

# Controversial Saugerties dumping restrained, but not stopped

by [Christina Coulter](#)/April 25, 2019/6 comments



The 1446 Route 212 dump (photo by Christina Coulter)

The Town of Saugerties Zoning Board of Appeals last week affirmed a stop-work order for one of four of Joe Karolys' properties that are being used as construction and demolition debris dumps.

But that's not enough to stop operations altogether at the four sites. That will take an order from a state Supreme Court judge, and that order could itself be challenged again by Karolys.

"The temporary restraining order is still in effect by the Supreme Court," said town attorney John Greco. "It doesn't mean that the trucks are going to stop tomorrow...until the court lifts the restraining order, the order says he can

operate between seven and three...We're at the mercy of the court and when the court renders its decision."

The ZBA's decision last Thursday, April 18 was the result of the "show-cause" order by state Supreme Court Judge Richard Mott after Karolys challenged the original stop-work order with an Article 78 proceeding.

The ZBA said its stop-work order for the 1446 Route 212 dump was issued because the solid waste management facility that processes C&D debris at that location is not permitted according to the parcel's zoning. But the ZBA declined to affirm the other three stop-work orders it had issued at 90 Goat Hill Road, 33 Fel Qui Road and 43 Fel Qui Road because the violations there pertained to a missing stormwater protection plan and the townwide ban on dumping material from outside Saugerties is found in the town code, not the zoning code. The ZBA says that because of that, it does not maintain jurisdiction over it.

With the ZBA's decision last week the ball is now with the state Supreme Court, which will decide whether to lift the restraining order that stops the town from enforcing its stop-work orders. For now, dumping at all four sites will still be permitted between the hours of 7 a.m. until 3 p.m.; neighbors say that the day after the ZBA's decision, activity stopped on the sites entirely. Now, according to neighbors and the Saugerties Police Department, operations have slowed considerably and are taking place within the outlined timeframe.

"They shut down the mothership," said Catskill Mountainkeeper program manager Kate Hagerman of the ruling, speaking of the Route 212 site. "No one is above the law, and the Karolys construction and demolition debris facilities have been operating as though it's fine to dump on Saugerties... Catskill Mountainkeeper is grateful to the ZBA for its action, and to all the community members who spoke up to protect Saugerties."

Since 2016, Joe Karolys has operated the construction and demolition waste processing facility at the Route 212 site, taking in asphalt, concrete and rock

from Queens, the Bronx and areas of Long Island. The town ZBA issued the stop-work orders late last year and earlier this year to Karolys for all four of the properties on which his company was dumping and the town building inspector also issued two "certificates of imminent peril" to the zoning board. But enforcement of those orders was pre-empted by Mott's show cause edict after Karolys filed the lawsuit challenging the stop-work orders. Mott ruled that the town ZBA had to either lift the stop-work orders or decide to maintain them; now, Mott can decide whether to allow them altogether.

ZBA chair Jeanne Goldberg said, of the three stayed stop-work orders for Karolys' other dumps at 90 Goat Hill Road, 33 Fel Qui Road and 43 Fel Qui Road, "The town and town attorney do have the opportunity to pursue them."

Greco speculated Judge Mott probably decided to wait for the ZBA's interpretation before beginning the process of making a ruling because "he probably felt that the interpretation of our zoning laws is really a local concern and the initial jurisdiction over that question lies with the code enforcement officer and the zoning board of appeals — I don't think he wanted to usurp their authority to make an interpretation and he wanted to see their decision."

Goldberg said triumphantly at the meeting that "no material would enter or leave" the 212 site after the board's ruling last week. But, according to Greco, this is not the case.

"I think that the chairperson obviously was speaking for the zoning board of appeals when she said no material was allowed to be imported onto that site and that his operation was to be shut down," said Greco. "I think that is clearly correct under the decision of the zoning board of appeals but one has to consider the decision of the ZBA in light of the restraining order that is still in effect, issued by the [state] Supreme Court. That restraining order to this point remains in force and effect and the ZBA's decision does not directly change that."

## **Two-plus years of violation**

According to documents from the state Department of Environmental Conservation, Karolys' operation has been in violation of Part 360 of the state's Solid Waste Facility Management Regulations since November 2016, when DEC inspector Lee Reiff wrote that Karolys was "accepting C&D loads containing, but not limited to, plastic, ceramic tiles, dimensional lumber, fabric and paper." (There is a note in the document that states "see photos," but no photos were provided with the report). The inspector also wrote that the facility was "unable to produce sufficient records for material received," and "[had] yet to construct barriers that prevents unauthorized dumping." Also, that "the C&D is not being weighed or records kept to indicate volume being received" and that "unauthorized materials are not being removed within 24 hours of receipt." Karolys was then notified by DEC Regional Enforcement Engineer David Pollock (who could not be reached for comment) that he needed to remedy these issues by January 2017; another letter from Pollock was sent in May 2017 telling Karolys that he still wasn't compliant with Part 360 regulations and that "each day the facilities remain in noncompliance, additional penalties will be assessed."

According to Greco, though, the DEC has yet to intervene in any meaningful way.

"I'm flabbergasted," said Greco. "It's just incredible to me that they're finding that in '16 and '17 there were violations. They were calling it a waste disposal facility that was being operated without permits...I can't explain it, it's inexplicable to me. I don't know what's going on, we have urged the DEC to become involved. I will say that there's a limited hope there, that some involvement of the DEC may be occurring. Any involvement from the DEC... would be extremely helpful to the town's cause here and for the protection of the environment. Hopefully this two year gap is going to come to an end."

Greco said neighbors have reported that trucks on the Route 212 site, instead of bringing in more fill material, are distributing the fill already there to the other dumping locations. He said that as of April 22, a legal briefing of what transpired at last week's ZBA meeting has been provided to Judge Mott.

"No 18-wheeler trucks with construction debris on Rt. 212 today after the 'stop work order' at last night's ZBA meeting — In the past month, I have observed 14 truckloads of construction debris being hauled on Rt. 212 between 6:50 a.m. and 7:50 a.m.," wrote Letitia Smith in an email to the *Saugerties Times* on April 19.

## **No, he can't just be arrested**

Police Chief Joe Sinagra said that, as of now, his department can only assure that traffic is going to and from the facilities during the approved timeframe.

"This is not a criminal matter that we can go and arrest him," said Sinagra. "I know it's hard for the community to fathom that — people have been asking, 'Why don't you just arrest him?' This is a civil matter, not a criminal matter."

But even if the court rules in the town's favor, the legal battle could still continue. "[Mr. Karolys' attorney Melvin T.] Higgins said to me previously that if the ZBA decision is not favorable, they would sue again," said Greco.

However, Greco said that the town two weeks ago submitted an application for a warrant to Mott, requesting that Mott order Karolys to allow the town to take samples.

Town Supervisor Fred Costello Jr. said that town officials will "reluctantly" wait for Judge Mott's direction and abide by the recommendations of their legal team in the meantime.

"It is [disappointing that the issue isn't resolved yet] but we know this is the path that we have to follow," said Costello. "I'm appreciative that the zoning board of appeals thought that this was important enough to hold a special meeting."