

Where was the material originally excavated, documented by giving a street address, a map and lot number, or an aerial photograph?

How often was material imported in any given year prior to 5/24/72?

I realize that it must be challenging trying to document events from 50 years ago.

I look forward to hearing from you.

Sincerely,

*Margaret Washburn*

Margaret Washburn  
ZEO/WEO/Blight Enforcement Officer  
69 South Main Street, Suite 23  
Brooklyn, CT 06234  
(860) 779-3411 ext. 31  
Mon. – Thurs. 8:00 am – 3:30 pm  
[m.washburn@brooklynct.org](mailto:m.washburn@brooklynct.org)

1/30/23 Wayne Jolley brought in a 12<sup>th</sup> letter from Susan Strouse.

Wayne states that the 3 uses listed in his 1/12 letter are what he's asking to have grandfathered. At my urging he says he wants to add excavation of raw material and processing of on-site material <sup>to that list</sup>

Wayne states that he is 72 years old. He is a Vietnam veteran. Wayne was discharged in 1971.

Wayne states that he wants excavation to be grandfathered.

his Dad

Wayne states that he filled in the raceway at the old mill. in '69 or '70.

Wayne states that they used to exit the property where his house is now and drive down Rt 205 to get to the old raceway.

Wayne looked at the 1970 aerial photo. He states that the old barn and house are gone now. He built a house for his son there (Christopher), then the son moved ~~to~~ away. The house was sold. Wayne points out where the old gravel pit was.

atty Peter Ridell

Wayne does not want to use ~~a land use~~ attorney in his request for grandfathering.



Wayne says he doesn't have any photographs of the gravel pit before 1972.

I asked Wayne to submit a formal request listing all the activities he wants grandfathered. Dana and I ~~urged~~ urged him to get assistance from a land use attorney.

Wayne says the campground construction started around 1965. He started selling gravel around the same time. Foxtail campground was the only name he used, nothing like Brooklyn Sand + Gravel.

The whole time Fred ran the campground + gravel pit the entrance was where Wayne's house is now. There was no other entrance.

They used to drive from the campground to the mine.

Wayne states that around 1965 all <sup>all</sup> ~~as~~ ~~es~~ were started around <sup>campground</sup> (1) <sup>onsite</sup> excavating (2) processing (3) selling (4) <sup>off site</sup> importing / processing / selling

Emerson Nutting bought raw material and came back with cellar hole spoils to process at Foxtail.

Jane located a quarry on Valley View Rd in Sterling that may be the same site that the Strauses owned in the late 1960's + 1970's  
Nearly

Joly's.

Steve Joly is Ernest's son. Steve is living in FL but in poor health. Wayne says he either already has a letter from Steve Joly or he will try to get one. I told Wayne that we do not have a letter from Steve Joly.

Fred

1955 Jolley + Sons opened off Junior Ave.  
~~the~~ Fred was getting mat'l from Ernest Joly at first.

Fred F.

1955 Jolley + Sons made ready-mix concrete sold in trucks. Blocks started being produced around 1970. The Joly blocks (mafia blocks) are also made off Junior Ave.

I asked Wayne about Arthur Parent's sons. Wayne can try to get a letter from Arthur Parent's son.

Susan Strause is 72 years old.

Strause, Emerson Nitting, Arthur Parent, Ernest Joly, LaFramboise, would all bring in material from time to time.



Ernest Joly dug a pond for Fred Jolley at the north end of the property with a dam. The pond was for swimming. The dam broke but is still visible. Fred traded pond spoils to Ernest to bring processed material back for campground roads.

Mercier's campground off Brickyard Rd was called "Big Valley" and is now owned by the Greens.

Wayne LaFramboise is 71 years old.

Wayne Jolley by signing this document acknowledges that he read it, understands it and agrees that it is true.

## Margaret Washburn

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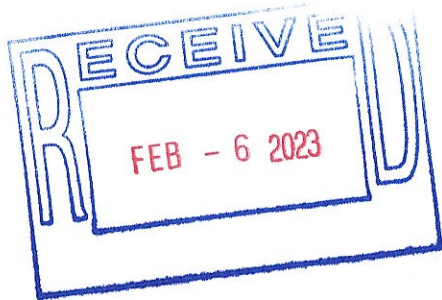
**From:** Wayne Jolley <wjolley@jolleyconcrete.net>  
**Sent:** Monday, February 06, 2023 7:05 AM  
**To:** Margaret Washburn  
**Subject:** Notes  
**Attachments:** BSG Historical Notes.pdf

Margaret,

Here is the transcribed notes from our meeting, and signed to verify their substance.

Thank you

Wayne



## Margaret's Notes



1/30/23 – Wayne Jolley brought in a 12<sup>th</sup> letter from Susan Strouse.

Wayne states that the 3 uses listed in his 1/12 letter are what he's asking to have grandfathered. At my urging he says he wants to add excavation of raw material and processing of on-site material to the list. Wayne states that he is 72 years old, he is a Vietnam Veteran. Wayne was discharged in 1971. Wayne states that he wants excavation to be grandfathered.

Wayne states that his dad filled in the raceway at the old mill in '69 or '70.

Wayne states that they used to exit the property where his house is now and drive down RT 205 to get to the old raceway.

Wayne looked at the 1970 aerial photo. He states that the old barn and house are gone now. He built a house for his son there (Christopher). Then the son moved away. The house was sold. Wayne points out where the old gravel pit was.

Wayne does not want to use atty Peter Rydel in his request for grandfathering.

Wayne says he doesn't have any photographs of the gravel pit before 1972.

I asked Wayne to submit a formal request listing all the activities he wants grandfathered. Jana and I urged him to get assistance from a land use attorney.

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The whole time Fred ran the campground & gravel pit the entrance was where Wayne's house is now. There was no other entrance.

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Wayne states that around 1965 all uses were started around 1) campground 2) on site excavating 3) processing 4) selling 5) off site importing/processing/selling

Emerson Nutting bought raw material and came back with cellar hole spoils to process at Foxtail.

Jana located a quarry on Valley View Rd in Sterling that may be the same site that the Strouses owned in the late 1960s and early 1970s.

Steve Joly is Ernest Joly's son. Steve is living in FL but in poor health. Wayne says he either already has a letter from Steve Joly or he will try to get on. I told Wayne that we do not have a letter from Steve Joly.

1955 Fred F Jolley & Sons opened off Junior Ave. Fred was getting material from Ernest Joly at first.

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Susan Strouse is 72 years old. Strouse, Emerson Nutting, Arthur Parent, Ernest Joly, Laframoise, would all bring in material from time to time.

Ernest Joly dug a pond for Fred Jolley at the north end of the property with a dam. The pond was for swimming. The dam broke but is still visible. Fred traded pond spoils to Ernest to bring processed material back for campground roads, while Ernest kept some of the material he could use. Fred also processed material at the campground to make road material and sold or traded other material from the processing.

Mercier's campground off Brickyard Rd was called "Big Valley" and is now owned by the Greens.

Wayne Laframboise is 71 years old.

Wayne Jolley by signing this document, acknowledges that he read it, understands it and agrees that it is true.

Sign: Wayne Jolley

Date: 2-3-23

Wayne Jolley

## Margaret Washburn

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**From:** Margaret Washburn  
**Sent:** Tuesday, February 07, 2023 1:21 PM  
**To:** Wayne Jolley  
**Subject:** RE: Notes

Received, Wayne. In the interest of concluding the process, will you please submit all related correspondence by February 15, 2023?

Thank you,

Margaret Washburn  
ZEO/WEO/Blight Enforcement Officer  
69 South Main Street, Suite 23  
Brooklyn, CT 06234  
(860) 779-3411 ext. 31  
Mon. – Thurs. 8:00 am – 3:30 pm  
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Wayne





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