

Hi, my name is Christie Roberts, I am a mother of two small children and a resident of the Two Rivers community. I moved to the area this past summer and was not aware of the proposed landfill when I bought my home. My neighborhood directly abuts the proposed landfill site and I would like to express my concerns on the impact an extension of time would have on my neighborhood and the public welfare.

I believe that an extension of time would have a negative impact on the public welfare and should be denied because it would be a tremendous waste of taxpayer resources on a project that can never come to fruition because it can never comply with the conditions of the special exception. When the zoning special exception was granted for this project in 1993, the public had a chance to comment on the impact of the proposed landfill on the community, the nearby properties, and the public welfare. The county and local residents testified about their concerns for environmental impacts, the impact of traffic on neighboring houses, and the potential threat of Patuxent Road access to residential communities north and west of the site. Halle Companies, the owner of Chesapeake Terrace, argued that a Conway Road access would alleviate environmental and traffic problems, provide a shorter access route, and affect fewer people overall. Taking this testimony into account, the Board granted the special exception with the conditions that Patuxent Road was not to be used as an entrance to the operation and that instead Conway Road would be used as the entrance, but only on the condition that "access obtained to the site from Conway Road shall be through a fee simple right-of-way." Other conditions included the requirement to improve Conway Road from its intersection with Patuxent Road to the entrance of the site, which was four tenths of a mile from the intersection, with 12 foot travel lanes and 8 foot shoulders improved to county standards, and that NWM "shall pursue a diligent course to obtain the right-of-way from private property owners where possible." These access conditions were critical to mitigate the impact of the landfill and sand and gravel operations on the neighboring property, public safety, and the welfare of the community at large.

These conditions were upheld by the Court of Appeals in *Halle Companies v. Crofton Civic Association*. In that case, the court stated, "the Board is justified in limiting the exception in such a way as to mitigate the effect on the neighboring property and community at large. Both a variance and a special exception authorizes uses which otherwise would not be permitted. Having been given the power to authorize such unusual uses, the Board must also have the power to limit those uses to protect the public health, safety, and welfare of the community...The Board is free to set any conditions that fall within the range of its statutory authority. If any of those conditions require action by someone other than the applicant itself, it is up to that applicant to get whatever agreements or guarantees it needs." *Halle Companies v. Crofton Civic Association*, 339 MD. 131, 140-141 The court went on to state that the Board had imposed a true condition and upheld that condition as "justifiable in terms relating to the public health, safety, and welfare." *Id.* at 148.

Yet, in the nearly 30 years since the special exception was granted, NWM has made no progress towards fulfilling this condition. The Conway Road access has not been purchased in fee simple, and in fact, and as stated previously by other speakers, the land that sits on the approved Conway Road entrance has been purchased by the Anne Arundel school system for a critically needed elementary school, which has already begun work on planning, design, and site surveys. If NWM has not acquired access as required in the special exception, and has no viable means of doing so, any extension of the current exception has a negative impact on the public welfare because it is a waste of valuable public time and resources. It should be denied.

National has argued in these hearings and in their Phase III submission to the Maryland Department of the Environment (MDE) that there are other possible locations that it may use to access the site. They presented “optional North and South entrances” that include an entrance on Patuxent Road, and an entrance at the western terminus of Conway Road. However, neither of these entrances presented as “optional” are actually permitted in the special exception originally granted in 1993. In fact the Patuxent Road “option” was specifically prohibited by conditions in the special exception, which stated, “Patuxent Road shall not be used as an entrance to the site.” As previously decided by this Board, locating the entrance on Patuxent Road would have unacceptable impacts on the environment, traffic, and nearby homes on Patuxent Road.

An access at the western end of Conway was not even contemplated at the original hearings. This was demonstrated by the fact that Halle suggested a Conway Road access because it is a “shorter run and affects fewer people.” An entrance at the western end of Conway cannot possibly comport with those statements. The public has never had a chance to hear exactly how an entrance at the western terminus of Conway Road would work, or to give comments on its impact on the community and public welfare. Locating it at the western end of Conway Road would result in hundreds of dump trucks making two trips a day through the middle of a community of over 2,000 homes. Where the approved entrance was selected partially because it impacted fewer people overall than a Patuxent Road access would have, an access at the western terminus of Conway Road would impact far more homes than was ever contemplated by the Board when it issued the special exception, and would be counter to the entire purpose of requiring the access be on Conway. The access would require these trucks, which have little stopping power, to pass by bus stops for elementary, middle, and high schoolers, which sit right on Conway Road. The road has no shoulder, which was required by the Board to be added to Conway near the approved entrance, and little visibility for cars traveling eastward from the proposed access point. Allowing dump trucks to use this route as their entrance point wouldn’t just impact the public, it would endanger the public and specifically the dozens of children that board the buses on Conway Road, my 5-year-old son among them.

I work in an office located right next to a rubble landfill and I have seen the noise, pollution, congestion, and road damage that result from hundreds of dump trucks a day traveling the road outside my office. The roads have to be regularly re-paved to keep up with the resulting

pot-holes. There is a constant stream of dump trucks spewing exhaust into the air. The roads are always backed up from the resulting traffic. There is the constant sound of the engines passing by in my daily work.

These are all factors that the Board took into consideration to limit impact to the community when it restricted the entrance to the lower part of Conway Road. Allowing them to use either proposed “optional entrance” would not only violate the terms of the original special exception, it would undo all the work that has been done by this Board, after a deliberative process, to limit that impact to the community. NWM has not been diligent in working to meet the requirements of the special exception, as demonstrated by their failure to do so after nearly 30 years, and their Phase III proposal to use an access point that is specifically prohibited by the special exception.

The Board must examine whether issuing another temporal variance continues to be compatible with the surrounding area, including its impact on the public welfare. The new circumstances of the school construction project must be taken into account in this examination. The Board must consider whether NWM has any viable path to meet the requirements of the special exception. As stated above, with the approval of the elementary school, they do not. The Board has the obligation to cease this waste of time of the county and taxpayer resources, and this constant source of stress for local homeowners, on a project that can never come to fruition under the existing restrictions. Any entrance that is different from the one originally approved would require a new special exception to the zoning regulations and a new set of hearings to allow the public to comment on its impact.

§ 18-16-404 of the Anne Arundel Code of Ordinances provides that, “On motion of the County or an aggrieved party, or on the Administrative Hearing Officer’s own initiative, approval of an application for a rezoning, variance or special exception shall be rescinded, suspended, or modified if the Administrative Hearing Officer determines, after a hearing, that...the use of the property deviates from...any conditions imposed.” NWM has failed to meet the conditions imposed and has no means of doing so. The Board should deny the variance application and require NWM to obtain a new special exception that specifically contemplates their proposed entrances and their impact on the public. Failure to do so will only result in all of us being back here, several years from now, addressing these issues again.

Thank you for allowing me to speak on this issue.

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