

KOTFILA & JORDAN

COUNSELLORS AT LAW

Timothy M. Kotfila, Esq.
Also admitted in Connecticut

Richard T. Jordan, Esq.

ONE MONARCH PLACE, SUITE 1340
SPRINGFIELD, MA 01144
413-736-0077
413-781-5399
FACSIMILE 413-736-3300
www.kotfilajordan.com

Personal Injury
Divorce & Family Law
Civil Litigation

October 5, 2017

VIA IN HAND DELIVERY

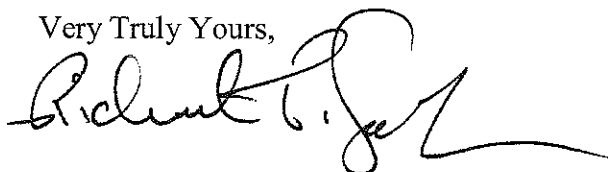
Julie Datres, Assistant Attorney General
Office of the Attorney General
1350 Main Street, 4th Floor
Springfield, MA 01103

**Re: Fondakowski v. Planning Board of the Town of Westhampton et al
Civil Action No. 1780CV00105**

Dear Attorney Datres:

Enclosed herein please find the original and one copy of Plaintiff's Opposition to Defendant Hampshire Superior Court's Motion to Stay Discovery.

Very Truly Yours,



Richard T. Jordan, Esquire
RTJ/vg
Enclosures

Jonathan D. Eichman, Esquire
Katherine D. Laughman, Esquire
Patrick Melnik, Sr., Esquire

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF THE TRIAL COURT

HAMPSHIRE, ss.

SUPERIOR COURT
HAMPSHIRE DIVISION
DOCKET NO.: 1780CV00105

TIMOTHY R. FONDAKOWSKI,)
Plaintiff)
v)
PLANNING BOARD OF THE TOWN OF)
WESTHAMPTON THROUGH ITS MEMBERS)
MARK SCHWALLIE, THOMAS HATHAWAY,)
ROBERT TURNER, ROBERT DRAGON, JR.,)
COTTON TREE SERVICE, INC., DODGE)
MAPLE GROVE FARM, LLC and HAMPSHIRE)
SUPERIOR COURT)
Defendants.)

**PLAINTIFF'S OPPOSITION TO DEFENDANT HAMPSHIRE SUPERIOR COURT'S
MOTION TO STAY DISCOVERY AND REQUEST FOR HEARING**

The Plaintiff, Timothy Fondakowski opposes Defendant Hampshire Superior Court's Motion to Stay Discovery (Depositions) until a decision is issued on Defendant Hampshire Superior Court's Motion to Dismiss on the Pleadings scheduled for October 17, 2017. For the following reasons the plaintiff requests this Honorable Court deny the Motion.

INTRODUCTION

The Plaintiff is an abutter to land in the Town of Westhampton that was issued a special permit to operate a sawmill *directly* by the defendant, Hampshire Superior Court (Agostini, J.) (hereinafter "HSC") in (C.A. No. 1580-CV- 00112) (*See Exhibit 1*) on or about June 5, 2017 pursuant to an Agreement for Judgment filed an entered by the Court on April 3, 2017. The

special permit was issued despite repeated denials of the permit by the Westhampton Planning Board, the sole special permit issuing authority for the Town of Westhampton.

As a result of the denial, co-defendants, Cotton Tree Service, Inc. and Dodge Maple Grove Farm, LLC. requested by motion HSC issue the special permit pursuant to the parties Agreement for Judgment in C.A. No. 1580-CV- 00112. The special permit decision was directly issued by HSC on or about May 31, 2017 and recorded with the Hampshire Registry of Deeds on June 5, 2017. The Plaintiff brought this action for judicial review under M.G.L. 40A, § 17 challenging the issuance of the special permit to co-defendants, Cotton Tree Service, Inc. and Dodge Maple Grove Farm, LLC. alleging, inter alia, HSC had usurped the authority of the planning board and was without authority to directly issue the Special Permit and further was required to hear all evidence de novo to determine the validity of the planning board's decision. Bicknell Realty Co. v. Board of Appeal of Boston, 330 Mass 676, 679 (1953). The plaintiff alleged HSC was “any special permit granting authority” as contemplated by G.L. c. 40, § 17. In support the Special Permit decision states, “[T]he Court hereby issues the Special Permit to the Applicant as an Order of the Court”.... *(See Exhibit 1, Pg. 4, last paragraph, 1st sentence)* and the Agreement for Judgment states, ...”[S]hall result in the Court issuing the Special Permit”*(See Exhibit 1, Pg. 2, Clause 2, 2nd sentence)* The allegation that HSC is “any special permit granting authority” is further bolstered by HSC's denial of the plaintiff's Motion to Intervene in the underlying action (C.A. No. 1580-CV- 00112) finding the plaintiff had no standing to intervene because the Westhampton Planning Board had denied the Special Permit and thus the plaintiff was not aggrieved because of this denial. *(See Exhibit 2)* This is a tacit recognition HSC issued the permit since the Westhampton Planning Board did not.

The plaintiff has properly noticed the depositions of members of the Town of Westhampton Planning and Select Boards as well as the previous owner of the land upon which the Special Permit was issued to operate a sawmill. HSC seeks to stay the depositions alleging a favorable ruling on its Motion to Dismiss will eliminate HSC as a party and make its participation in discovery unnecessary and prevent waste of resources for all parties involved, or, be deemed a nominal party and not be required to participate in the proceedings.

ARGUMENT

HSC argues the Court may stay discovery if the moving party can show “good cause”. In determining whether discovery is stayed the Court may weigh different factors such as the interest of the plaintiff in proceeding expeditiously with the litigation, any countervailing prejudice to the defendants, including the potential burdens of discovery, and the efficient use of judicial resources.

The interest of the plaintiff in prosecuting this action expeditiously is high. The plaintiff is an abutter to the land upon which the sawmill special permit was issued. He suffers from brain cancer and the loud noise which accompanies the workings of the sawmill severely affects his overall health and causes him unbearable acoustic pain. Co-defendant, Cotton Tree Service has already violated the special permit conditions for which it is allowed to operate and he and other town residents have requested town government respond appropriately to the violation¹. *(See affidavits at Exhibit 3, 4, 5)* Further it is alleged the Agreement for Judgment which HSC endorsed and lead to its issuing of the Special Permit was authorized by the Westhampton Selectboard which had no authority to do so under the town’s by-laws and circumvented the

¹ It is anticipated the request to Town Government will have little effect as in the past they have failed to enforce for years cease and desist orders and the collection of fines for repeated ongoing violations by co-defendant, Cotton Tree Service in the use of the land without special permit.

authority of the elected town body, the Planning Board as the issuing authority under the by-laws. The Planning Board has repeatedly denied all applications for a special permit by the co-defendants. This lawsuit is of great import not only to the plaintiff but the residents of the Town of Westhampton in that its elected officials have disregarded the governing by-laws of the Town and most likely violated the Commonwealth's Open Meeting Laws, M.G.L. ch. 30A, et seq. by entering into the Agreement for Judgment. By granting a stay the Court would also be highly prejudicing the plaintiff's ability to gather support for his opposition to the defendant's Motion to Dismiss.

The holding of the depositions does not prejudice HSC or the other parties. The only argument HSC can put forth in this regard is that the attendance by HSC's counsel, an assistant attorney general ("AAG") at the depositions of the co-defendants prejudices its position. Certainly, from a financial standpoint there is no additional cost or burden. The AAG is a salaried Commonwealth employee and the cost will be paid whether she attends the depositions or not. Similarly, the co-defendants will need to attend the depositions no matter when they are held. No prejudice is shown to them.

Also to be considered is the likelihood of success on the merits of HSC's Motion to Dismiss on the Pleadings. A cursory review of case law and statutes favor denial of the motion. In reviewing a motion to dismiss under rule 12(b)(6) the factual allegations in the plaintiffs' complaint, as well as any favorable inferences reasonably drawn from them are accepted as true." Ginther v. Commissioner of Ins., 427 Mass. 319, 322 (1998). See Nader v. Citron, 372 Mass. 96, 98, 360 N.E.2d 870 (1977), and cases cited. A complaint is sufficient against a motion to dismiss if it appears that the plaintiff may be entitled to any form of relief, even though the particular relief demanded and the theory on which it seems to rely may not be appropriate." Nader v. Citron, 372 Mass. 96, 104 (1977). A motion to dismiss will be granted only where it appears with certainty that the nonmoving party is not entitled to relief under any combination of

facts that he could prove in support of his claims. Spinner v. Nutt, 417 Mass. 549, 550 (1994); Flattery v. Gregory, 397 Mass. 143, 145–146 (1986); Sullivan v. Chief Justice for Admin. & Mgmt. of Trial Court, 448 Mass. 15, 20-21(2006). Also see, Aponte-Torres v. Univ. of Puerto Rico, 445 F.3rd 50 (1st Circuit 2006) “On appeal from judgment on the pleadings, Court of Appeals views the facts contained in the pleadings in the light most flattering to the non-movants, and draw all reasonable inferences therefrom in their favor.” The Court may enter judgment on the pleadings only if the uncontested and properly considered facts conclusively establish the movant's entitlement to a favorable judgment. Fed.Rules Civ.Proc.Rule 12(c), 28 U.S.C.A.

HSC also argues the Court is well within its discretion to stay discovery pending disposition of its Motion to Dismiss citing Aponte-Torres v. Univ. of Puerto Rico, 445 F.3rd 50 (1st Circuit 2006). In Aponte-Torres, in upholding the district court's order to stay discovery the 1st Circuit stated,

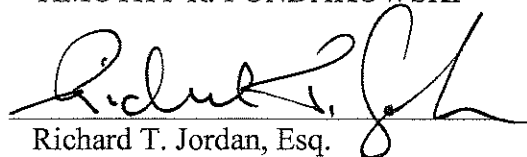
Where party has had an adequate opportunity to conduct discovery, it is well within the district court's province, at least in the absence of a showing of changed circumstances or particularized need, to stay further discovery pending the determination of a dispositive motion.

In the instant case, no discovery has been conducted which is further support for denying the stay. The plaintiff has not had an adequate opportunity to conduct any discovery in support of his complaint which further buttresses reasons for denial of the stay as well as HSC's Motion to Dismiss.

WHEREFORE, the Plaintiff requests this Court deny the Defendants' Motion to Stay Plaintiff's Taking of Depositions for the reasons stated.

Respectfully submitted,
The Plaintiff
TIMOTHY R. FONDAKOWSKI

By his attorneys:


Richard T. Jordan, Esq.
B.B.O #564502

Timothy Kotfila, Esq.
B.B.O #600633
One Monarch Place, Suite 1340
Springfield, MA 01144
(413) 781-5399
(413) 736-0077
(413) 736-3300

Facsimile

Dated: October 5, 2017

CERTIFICATE OF SERVICE

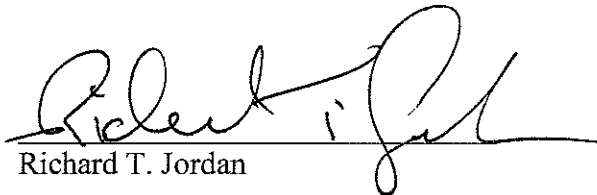
I hereby certify that on this 5th day of October, 2017, I served an original and a copy of the PLAINTIFF'S OPPOSITION TO DEFENDANT HAMPSHIRE SUPERIOR COURT'S MOTION TO STAY DISCOVERY AND REQUEST FOR HEARING, by in hand delivery to:

Julie Datres, Assistant Attorney General
Office of the Attorney General
1350 Main Street, 4th Floor
Springfield, MA 01103

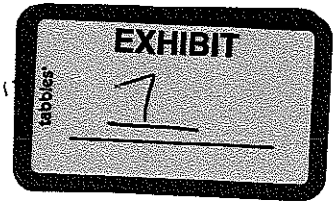
and a copy by first class mail postage prepaid, to the following counsel of record:

KP Law, P.C.
Jonathan D. Eichman, Esquire
Katherine D. Laughman, Esquire
101 Arch Street, 12th Floor
Boston, MA 02110

Patrick Melnik, Sr., Esquire
110 King Street
Northampton, MA 01060


Richard T. Jordan

Received June 9, 2017
P. Coth



A TRUE COPY
ATTEST

COMMONWEALTH OF MASSACHUSETTS

Hampshire, SS
Henry J. Bernawick, Jr.
CLERK MAGISTRATE

Department of the Trial Court **15 112**
Superior Court Division
Docket No 1580CV00112

Cotton Tree Service, Inc., and]
And Dodge Maple Grove Farm, LLC]
Plaintiffs



2017 00010538
Bk: 12639Pg: 221 Page: 1 of 6
Recorded: 06/05/2017 12:17 PM

v.

Planning Board of the Town of]
Westhampton and Town Clerk of the]
Town of Westhampton,]
Defendants]

**JUDGMENT ON AGREEMENT OF THE PARTIES ENTERED BY THE COURT
PURSUANT TO AGREEMENT FOR ENTRY OF JUDGMENT**

SPECIAL PERMIT DECISION

Owner/Applicant's Name: Cotton Tree Service, Inc. and Dodge Maple Grove Farm, LLC
0 Northwest Road, Westhampton (Assessor's Map 5, Lot 15).

Nature of Zoning Relief Sought: Special Permit pursuant to Sections 5.1 and 6.2 of the
Town of Westhampton Zoning Bylaw to operate a sawmill
on property located at 0 Northwest Road, Westhampton
(Assessor's Map 5, Lot 15)

Background

By decision dated May 28, 2015, the Planning Board of the Town of Westhampton voted to deny a special permit to the applicant Cotton Tree Service, Inc. and Dodge Maple Grove Farm, LLC for zoning relief pursuant to Section 5.1 and 6.2 of the Zoning Bylaw to operate a sawmill on the property located at 0 Northwest Road, Westhampton (Assessor's Map 5, Lot 15) (the "Property").

The Applicant appealed the denial of the special permits pursuant to G.L. c.40A, §17 and G.L. c.40A, §9 in litigation known as Cotton Tree Services, Inc. et al. v. Planning Board of the Town of Westhampton et al. 1580 CV 00112. By agreement of the parties, this matter was ordered

remanded to the Planning Board for issuance of the special permits in accordance with negotiated terms and conditions.

Notice of the remand hearing was published in The Daily Hampshire Gazette on May, 8, 2017. A remand hearing, in accordance with said notice, was held on May 23, 2017 at the Town Hall, in Westhampton. Notice of the hearing was provided to the petitioners, abutters and appropriate town boards and officials. Notice of the hearing was posted at Town Hall.

Findings

1. The Applicant proposes to use the Property for storage of logs, chipping of wood, composting of wood chips and sawing logs under Section 5.1 of the Zoning Bylaw.
2. The sawmill operation will be comprised exclusively of portable equipment including the following:
 - a. Morbark #27 900 horsepower portable chipping machine or equivalent;
 - b. Morbark #75 800 horsepower portable stump grinder or equivalent;
 - c. Woodmiser LT 70 horsepower band saw or equivalent;
 - d. Conventional chain saw;
 - e. Conventional portable wood splitter.
3. The Property has a history of being used for gravel removal, log storage, stockpiling stumps.
4. The Applicant proposes to remediate the old gravel pit use on the Property and restore it to a forested condition.
5. The Planning Board finds that there is no pre-existing nonconforming use on the Property.
6. The Site Plan submitted by the Applicant, last revision dated November 16, 2014, which is attached hereto and hereby incorporated as part of the Decision, accurately indicates the location of the proposed activities on the Property.
7. Although the commercial nature of the business, to process wood, including the use of large trucks at the Property to deliver and pick up wood products processed at the Property and the actual processing of wood at the Property is significant in scope, the Planning Board finds that the use can be sufficiently mitigated by conditions of approval.

Conditions

The following conditions shall apply to the Planning Board's issuance of the special permit:

The following conditions, required under the Zoning Bylaw Section 5.11, shall apply to the Applicants' use of the Property for sawmill operations:

1. The distance from the nearest residence to the portable wood processing equipment shall be, at all times, a minimum of 500 feet;
2. A buffer strip of either fencing or plantings to visually screen the portable wood processing equipment from the traveled way/abutting property shall be installed.

3. The applicant shall make provisions for noise abatement, including the installation of a 12-foot vertical structure to serve as a sound barrier, which shall be installed adjacent to the wood chipper and stump grinder.
4. The Town landfill shall not be used for the disposition of by-products unless arrangements are made suitable to the Board of Health.
5. Adequate precautions shall be taken by the applicant to assure containment of by-products to the site.
6. Adequate storage for fuel shall be provided to assure containment in the event of a leak or spill.

In addition to the requirements specified in Section 5.11 of the Bylaw, the following additional conditions shall apply:

1. Applicant shall only operate the wood chipper, stump grinder, band saw, or any other wood processing equipment on the Property Tuesday through Friday during the hours of 9 a.m. to 4 p.m.
2. The equipment used on the Property to chip logs, grind stumps and tree waste into mulch and saw logs into boards will consist of the following:
 - a. Morbark #27 900 horsepower portable chipping machine or equivalent;
 - b. Morbark #75 800 horsepower portable stump grinder or equivalent;
 - c. Woodmiser LT 70 horsepower band saw or equivalent.

In the event the Applicant replaces the above equipment, he will notify the Building Inspector of the replacement model and provide the Building Inspector with engineering certification and documentation sufficient to demonstrate that the replacement is equivalent.

3. The operation of wood chipper and stump grinder shall not exceed 17 hours during any single week period.
4. No more than 120 trucks requiring a Commercial Driver's License to operate will enter carrying materials into the site or leave with materials during any monthly period. A truck entering the site with material and also leaving the site with material will be counted as two trips. A truck entering the site with material and leaving empty will be counted as one trip. A truck entering the site empty and leaving with material will be counted as one trip. Trucks requiring a Commercial Driver's License accessing the Property on Saturdays may only do so during the hours of 9 a.m. to 1 p.m. Ordinary 4-wheel pick-up trucks will not count towards truck trip totals.
5. The Applicant shall be permitted to work on the site for reclamation purposes as set forth in the Chapter 61 forest plan (grading, installing mulch on areas to be reforested and planting trees) from Monday to Friday from 9 a.m. to 5 p.m.. and Saturdays from 9 a.m. to 1 p.m. During the hours of 1 p.m. to 3 p.m. on Saturdays, the Applicant shall be permitted to engage in reclamation activities that do not generate any noise, such as the

- planting and watering of trees. The first area of the site to be reclaimed and revegetated will be the area to the east of the property.
6. The portable saw mill shall be located as shown on the Site Plan, last revision dated November 16, 2014, which is attached hereto, unless the location is otherwise modified for the reasons stated below. In the event the operation of the wood processing equipment in this area generates complaints from abutting neighbors concerning excessive noise, dust or odors, the Applicant agrees, in consultation with the Building Inspector, to select a new location for the portable equipment on the Property and shall file a notice with the Planning Board of the change in location. The portable equipment shall be located in an area of the property intended to minimize impacts on the surrounding neighborhood, especially relating to noise, dust or odors.
 7. Any equipment on the Property not listed in Condition 2 above shall be stored in location that is not visible to abutters.
 8. Applicant shall be allowed to cut and split firewood for personal, non-retail purposes using a conventional chainsaw and conventional portable splitter Monday through Friday during the hours of 9 a.m. to 4 p.m. and Saturday 9 a.m. to 1 p.m. Activities relating to the cutting and splitting of fire wood shall not exceed 12 hours in a single week period.
 9. No area of the stump dump will be expanded in the direction of the wetland area or buffer zone, or any other area regulated by the Wetlands Protection Act, and the Applicant will conduct no activity on the Property in an area regulated by the Wetland Protection Act, unless the Applicant obtains an Order of Conditions from the Conservation Commission of the Town of Westhampton allowing such activity to take place in an area regulated by the Wetlands Protection Act.
 10. The Building Inspector shall have access to the Property, at times of his choosing, for purposes of inspection in accordance with his zoning enforcement authority.
 11. The conditions imposed by this Special Permit shall not be construed to permit the on-site retail sales of any saw mill or firewood products.
 12. The Zoning Enforcement Officer may seek enforcement of the Special Permit through judicial means in any Massachusetts court of competent jurisdiction as set forth in the Agreement for Judgment upon which the issuance of this Special Permit is predicated.

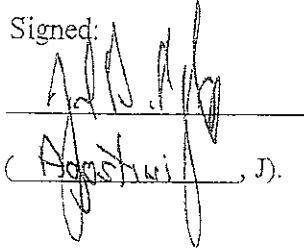
Decision

The Board voted 2 to 2 to issue, pursuant to Section 5.1 and Section 6.2 of the Zoning Bylaw, a special permit for a sawmill operation with the following conditions noted above. The 2-2 vote was insufficient to affirmatively grant the requested relief.

In accordance with Paragraph 2 of the Agreement for Judgment, entered by this Court on April 3, 2017, as a result of the failure of the Planning Board affirmatively vote to approve the Special Permit decision within 60 days of the entry of the Agreement for Judgment, the Court hereby issues the Special Permit to the Applicant as an Order of the Court with all conditions stated above. This decision shall be filed with the Westhampton Town Clerk, and in accordance with G.L. c.40A, §9 (13th par.), notice of such filing shall forthwith be mailed to all parties in interest,

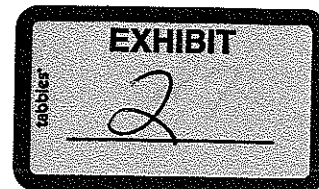
as defined in G.L. c.40A, §11, and to any person who requested notice be sent to him and stated the address to which such notice was to be sent.

Signed:



A handwritten signature in black ink, appearing to be "Augustin J.", is written over a horizontal line. The signature is stylized and somewhat cursive.

578510/WHAM/0041



A TRUE COPY
ATTEST

Henry Felonowski
HAMPSHIRE REGISTRAR

COMMONWEALTH OF MASSACHUSETTS

SUPERIOR COURT
CIVIL NO. 15-0112

COTTON TREE SERVICES, INC. and
DODGE MAPLE GROVE FARM, LLC
Plaintiffs

v.

PLANNING BOARD OF THE TOWN OF WESTHAMPTON, through its members,
Mark Schwallie, Thomas Hathaway, Robert Dragon, Jr., and Robert Turner and Patricia
Cotton and TOWN CLERK OF THE TOWN OF WESTHAMPTON
Defendants

ORDER ON TIMOTHY FONDAKOWSKI'S MOTION TO INTERVENE

Timothy Fondakowski seeks to intervene in the above case claiming that he is a "true party in interest" with respect to this dispute, pursuant to G.L. c. 40A, sec. 17 and Mass. R. Civ. P. 24. The case involves an appeal of the denial of the Planning Board's decision regarding a special permit to operate a saw mill. The plaintiff is an abutter to the property on which a saw mill is operated.

The motion is denied as the plaintiffs' application for a special permit was denied by the planning board and therefore the abutters were not aggrieved by that decision. See, *Berkshire Power Dev., Inc. v. Zoning Bd. of Appeals of Agawam*, 43 Mass. App. Ct. 828, 832 (1997). This is required for issues of standing under both sec. 17 and civil rule 24. See *Prudential Ins. Co. v. Board of Appeals of Westwood*, 18 Mass. App. Ct. 632, 635 (1984) (no aggrievement under Mass. R. Civ. P. 24(a) where board's decision benefited the proposed interveners). As noted in the Land Court case cited by the defendants, *Newport Materials LLC v. Town of Westford Planning Board*, 10 Misc 429876, p. 2 (Dec. 2016):

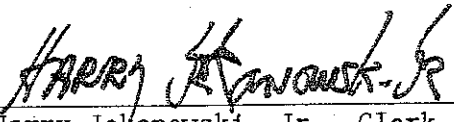
"These denials [of standing] were based upon the well-settled principles that, in a G.L. c. 40A, sec. 17 appeal by an applicant from the denial of a request for zoning/planning relief, abutters are not properly named parties (and thus may not intervene) for the purpose of asserting that the denial should stand." More technically: 'the same consideration that render the applicants not 'aggrieved' for purposes of [G.L. c. 40A] sec. 17 also counts against their being able to claim a cognizable 'interest' under [Mass. R. Civ. P.] 24(a)(2).'

Accordingly, the plaintiff's motion to intervene is DENIED.

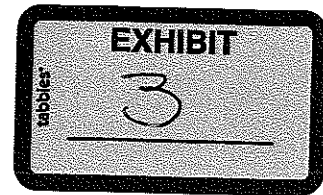
SO ORDERED

By the Court (Agostini, J.)

July 13, 2017
Date



Harry Jekanowski, Jr., Clerk of Courts



October 4, 2017

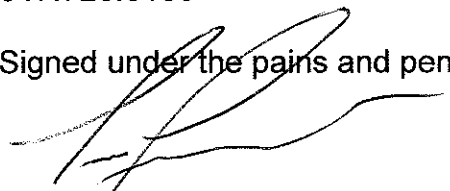
Affidavit of Timothy Fondakowski

1. My name is Timothy Fondakowski.
2. I moved to 335 Northwest Road in 2007 to enjoy the peace and quiet of the residential neighborhood.
3. On December 11, 2010 I was diagnosed with stage 3 brain cancer in the left front lobe of my brain.
4. I am currently being treated by Dr. Elizabeth Robins Gerstner at the Cancer Center of Massachusetts General Hospital and Dr. Allan Baustian locally.
5. The noise from Cotton Tree Service trucks and workers causes me painful anxiety and unbearable acoustic pain, worsens my overall health and negatively affects the prognosis for my brain cancer treatments.
6. My hearing is particularly sensitive due to the radiation treatments I receive for my brain cancer.
7. On October 2, 2017, I and other residents filed a complaint with our Town asking that they immediately file a breach of contract claim against Cotton Tree Service for violating the conditions set forth in the Special Permit that Judge Agostini issued after our Planning Board voted twice to not put a commercial sawmill next to my home on my residentially zoned street.
8. The Judge in this case has my permission to speak to my doctors to learn about how much I am suffering because of Judge Agostini's Special Permit:

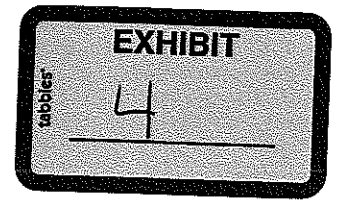
Elizabeth Robins Gerstner, MD
Massachusetts General Hospital
Cancer Center
55 Fruit Street
Boston, MA 02114
617.726.5130

Allan Baustian, MD
Hadley Family Practice
234 Russell Street
Hadley, MA 01035
413.586.6020

Signed under the pains and penalties this 4th day of October 2017.



Timothy Fondakowski
335 Northwest Road
Westhampton, MA 01027



October 4, 2017

Zoning Enforcement Officer
Select Board
Town of Westhampton
Westhampton, MA 010127

Delivered via e-mail and US Mail

Dear Sirs:

Please use this sworn statement to further your investigation into the breach of contract claim our Town has against Cotton Tree Service.

On Sunday, September 24th at 5:45 pm I drove to my son's home at 335 Northwest Road to pick him up for dinner at the Creamery in Cummington.

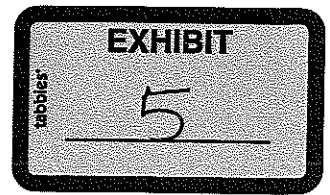
I observed Cotton Tree Service trucks and workers working on the road way that goes into Dodge Maple Grove Farm at 5:45 pm on Sunday, September 24, 2017.

Signed under the pains and penalties of perjury today.

Sincerely,

A handwritten signature in cursive script that reads "Robert Fondakowski".

Robert Fondakowski
28 Mine Road
Westhampton, MA 01027



October 2, 2017

**Westhampton Select Board
Town Hall
Westhampton, MA 01027**

Dear Westhampton Select Board:

**Please be advised that on the morning of Sunday, September 24th
I observed a red Cotton Tree Service truck hauling a machine
behind it traveling down Northwest Road toward the sawmill site.**

Please enforce the law.

I am signing this under the pains and penalties of perjury.

A handwritten signature in black ink that reads "Mary Powers". The signature is written in a cursive style with a large, looping initial "M".

**Mary Powers
113 Northwest Road
Westhampton, MA**