

DEERPARK PLANNING BOARD - OCTOBER 24, 2012 – PAGE #
PUBLIC HEARING - BURNETT ENTERPRISES

The Deerpark Planning Board met for a public hearing on Wednesday, October 24, 2012 at 7:00 p.m at Deerpark Town Hall, 420 Route 209, Huguenot, N.Y. The following were present:

BOARD MEMBERS

Al Schock, Chairman	Theresa Santiago	Willard Schadt
Bob Vicaretti	Craig Wagner	

OTHERS

Mr. Alfred A. Fusco, Jr., Town Engineer	Mr. Glen A. Plotsky, Town Attorney
Mr. David Dean, Town Board Liaison	Mr. Jacob Billig, Esq.
Mr. John Fuller, Civil Engineer	Mr. William Graham, Adjoiner
Mr. Warren Cuddeback, Adjoiner	Mr. Robert Honders, Sr., Citizen
Ms. Patricia Phillips, Citizen	

The secretary read the public hearing notice: “Notice if hereby given of a Public Hearing to be held by the Planning Board of the Town of Deerpark, Orange County, New York, pursuant to Article 7 of the Town of Deerpark Zoning Law on the application of Burnett Enterprises for a site plan approval.

The application effects the following premises: Record Owner: Callanan Industries, Inc; Tax Map Designation: Section 22, Block 1, Lot 54; Zone Designation: HMU. Located off of Route 211 and Route 209, Cuddebackville, Town of Deerpark, Orange County, New York. Information on this application is on file with the Town Clerk, Town Hall, Route 209, Huguenot, New York.

The Hearing shall take place at 7:00 o’clock P.M. on the 10th day of October, 2012 at Deerpark Town Hall, located on Route 209, Town of Deerpark, Orange County, New York, or as soon thereafter as practicable. All parties wishing to be heard shall be heard at that time.”

Al Schock: Okay, Mr. Fuller.

John Fuller: Good evening, for the record, we mailed all of the mailings to the adjoiners, and I’ll give the proofs to Barbara at this time. By way of introduction, my name is John Fuller, I’m a licensed professional civil engineer, representing this application before the Board and the public tonight. With me tonight is the applicants’ attorney, Jacob Billig, The public will be given an opportunity to speak here in a moment. What I’d like to do first, is to present the projet to the public, in the way it’s been introduced previously, which led us to have a public hearing. The applicant again is Burnett Trucking, which is currently leasing a space of property that is currently owned by Callanan, which is a property that has frontage on New York States Route 211, and Route 209. I will present maps in a moment here. They are currently running a trucking operation with the storage of trucks, trailers and containers, through their lease on the Callanan property. They had previously been cited by the Town, specifically the Building Department, in order to get an approved site plan, on behalf of their operation, which they currently use, which is again, Burnett Trucking. Which led us to a formal application for approval of a site plan, special use, which will allow them to operate, as they currently do, that is, the use of the trucks and trailers, both for the storage and entering and exiting onto the existing property. In reference to my maps, which the public will have ample opportunity to look at, we had a professional land surveyor, survey the property, and currently there is frontage on 209, which is the old Cuddebackville fire house, across from Gordon Road, there being a provision that it revert to the heirs. I expect to take possession of it, as soon as my attorney can arrange for it. I do have some requests of the Board concerning the site plan. I request that the Board impress setbacks, site plan boundaries are setback from the firehouse. I also request that wording be placed on the site plan, that the property that is the firehouse property now, not be trespassed on. I saw that the allowed use is listed as light manufacturing. How is this proposal light manufacturing? Can anybody on the Board tell me that? Chairman Schock? Well, I guess no one knows why it is under light manufacturing then. I certainly don’t know. And I have to look at the maps over here. graveled area there. And there’s alco access to the property off of 211 from a private road, currently known as Jeb Road, and the Callanan property has easement rights through that area, back to the back area, which is traditionally known as an asphalt, blacktop company, back in the area to the rear of the property. Burnett Trucking, through their lease with Callanan, is looking to use both access points, the one on 211 and the one on 209 for storage of equipment and vehicles. Just to do a little blow up of what they are attempting to do, if I may. This is a blow up of the area at Jeb Road, which is on the 211 side, and this is where the asphalt plant operated, and they are looking to park vehicles along the existing blacktop and gravel that’s to the rear of the

property again, where the blacktop plant was located. And the other location, is off of and behind 209, which is currently the old Cuddebackville fire house and the gravel parking area back there, which is for the storage of equipment and trailers. That's the extent and the full scope of the site plan in this application before the Board. At this time, I'll turn it over to

Mr. Billig for your questions, before we turn it back to the Board for public comment.

Jacob Billig: The first thing I'd like to do is to hand in a letter of support, dated September 14, 2012, from Summit Research Labs, which in essence, provides support to Burnett Trucking, in terms of the application, their activities, and what they do for Summit Research Labs, and it is signed by Linda Cozack, Director of Administration. In the interest of time, I will not read the letter, and just ask that it be put into the record, and will hand it to the secretary. And again, in the interest of brevity, so that the Board can move forward, the application is by Burnett Trucking, so we do not want it mixed up with Brim Recycling, they are different corporate entities. We think that's an important distinction to maintain. We appreciate the fact that the Town, the Board have been providing input to John, in terms of revisions of the plan, the plan that is in front of the Board at this point, and now for the public hearing, is one that has been sent back and forth and is at a point, that we believe is acceptable, and that is really all I wanted to say at this point. And I can come back and speak at the end, if I need to respond to anything, so now we can allow the Board to move forward.

William Graham: My name is William Graham, and I'm currently a resident, directly across the street from them on 209, on Gordon Road. I do have some photographs that I would like you to look at, I'll pass them out. That's the first photograph. I'm having a very hard time sleeping at night because the trucks are coming in at all hours. Usually you have working hours, when everybody can kind of co-exist, but at that time of morning or night, it's not happening. Here's another photograph. I have no problem with anybody making a living, because I have to get up at 3:30 in the morning, and sometimes I get up at 12:30 at night, and can't get back to sleep. And now we have another issue, which is dust, my house is full of dust. If you run your fingers over the surfaces, the top is all white. It takes two days, maybe three at the most, for it to get like that. I'm not one that speaks very well, but pictures speak a lot of words. I've done this the best that I can. All I'm asking is, all right, the business is there, I have to live there, I have to co-exist with the person that runs that business, but maybe there's a different way it can be done. Because I have to get up at 12:30, I have to get up at 2:00. One particular night, my whole house was shaking, the walls were shaking, my wife was jumping out of the bed, and we don't even know what it is. We didn't know if someone had an accident. The trucks were in the lot, full blast, and there's no tar. Bam. So, my quality of life, at this point in time, is really bad. I'm 55 years old, I look like I'm about 70. I'm not getting any sleep. I'm making mistakes on my job. I'm in a position, where I caused a \$7,000 mistake, and my boss was nice enough to not fire me. So, I have a very high position on my job, I have sixteen guys under me, and they count on me to direct them. If I can't get any sleep, I can't even direct myself. So, the only thing I'm asking, can we do something that is a little more fair. At this point in time, it's not fair. You know, the lights on the house, the shaking of the house. If you were to come into my house, it looks like something from a horror movie, and I'm a very clean person. But my house is filthy. My father was New York State trooper Graham, and he had to close the doors before, because he had all of that dust in the house. And now I'm his son, and right now I have breathing problems, and I never had a problem before. My wife tells me that I'm wheezing at night. I don't even know what's wrong with me, because I haven't gone to a doctor, but eventually I'm going to have to go. My house is full of dust, I can't live like that. So, I don't know what can be done, but I'm asking you please to do something. We can co-exist. I want to live like a human being, I don't want to live like I'm living under a bridge or something. It's just out of hand, I can't take it. I get up at night, the lights are shining in my house, and I have shined my spotlight back at them, and they put their high beams on. So, what do we have here, you do it, I do it. It's not right. Believe me, I can't take it anymore. And I'd appreciate it, if you guys would consider doing something a little bit different. I don't want to stop anybody from making a living, but I also have to live. If this was going on in front of any one of your houses, how would you handle that? Everybody wants to live good. If it were in front of your house, I'm quite sure that something would be done. There's not too many people like me, there's not too many people on Gordon Road, but there is some people. So, they have to be considered also. So, with that I'm finished, I appreciate your time. I'm sorry if I'm causing anybody any problems, I just want you to know. All I want to do is to live clean and healthy, that's it. I don't want anymore lights in my house. I don't want my house shaking anymore. I need that to stop. Thank you very much.

Bob Vicaretti: Can I ask you one question? How long have you resided there?

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William Graham: Six years and my father was there twenty years before that.

Warren Cuddeback: My name is Warren Cuddeback, and I live at 17 Gordon Road, I also live across from the junkyard/trucking company, that operates behind the old Cuddebackville fire house. I've given the Board members some photographs, and also a copy of the deed. This is a copy of the deed to the old fire house. It's the property that we're talking about.

Bob Vicaretti: Callanan property?

Warren Cuddeback: No, this is the land of the Cuddebackville fire district, it's the old firehouse. You have this photo also, I've marked the photos by number on the back, and they have my initials on them also. So, if you get photo #1, that's it, right. On the right side there, it's all white with a red roof, is the old Cuddebackville fire house. It just shows the end of it. And around it there is one of Brims' tractor trailers going around, and he's going over the fire company property, and possibly over the telephone company property. Then behind that there you see the trailers lined up in two rows, and that is essentially the property that we are talking about. The first thing that I want to discuss, is the deed that I put in front of you. It states that the Cuddebackville family deeded the old firehouse in 1946, with the...

THERE IS A BRIEF DISCUSSION HERE BETWEEN SEVERAL BOARD MEMBERS AND
 WARREN CUDDEBACK, WHICH WAS INAUDIBLE

Warren Cuddeback: I don't know if there's any answer as to who owns any of this property,... and why this right-of-way is on Orange County property, which was formerly O & W Railroad property. The O & W existing and was in operation after the blacktop plant, the sand and gravel company had started there. So, it seems that certainly the railroad would not grant a right-of-way over their tracks, that travel by trucks, or whatever. And I certainly don't think that the County of Orange would grant it too. So, I don't know if the applicant has an idea of when that occurred, I think there's some reference to the deed that you looked at.

Jacob Billig: I don't want to comment at this time, but we are researching it.

Warren Cuddeback: I want to know if they know when this occurred.

Jacob Billig: We've done a title search relative to this, and will get this to the Board.

Warren Cuddeback: Okay, I think the plan is that it lists there, what it's going to be there, is trailers, shipping containers and roll offs. And I think some of this is a junkyard operation rather than a trucking operation. I don't object to the trailers. I don't know what containers are, whether they're fully enclosed or not, perhaps they are. But I don't know if the roll offs are. And I would like to draw your attention to photograph #2, which shows on the right there, this is the photograph, what I suspect is a roll off. It is a trailer with scrap metal on it. It's not a trucking operation, this is a junkyard. And this is a photo that is of what is actually taking place there. So, you see the roll off is completely open, it's filled with garbage. And if this is the type of thing that they are asking for the Boards' approval for, I think that they should reject it. It's a part of it. A roll off belongs in a junkyard. He can take his roll offs to the junkyard. It's certainly not part of a trucking operation. The Board should consider the record of this junkyard, when considering the new site plan. The way is has operated in the past, is an indication of how he will operate in the future. He has operated this trucking business/ junkyard on Callanan Industries property for six years, without any site plan or approvals of any kind. I think if someone, if another came before another Planning Board with that kind of a record, with violations, that Planning Board would reject that application on that basis, until the violations were fixed.

In April of this year

Brim was refused an annual junkyard license, because of violations. These violations, by the way, were first pointed out by myself and other neighbors.

Al Schock: To keep the record straight, that is Brim, and now this is Burnett.

Warren Cuddeback: I know that, but I'm telling you that he's the operator and I'm telling you what his record is. Since April 1st, he has been given a series of 30 day extensions. On or about October the 6th, he's corrected the violations, that's this month, but now has yet has another extension to November 6th, I believe. Someone with this kind of a record, should not be allowed to apply for something new. Because of this operation behind the old firehouse, we neighbors are plagued with excessive noise, trucks in and out of the site, by hooking to and unhooking trailers, which goes on at all hours of the day and night, 365 days, and interferes with the neighbors sleep and enjoyment of our property. Because there's almost no paving around the firehouse, and on Callanan property, the trucks kick up a lot of dust, and that was shown to you by Mr. Graham. I'd like to all your attention to photograph #4, this is a photograph of the yard. And as you can see, there's not much left of that blacktop. And you have another photograph from Mr. Graham, showing how much dust those trucks turn up. It makes us difficult in our houses, with all of that dust coming over here. As you an see, there's only a thin strip here, there's only a little blacktop, and there's chewed pieces all in here, and the remaining blacktop won't remain much longer. So, this is actually an error on that map. The lack of paving also causes more noise, due to trucks banging into potholes. I believe this application should not be granted because neither a junkyard or a trucking business is allowed in the HMU zone. However, if a site plan is allowed, we believe that the trailers should be parked behind the tree line, where they are presently parked. This is the tree line here, these are the trailers, here on Jeb Road, that road goes all the way around. It's a short distance down this road, past this tree line, to where this area opens up. It is clear of brush and trees. It can easily be made there, the noise would be further away from the neighbors, and the trailers would be hidden from view. If Brim or Burnett Trucking is allowed to continue to park trucks, where they are parking them now, it will always be a junkyard. And here I want to draw your attention again to photograph #2., and that is a junkyard photograph there, that is not a trucking operation. Additionally, this is another photograph, I draw your attention to photograph #3, you see the trailers at the very back of the area, next to the tree line, and you can see that it's unlicensed, and there's scrap metal in there, and the whole area of the trailers in the back here, are like that. There's an old junk trailer that has maybe been there for years, and heavy equipment that is junk now. So, that is not a trucking operation, it's a junkyard. In that case, if they do decide to have a yard into the rear, the parking at the current location should be prohibited. It's too small for having two rows of trailers there that are used on the road, as opposed to junk.

Al Shock: Warren you have 5 minutes more, so that other members of the public can comment.

Warren Cuddeback: Yes, okay. Wherever they have this parking, there should be a paved driveway from the parking area to Route 209. That is essential, otherwise there is always going to be problems here. That is something that has to be substantial, and the paving would have to support those trucks, to prevent potholes, dust and excessive noise. The plans indicate hours of operation from 7 a.m. until 7 p.m. six days a week. That is, 12 hours a day, every day for six days and is excessive. The 7 p.m. closing time should at least be changed to 6 p.m., and that would give time to operate their business, and more time than most businesses are usually open.

Al Shock: Thank you, does anybody else want to comment on this application?

Robert Honders: Hi, my name is Robert Honders, and I have some information I'd like to hand to you.

Al Shock: How do you spell that?

Robert Honders: H-O-N-D-E-R-S, Sr. What I'm giving you is the Town of Deerpark Resolution, #35-2012, which is a resolution to seek injunctive relief from Brim Recyclers, Brim Trucking, whatever they are called. I take issue with the fact that they are trying to separate these things. They're all the same people, and Brim is not in compliance with the Zoning Code, and have not been in compliance, since they have taken over the sandpit with a couple of dozen of cars in the early 1980's. I know, because I've been here, before he started that business. Through the recent two years, persistent action of neighbors in Cuddebackville, the town board has become aware of their continuing violations and failure to comply, and have passed this resolution 35-2012 to seek compliance and injunctive relief. So, why would the Planning Board allow Brim Recyclers, Brim Trucking to expand and create new and more problems, after flaunting our laws all this time. They haven't been in compliance, since they got here in 1980. We therefore request that the Planning Board not even consider the Brim request, until they are fully in compliance with their current site plan. Those pictures you

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have show materials, vehicles, junk, outside of their current site plan. They are in gross violation. Should Brim be deemed in compliance, it's still incumbent upon the Planning Board to deny any expansion of a non-conforming use in an HMU zone. Thank you.

Patricia Phillips: My name is Patricia Phillips, and my property borders the gravel pit property. I'm not so much about what he's going to do. My problem is, the old Cuddebackville fire house is the bus stop for all of the children, my grandchildren, that live on Lakeview Drive road. I have went out to pick them up at different times, and these big trucks are coming off of Route 209 and the bus has actually had to stop and wait for these trucks to get in and out of there. If Mr. Burnett could find an alternate route, to perhaps bring his trucks through the back and around and up, that would solve his problem and the school buses being in the way, as these big trucks are pulling into that area. That is dangerous, because I've watched it myself. I know that he has an exit on 211, if he could bring his trucks in that way and up and around, and then into the parking area, that would be fine. There wouldn't be any dust, no lights, and the school buses wouldn't have to stop and wait for these trucks. It's very dangerous out there, I've watched it myself, and that's my only concern. Because I've known them for a long time, I've been friends with them, and I haven't had a problem with them. I can stand on my porch and watch the guys working in the junkyard, that's how close they are to me. I don't want to see trucks coming in, in the middle of the night. So, if he could get an alternate route, and bring trucks into that area, that would be fine. All of the problems would be solved. The buses wouldn't have a problem, he wouldn't... and I'm just worried about the kids getting on and off the bus there. Because we all have to park by the GE building, the telephone building, and then when these big trucks come around, and then comes the bus, the bus has had to completely just stop, because of these big trucks. They are right, they have just tore that blacktop off of there. There's holes there, and even over there coming off of my road and everything. So, if he could just find an alternate route for his trucks, everybody's problems would be solved. That's all I have to say.

Al Schock: Thank you. Anybody else? Okay, motion to close the public hearing?

Willard Schadt: I make a motion to close the public hearing.

Theresa Santiago: Second.

Al Schock: All in favor?

Theresa Santiago: Aye.

Bob Vicaretti: Aye.

Craig Wagner: Aye.

Willard Schadt: Aye.

Al Schock: Aye.

Public hearing adjourned at 7:48 p.m.

Respectfully submitted,

Barbara Brollier, Secretary