

TOWN OF NEW BALTIMORE ZONING BOARD OF APPEALS
Public Hearing – Night #2
A.J.C Green Solutions LLC – Use Variance Application
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The Public Hearing on this application held on June 5 and recessed until a later date was continued at 7:08 p.m. In attendance were ZBA Chair Bill Boehlke; Sam Anderson and Jean Horn. Craig Albano and Brad Jourdin were absent.

Mr. Boehlke advised he had attended a meeting with applicant's representatives. Presented during the meeting were some findings concerning the issue of wetlands in the vicinity of where this proposed project would go. It was a SEQR done when the Thruway Authority was reviewing property to establish the NYS Thruway Visitor's Center here in our Town. The surrounding area was all examined for possible sites so and this ten acre lot, the subject of this Variance Application was one of the parcels that was looked at by the Engineering firm hired by the State of New York to do a Army Corps of Engineers qualifying impact study. They arrived at the determination and marked it on a map in the study that this would be a wetland area. The presentation of this information has drastically changed everything for the applicant.

June 13, 2024, letter has been received from applicant's attorney, JoAnne Haelen, to be read in

Currently pending before the Zoning Board of Appeals (the Board) is the application of AJC Green Solutions, LLC for a Use Variance to operate a mulch processing facility on 9.64 acres of vacant land adjacent to Kings Road. The application requires review under the New York State Environmental Quality Review Act (SEQRA). A long-form Environmental Assessment Form was completed and is presently under active consideration.

On behalf of the applicant and its principals, I am writing to request that the application be withdrawn, with permission to resubmit it at a later date.

The reason for this request is due to new information which came to light during last week's public hearing. At the hearing, a number of concerns were raised. Primary among them was claim that there are protected wetlands at the proposed site. The Board was presented with a 2006 draft generic environmental impact statement (DGEIS) prepared by Clough Harbor and Associates for the New York State Thruway Authority, in connection with a since discarded proposal to expand the New Baltimore service area in one of three directions:

- a. Due west of the current Plaza (the "Western Parcel");*
- b. Due east of the current Plaza (the "Kings Road North Parcel"); or*
- c. Southeast of the current Plaza (the "Kings Road South Parcel").*

The site that is the subject of AJC Green's application is wholly subsumed within the Kings Road North Parcel. In the GDEIS, Clough Harbor concluded that despite the absence of any formal wetland designations by any Federal, State or County agency, much of the northern part of the Kings Road North Parcel, including most of AJC's proposed site, "may contain wetland". According to the report:

...Site walk overs were conducted in October 2002 and April 2003 to identify wetlands and characterize the ecology of the Study Area. The purpose of the wetland walkover was to confirm the presence of wetland, visually estimate location and boundaries, and describe the community types. This does not constitute a wetland delineation but will provide sufficient information to delineate the

extend of the resource and its significance...

The report concluded that, “(a) more formal jurisdictional wetland designation will be required from the U.S. Army Corps of Engineers (USACE) before site-specific development projects are approved or undertaken.”

*In light of the foregoing, none of which was previously known to the applicant or its principals, time is needed to clarify the status of the proposed site and to explore options. Hence the request to withdraw and resubmit. Should you have any questions, please feel free to contact me directly.
Very truly yours, JOANNE B. HAELEN*

Mr. Boehlke continued that one of the things discussed was once that an area is determined to be a wetland and has all the component makeups of this, and the attorney recognizes, that it would require an agency, either Army Corps of Engineers or DEC to turn around and re-designate this as other than what flow has designated this. This re-designation would require engineering plans and other studies at great

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expense to she, Mr. Carroll and Mr. Jourdin with an uncertain outcome.

Mr. Boehlke further pointed out this wetland designation was only one of probably three “moderate to large impacts”. It sounds like they want the right to re-submit and they have a right to re-submit. It is whether this is going to be, not just in their own best interest but the Town’s best interest. We are not here to speculate. We will take these things as they come. There are a lot of obstacles to overcome.

Mr. Boehlke asked if there were any other questions or discussion before the Public Hearing was closed. Question was raised with regard to what happens if/when they re-submit. It was noted current application has been withdrawn. Everything connected to that application is null and void. They would have to start afresh including another Public Hearing taking place.

Mr. Boehlke emphasized for the record and to be passed along, the Board appreciates everyone that comes and makes comment. We do not view it as anything threatening or out of the ordinary. The Board depends on public input as part of the meetings. We don’t want anyone thinking we are sitting here as the Board, the experts, and that no one else knows what they are talking about. The Public Hearing is the most effective form of input into a meeting. The book that John Steigler brought, the 2006 draft generic environmental impact statement the book. was invaluable. When DEC does wetlands, they are not doing every square inch. They will cover larger areas but when you come into a ten-acre parcel that is borderline, semi-wet, that does not land on their radar. It was almost a fluke that Clough Harbor examined this area for that very purpose. A meeting attendee was keen enough to bring the document to the Hearing. It was of service to the Board and to the applicants as well.

A lot of people came in with their emotions running high. The other issue that is beginning to be addressed is any time you have a corporation or something, business establishing itself especially in a zone that is not zoned for that purpose, that is the time when the Public should really be notified. By hook or crook, it was done this last time but we are happy that it was done. Information provided to the Board in e-mail from local resident Jim Eckl following the first hearing night, the research and input into it, is recognized and greatly appreciated.

It was moved by Horn and seconded by Anderson to close the Public Hearing for AJC Green Solutions, LLC.

Ayes: 3 Nays: 0 Abstained: 0 Absent: Albano and Jourdin

Respectfully Submitted
Marjorie Bronk Loux
ZBA Clerk