

TOWN OF CHESTER
DEVELOPMENT REVIEW BOARD

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

AFFIDAVIT OF JOHN V. NOWAK

I, John V. Nowak, being duly sworn and on my personal knowledge, do hereby state under oath that:

1. I submit this affidavit in support by my for status as interested person. In this affidavit we hope to demonstrate that I own and occupy the 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 this use will conflict with the Town Plan and the Zoning Ordinance.
2. I reside at 25 Prusak Mountain Road in Chester.
3. I own a parcel of land which is between Prusak Mountain Road and Dean Brook Road immediately across Dean Brook Road from the Chandler Road Quarry. I have a home there with approximately 2 $\frac{3}{4}$ acres
4. My property is located due west of the structures at the Chandler Road Quarry as depicted on the survey contained as part of the Allstone Vermont Chester Vermont "Local Permitting Submission Set" entitled "Plat of lands of 137 Chandler Road, LLC" Span No 144-045-10646, prepared by Trudell Consulting Engineers
5. My house is on the westerly side of the Dean Brook Valley. The Chandler Road Quarry is on the easterly side of the Dean Brook Valley. Accordingly, any activity at the Chandler Road Quarry is right there in my face and directly at my property.
6. I have lived here since the fall of 2007. Until three (3) years ago, the noise I heard from the Chandler Road Quarry was minimal. Very seldom was there any blasting. There was no hammering noise or noticeable rock-crushing noise.
7. The sound from the Chandler Road Quarry has gone from minimal to disturbing.
8. The new noise from the Chandler Road Quarry that I have heard, includes rapid-fire mechanical hammering noise I hear this at the house, inside the house when the windows are open and outside the house you can hear it from anywhere on my property. It often goes on for hours at a time.
9. I have physically observed the hammering from the Dean Brook Road in front of my homestead.
10. Another noise that I only began hearing about three (3) years ago is the scraping sound of metal on rock or rock on metal, followed by the sound of rocks tumbling out of a truck. This, too, goes on for hour after hour, or longer, at a time this loud, obnoxious, repetitive noise has continued up until about two (2) months ago when these regulatory proceedings commenced and since that time there has been a material decrease in the sounds that I am hearing, though they still do occur on occasion. Prior to three years ago based upon my observations and to my knowledge the only rock that was being process at the Chandler Road Quarry was rock from Chandler Road. Now it is being hauled in along with other materials and processed at the Chandler Road Quarry turning the Chandler Road Quarry from being a minimal extraction site into being a process site for stone from other quarries.

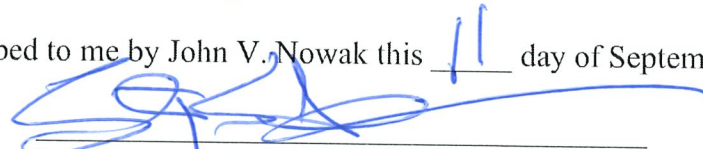
11. In 2020 Julian applied for a permit to build a structure to store its equipment being Permit No. 21-065 and “not to expand or enlarge the non-conforming use.” Such permit for that purpose was not opposed as storing such equipment inside would not in any way increase the disruption of my life or my neighbors. Little did we know that such structure was not intended for simply covering up equipment for storage that was located there but to expand what had previously been conducted at the Chandler Road Quarry from a grandfathered quarrying operation into full blown stone manufacturing industrial site.
12. The background noise at my house is the sound of wind, the songs of birds, abutting a bubbling brook, and seldom that of vehicles other than historically when rock was being moved from the Chandler Road Quarry out for sale. That has dramatically changed.
13. The loud hammering I hear from the Chandler Road Quarry is very different from the background noise I used to hear. It is not covered up. It is distinct and disturbing. It has gone on for hours at a time.
14. In addition to the noise there is substantial vibration which affects my house, rattles my windows, dishes and bones. It is never out of mind.
15. The loud hammering noise from the Chandler Road Quarry cannot be placed out of mind. It dominates my life when it happens and I cannot go inside to get away from it.
16. When Mr. Holl owned the Chandler Road Quarry I did not experience any hammering nor had we experienced such hammering until approximal three (3) years ago after the Julian purchase.
17. The rapid-fire mechanical hammering noise is not customary in this neighborhood, is uncharacteristic of the sounds in this neighborhood, and represents a repeated disturbance to us and others, because of its noise level, its type, and its frequency and duration of occurrence. This is prohibited by the third sentence of Ordinance § 4.9.A 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.”
18. Allowing expanded industrialization of the Chandler Road Quarry, generating a material increase in disturbance, is inconsistent with the three (3) Earth Resources Goals set forth in the Chester Town Plan, Page 43 and violate the Earth Resource Policies 4, 5 and 6 under the Town Plan.
19. As to the type of noise, we have not heard loud mechanical hammering noises or rapid- fire mechanical hammering noise before. The hammering sound (hit-hit-hit-hit-hit-hit- hit) is very different than a truck engine’s noise or any other noise in our neighborhood.
20. As to frequency and duration of occurrence, the only loud noises we heard before would be occasional noise of trucks on Chandler Road, a dirt road which noises were limited to roughly 30 seconds at a time and often, and often scattered throughout the day.
21. In all the years that I have lived at my homesite, I can say without any doubt that no noise of the loudness, type, frequency and duration of the rapid-fire mechanical hammering noise was part of the Chandler Road Quarry operation until the past several years, nor was such noise present in our neighborhood from any other source. It is not customary and it represents a repeated disturbance to me and other neighbors.
22. Based on my experience living at my property the whole time I have lived at my property the use of mechanical or hydraulic hammer that creates rapid-fire mechanical hammering noise is not a “grandfathered” or nonconforming use with respect to Ordinance § 4.9 (Performance Standards, page 80) because use of the equipment that creates noise this loud, of this type, and of this frequency and duration, did not occur until recently. See Ordinance § 3.19.D on page 52.

23. Based upon the length of my occupation of my home said mechanical or hydraulic hammering that creates rapid-fire mechanical hammering noise this loud, of this type, and of this frequency and duration, even if it did occur before § 4.9 was adopted, ceased for more than two years; therefore, the grandfathering rights ceased under Ordinance § 3.19.D(1)(b) [on page 52].
24. Our understanding, from reading the Zoning Administrator's emails, is that an enforcement action against Julian has been put on hold so that Julian can obtain permits for its altered or expanded operations—the changes that have caused us to hear the hammering.
25. The proposed project, if permitted would bless the Julians thumbing their nose at the Town of Chester and enforcement of its zoning by laws and specifically the permit and the grandfathered status of the Chandler Road Quarry. The use has expanded dramatically from the way it was before, approximately three (3) years ago. The temporary use is not tolerable while Julian claims to be moving operations off site from the Chandler Road property while intending and seeking permission to continue to extract rocks from the Chandler Road Quarry. The continued use by Julian of the Chandler Road property for rock extraction and processing has disrupted my use and enjoyment of my home and property and affected me personally. I personally observed that beginning with the commencement of the use of the hydraulic hammers and the transport of outside stone into the Chandler Quarry I have suffered from the severe pounding and vibrating at my homestead. My lawn has risen and my septic tank is ready to pop out of the ground.
26. Based on the above facts, I believe that I own or occupy property in the immediate neighborhood of the proposed change in use of the Chandler Road Quarry along with its recent expansion of its grandfathered historical use, that the proposed permit will cause me to suffer loud noise in perpetuity, at least for the remainder of my life, and that of my homestead parcel, and that this land use will conflict with the zoning ordinance and the Town Plan.



John V. Nowak

Sworn and subscribed to me by John V. Nowak this 11 day of September, 2023



Notary Public
My Commission Expires: 01/31/2025

