

Court Reaffirms Landfill Decision

Jones Family Can Open Expansion In Carroll
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CARROLL - The idea that if one does not succeed the first time, he or she should try again has not proven advantageous for the town of Carroll in its legal pursuit to stop Donald and Carol Jones from opening an expanded landfill in the town.

State Court of Appeals judges have once again ruled against the town, which sought the chance to reargue a case it previously lost against the landfill developers. This time, the town will pay \$100 in addition to copying costs for asking for the reargument, however.

"This is the court saying ... we got it right," said Anthony Nosek, attorney for the Joneses. He said that means the court's decision, as far as the state is concerned, is now final. "The court has spoken," Nosek said, adding it has said the Joneses have a property right. "It's time for the town to follow the law. The town has done what it needed to do by testing the limits of its authority."

Although Town Attorney Paul Webb Jr. could not be reached for comment Tuesday about the town's next steps in its fight against an expanded landfill operating in the town, Nosek said his clients are seeking a permit from the state Department of Environmental Conservation to open the landfill.

He said a landfill the Joneses previously operated for years in the town was run "without muss, fuss or bother" and said they expect to run another now that "the court effectively removed the monkey wrench" he said was thrown into the landfill's operations by a law approved by the Town Board prohibiting landfills in the town.

The argument about the Joneses and what they should be permitted to do on the land they own began in 1984, according to court documents. The Joneses bought a 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 three-acre section of a 50-acre parcel on Dodge Road, operated from 1989 through 2004.

The couple, who owns 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 Carroll 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.

In June, the state's Court of Appeals ruled in favor of the Joneses, with the reargument motion requested and denied recently.

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