

25 Forest Rd
Wallkill, NY 12589
April 23, 2018

Town of Newburgh
Zoning Board of Appeals
308 Gardnertown Road
Newburgh, NY 12550

CODE COMPLIANCE
DEPARTMENT

APR 25 2018

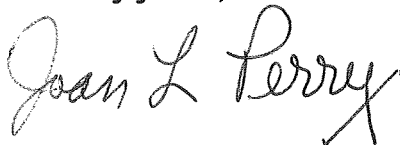
Dear Zoning Board Members:

Sign X

I hope this will be the last hearing that I will have to write a letter and appear at for WCC Tank Technology. This will be the third time since 1982 that I would have to express my comments and concerns to this ZBA. I feel that living on my property for over 67 years that I have a pretty good feel for the character of the neighborhood. I own just over 10 acres of property and the majority of that property I have kept vacant grass fields. This is what you will find with the many properties that surround my ten acres. I will refer the ZBA again to my original sworn affidavit of February 7th, 2017 with concerns and objections to this business exceeding its original use variance. I have testified that the applicant has changed by clearing and grading the property and now the water runoff has changed dramatically from my property. The trees and buffer that existed and was required by the ZBA in 1982 has been cut down. The applicant fills up the hydrovac trucks using water from his ground well and the thousands of gallons of water being used will have an impact on the areas aquifer. This tremendous use of water will truly impact many of the old wells of surrounding property and potentially impact each and every resident in the area. Residential use of water is not even close to the amount that is used by this applicant for these 4 hydrovacs that fill up daily. The ZBA in 1982 put limitations on the Use Variance to protect the residential character and not allow this business to get out of control. I hope that this ZBA continues to see that this applicants actions speak louder than any words. They believe that they can just do what they want and they think that their property is commercial and it can be used for whatever they choose. That is not the case, the residents had to accept the decision in 1982 and have put up with the business the way it existed before the expansion into hydrovac excavating. We surely do not have to accept this major expansion beyond what the ZBA envisioned in 1982. This is why you are seeing such an expression of opposition to this request for expansion. You can see by just driving around the neighborhood how this business even in its original form does not fit into the character of our neighborhood. The reason is simple, this neighborhood has always been and AR zone with 1 acre lots since the inception of zoning. The residents have to accept WCC Tank Technology in its original form and as long as they operate a tank lining business. If at some point the

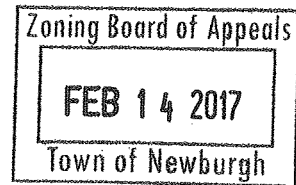
viability of this operation ceases or stops then they must make the business decision to sell the property as residential and build single family homes on the property. I never believed the testimony that the property is not suitable for residential homes. If you are able to put up a building as large as they have with septic then certainly you could build a couple homes on the property. In reviewing the public hearing in February of 2017, I would like to point out in particular the testimony of Forest Rd resident Shawn Barry. He did an amazing job articulating to the ZBA the factors that would provide the ZBA with enough information to deny any further variance. It is everything that I wish I could have put together for the ZBA but his extensive research into the property hits all the points. He points out all the violations that currently exist and still exist today, open building permits, lack of inspections on the building permits and a building operating with certificates of occupancy. Time and time again the applicant over and over violates our zoning laws and does not follow the rules. This past behavior should be an indication of what the future will hold if the board continues to just allow this applicant to expand further and destroy our neighborhood character. In closing, I stated in 1982 the by granting the use variance to allow this business would open the door for an onslaught of variances and/or precedent. My concern that I expressed to the ZBA was that even though conditions were placed over time this business would grow and creep unchecked. We are now seeing the onslaught of requests from this applicant and the business by creeping is trying to morph into another business. What I predicted in 1982 is happening in 2018 and it is incumbent on the powers of the ZBA to say no more relief is warranted. Thank you for allowing me again to provide my comments on this matter that truly impacts my life and property.

Sincerely yours,

A handwritten signature in cursive script that reads "Joan L. Perry". The signature is written in black ink and is positioned above the typed name.

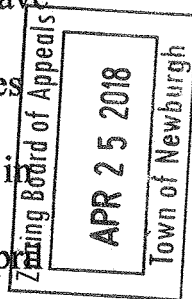
Joan L. Perry

STATE OF FLORIDA)
)ss
COUNTY OF Volusia)



Joan L. Perry, being duly sworn, deposes and says the following to be true:

That I reside at, and own 25 Forest Road, Wallkill, New York 12589, which is located in the Town of Newburgh, County of Orange, State of New York. I have received a notice that a hearing that will occur on February 23, 2017 that involves the interpretation of a Use Variance granted to William C. Conklin ("Conklin") in March 1982 (the "Use Variance"). I am currently in the State of Florida until April 2017 and this application is extremely important to me because if the Board interprets the Use Variance so as to permit the new hydro-excavation business to continue at 2102 Route 300 Wallkill, NY (the subject premises) it would affect my property adversely inasmuch as my property borders this new business. I am providing this sworn Affidavit to the Board, to be entered into the record, as my testimony before the Zoning Board of Appeals. For the reasons to follow, the Board should hold that the current hydroexcavation business that is being operated on the former premises of Conklin does not fall within the Use Variance.



By way of background, my property has been in my family since October 1951. This area has always been the most rural part of the Town of Newburgh. The character of the area has been (and still is) indicative of small farms and one

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

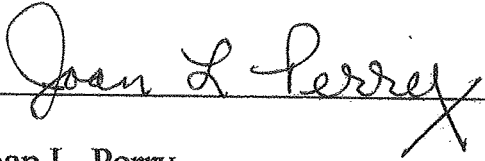
support of that conclusion, I direct the Board to Conklin's original testimony that he gave in support of the Use Variance wherein he summarized what his tank lining business involved—i.e., he stated that “[w]e drive to a sight or location to where a tank is leaking, we repair the leaks and [then] put 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.

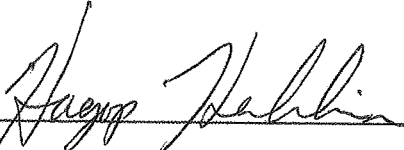


Joan L. Perry



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