

VIA EMAIL and HARD COPY

TO: Town of Cairo Planning Board - Joseph Hasenkopf, Chairperson
✓ Edward Forrester, Allen Veverka, Beth Hansen, Stacey Poulsen, Raymond Pacifico
RE: Blackhead Mountain project
DATE: February 25, 2025

SUBJECT: ASBESTOS

RECEIVED
FEB 25 2025
TOWN OF CAIRO

NYSDOL Asbestos in New York State Facts and Responsibilities. (5-pages)
<https://dol.ny.gov/system/files/documents/2024/02/p224-2-23-2024.pdf>

Code Enforcement Official and Building Permit Applicants. (4-pages)
<https://dol.ny.gov/system/files/documents/2021/03/code-enforce-bldg-permit.pdf>

Asbestos Variance Fact Sheet (2-pages)
<https://dol.ny.gov/system/files/documents/2021/03/asbestos-variances-afs-1.pdf>

I have raised the issue of asbestos in the Town of Cairo's older buildings to the planning board and the town board several times during the past year. In the matter of Blackhead Mountain Lodge, the structures to be demolished, and those to be renovated date to 1928, 1948, 1970 and 1988. Most were used as guest quarters, are located on a remote dead-end road and based on known facts and observation contain asbestos.

In 2019 and 2022 I worked at Blackhead Mountain Lodge, and I have been in every corner of those buildings. Although well maintained I will attest that those buildings are constructed of every type of material used during those eras that are known to contain asbestos.

In spring of 2023 a Maassmann stopped by my property and told my neighbor the new owners wanted to buy our houses to tear them down. I knew that residences less than 90 feet from old, tree rooted, structures containing asbestos is a costly demolition complication. I began showing up to planning board meetings.

As to the Cairo Planning Board, the following is from the town's site plan review law:

x. Identification of any permits from other governmental bodies required for the project's execution and a record of applications and approval status of all necessary permits from federal, state, county and local agencies.

On page 3 of the KARC cover letter dated 12/21/2023 they make the following statement "Based on our review of state regulations and the T/Cairo Site Plan Review Law, we anticipate seeking the following approvals:" followed by an agency approval grid box which names 11 agencies they intend to seek those approvals from, there was no mention of NYSDOL and as of 2/5/25 there is still no mention of NYSDOL. Although DEC is mentioned for several other issues, DEC only has oversight of asbestos disposal (material management), NYSDOL is the agency which oversees asbestos abatement compliance including survey, independent testing and remediation planning approval.

A side note on site plan set sheet "DM-1" states "contractors will be responsible for all permits and licenses required". Cairo doesn't require asbestos survey for the building permit application and the developer's plans don't acknowledge it, so it defies logic that "contractors" will voluntarily seek asbestos abatement survey, testing, remediation planning or permitting.

The Planning Board referring me to the Building and Code Enforcement department is a misdirection.

As to the Cairo Building and Code Enforcement department, in 2021 NYSDOL sent the above referenced 4-page "Code Enforcement Official and Building Permit Applicants" Guidance to local Building and Code Enforcement officials requesting enforcement assistance and to include with their building permit applications page 4 of that Guidance, a one page single paragraph titled NOTICE TO BUILDING PERMIT APPLICANTS informing applicants of their duty to comply with Code Rule 56 asbestos regulations for demolition/renovation building permits so that there would be no possibility that applicants were not aware of their responsibility to survey and their obligation to comply with Code Rule 56.

Instead of the above, Town of Cairo Building and Code Enforcement has posted on their web page a link titled Asbestos NY State Rules & Regulations, which opens to the 124-page document titled Code Rule 56 (the actual asbestos regulations) and another link titled Asbestos Control Bureau which actually opens to a New York State Department of Labor page in which an applicant has to scroll through to locate the Asbestos Control Bureau tab. Those reference links are an obfuscation. Without any direct question on the Cairo Building Permit application about asbestos survey and no explicit instruction to acknowledge review of the asbestos abatement requirements, applicants can avoid asbestos compliance, and the town can selectively avoid enforcement.

I compared Cairo's building permit application with the surrounding towns of Catskill, Hunter and Durham. All three towns either include a direct question about asbestos and guidance on their separate Demolition Permit application or directly cite asbestos regulation on their separate Demolition Permit application or include the NYSDOL Guidance page 3 titled BUILDING DEMOLITION/RENOVATION as part of their combined Building Permit application.

CAIRO

townofcairo.com/wp-content/uploads/2020/02/Applications-For-Building-Permit.pdf

-has a single 8-page building permit application that does not ask if asbestos survey is required, does not inform applicants of the asbestos survey requirements or their obligation to comply with Code Rule 56.

CATSKILL

www.townofcatskillny.gov/sites/g/files/vyhlif4231/f/uploads/application_for_demolition_permit.pdf

-has a separate 3-page Demolition Permit application which clearly asks on page 1, question 6, if an asbestos survey is required and on page 2 item E. explicitly states the requirement to survey and variance options that could apply.

HUNTER

townofhunterny.gov/wp-content/uploads/2014/12/APPLICATION-FOR-DEMO-PERMIT.pdf

-has a separate 2-page Demolition Permit application that clearly states the requirement for an asbestos survey and lead survey at the bottom of page 1 of their application:

"ALL BUILDINGS TO BE DEMOLISHED THAT WERE BUILT PRIOR TO 1978 MUST HAVE A LEAD SURVEY COMPLETED PRIOR TO DEMOLITION (United States Environmental Protection Agency)
ALL BUILDINGS TO BE DEMOLISHED THAT WERE BUILT PRIOR TO 1974 MUST HAVE AN ASBESTOS SURVEY COMPLETED PRIOR TO DEMOLITION (New York State Department of Labor)"

DURHAM

durhamny.com/doc-center/building-zoning/building-department-applications/1085-2023-town-of-durham-building-permit-application-packet-pdf/file.html

-has a single 14-page building permit application including as page 9 of their application the page number 3 titled BUILDING DEMOLITION/RENOVATION of the 4-page NYSDOL "Guidance for Building and Code Enforcement Officials".

In the year 2000 I worked at the Friar Tuck, built in 1971, and saw the extent of repairs and renovations needed in many of the guest quarters and facilities. Patched walls and tiles, old floors and carpets, ceiling leaks, exposed pipes and lead paint had become a serious problem for them to repair and renovate, they never did. The property was abandoned for taxes until finally sold to developers that eventually failed as reported below:

PORCUPINE NEWS August 7, 2023:

"OLD FRIAR TUCK SUBJECT OF NEW LEGAL BATTLES"

excerpt:

"The New York State Department of Labor has also issued stop work order to pause renovations that were being made without asbestos remediation. That stop work order also includes a stay away order."

As to the NYSDOL Asbestos Abatement enforcement, when demolition is being done time is of the essence to avoid non-compliance. A complaint after the fact does nothing to avoid hazardous environmental contamination and neighboring resident's exposure to hazardous carcinogenic material. NYSDOL will step in when necessary if notified and will issue a stop work order as noted above, but damage can already be done. A stop work order may cause interruptions to developer's destruction schedule and they could incur fines ranging from \$2K to \$25K IF CAUGHT, plus attorney fees, but pre-demolition interior/exterior asbestos abatement could cost as much as \$50.00 sq. ft. so it's a calculated risk to them if they can deflect responsibility to "contractors".

On April 1, 2024, at the town board meeting a New Jersey licensed demolition contractor inquired about purchasing several vacant properties in and around town. The town supervisor was thrilled. I asked Demolition Guy if he was licensed to remediate asbestos in NY, he is not. In New York State all commercial property built before the 1990's (per the Asbestos Control Bureau District Office) has to be surveyed for asbestos before renovations over a certain square

footage and all demolition projects have to be surveyed for asbestos, independently tested, a remediation plan submitted to the NYSDOL for approval and he would have to be licensed in NYS in order to perform the asbestos work himself. There are several variance options, none of which would apply to his plans. He acknowledged I knew more about it than he. Every member at the board table knows the local and regional asbestos problem.

The next day, April 2, 2024, the Town Supervisor saw me in the Town Hall and told me I sunk that deal. He spoke that morning on the phone with Demolition Guy who declined continued interest because of too much red tape and people paying attention.

On April 4, 2024, I brought the asbestos issue to the attention of the planning board, developers and the public citing the correct agency responsible for asbestos remediation oversight being NYSDOL. I noted the absence of any asbestos survey report, no acknowledgement to survey and no mention of the NYSDOL in the site plan submissions to that date. The issue was repeated by another community resident whose family history in the community includes resort ownership and knows well and for certain the presence of asbestos in these old resort buildings.

On June 13, 2024 I again publicly reiterated my asbestos concerns.

On February 6, 2025, I addressed the above at the public hearing having no patience for the planning board misdirecting me to town building and code enforcement or KARC's attorney referring me to future "contractors' responsibility" for reasons stated above.

In light of the facts, I strongly urge the planning board require KARC to submit a asbestos survey including independent testing and as necessary an asbestos abatement remediation plan approved by NYSDOL before issuing a SEQRA declaration.

I have been in contact with the ABESTOS CONTROL BUREAU DISTRICT OFFICE and have FOIL'd NYSDOL for any asbestos survey reports or variance applications for the project addressees having ever been filed.

Sincerely,

Brenda Obremski, resident
Crows Nest Road, Round Top

Cc: NYSDOL Asbestos Control Bureau
ACB Albany District Office
Cairo Town Board Supervisor