

Southampton, NY



Supreme Court Upholds Southampton Town Zoning Board of Appeals' Ruling on Controversial Sand Mine

Environmentalists have cried out about the proposed expansion for months.
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By LISA FINN (Patch Staff) - April 1, 2016 4:14 pm ET



SOUTHAMPTON, NY - The New York State Supreme Court has upheld a decision by the Southampton Town zoning board of appeals in regard to the proposed controversial Sand Land sand mining expansion.

In a decision issued by the New York State Supreme Court Appellate Division on Wednesday, the Court reversed an earlier decision by a lower court and supported the Southampton ZBA's decision that Sand Land's ". . .right to

maintain a nonconforming use does not include the right to expand or enlarge that use" . . . and the expanded uses. . "were not permitted."

According to a release sent out by Southampton Town, the unanimous decision by the court further stated, ". . .it was reasonable for the ZBA to conclude, in effect, that these 'new uses' constitute a 'significant change' from the non-conforming mine operation. . .Accordingly, the (lower court) erred in annulling the ZBA's determination."

Kathryn Garvin, Southampton Town assistant town attorney, argued the appeal on behalf of the Town.

"These cases present many legal challenges and are very difficult to successfully appeal," Southampton Town Supervisor Jay Schneiderman said. "I am very impressed with the work done by Assistant Town Attorney Kathryn Garvin."

The hot-button case began months ago under former Southampton Town Supervisor Anna Throne-Holst's administration when a lower court overturned the ZBA's decision to deny the expanded uses to Sand Land.

"When the previous town board authorized this appeal, we were confident that the lower court decision would be overturned. My thanks to the town attorney's office for a job well done," Throne-Holst said.

"This decision," Schneiderman added, "upholds the original decision of the ZBA. I have high regard for the ZBA and for all our land use boards. This decision affirms that these boards serve our town well."

The Sand Land issue has been in the news for months. Back in April, 2015, the New York State Department of Environmental Conservation [denied an](#)

[application to expand](#) the sand mine, located on Middle Line Highway, because of environmental concerns and past worker safety violations.

The issue first surfaced in 2014 when the operator of the mine, locally known as “Sand Land”, Wainscott Sand and Gravel Inc., went to renew the existing permits for the mine, which has been permitted since 1981.

This decision by the DEC’s Albany office reversed a previous ruling by the DEC’s Long Island office that the expansion would not impact the environment and did not need an extensive review.

After that decision was made, several officials, environmentalists and residents raised their voices and asked the DEC is reconsider at a public hearing led by a DEC administrative law judge.

The operators applied to expand the mine, which is currently covers 50 acres and is 80 feet deep, by 4.9 acres and 40 feet deeper than allowed under the State Mined Lands Reclamation Act Permit.

The president of the Group for the East End, Robert DeLuca, said that the organization also expressed concerns over the project, including the possibility for groundwater contamination and issues on the parcel, located in the aquifer protection overlay district.