

## Observatory Worried About Landfill 'Intrusion'

Payne Says Carroll Dump Could Affect Night Skies

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CARROLL - While court battles continue about whether Donald and Carol Jones can expand a landfill in the town, debate has also begun about whether that dump would affect the Martz Observatory.

Anthony M. Nosek, a Buffalo attorney representing the Joneses, said the couple is seeking a permit from the state Department of Environmental Conservation to expand landfill operations after the Court of Appeals ruled in favor of the couple's landfill plans in June. In 1984, the Joneses purchased 50 acres in an agricultural/residential zoning district. In 1989, the town gave them a special-use variance permitting the operation of a construction and demolition landfill. In 2005, the town adopted a zoning law prohibiting expansion of any landfill beyond the area allowed, with the Court of Appeals ruling against the zoning law in June.

"The owner of the landfill property can reasonably be expected to hold a portion of the land in reserve for future expansion of that activity," reads the June ruling.

It adds that in 1989, the town acknowledged there was no other reasonable use for the property by granting a variance that covered all 50 acres. The justices said the Joneses acquired "a vested right" to use the 50-acre parcel they have as a landfill for construction and demolition debris before the enactment of the zoning law.

The court will decide in early August whether to allow rearguments in the case, as requested by Town Attorney Paul Webb. While legal arguments continue, area residents also have questions about the landfill and its expected expansion.

For instance, Russell L. Payne said recently said the "intrusion" of a landfill could have "serious consequences" to the quality of life in Carroll.

"I personally cannot think of a single crisis that has confronted our town which has the serious implications that this proposed project has," he said, questioning for instance how a landfill will impact the Martz Astronomical Observatory.

He said the observatory requires "dark skies" to operate at peak efficiency for area schools, colleges, youth and civic groups. He said those groups should be able to "enjoy the heavens" without interference of light, dust, air pollution and excessive noise he said a landfill could bring.

"To potentially destroy the Martz Observatory dark sky site ... would, in effect, shut this valued operation down thus creating a tremendous disservice to the Western New York state region," he said, adding a landfill could render the Martz Observatory useless.

"This would ultimately take away a much reassured legacy from our region," Payne said.

Nosek said, however, an expanded landfill would not impact the observatory anymore than operations

that have occurred at the site before, as those operations will merely continue.

"They are doing already what they would do," Nosek said about the landfill owners.

He said the Joneses will follow the law just as they have been, adding courts have determined a landfill is a lawful use of their land in Carroll. Nosek said he understands some people do not like landfills, just as some don't like certain stores in their town. He said, however, that does not mean those functions are unlawful. Nosek said his clients plan to operate the landfill responsibly, as they have since they began operations in 1989. Nosek said the landfill's design includes buffers and setbacks and questioned how the operation will suddenly impact the observatory negatively.

"This is a tempest in a teapot," he said about concerns regarding the observatory.

Despite that Gary Nelson, president of the observatory association, said heat would be produced from materials not taken at the landfill previously that could hamper operations, as would dust and trucks for the landfill. He said dust ruins observatory mirrors while the heat landfills produce could be picked up by telescopes. Diesel from trucks could also have a negative impact on the observatory's operations. He said observatory operators do not mind the landfill being there if the problems can be handled - though he questions how that can be done.

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