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Neighbors lose lawsuit against Dolomite

Company plans to move forward with construction of asphalt plant

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Monday, July 31, 2017

BALLSTON, N.Y.>> The State Supreme Court dismissed a lawsuit by neighbors in the town of Ballston seeking to annul the construction of a Dolomite Products Co. plant on July 21.

The company plans to move forward with the construction of an asphalt plant that has been discussed for the last six years. Dolomite first submitted its application in 2011, where at the time asphalt plants were allowed in the Curtis Industrial Park under town zoning. The application was still under review when two years later the town enacted a local law expressly prohibiting asphalt plants.

The company needed site plan approval, which was approved in 2016. The neighbors then sued and the court recently decided to uphold the site plan decision.

The Saratogian reported in 2014 that Dolomite first applied for approval to construct a hot-mix asphalt plant in the Curtis Industrial Park on Route 67 in 2011, sparking significant opposition from residents and board members. The controversy later led to the decision to prohibit heavy industry in the industrial park, a decision some considered “spot-zoning” to specifically ban the company, though town board members said it wasn’t targeted at any applicant in particular.

Representatives for Dolomite have ensured to residents that the environmental impact of the plant would be minimal as it would operate only half the year. But residents have disagreed, expressing concern about traffic, odors, debris and other issues.

“We’re very happy with the decisions. I think this is five lawsuits now where we have unfortunately had to go to court to defend ourselves and to defend our rights to build the plant in compliance with long standing zoning in the town of Ballston,” said Dolomite attorney Adam Schultz of Couch White.

The July 21 decision came from the Appellate division, upholding State Supreme Court Justice Chauvin’s 2015 decision that Dolomite had vested rights and the town of Ballston’s attempt to enact zoning would prohibit the plan.

Right now Dolomite and the town of Ballston are in the mediation and discovery phase of a lawsuit for costs of defense and any compensatory damages due to the length of Dolomite’s wait to begin construction on the plant.

“We had brought an action seeking monetary damages against the town board and board member William Gosling individually for their intentional acts that the court decided were illegal to try to stop the plant through the improper zoning,” said Schultz. “In federal court, we’re seeking \$4 million in damages for that and the insurance company looked at the situation and determined that because the judge had ruled that what they did was intentional, and the insurance company triggered an exception to the insurance policy and so the insurance company did not have to cover the town, so that means that the town is going to have to pay for the costs of the defense that the insurance company would have paid and will also be responsible for any damages that are awarded.”

Requests for comment to the town and Gosling were not returned before deadline Monday night.

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