

## Paradise Thwarted

by SAM GURWITT | Nov 25, 2020 12:20 pm

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SAM GURWITT PHOTO

Paradise lot on Nov. 4.

Illegal dumpers with years of violations failed again to win government permission to clean a mess they made for their neighbors.

The dumpers, Paradise Landscaping and Tree Removal, came before the Hamden Planning and Zoning Commission Tuesday evening for a third time to get approval for an application to remediate damage at its Hamden property.

For the third time, the commission voted not to approve or deny the application, but rather to push it back to a subsequent meeting so the town can get more information.

A little over a year ago, zoning officials discovered that Paradise had dumped about 6,000 cubic yards of dirt, rock, and tree debris about 90 feet onto two neighboring properties. That discovery came after town officials had found that the landscaper was operating on its 82-92 Crestway property

without a zoning permit, certificate of zoning compliance, or certificate of occupancy. The commission had approved a site plan for the property in 2017, but Paradise never came to the zoning office to get the necessary permits.

Somehow, though, the town's building department had issued a building permit, which by state statute cannot happen without a zoning permit. Paradise went ahead and built a building, which it appears to have used since without a certificate of occupancy.

The town issued a citation and a cease and desist order in October of 2019, meaning Paradise was supposed to cease all activities at the property. Since then, the landscaper has flaunted that order, continuing operations, including what at one point appeared to be a wood-splitting operation. Large piles of dirt have also appeared on the property since then, as has a whole fleet of vehicles that were not there last year. As of September, Paradise had accrued about \$264,000 worth of fines.

Click [here](#) to read more about the situation and about Paradise's history, and connections, with the town.



ZOOM

Tuesday's meeting.

Tuesday's application was for a site plan to remediate the material dumped onto the neighboring properties. Rus Boyarsky, who operates Paradise, first brought his application for approval of a plan to remediate the site before the commission in September. The application stalled, and the

commission took it up again in October, when it stalled again. On Tuesday, Boyarsky had no more luck.

The remediation's approval would not allow Paradise to operate a landscaping business from the property, or do anything other than remove the dumped material. Paradise would have to come before the commission again after the remediation to get approval to amend its current site plan to operate a landscaping business. Based on the previous comments of commissioners, they appear to have little appetite to grant Paradise a second chance.

In October, Planning and Zoning Department staff met with the Connecticut Department of Energy and Environmental Protection (DEEP) to see whether the agency could get involved. As Kops reported to the commission Tuesday, DEEP officials informed Kops and other town staff that the site "constituted an illegal, bulky waste landfill." DEEP officials also said that the agency would not get involved in the cleanup because it has limited manpower and the Paradise situation appears "relatively low risk," Kops said.

In March, the town filed for an injunction in court, which would take enforcement into the hands of the court. The pandemic stalled the hearing, which was originally scheduled for April. It has still not taken place.

The Paradise debacle has raised eyebrows partly because Boyarsky, who operates Paradise, is the son-in-law of Assistant Public Works Director Mike Siciliano. The town gave Paradise, as well as a few other contractors, a no-bid contract for tornado debris removal in 2018. Siciliano signed off on the work orders, but didn't disclose his relationship with Boyarsky to the town until after the work was completed. Siciliano told the Independent in September that he has never given Paradise preferential treatment.

On Tuesday, Town Planner Dan Kops read a 10-page report outlining his concerns about the remediation application and the questions he said he would like cleared up before the commission approves it. In his report, Kops told the commission that he could not recommend approval of the application, and that the town should continue to seek a remedy in court.

The situation before the commission "certainly resembles a fine kettle of fish, to say the least," he wrote. He outlined a number of deficiencies in the application, including the fact that details are missing from surveys and plans.

"Last, but not least," Kops wrote, "the applicant's continued refusal to comply with zoning regulations and the orders issued by the Zoning Enforcement Officer have left the Department with no expectation that he will do so in the future."

Boyarsky's lawyer, Joseph Porto, and his engineers agreed to meet with zoning staff to answer those questions, most of which pertain to the technicalities of the removal. The commission will then take up the application again on Dec. 8.

## **No Home, But Business Rolls On**

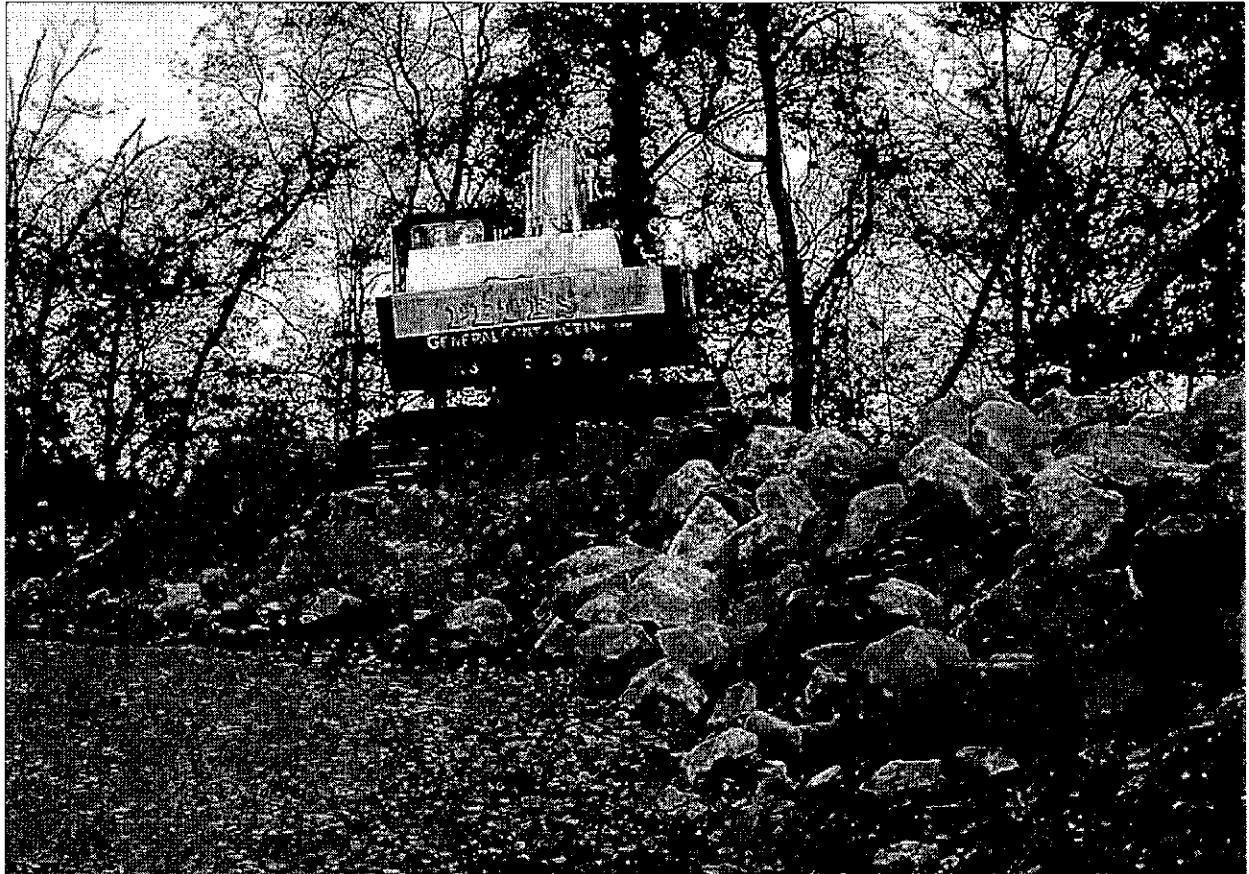


"The applicant is not operating out of the site presently," Porto told the commission. That does not mean that Paradise is not still operating its business, he said. It is allowed to go do a residential tree project, he pointed out, but just not do any work on its Hamden property.

Since Paradise first appeared before the commission in September, work on the property appears to have slowed. There is no sign of wood splitting like there was a year ago. The site has not appeared to change drastically over the course of this fall as it has at other points in the last year.

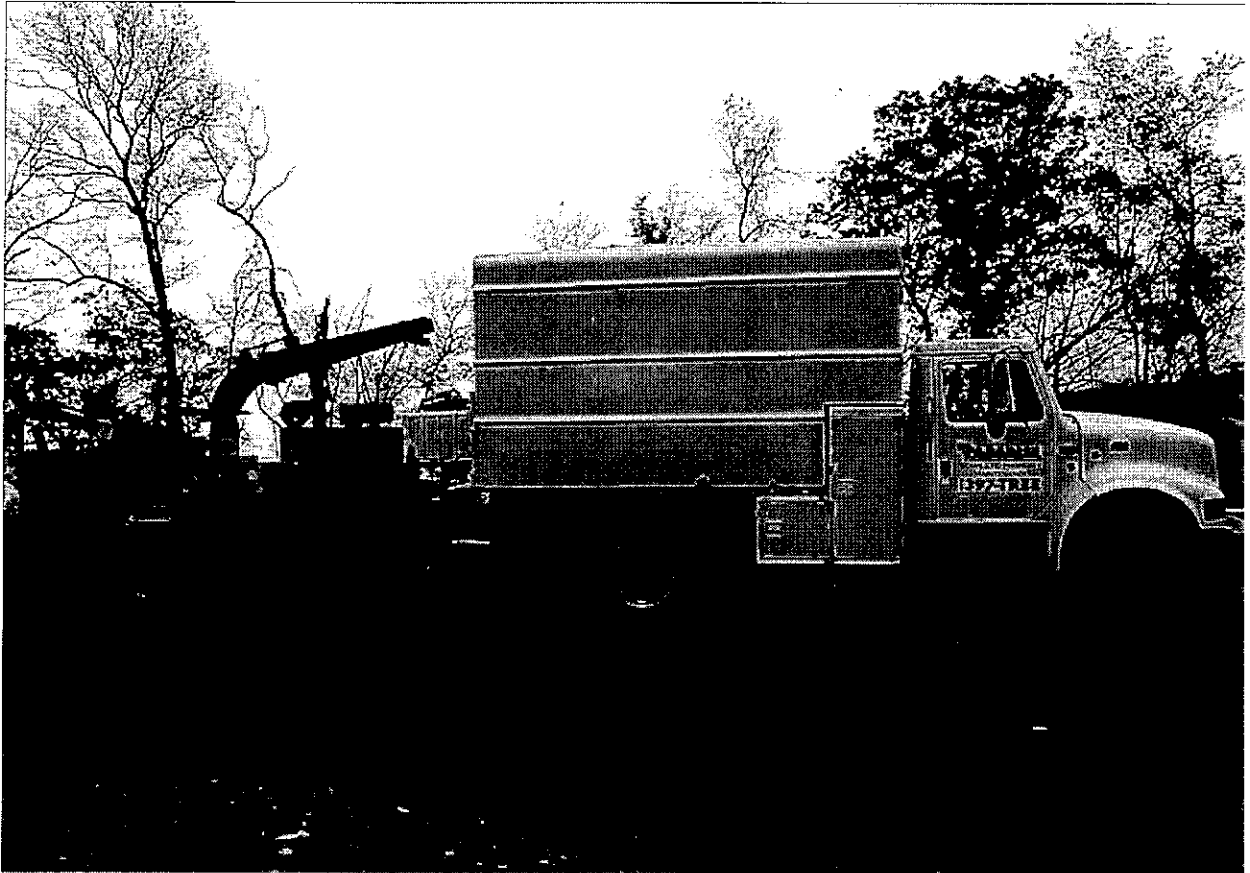


But there is still evidence of work on the property. When the Independent visited the site on Oct. 22, a truck with a grapple for grabbing logs was sitting near the back, empty. When the Independent returned on Oct. 28, that truck was gone, and in its place was an almost identical, but slightly less beat up version of the same truck, in almost exactly the same place. This one was full (pictured above). On Oct. 22, a backhoe was sitting on a mound of dirt near the edge of the property where the remediation is to take place (pictured below). On Oct. 28, it had moved.



Paradise has also frequented the Hamden Transfer Station this fall, dropping off truckloads of wood. Between Oct. 9 and Oct. 26, it dropped off 22 truckloads there. From April 22 until Nov. 4, it brought a total of 69 truckloads there. In October, Garrett raised the concern that this wood could be the buried wood that Boyarsky was applying to remove. Porto said it was not. Paradise does residential tree work throughout the region, and the wood could have come straight from those residential projects.

### **Rock, Wood, Dirt, And Millings**



Throughout the application process, commissioners have circled back to the question of where the dumped material came from in the first place.

The soil and rock dumped over the hill onto the neighboring properties came from the site, Engineer James DiMeo told the commission in October. He said there were already piles on the property when Paradise bought it, and that Paradise generated more rock and soil to dispose of from the excavation work it did to get the property ready for business.

While some of that soil and rock was dumped over the hill onto the neighbor's property, there are also large piles of rock and dirt on the property itself. DiMeo said those, too, originated on site.

The wood, on the other hand, did not come from the site. In September, Porto said it came from numerous places, including from the cleanup Paradise did after the 2018 tornado.

Since the site was not yet permitted, Paradise was, of course, not supposed to bring anything there at all. As a contractor working in Hamden, Paradise was able to bring wood from its residential projects in Hamden to the town's transfer station and to other locations that were acting as staging locations for wood for the town. For some reason, Paradise brought at least some of it to its own unpermitted property instead.

At the time, Paradise was working for the town on a no-bid contract to help clear debris from town roadways. All of the material from that contract was supposed to go to five approved staging sites.

In a March phone call with the Independent, Boyarsky said that he brought both wood from his own private contracts and from his contract with the town to his own site. He also said that other people brought wood to his property as well. As he put it, he gave one person permission to dump there, and then a flood of other people started doing so. He did not say who those other dumpers were. If other contractors also dumped debris on the site, that would mean the site is considered an illegal bulky waste landfill, as DEEP told the town. That is a claim that Boyarsky's team tried to refute.

Also, if what Boyarsky said is true and he brought wood from the town contract to his own site, that would have violated the conditions of the FEMA grant that reimbursed the town for the cleanup.

Porto has vehemently denied that any wood from the town contract ended up on the property. Public Works Director Craig Cesare said that Boyarsky was not told to bring wood to his property from the town contract. "If he did it, he did it unbeknownst to us," he said.

He said that all of the wood that the town or its contractors was brought to the five approved locations, where Hamden had to pay for its removal.

This spring, Cesare said he got a call from a FEMA investigator. FEMA had received a complaint about the town's tornado cleanup, and was doing an audit.

As Kops outlined in his report, he spoke with Julie Smith, who was in charge of coordinating with FEMA during the cleanup and Smith said the audit "did not reveal any irregularities." Smith also told him that the town does not have a copy or summary of the audit.

Wood, tree debris, and dirt were not the only things that have piled up at Paradise in the last few years. At one point, there was also a large pile of road millings, which DiMeo pointed out at the October meeting in an old aerial photograph of the site.

The town's public works department brought those millings to the site. They came from road paving projects the town conducted in 2018. When crews pave roads, they first have to grind up the existing road. The ground up road — the millings — can be used like gravel.

Cesare said the town brought millings to Paradise because it requested them. Businesses in town often request millings from town paving projects, he said, and they can use them to spread over their lots. Instead of having to truck them further away, when a business in town requests millings, town crews can bring them there. It means the town doesn't have to truck them as far, and it helps businesses, he said.

When Hamden public works crews brought millings to Paradise, though, they were bringing them to an unpermitted site that was collecting material there illegally. Cesare said the department didn't know that. He said he and his workers don't check on whether a business is licensed because there are other town departments that do that.

Paradise will come before the commission again on Dec. 8. If the commission approves the application, Boyarsky can haul away the debris he dumped on his neighbors. If the commission denies it, he can appeal to a superior court.



Either way, if Paradise ever manages to clear the debris, Kops has recommended that the commission revoke the original special permit approval that allowed a landscaping operation in the first place. If that happens, Boyarsky will be stuck with a property he cannot use.

Evidently, a world in which landscapers have to abide by the law is not paradise for Paradise.

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This proves not all the problems are in New Haven.

posted by: 1776 on November 26, 2020 12:04pm

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