

TOWN OF CHESTER
DEVELOPMENT REVIEW BOARD

In re: Julian Material, LLC (Allstone) Conditional Use Application

AFFIDAVIT OF MICHAEL W. KENWORTHY

I, Michael W. Kenworthy, being duly sworn and on my personal knowledge, do hereby state under oath that:

1. I submit this affidavit in support of my request for status as an "interested person". In this affidavit I hope to demonstrate, as required by the ordinance and the statute, that I own and occupy property in the immediate neighborhood of the proposed land use, that the proposed land use will cause physical or environmental harm to me, and that the proposed land use will conflict with the Town Plan and the Zoning Ordinance.
2. I reside at 219 Blood Rd. in Chester, VT. Ownership of this property has been held by Rocky Ridge of Chester, Inc. for over 40 years, a company in which I currently own all common stock and have full operating control. This property is about 95 acres in size. The power line was built when my mother owned the property, and it cuts through the property on its southern side, forming a separate parcel about 17 acres in size. This 17-acre parcel is bordered by, 1) property that underlies the power line, 2) Chandler Rd., from where the power line cuts across Chandler Rd. to the entrance to the property held by Julian Material, LLC, and 3) a common border with the property held by Julian Material, LLC from Chandler Rd. to the power line property. This common border of my property and that of Julian Material, LLC is comprised of two straight-line segments. One straight-line segment (about 500 to 600 feet long) is marked by a stone wall and extends from Chandler Rd. (at the Julian Material, LLC property entrance) to the area near where the buildings on the Julian Material, LLC property are clustered/located. The other straight-line segment (about 350 to 450 feet long) extends northward from near these clustered buildings to the power line property.
3. The straight-line segment of our common property border extending northward from the clustered buildings to the power line property was marked by a stone wall when Julian Material, LLC purchased the quarry. In spring of 2015 I was working outside, and I noticed that the noise from the quarry was particularly loud, and the noise had a different quality to it, sounding more-clear in tone/texture, as if the quarry machines were now closer to my house/property. The distance from my house to the quarry border is about 1,200 to 1,500 feet and downhill. I walked down through the woods to the quarry and found that about 300 feet of the stone wall marking our common border was gone, and all of the topsoil of more than one acre of my property was scraped back, forming a large berm over 10 feet high, about 40 feet wide and about 300 feet long. Over 25 of my trees (2 to 5 inches in diameter, and up to 75 feet tall) were cut down... this is why I noticed that the quarry noise was louder... Julian Materials, LLC chopped down trees on my property that muffled/blocked a significant part of the quarry noise exposed to my home and property.

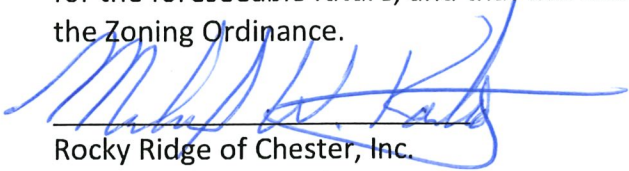
4. I immediately went to my house to get a property map, and returned to meet with quarry personnel. I showed the map to the site manager (Jonathan Patrick) of the quarry, and he appeared surprised himself, but believed the map and called Andrew Julian about it and gave Mr. Julian's phone number to me. I met with the Chester police about the problem, and involved several other government agencies, including meeting Timothy McNamara, an enforcement officer at the Vermont Department of Environmental Conservation. Everyone said that they had never seen or heard of such a brazen taking of neighboring property in Vermont. The Chester police talked with Mr. Julian and told him to come up from CT for a meeting the following day, which he did. Mr. Julian said that he had no idea that he was encroaching on my property, although the quarry's prior owner (an infamous character in town with a reputation for being loose with the law, named Mr. Hall, as I remember) operated the quarry for about 20 years, and even Mr. Hall respected the stone walls as our mutual border.
5. Later in 2015, Mr. Julian and I agreed to a settlement, including the promise that Julian Material, LLC would put back all of the topsoil, plant trees to recreate the sound barrier that was destroyed, and not to trespass in the future.
6. Epilog to the agreement in 2015. For the most part, the topsoil was moved back to where it was taken from, although quarry machines continued to encroach on my property to permit contiguous access around the periphery of their property because they carved the excavating edge (about 60-foot straight drop to the quarry floor) as close to the property line as possible (so my property has been used as their service/access road). An additional 15 to 30 feet of the stone wall was removed (to make room for service/access road). The replanting of trees promised (for sound barrier) was not done. Most brazenly though, quarry workers took more rock off my property. In 2015 when I initially discovered that Julian Materials LLC was stealing my rock, it was when they were cleaning up around a big rock mass/protrusion/promontory (at least 50 feet high, 70 feet wide and 60 feet deep) that was mostly on my property. The site manager said that they were planning to blast it soon to harvest the rock, and he educated me about what the best type of rock was for the market (pinkish color tones and breaks apart at 2- to 4-inch thickness like filo pastry layers), and that this big rock protrusion being prepared for blasting was top quality, as good as any rock in the quarry. I took many pictures of the rock face at the property borderline in 2015, especially the rock mass/protrusion. This big rock mass/protrusion is now gone.
7. My 95-acre property is rural, remote and peaceful, excluding quarry-generated noise.
8. Quarry noise has increased substantially over the past 3 years, with three main types of noise generated.
9. First, generally, there is much more activity: digging, breaking down the rock and more big trucks. The sound of large dump trucks having huge rocks dropped into them using a big front loader is common for much of the day, and it resonates so loudly that sometimes I can "feel" the noise vibrations when I am outside. The winter season shut-down is shorter now too. It is common for the quarry to start operations before 8am, even on Saturdays and Sundays. Visitors always comment on the noise.
10. Part of this increase in noise is because of the significantly increased activity is related to a new building built in 2020 (biggest footprint of all buildings on site) housing what

appears to be a rock sawing facility having 6 lines (based on viewing from my property). It has been reported that stone has been imported from Julian Materials, LLC offsite locations, and that it has been processed at the Chandler quarry. I assume that rock sourced at the Chandler Rd. quarry has also been processed there as well.


11. Second, dynamite blasts are more frequent over the past 3 years. It literally shakes the ground at my house at times, and my house is 1,200 to 1,500 feet away.
12. Third, starting within the past 3 years or so, there appeared a different type of noise: loud, repetitive rock hammering. It sounds like a pile driver, hammering a chisel into/through the rock, but with a higher frequency (~ 2 times per second). This noise, to me, is much more difficult to live with. It literally sounds like a jack-hammer used in road construction, but only louder and with a higher pitch. It can go on for hours per day, without a break. It is a very unnatural noise that cannot be "put out of mind". It must be unbearable, and possibly a direct health concern, for those living in the houses closer to the quarry machines, such as those near the beginning of Dean Brook Rd.
13. As I understand, prior to about 3 years ago, there was no "processing" or sawing of rock at the Chandler quarry. Up until 3 years ago, during my visits to the quarry border every year or so over the past 30 years to check things out, typically with friends, I only remember observing the operation as a medium-sized impact hammer machine on treads breaking down big rock chunks (exposed by dynamite blasting) into desired sizes, and sorting them into piles for later transport/export in big dump trucks. I do not remember ever seeing any machinery capable of sawing/processing rock material.
14. As I understand, in 2020 Julian Materials, LLC applied for a permit to build a structure to store its equipment (Permit No. 21-065) and avowed "not to expand or enlarge the non-conforming use". Apparently without any approval from the Town of Chester, this building was reconfigured/outfitted to be able to saw/process rocks, having 6 processing lines (based on views from my property). This building has the biggest footprint of all buildings on site. It appears to be entirely dedicated to rock sawing. It has been reported (by others) that rock has been imported for processing (as well as that produced on site, I assume). In effect, this changes the nature of operations at the Chandler Rd. quarry. It now operates/functions as a stone processing facility vertically integrated with several mutually-owned local quarry operations.
15. Also, as I understand, the repetitive rock hammering cited in item # 12 above is prohibited by the third sentence of Ordinance # 4.9A on page 80, which states: "Noise levels or frequencies which are not customary in the district or neighborhood or which represent a repeated disturbance to others shall not be permitted". The frequency and spiking nature of this repetitive hammering noise generated at the Chandler Rd. quarry is what makes it qualitatively different and distinct from any quarry noise prior to about 3 years ago. Very difficult to live next to, and the closer you are, the worse it is.
16. Allowing expanded industrialization of the Chandler Rd. quarry, generating a material increase in disturbance, is inconsistent with the three (3) Earth Resources Goals set forth in the Chester Town Plan, see page 43, and violates the Earth Resources Policies 4, 5 and 6 under the Town Plan.
17. Also, as I understand, the use of a mechanical or hydraulic hammer that creates a rapid-firing mechanical hammering noise that is not a "grandfathered" or nonconforming use

with respect to Ordinance # 4.9 (Performance Standards, page 80) because common use of the equipment that creates this loud noise, and of this frequency and duration, did not occur until recently. See Ordinance # 3.19.D on page 52.

18. As I understand, an enforcement action against Julian Materials, LLC has been put on hold so that Julian Materials, LLC can obtain permits for its altered/expanded operations, including that resulting in the repetitive hammering noise, as well as operating the new rock-processing facility.
19. It seems clear to me that Julian Material, LLC was not honest with the Town of Chester when in 2020 they sought and received approval to build a storage facility at the Chandler Rd. quarry (biggest building on the property), and then secretly converted it into a rock processing facility without Town approval. So, now being informed of my unfavorable personal experience as Mr. Julian's neighbor in 2015, together with the realization that the Town was deceived by Julian Materials, LLC in 2020, the Town of Chester should understand that Mr. Julian lives by the adage "better to ask for forgiveness than to ask for permission". This dishonest behavior pattern has been demonstrated very clearly, once to the Town and twice to me... I plead with those on the Development Review Board... please do not reward them for it.
20. I believe that I qualify as an "interested person" with respect to the Conditional Use Application referenced herein, given that I own and occupy a property in the immediate neighborhood of the proposed land use at the Chandler Rd. quarry owned by Julian Material, LLC, that the proposed permit will cause me to suffer loud and disturbing noise for the foreseeable future, and that this land use may conflict with the Town Plan and the Zoning Ordinance.

 9/11/23
Rocky Ridge of Chester, Inc.
Michael W. Kenworthy, President

Sworn and subscribed to me by Michael W. Kenworthy this 11 day of September, 2023.


Notary Public
My Commission Expires: 0131 2025

