

**Joseph L. Warner Jr.**  
*Building Official  
Zoning Official  
Minimum Housing Inspector*



TOWN OF CHARLESTOWN

4540 South County Trail  
Charlestown, RI 02813  
Tel (401) 364-1215  
Fax (401) 365-1238  
Hearing/Speech Impaired,  
Dial 711-364-1210

Thomas Miozzi  
C/O Charlestown Farms, LLC  
80 Compass Circle  
North Kingstown, RI 02852

RE: 565 Alton Carolina Road; Plat 24, Lot 4; LER Bk. 445, Pg. 433

Dear Mr. Miozzi:

An inspection of the above-referenced site with Mr. John Miozzi on February 11, 2020, indicates a new 20'-7" x 93' reinforced concrete equipment pad has been constructed at the above-referenced site for the installation of a new Terex FM 120 BW electric wash plant and associated conveyor systems. Additionally, I was informed that you are requesting a 3-Phase electrical service to power the wash plant with a new structure to house said equipment, along with a water pump system and structure to house the pump equipment.

On March 2, 2020 this office received a letter from you dated March 3, 2020 along with submittals as had been requested. In said letter you provided a list of past and current activities taking place on the site. I concur with all items/activities as listed with the exception of the "*Processing of broken asphalt & concrete into usable material*" and the "*washing of sand*" as the Town has no evidence of any processing of off-site material ever taking place at the above-referenced site and the washing of sand appears to have begun at some point during 2007, an illegal expansion of use at the time that would have required a Special Use Permit of which one has not been issued.

On March 10, 2020, I was informed by Mr. John Miozzi that portable pumps and portable generators would be utilized to temporarily power the newly installed wash plant, at which time I informed Mr. Miozzi that no approvals or permits have been issued for the proposed activities. As of the date of this notice, no permits or approvals have been applied for or granted for said activities, and it is my understanding that you have taken the initiative to proceed without the same.

As you may be aware, the current use of the property as an Extractive Industry is a legal non-conforming use and the "Doctrine of Diminishing Assets" allows for the continuance of extraction to other areas of the parcel in which it can be determined that such intent existed prior to adoption of the restrictive zoning ordinance. Applying the three-pronged "Wolfeboro" test to your expansion proposal, I can confirm that the excavation activities on lot 4 were taking place prior to adoption of the Town's Zoning Ordinance [Ordinance] and the intended area of excavation was within the boundaries of said lot 4. However, after significant review of the inspection findings as well as the history of the property and your submittals, I have determined the request is more than a mere increase in activity. The additional use of the property for the washing of sand, as well as the processing of broken asphalt and concrete, the new permanent power service equipment, and installation of new structures, all would have a substantially different and adverse impact on the neighborhood. Based on the preceding, I would consider the request as an expansion/intensification of a non-conforming use and thereby require a Special Use Permit from the Zoning Board of Review pursuant to Article VI, Section 218-39 D of the Ordinance.

July 14, 2021

Building/Zoning 03-21

BK: 477 PG: 160  
INST: 00001941

TOWN OF CHARLESTOWN, R.I.  
AMY ROSE WEINREICH  
TOWN CLERK  
Jul 14, 2021 09:37:24A

In accordance with Article XII, Section 218-71, "*Development Plan Review*", specifically subsection A (1), "*All nonresidential activities within the Town shall require Development Plan Review or Major Land Development Project Review approval before a building permit for such is issued...*" Therefore, no building permits for your proposed expansion may be issued until such time as Development Plan Review approval is obtained and a Special Use Permit is granted by the Zoning Board of Review.

Furthermore, review of other adjacent parcels purchased by Charlestown Farms LLC on March 15, 2019, specifically plat 24, lots 3 & 4-1, indicates significant land clearing of lot 4-1, and encroachment of extraction activity upon lot 3, as well as extraction equipment located on the same. Please be advised, Ordinance Article VI, Section 218-37 I (14), "*Extractive Industries*", permits extractive industries to continue on the site of their original extraction and may only be permitted to expand to other real property by Special Use Permit if the property had been acquired prior to the effective date of the Ordinance, adopted July 8, 1974. Additionally, pursuant to Ordinance Article VI, Section 218-38 "*Prohibited uses*", Extractive Industry is prohibited on all parcels within the Town of Charlestown unless it is established that said use pre-existed zoning as adopted on July 8, 1974, or established by Special Use Permit between July 8, 1974, and July 1, 1998. Evidence indicates encroachment into lot 3 occurred between 1985 and 1988 with a substantial increase in activity during the summer of 2019. I have found neither evidence of a Special Use Permit for lot 3, nor any evidence of extraction on the property taking place pre-zoning.

At this time, the processing of broken asphalt & concrete, the washing of sand, the clearing of parcel 4-1, as well as the construction work for the installation of the new equipment must cease and desist immediately, until such time as all required permits and approvals are in place. Additionally, all extraction of said lot 3 must cease and desist immediately and all extraction equipment, if still located upon lot 3, shall be removed from said parcel within thirty (30) days of service of this notice. Furthermore, the Town will require you to establish a remediation plan to bring lot 3 back to its original unexcavated state within thirty (30) days of service of this notice, and upon approval of said plan by the Town, remediation of said lot shall be completed in accordance with an agreed upon timeframe.

Pursuant to Article IV, Section 218-25 of the Ordinance you have the right to appeal this determination by filing an appeal with the Zoning Board of Review within ten (10) days of service of said notice.

Yours truly,



Joseph L. Warner Jr., CBO, CFM  
Building/Zoning Official

cc: Peter Ruggiero, Town Solicitor  
Wyatt Brochu, Town Solicitor  
Mark Stankiewicz, Town Administrator

Encl: Letter dated March 3, 2020, from Thomas Miozzi of T. Miozzi, Inc.

# T. MIOZZI, INC.

80 Compass Circle  
North Kingstown, RI 02852  
Ph. 401-295-7283 - Fax 401-295-1670  
Email: tmiozzi@tmiozziinc.com

March 3, 2020

Town of Charlestown  
Attn: Joseph L. Warner, Building Official  
4540 South County Trail  
Charlestown, RI 02813

Mr. Warner,

This letter is in response to your request for information on our stone & gravel property located at 565 Alton Carolina Road in Charlestown. Below are the answers to your specific questions:

- DEM Approval – Please see attached letter from Timothy Behan at TJB Engineering regarding communication with RIDEM's permitting requirements for sand & gravel banks.
- Please find attached the specifications on new Terex FM 120 BW electric wash plant.
- Please find attached Federal Government report showing decibel levels for new water pump system. Both new wash plant and water pump are below 80 decibel levels for the identified horsepower ratings.
- Please find attached area map showing location for extraction of material
- All items/activities listed below have been consistently performed in the past and continue to be performed:
  - Blasting & crushing of rock / ledge
  - Hammering of oversized blasted rock / ledge
  - Sand excavation (drag Line)
  - Washing of sand
  - Loading of trucks
  - Sale of mined & excavated material
  - Processing of broken asphalt & concrete into usable material
  - Storage (outside) of any and all equipment used in the above processes
  - Stockpiling of processed materials

Thank you for your attention to the above items. If you need any additional information, please do not hesitate to contact us.

Sincerely,



Thomas Miozzi,



**Joseph L. Warner Jr.**  
*Building Official  
Zoning Official  
Minimum Housing Inspector*



TOWN OF CHARLESTOWN

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Charlestown, RI 02813  
Tel (401) 364-1215  
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BK: 477 PG: 163  
INST: 00001942

## NOTICE OF VIOLATION

July 14, 2021  
Building/Zoning 04-21

Thomas Miozzi  
C/O Charlestown Farms, LLC  
80 Compass Circle  
North Kingstown, RI 02852

TOWN OF CHARLESTOWN, R.I.  
AMY ROSE WEINREICH  
TOWN CLERK  
Jul 14, 2021 09:37:35A

RE: 565 Alton Carolina Road; Plat 24, Lot 4; LER Bk. 445, Pg. 433

Dear Mr. Miozzi:

An inspection of the above-referenced site with Mr. John Miozzi on February 11, 2020, indicates a new 20'-7" x 93' reinforced concrete equipment pad has been constructed at the above-referenced site for the installation of a new Terex FM 120 BW electric wash plant and associated conveyor systems without first obtaining the required building permit, a violation of Section 23-27.3-113.1 of the Rhode Island General Laws.

In accordance with RIGL Section 23-27.3-123.1 all work on said structure must **CEASE AND DESIST** immediately until all required Building Permits are obtained from the Charlestown Building Department. Additionally, all applicable inspections must be performed prior to the use and/or occupancy of said new construction.

Please be advised, failure to comply will result in referral to legal counsel and may result in fines of up to \$500 per day. Each day during which any portion of a violation exists shall constitute a separate offense.

Pursuant to Section 23-27.3-127.1 of the Rhode Island General Laws, you have the right to appeal this Notice of Violation within **thirty (30) days** of service of said notice by filing an appeal with the Rhode Island Board of Standards and Appeals.

Yours truly,

Joseph L. Warner Jr., CBO, CFM  
Building/Zoning Official

cc: Peter Ruggiero, Town Solicitor  
Wyatt Brochu, Town Solicitor  
Mark Stankiewicz, Town Administrator