

acre parcels of properties. In fact, my property, for many years, was an active farm. In 1982, Conklin, my then neighbor, was operating a tank lining business from his property that was not allowed. The Town of Newburgh cited him for the operation of running the business out of his house. Conklin was then forced to find a suitable location to operate his business. Conklin then approached the owners of a vacant parcel of land that was directly behind his home. He entered into a contract for that property and filed a Use Variance with the Town of Newburgh Zoning Board of Appeals.

In support of his Use Variance application, Mr. Conklin testified before Town of Newburgh Zoning Board of Appeals. Specifically, Mr. Conklin testified that: (1) he operated a tank lining business *from* the subject premises; (2) it was a small operation with 9 employees; (3) the subject premises would be used for the parking of the vehicles and the equipment only, inasmuch as those vehicles and equipment would be taken offsite to perform their work; (4) no work would be done on the subject premises and that only an office would be located on the subject premises along with a building to park the equipment inside.

A number of residents voiced concerns at that time with the Board granting Conklin a Use Variance because it was self-created by Conklin. My neighbors and I attended every meeting before the Board until the final meeting when a vote was taken. To our dismay and surprise the Zoning Board in 1982 granted Conklin the

Use Variance, but it included conditions as a way to appease the neighbors.

Subsequently, Conklin sold his business, and Robert Dietz became the principal in the business. Mr. Dietz operated WCC Tank Technology (the successor company to Conklin) until sometime last year when suddenly another business showed up on the subject premises.

This new business has nothing to do with tank lining, rather it is an excavation business which dumps dirt on the premises taken from offsite. To be sure, this new business is not a small business like the original tank lining business that Conklin operated, but a heavy commercial industrial business that operates at all hours and days. Indeed, I have heard and seen trucks on the subject premises as late as 10:30pm and as early as 6:30am discharging dirt (which comes from offsite) Monday through Friday, and, even on some Saturday and Sundays. Furthermore, large containers and excavation equipment have showed up on the subject premises. Furthermore, the occupants have clear cut a huge area of trees and filled in a large area on the subject premises with at least 8-10 feet of fill. They have also created a retention pond on the west side of the property that drains to an unknown location.

From my reading of the application submitted by the Town of Newburgh, it is asking the Zoning Board to interpret whether the ZBA's original Use Variance included this type of business. Respectfully, the answer to that question is "no". In

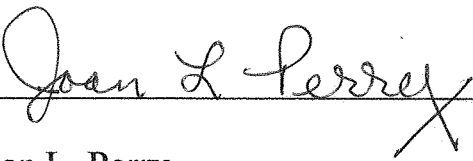
support of that conclusion, I direct the Board to Conklin's original testimony that he gave in support of the Use Variance wherein he summarized what his tank lining business involved—i.e., he stated that “[w]e drive to a sight or location to where a tank is leaking, we repair the leaks and [then] put in fiber glass lining [in the tanks]”. In other words, Conklin's premises would be were to be used to *park* his trucks and operate an office.

On the other hand, the hydro-excavating business (“business”) does not perform tank lining. Rather, it excavates dirt from offsite customers by using its “hydro-excavating” trucks which thereafter return to the subject premises and then *discharge* the excavated dirt onto the subject premises. The business then grades the dirt over the subject premises. In other words, the business has turned the subject premises into a “dirt dump”. Also, when the trucks discharge the dirt onto the premises, it is extremely loud because of the water that is used, under force, within the trucks to discharge the dirt from them.

I know that none of the members of the Zoning Board of Appeals were here in 1982. I was there and listened carefully to exactly what was proposed. Never was this new business presented or talked about as being part of the original request. The addition of this new business has truly changed our quiet residential area. I would ask the Zoning Board to keep the residents in mind when deliberating.

In short, the hydro-excavating business that is being operated at the premises is not a tank-lining business and the Board should hold that Use Variance does not cover this new business.

Thank you for allowing me to provide this Affidavit in lieu of my appearance.

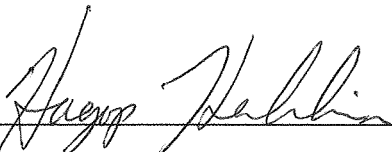


Joan L. Perry



Hagop Keshishian
Notary Public
State of Florida
My Commission Expires 11/5/2017
Commission No. FF 68482

Sworn to before me this 7th Day
Of February, 2017



Notary Public