

Court Hears Dump Case

Decision Expected On Carroll Issue Soon

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CARROLL - A state Court of Appeals decision regarding whether Donald and Carol Jones can use their entire 50-acre parcel for a landfill is expected in upcoming months.

Their case against the town was argued recently in the state Court of Appeals.

Anthony M. Nosek, attorney for the Jones, said he thought arguments before the state Court of Appeals went well, with issues understood. Although he said he would not want to predict a decision, he said, he remains optimistic.

"My clients have a property right that was extinguished wrongly," he said, adding, "government should not be allowed to extinguish property rights without a rational basis, which is what happened to my clients."

Nosek said a decision is expected within 30-60 days.

Paul V. Webb Jr., attorney for the town, did not wish to comment.

The argument about the Jones and what they should be permitted to do on the land they own began in 1984, according to court documents.

The two bought the 50-acre parcel in an agricultural/residential district in the town, with the town granting them a use variance in 1989 for the entire parcel to operate a construction and demolition debris landfill. A state Department of Environmental Conservation permit allowed them to use less than two acres for the landfill. They were later permitted to expand the landfill by one acre. The Jones-Carroll landfill, which encompassed a 3-acre section of a 50-acre parcel on Dodge Road operated from 1989-2004.

The couple, who own the land, entered into an agreement with Sealand Waste LLC in 2004 to expand the landfill: 37 acres would be used as a landfill, and the remainder would be buffer space and buildings. Sealand proposed to accept construction and demolition debris, along with other wastes including petroleum-contaminated soil, ash, slag, foundry sand and tire chips.

Residents voiced concern, and the Town Board passed an amendment to the town's zoning laws, and then a local law prohibiting new landfills and the expansion of existing ones.

The Joneses and their operating company, Jones-Carroll Inc., brought a lawsuit against the town and Town Board to strike down the law, and the argument has been heard in lower-level courts since, leading to the recent arguments in the state Court of Appeals. A decision is expected within months.

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