

Testimony of a Public Hearing of the Town of Union Planning Board held relative to a Special Permit application submitted by Al Belardinelli for a Special Use Permit for Development in a Floodplain at 328 and 332 Scarborough Drive via Zoom Video Conference, held June 9, 2020, at 8:17 p.m.

**PRESENT:**

Members present: L. Miller  
L. Ciccirelli  
S. McLain  
T. Crowley  
S. Forster  
M. Jaros  
D. Kudgus  
S. Yalamanchili

Others present: Marina Lane  
Sarah Zubalsky-Peer  
Rick Materese  
Aaron Colvin  
Steve Grant  
Jeff Owens  
Tim Coughlin

**MS. MILLER:** So we will open the Public Hearing, and I will read the public hearing notice.

The Town of Union Planning Board will conduct a public hearing relative to a Special Permit application submitted by Alexander Belardinelli to develop in the 100-year floodplain at 328 and 332 Scarborough Drive (Tax Map Numbers: #157.08-7-17 and #157.08-7-18). The application is to allow the addition of fill previously placed in the 100-year floodplain without a Special Permit, in order to raise the elevation of the vacant lots.

The application is available for review in the Planning Department. Persons wishing to participate in the hearing may do so via Zoom or telephone, or communications in writing regarding said application may be filed with the Planning Board prior to said hearing. Individuals with special needs requiring accommodations may contact the Planning Department at 607-786-2926 at least 24 hours prior to the scheduled public hearing. Sara Zubalsky-Peer, Planning Director.

**MR. COUGHLIN:** If I may, number one in the Special Permit Request, it states that Al Belardinelli owns 328 Scarborough Drive and Empire Plastics owns 332 Scarborough Drive. John Witinski, owner of Empire Plastics, was not aware of the fill being placed on the property. Instead of

asking for forgiveness for bringing fill into the 100-year floodplain without a permit. He also stated in this application he has no intention of developing the property. What was the motivation for Mr. Belardinelli to fill this property? Was he compensated for them to dump the fill there? As an adjacent property owner and a neighbor, we have invested a significant amount of money in our building. We had our permits, the soil was compacted, we had a plan intact, and we invested in our community, which has been good to us.

In 2011 during the flood, the water came within a foot of coming into our property. I can't sit by and see this fill being set there, and I guarantee you it was not compacted; I watched what happened. I don't believe that the man should be granted forgiveness on it. In this community, we are trained to have a positive impact on this community. Mr. Materese, I think you know what we do in terms of charity; you see Southern Tier at a lot of your events. I have never seen Mr. Belardinelli do anything good for the community. Al Belardinelli does what is good for Al Belardinelli. That's the extent of what I have to say.

MS. MILLER: Thank you. Would anyone else like to speak?

MS. LANE: Jeff, you had talked with me about the process that you had gone through with the Planning Board.

MR. OWENS: I was under the understanding that you can't get a permit to bring in fill from outside the area. When we built our building, we had to use fill that was already in the area. Did something change since then? I had called last year when the fill was going in, two separate times, and left a voicemail and I didn't get an answer either time I called. I never received a call back explaining why they were allowed to do that, while they were in the process of doing it. We watched them do it daily and we asked the people dumping it there whether they had permission. It seems like nothing was done about it. And now it's a year later and we are talking about granting him a special permit.

MS. LANE: Just so you know unfortunately, we can't really address that because, I assume you called the Code Enforcement office, and we don't have any representation from the Code Enforcement Office here. It was last year that we started going down there, and he was told and cited finally in September. When he was threatened with court, that is when he finally submitted the application. They have to build a case. Rick might know better than me. I can't remember specifically, but I think they have to be cited at least twice, and each time they are cited, they have a certain period of time during which they can respond. So

they get cited, then Code has to wait, and I don't remember if it is two weeks or a month, then they get cited again, and then they build a case to go to the court. So, those things take time. I think that is the law, but I can't speak on behalf of the Code Enforcement Office. I am sorry that you didn't get a call back, but I am hoping that you did call Code Enforcement.

MR. OWENS: Yes, I believe that is who we called. However, a year went by, like I said, what happens when that fill moves? If we got a bad storm or small flood and some of those new businesses down here are ruined because of it, who is going to take responsibility for it?

MR. CICCARELLI: That is why I suggested a timeframe but we will do that...

MS. LANE: ...as part of this.

MR. CICCARELLI: Yes.

MS. LANE: Another thing is that, not all the Planning Board members will recall necessarily, but that is actually how Jeff Rotella developed an interest to be on the Planning Board. He was their contractor and they did come through all the correct steps of applying for the special permit. The Planning Board did require compensatory storage, and I believe this all came from Jeff Rotella's properties. Therefore, they are saying that they went about it the right way.

MR. OWENS: Why was the fill placed there, like Jim said; I'm just repeating, but why is the fill there if he is not going to build something?

MS. LANE: Unfortunately Al Belardinelli could not attend. I reached out to him numerous times. I tried to get him to join by Zoom. And he basically just said he has been sick and that he is out of town. He did ask us to read a statement. So, I guess this might be the time to read it for the record. I just have to find it, one second.

Ms. Lane then read the testimony by Al Belardinelli, owner of the property under inquiry.

*There is no "development", building or special use being proposed or being considered. I have no idea why this minor matter calls for a public hearing. I have no idea what this public hearing is designed to achieve or what the possible outcomes could be. There is no "development", building or special use being proposed. The singular goal of the clean fill placed on the property is to complete the grading to match the adjoining properties.*

*When I agreed to allow dumping by DDS Utility Service Company of the E. Main Street road waste of gravel and crushed blacktop from the E. Main Street gas line replacement project, I did not realize I had to get renewed permission from the town. The fill was a relatively small amount and would not result in any ill effects or environmental change to the area. The project is now complete and there are no ill effects whatsoever. In my opinion, the result is an improvement to the community.*

*At this time, I have no plans to develop the property addressed in this action. A small amount of clean fill was placed on the property to even it off and properly grade it to match the surrounding area. The filling is complete and there is no more fill being proposed for the foreseeable future. In my opinion, this filling improved the area and caused no ill effects whatsoever.*

*I did not realize a renewed permit was required when I agreed to allow DDS Utility Service Company to dump clean road fill (from E. Main Street) onto my property. My agreement with DDS insured the overall elevations would not be changed or the fill would not affect the surrounding environment in any way whatsoever.*

*NOTE: by completing the proper slope and grading of this property to match the surrounding area should help deter the illegal dumping of garbage and unwanted materials in the area.*

*Did the fill raise the elevations above the flood plain? – NO.*

*Did the fill raise the elevations above the surrounding area? – NO.*

*Did the fill raise the elevation of the overall property? – NO.*

*Are / were the surrounding properties affected? – NO.*

*Was the water runoff affected? – NO.*

*Are there any ill effects caused by this filling? – NO.*

*Has the area been improved by this dumping and proper grading?  
YES.*

*Has this fill and grading improved the visual effects of the property?  
YES.*

*I plea that the result of this hearing be – no action required.*

*Thank you for your understanding and consideration. Al Belardinelli*

MR. COUGHLIN: So Southern Tier Insulation didn't . . . a vacant lot to Al Belardinelli; correct me if I'm wrong.

MS. LANE: I didn't hear the question; I'm sorry.

MS. MILLER: It wasn't really a question; he was making a statement.

MS. LANE: Can you say what it was again? Because I'm recording it.

MR. COUGHLIN: Yes, I mean I have no idea why the man is asking for forgiveness for bringing fill into an abandoned lot that he has no intentions of developing. And how does that benefit the community when he is subjecting Southern Tier Insulation and Wade Electric, who is our neighboring property on the other side on Chaumont Drive, to flooding; which I know are much more lucrative on the tax map to the Town of Union than a vacant lot over on Scarborough Drive is. I believe the fill should be pulled out of there. It's detrimental.

MS. LANE: So, Tim and Jeff, your points have been really well heard and I am sure that the Planning Board understands your concerns. Now we just need to know if there is anybody else, or if you have something new to add to that.

MR. COUGHLIN: No. I just want to add one thing to the record, is that I believe it is not true, is that he didn't know a permit was required. Because we went down there several times and talked to the guys when they were dumping it down there and they told us that the owner told them that it was cleared, and it was okay to dump it there. So, by him saying that he didn't know that he needed it, we told him more than one time that he needed one.

MS. LANE: That's because he believed he was covered. A long time ago, when our former Code Enforcement Officer, according to Al, told him that he could add some fill. He did not do what is required since 2011. That is what he explained to us and Code Enforcement, is that he thought he was covered for life by what the former Code Enforcement Officer may or may not have told him. We could not find any record of anything in Code Enforcement saying that he had actually ever received a permit for fill. We might not have required a Special Permit back then, whenever he thinks he was told this, but we do normally require a fill permit. We couldn't find that.

MR. COUGHLIN: Okay.

MR. JAROS: Now, can I ask a quick question?

MS. LANE: Sure.

MR. JAROS: At this point, he is going to be required to have an engineer evaluate that site or remove the fill; is that correct?

MS. LANE: That is up to you.

MR. JAROS: Okay, well I agree with that.

MS. LANE: So Mark, Rick has a question.

MR. MATERESE: I am looking at this Notice of Apparent Violation dated September 6, 2019. "I hereby request that you either eliminate the Violation or file plans with this office for correction action by September 16, 2019." Is this Special Permit his corrective action, and did he file it by that date, or did he ignore that?

MS. LANE: He ignored that until they threatened to take him to court.

MR. MATERESE: Okay. I don't have a lot of sympathy either.

MR. KUDGUS: I feel the same way. It seems to me that, number one, it's bad for the environment, and number two, the proper channels and the proper process was not followed so. We might be giving a little more leeway, I'm not going to say than he deserves, I don't know. With the situation the way it is, it just seems like the fill needs to come out.

MS. LANE: Let me remind the Planning Board that we are still in the Public Hearing portion. What we might want to do is make sure that the public is completely satisfied with having their concerns. Then we can close the Public Hearing and continue our Planning Board conversation.

MS. MILLER: So, we can close the public hearing.

MS. LANE: That is why I was asking before if Jeff and Tim felt that they had satisfied expressing their concerns, and that they had nothing more new to add. We can then at least then close the Public Hearing. And they are totally welcome to hang out and listen in.

MR. COUGHLIN: I think that we are satisfied knowing that you guys understand that Al is begging for forgiveness for what he's done, and it shouldn't be putting us at risk because of his actions. I thank you guys for your time.

MS. LANE: Thank-you.

MR. OWENS: Thanks, I'm good.

MR. CICCARELLI: Lisa, do you want to close?

MS. MILLER: So we will close the Public Hearing.

Public Hearing concluded: 8:34 p.m.

I, CAROL M. KRAWCZYK, do hereby certify that the foregoing transcript of a Public Hearing of the Town of Union Planning Board is a true, accurate, and complete transcript of my stenographic notes/tape taken at the above time and place.

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CAROL M. KRAWCZYK