

TOWN OF CHESTER  
DEVELOPMENT REVIEW BOARD

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

**AFFIDAVIT OF SCOTT KILGUS**

I, Scott Kilgus, being duly sworn and on my personal knowledge, do hereby state under oath that:

1. I submit this affidavit in support of the request by my wife, Leslie Thorsen, and I for status as interested persons. Leslie has already submitted an affidavit. This affidavit addresses both noise, which she addressed, and additional issues as to which we seek party status. This affidavit also addresses the merits of the application.
2. The issues we are raising in this affidavit are noise under ordinance sections 3.9, 3.19, 4.8 and 4.9 (which Leslie's affidavit also addressed) and also the character of the area, truck traffic, hours of operation and air quality, under ordinance sections 3.9.B (extent and magnitude of the proposed operation, project phasing and finished grades), 3.9.C.4 (strip mining prohibited), 3.9.D.5 (hours of operation), 3.9.D.6 (effects on neighboring properties, including noise and dust), 3.9.D.7 (nuisance), 3.9.D.9 (traffic and road conditions), 3.9.D.9 (rate of extraction and number and frequency of truck trips), 4.8.C.1 (character of the area affected), 4.8.C.2 (traffic), 4.8.C.2 (landscaping, performance standards under § 4.9), 4.9.A (noise levels or frequencies not customary or which represent a repeated disturbance; noise levels not to exceed 70 dB during daytime), and 4.9.C (glare, light, or reflection).
3. I hold a masters degree in architecture, with many years of experience. I also have a degree in geography, specializing in interpretation of aerial imagery for land use planning, which I did for the New York State Department of Environmental Conservation. This affidavit is based on my education, training and experience as an architectural designer, and my review of all the plans filed with the Development Review Board by Allstone.
4. Our house is at approximately 900 feet in elevation.
5. The existing South Quarry site is at about 850 feet in elevation.
6. Allstone proposes to construct a 24,000 square foot building, with an additional 20,000 square feet added later. 24,000 square feet is larger than a half acre; 44,000 square feet is larger than an acre. Allstone is seeking approval of a building that will eventually be larger than an acre in size.
7. The average house in Vermont and in Chester occupies a footprint of about 1,500 square feet, which is roughly 1/30<sup>th</sup> of an acre.
8. Allstone has prepared no assessment of the visual impact on the character of the area of a warehouse-type structure that has a 24,000 or 44,000 square foot footprint.
9. The site is proposed to be 30 feet lower than the current elevation. (Below I will address the quantity of rock or other material that will be excavated to dig down 30 feet and the number of truck trips this will necessitate.) The RSG report Vermont states and shows at

pages 20, 53 and 54 that the South Quarry will be expanded to the south, and Plans C1-100 and C-2000 demonstrate this expansion up to 100 feet from the property line nearest our property. These plans show that existing trees that may limit visibility of the building will be removed as the quarry extends towards our property.

10. Allstone has submitted no assessment of the visibility of its proposed half-acre or acre-sized building, with leaves on or leaves off, so it is impossible for me or the Board to adequately evaluate these impacts.
11. However, in my opinion, the half-acre and then acre-sized building more likely than not will be partly or completely visible from our property and will be out of character for the area. There is no ridge or other obstruction between the South Quarry site and our house. For the entire building not to be visible from our house, the closest edge would have to be sunk much further below the existing grade than 30 feet (and the rear edges would have to be much deeper below existing grade, because the existing grade slopes up as one travels away from Route 103).
12. This will be a huge building that will be totally out of character with the area, in my opinion as a designer with a masters degree in architecture and a longtime Chester resident. The area is largely wooded and has no buildings that have even a sixth of an acre footprint. The change will be substantial and shocking or disturbing to the average person. And, because Julian proposes to cut the trees that otherwise would provide screening, Julian has failed to use reasonable mitigation measures.
13. Unless the building will have no windows, it is likely that glare or reflected sunlight will be visible at our house. If there are many windows, there may be substantial and highly disturbing glare or reflection. This too will be out of character with the area,
14. Allstone has submitted no details of the proposed windows in the building, so it is impossible for me or the Board to assess these impacts.
15. Unless the building will have no interior lighting and no exterior lighting, the building also will be visible from our house at night. If there are many interior or exterior lights, there may be substantial and highly disturbing nighttime light visible from our house.
16. Again, Allstone has submitted no details of the lighting, so it is impossible for me or the Board to assess this impact.
17. Allstone proposes not only a 24,000 to 44,000 square foot building, but also a “process water pond” and a “gravel wetland stormwater treatment area.” Each of these will require additional room for trucks, excavators and other equipment. The pond, treatment area and areas for trucks and equipment all will be at the same level as the floor of the building. The extraction planned will be of a ten-acre area.
18. Allstone has submitted no assessment of the visibility of its proposed very large cleared area (the half-acre or acre-sized building, the pond, the treatment area, and the area for trucks and equipment, adding up to ten acres), with leaves on or leaves off, so it is impossible for me or the Board to evaluate these impacts.
19. However, in my opinion, it is more likely than not that the very large cleared area will be partly or completely visible from our property and will be out of character for the area. This will be a huge cleared area that will be totally out of character with the area, in my opinion as a designer with a masters degree in architecture and a longtime Chester

resident. The area is largely wooded. In the midst of the forest, we will see a huge open pit area that looks just like what it is – a strip mine. The change will be substantial and shocking or disturbing to the average person.

20. Because the existing grade slopes upward as one moves away from Route 103, Allstone will need to excavate much further downward than 30 feet. The back edge of the 24,000 square foot building will have to be 50 feet below existing grade. At the back edge of the proposed building addition, the site would have to be excavated 80 feet below existing grade. The areas for the pond and treatment area, trucks and equipment would have to be excavated 90 feet below existing grade. The rear end of the proposed quarry would be 110 feet below existing grade.
21. The amount of rock and overburden that will be removed by digging downward—strip mining—is not addressed in Allstone’s submissions thus far. Our lawyer asked that a subpoena be issued to produce this information. The Board has now ordered that this information be produced.
22. I have estimated the amounts of rock and overburden that will be removed to implement the plans Allstone has filed for the South Quarry. The front of the quarry is being lowered 30 feet and the back of the quarry is being lowered 110 feet. The site would be lowered an average of 70 feet ( $30 + 110 = 140$ ;  $140 \div 2 = 70$ ). Excavation of this ten-acre site, as Allstone plans, would produce 1,127,777 cubic yards of material (one million, one hundred and twenty thousand, seven hundred and seventy-seven cubic yards). These figures are estimates for the whole South Quarry shown on Allstone’s plans, most of which would need to be removed to build the first building and associated infrastructure.
23. All of this 1,127,777 cubic yards will be removed by digging down, that is, by strip mining, which is prohibited by the ordinance.
24. Until the new building is usable, Allstone plans to truck all of its South Quarry rock to the Chandler Quarry, as it is now doing unlawfully (there is no Act 250 permit and there is no zoning permit for cutting rock in the shed).
25. Allstone has not submitted any plans or data that address how much of the 1,127,777 cy of material will be trucked to the Chandler Quarry to be processed by the unlawful cutting devices in the storage shed.
26. A typical dump truck holds 15 cy. If one million cubic yards of rock were to be trucked to the Chandler Quarry, that would be 66,666 round trip truck trips, or 133,333 one-way truck trips. Since Allstone has not submitted any plans or data addressing how much of this material would be trucked to the Chandler Quarry, this is a very rough number.
27. Allstone’s traffic expert, Mr. Dickinson, did not include any of these truck trips in his traffic study. He assumed that there will be a reduced number of truck trips because of the project. Therefore, there is nothing in the record upon which the Board can assess the traffic impacts of the proposal.
28. The only way to access our house is by taking the same route as the route from the South Quarry to the Chandler Quarry.
29. Leslie, in addition to driving on these roads, runs along these roads on a regular basis.
30. The same trucking and traffic problem exists with regard to Allstone’s proposal for the North Quarry. Allstone has not supplied any plans or data addressing the amount of

material that will be excavated by digging down, that is, by strip mining, and has not and supplied any information about the number of truck trips from the North Quarry to the Chandler Quarry, and back, to process this material. It is impossible to know the traffic impacts on the public and on Leslie and myself from this planned use of the North Quarry and the Chandler Quarry. These trucks will use the same roads we use every day.

31. Another impact we will experience is dust. We drive by the South Quarry site daily. Leslie runs by it. Dust is a well-known problem with quarries. Allstone proposes an enormous quarry at the South Quarry site. Allstone has submitted no plans for dust control, nor any assessment of the dust that will reach the public roads that we use.
32. Based on the above facts and on the facts in Leslie's affidavit, I believe that Leslie and I own or occupy property in the immediate neighborhood of the proposed change in land uses at the South Quarry and the North Quarry, that the proposed permit will cause us to experience severely adverse, undue visual and traffic impacts from the project, as well as severely adverse and undue noise impacts, and potential dust impacts, and that this land use will conflict with the zoning ordinance.

I declare that the above statement is true and accurate to the best of my knowledge and belief. I understand that if the above statement is false, I will be subject to the penalty of perjury or any other sanctions in the discretion of the court.

  
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Scott Kilgus

Date: 10-11-23