

Town of Clifton Park Zoning Board of Appeals

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Zoning Board of Appeals

June 15, 2026

Present: Chairman Michael Dudick, Christopher Lemire, John Klimes, Lisa McCoy, Juliano Febo, Mark Brockbank, Gerald Schuth (alternate)

Absent: Scott Styles

Also Present: Scott Reese, Building and Zoning
Paula Cooper, Secretary
Kevin Luibrand, Attorney

The meeting was called to order at 7:00 p.m.

All stood for the Pledge of Allegiance. Roll call was taken.

Mr. Dudick stated in the absence of Mr. Styles, Mr. Schuth would be a voting member tonight.

Mr. Dudick moved, second by Ms. McCoy for the Zoning Board of Appeals would be going into an Executive Session. All members were in favor. The Board went into Executive Session at 7:11 p.m.

Mr. Dudick called the meeting back to order at 7:42p.m.

Old Business:

*The Zoning Board of Appeals will review an appeal submitted by counsel for **Dr. Lewis Morrison**, dated March 12, 2026, regarding the zoning interpretation issued by the Town Zoning Administrator on January 13, 2026, for the proposed concrete batch plant at 1910 US Route 9. The ZBA will determine whether the appeal was filed within the statutory deadline and whether the appellant has standing required by New York Town Law and the Town Code.*

Mr. Dudick asked if there was a representative from the concrete plant here tonight. A man in the room raised his hand.

Mr. Dudick stated the Zoning Administrator has not made a final decision on whether the proposed concrete batch plant application meets the zoning requirements to be constructed in an LI-2 district. He stated the applicant has not provided sufficient information, and until the Zoning Administrator comes to a final determination, there is nothing to be reviewed or interpreted by the Zoning Board of Appeals with regard to an appeal.

Mr. Dudick stated the Zoning Administrator still needs more information to determine if the plant will be allowed.

Mr. Reese stated he last time the application was reviewed was in January 13, 2026 by the Planning Board and he had four comments and one has been resolved. He stated comment one had been resolved however, comments two and three are not resolved and listed them. He stated that these need to be addressed for him to be able to determine whether this is allowed in the LI-2 zoning.

Mr. Dudick stated that there cannot be an appeal without a decision made and if the applicant provides the needed information as requested by the Town Staff as requested then a final decision can be made.

T.J. Ruane, attorney representing the concrete batch plant stated he feels the Zoning Administrator interprets this as an allowable use. He stated that the determination of the applicant is that a determination was made and any other comments made under the Zoning Code are for the Planning Board to look at. He stated there is no further analysis and this was a final determination. He stated this is statute of limitations is completely improper. Mr. Ruane stated they expanded the EAF and concluded this does not have an invasive impact and the Planning Board Engineers agree with this. Mr. Ruane stated that the Zoning Administrator was tasked with evaluating whether the project meets zoning and then he referenced other areas of the Code that need to be met to be approved and that is his only authority, and what the Zoning Administrator did.

Mr. Dudick stated this is a volunteer Board to provide decisions on Zoning and rely upon information provided by counsel and the Zoning Administrator. He stated that based on advice from both of them, this is not a final decision so an appeal cannot be made. Mr. Dudick stated it is the opinion of Mr. Ruane that a final decision has been made. Mr. Ruane agrees with this. Mr. Dudick stated that if the applicant provides the information then the application can move forward. Mr. Ruane stated that he, up until tonight was under the impression that all of the information had been provided. Mr. Dudick stated that he agrees with his counsel and the Zoning

Administrator and asking on behalf of the Town that if the requests for more information are fulfilled then the application can move forward.

Mr. Luibrand stated that once the Zoning Administrator has all of the information he has asked for then he can make a decision and once it is final then the people or the applicant has the right to appeal the decision and this appeal is premature at this time.

Mr. Ruane asked if the decision of the Board is to not make a decision at this time. Mr. Dudick stated this is correct. Mr. Ruane stated the Town has decided that the Planning Board cannot move forward with the application since it is stayed in place.

Mr. Luibrand stated that they are not making a timeline and they were told by the Zoning Administrator that a decision has not been made and that is supported on record. Mr. Ruane stated that in the January 13th letter the Zoning Administrator did make a final decision on the application. Mr. Luibrand stated that the appeal is premature.

Mr. Dudick asked where the final decision was made. It was pointed out to Mr. Dudick and stated it say contingent. Mr. Dudick read from the letter aloud. Mr. Dudick stated they are still waiting for a final decision. He thanked the applicant for being here today but they are not going to hear the appeal today but will hear from the public.

Mr. Ruane asked if the Zoning Board will not take action today and the appeal is pending. Mr. Dudick stated the Zoning Board is not hearing any appeal on any application today. Mr. Ruane stated that the Town Attorneys have stated that this application cannot move forward with the pending appeal and tomorrow a moratorium will be put in place and believes the Town is blocking the application.

Mr. Luibrand stated they are not taking action to be taken tonight and the applicant can move forward with their own beliefs.

Mr. Dudick stated based on the information they have the Board will not be hearing an appeal as it is premature and when the Zoning Administrator makes a decision then anyone can decide whether or not they want to file an appeal.

Mr. Febo asked for another executive Session due to more information coming available to them.

Mr. Febo moved, second by Mr. Dudick for the Zoning Board of Appeals would be going into an Executive Session. All members were in favor. The Board went into Executive Session at 8:02 p.m.

Mr. Dudick called the meeting back to order at 8:27 p.m.

Mr. Dudick stated the Board has reviewed and consulted and that the agenda item of the review for the appeal will to be heard tonight. He stated that there will be public privilege where any member of the public can speak about any application being heard by the Town.

New Business:

None

Public Privilege:

Any member of the public may speak for up to three (3) minutes on matters currently before the Zoning Board of Appeals as open projects. Comments should be relevant to the Zoning Board of Appeals' jurisdiction. This opportunity is intended to allow the public to provide input or raise concerns related to active applications under review.

Colleen Pierson stated she is the legal counsel for the agenda item tonight. She stated that she feels what is being done tonight sets a bad precedent and is a violation of the appellants due rights. She stated that the Zoning Administrator is telling the applicant what they can do to get the application approved. She stated the ZBA is the Court of the Town and decide what is in question and the ZBA has not made a decision leaving both sides in limbo. Ms. Pierson stated it is unreasonable to go by the Town Attorney's advice tonight and putting off the decision. She stated that this is a violation of Due Process Rights and this needs to be considered for the fairness of both parties involved.

David Miller, 12 Hidden Valley Lane, Volunteer Chair of the Open Space, Trails and Riverfront Committee, stated he has seen similar issues before and his biggest concern about the agenda item tonight is that the applicant was asked for information tonight and he did not provide that. He stated that a zoning variance was granted and it should not have been granted without the final determination. He stated that there is impact on the trout and Mr. Morrison did file an appeal. Mr. Miller stated that the application should not go before the Planning Board until the zoning determination is complete as per Town Policy and Law. He stated that the determination should be made and then have an appeal. Mr. Miller stated that the applicant should not be allowed until the final decision is made.

Adam Styles, 50 Ridgewood Drive, Mechanicville, stated that he appreciates the recognition that a decision was not made. He stated that he could not find a determination either. He stated that he does agree with both attorneys in the audience tonight that no decision being made tonight is an injustice to this and other municipalities.

Lewis Morrison, 7 Bearbrook Court, stated he came here to find out if he has standing before the Board and asked if he will find out tonight. Mr. Dudick stated that this time is for public comment. Mr. Morrison stated it would have been nice to know if he does.

Raymond Seymour, 7 Naddler Road, asked if someone explain to the public who would have standing in an event like this to appeal a decision. He stated that citizens of Clifton Park and Halfmoon don't understand who has standing.

T. J. Ruane, attorney for the application in tonight's agenda item, stated that he was prepared for a ZBA hearing and not public comment. He stated that they have concerns in the Town's process and that they have been working on this for a year and a half and out of nowhere the Town puts a moratorium on this. He stated that the Planning Board has a stay and the appeal has been made

and he sees this as illegal and if a lawsuit is filed it will go to Federal Court and the Town will be sued for damages. Mr. Ruane stated the Board should seek outside counsel.

Mr. Dudick moved, second by Mr. Brockbank to close Public Privilege at 8:42 p.m.

The chairman made a motion to approve the minutes from the June 9, 2026 meeting. All who were present at the June 9, 2026 meeting voted in favor and the meeting minutes were approved.

Mr. Brockbank stated he feels that a final zoning determination was made and there is confusion based on the variance submitted in LI or a Heavy Industrial. He stated that the ZBA was given an LI zoning to look at and as long as they conform to the zone they should be able to continue as a light industrial business. He stated that he feels this should have been a use variance and that the appeal should have been voted on tonight. He stated that they should have heard from the appellant tonight as well.

Mr. Dudick stated that almost all of the time they hear use and area variances and he feels they do a good job and appeals do not have all the time. He stated that on the advice of the counsel for this Board he stands behind the statement he read earlier.

Mr. Dudick, Chairman, made a motion to adjourn the meeting, Mr. Brockbank second, all voted in favor and approval was unanimous. The meeting was adjourned at 8:47 p.m.

The next scheduled ZBA meeting will be held on July 6, 2026.

Respectfully submitted,

Paula Cooper

Paula Cooper

Secretary, Zoning Board of Appeals