

TO: Sugar Hill Preservation Committee and Selectboard
FROM: Carl Martland
RE: Kiepert's Complaint
DATE: November 22, 2019

Earlier this month we received a copy of a materials prepared by Karyn Forbes on behalf of Donald and Karen Keipert. The materials included a letter to the Select Board plus various supporting materials. The letter represented "a formal complaint being filed against David Presby because he is conducting operations on his property which are not allowed under the Zoning Ordinance." The supporting materials were:

- Minutes of the Selectmen's Meeting – June 15, 2015 [which included a discussion of Presby's use of their property].
- Minutes of the Selectmen's Meeting – August 12, 2019 [which included the results of the noise assessment at the Presby facility and extended discussion among the Selectmen, David Presby, Betsy Fraser, Dolly McPhaul and Dan Hinds about past, present and future operations at the site].
- Affidavit of Bruce Perlo, November 15, 2018.
- Extracts from various town regulations and minutes of zoning board meetings.

At our previous meeting, we had delayed considering our next steps until after we had received and had a chance to review these materials. Having read the complaint, I think this is where we stand:

1. Now that the staging operation has been moved to Whitefield, the nighttime noise and most of the MBI traffic on NH 117 has been eliminated.
2. Karyn Forbes did not allege violation of Sugar Hill's Noise Ordinance.
3. Instead, the complaint alleges a violation of the Zoning Ordinance.
4. Karyn Forbes submitted the complaint on behalf of just one family, the Kieperets.
5. Karyn Forbes indicates the complaint is supported by "numerous other Sugar Hill residents who previously conveyed their concerns to [the SB]." However, it does not identify anyone who supported the actual complaint.
6. Numerous residents have in fact attended one or more SB meetings at which issues related to the Presby property were discussed, but most of those present were concerned about nighttime noise at the site and noise associated with MBI trucks moving along Sugar Hill roads.
7. Now that nighttime operations have ceased and the facility is no longer used for routine staging of MBI trucks, the noise issue has largely been resolved.

So how do we proceed? The minutes to our October 7th stated that:

The Sugar Hill Preservation Committee will provide assistance and support to the Select Board to:

- *Assess whether the remaining truck operations at the Presby property are compliant with the zoning variances and any other legal restrictions associated with "Light Commercial" operations on that site.*
- *Develop procedures to ensure that complaints relative to noise ordinance violations are addressed in a timely fashion.*
- *Develop robust zoning criteria and evaluations that protect residents from abuses of "Light Commercial" zoning permits.*
- *Update the Sugar Hill Environmental Master Plan to help limit or reduce heavy truck operations on state roads through Sugar Hill. Participate with broader programs to enhance regional plans to reduce truck traffic through small towns.*

The Kieperets' complaint to the SB relates exclusively to the first task. Now that this formal complaint has been filed, it is up to the SB to respond according to established procedures for dealing with such complaints. Unless someone in our group has expertise or experience related to zoning, I do not see that we have any role unless and until we receive a specific request for assistance from the SB.

The next two tasks relate to longer-term issues related to zoning and planning. These are issues with broad relevance to the town. If asked, we could offer assistance, but these issues are probably better addressed in cooperation with the Zoning Board and the Planning Commission.

However, we are in a position to document the MBI problems and the steps taken by the Town and its citizens that ultimately led to a successful resolution of most if not (yet) all of the problems. An outline of a case study might be as follows:

- Identify the problems associated with the MBI operation, including noise, zoning violations, environmental, and traffic.
- How and when were objections raised?
- How and when were they addressed?
- What actions were taken by the Town (site visits, letters, etc)
- What actions were taken by citizens?
- Role of the study that documented nighttime noise.
- Resolution of the problem.
- Lessons learned – how to avoid such problems in the future; need for changes in zoning or other town regulations.

The final task is one that I suggested because of my role with North Country Council's Transportation Advisory Committee. That group is currently working to update the region's transportation plan, and I have already raised the issue of heavy truck operations on small towns. Having something in the Town's master plan about this issue and supporting mention of this issue in the North Country Transportation would be worthwhile if we are ever to make any headway on restricting heavy truck operations. I will continue to work with the Town and North Country Council on these heavy trucking issues.

In summary, I see no immediate need for action on the part of our group.

We will be in Indiana until late January, so I won't be able to attend any meetings for the next two months. However, I will continue to spend time on documenting the MBI case study and the heavy trucking issues, building upon the memos and emails that we have exchanged so far.