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October 4, 2019

Chairman, Cortlandville Planning Board  
Cortland Town Hall  
3577 Terrace Road  
Cortland, NY 13045

Re: Conditional Use Permit/Economy Paving

Dear Chairman and Board Members:

I write this letter to you on behalf of my client, John Barden, regarding the above captioned matter. A brief summary of some of the salient facts, as I understand them, is as follows:

Some years ago Economy Paving was granted an Aquifer Protection Conditional Use Permit along with Site Plan approval regarding its property on Route 13. That permit was conditioned upon certain drainage improvements.

Some time later my client, who owns property adjacent to Economy Paving, began to experience problems related to excessive run-off allegedly due to Economy's unauthorized modification of its Site Plan and/or failure to comply with the required drainage conditions of the Conditional Use Permit.

Thereafter the Planning Board, pursuant to the authority granted to it by the Town's Zoning regulations, commenced a proceeding to consider revocation of Economy's Conditional Use Permit. This proceeding was held on Notice to Economy and Economy chose to not appear or participate. The proceeding resulted in a determination to revoke the Conditional Use Permit. No appeal was taken from that determination and the Statute of Limitations has run.

Enforcement proceedings followed based upon the lack of the required Conditional Use Permit. An agreement was reached in the enforcement proceeding that required Economy to apply to the Planning Board. Thus Economy is planning to appear at your upcoming meeting on Thursday October 8<sup>th</sup>.

The central, and perhaps only issue involved in the revocation of the former Conditional Use Permit was the question of compliance with the drainage aspects of the project and how, if at all, those drainage considerations were affected by un-reviewed project modifications.

Toward resolution of these issues both Economy and my client have had reports prepared by licensed professional engineers and have presented these reports to the Board. I am advised that these reports vary greatly in their conclusions.

The reason for the existence of the Aquifer Protection Conditional Use Permit requirement is, as the name suggests, to protect the aquifer. A secondary, but still important part of the regulatory process is to reasonably protect other properties from the adverse effects of unregulated run-off.

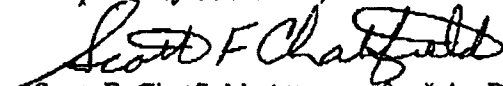
It is unquestioned that the Planning Board's sole interest in this controversy is to see that those regulations are faithfully implemented for the protection of everyone in the Town. Mr. Barden shares those concerns with the Board even though he also has a more direct and immediate interest because of his proximity.

Towards the end of obtaining a final resolution, my client would respectfully request that you temporarily table the question before you tonight to permit time for the Planning Board to obtain an independent analysis of the entire situation and site from a qualified professional engineer of the Board's own choosing. I know that the Board has the authority to obtain such a report and I am told that the Town has agreed to allocate the necessary resources. With such a report in its hands the Planning Board would have an unbiased basis upon which to rest its ultimate conclusion.

For Mr. Barden's part, he would support any conclusion reached by the Board which is based upon such a thorough and unbiased analysis of the facts and the applicable laws and regulations provided to the Board by an impartial qualified engineer.

Economy Paving is a valuable and respected member of the Cortlandville community. As such, I'm sure that they are equally concerned that all of the applicable laws and regulations are faithfully followed to the end that any development in the Town be constructed and maintained in compliance with the Aquifer Protection regulations and other safeguards carefully designed to preserve the natural resources and essential character of Cortlandville.

Respectfully Submitted,



Scott F. Chatfield, Attorney for John Barden

SFC/kmc

Cc: John DelVecchio, Esq.

Client