

Group sues town of Ballston, asphalt maker over plant OK

By [Stephen Williams](#) June 29, 2016

The Ballston town Planning Board and other parties have been sued over its May approval of plans for a controversial asphalt plant in the Curtis Lumber Industrial Park.

The lawsuit by a neighboring plant nursery and three neighbors seeks to have a state Supreme Court judge overturn the Planning Board's May 25 approval of a plant proposed by Dolomite Asphalt as "arbitrary and capricious."

The approval vote came after five years of review that stirred significant public opposition to the project, to be located on industrially zoned land in the Curtis Lumber park.

The lawsuit contends that the approval was in violation of current town zoning, and environmental impacts remain unaddressed.

"Petitioners and their properties will be adversely affected by the traffic, noise, odors, visual impact, change in neighborhood character, and other adverse environmental impacts of the project, including the air emissions from the asphalt plant," the lawsuit states.

The Planning Board and Dolomite contend that the environmental issues were all addressed during the lengthy review process, which included earlier lawsuits won by Dolomite.

Dolomite has yet to be served with legal papers as of Tuesday, but its attorney said he believes the lawsuit will be unsuccessful.

"I'm very comfortable with the process and scope of review the Planning Board conducted, and I'm confident the decision will be upheld," said Adam Schultz of Albany, who represents Dolomite.

Dolomite hopes to start construction later this year, though a state Department of Environmental Conservation air discharge permit still must be issued and a left-turn lane designed and built on state Route 67 at the industrial park entrance.

The lawsuit was brought by I.M. Landscaping, Steven P. Therrien, Melissa Lescault and Wesley Chella, all of whom are associated with Citizens for a Clean Environment, a group formed to oppose the project. The defendants include the Planning Board, Dolomite and the Curtis Lumber Industrial Park.

Dolomite wants to mix asphalt at the industrial park. During the town review, it scaled back the size of the plant and changed the type of technology being used, though opponents said those changes don't significantly alter the environmental impact.

In 2014, the Town Board changed the industrial zoning in a way that made the Dolomite project illegal. Dolomite sued, and a judge ruled the earlier zoning rules had to apply. Citizens for a Clean Environment has appealed that ruling, and continues to argue in the new lawsuit that the asphalt plant is illegal under the town zoning law that should apply.

Dolomite is a division of Schenectady's Callanan Industries.