

THE STATE OF SOUTH CAROLINA IN
THE COURT OF APPEALS

APPEAL FROM YORK COUNTY
Court of Common Pleas Court

Hon. G.D. Morgan, Jr. Circuit
Court Judge

Appellate Case No. 2026-000199

RECEIVED

Jul 28 2026

SC Court of Appeals

Dennis Floyd Bivens, Appellant

v.

York County by and through Joshua Edwards, York County Manager; Josh Reinhardt, York County Development Services Manager; and Jonathan Buono, York County Planning and Development Services Director, Respondents

APPELLANT MOTION FOR EXPEDITED REVIEW
SCACR 240

Appellant Dennis Floyd Bivens motions the court for expedited review of the pending appeal pursuant to Rule 240 SCACR based on the below listed grounds and would respectfully show emergency circumstances and specific imminent risks of harm now exist as to public health, safety and welfare where children will begin school at Flint Hill Elementary School and Flint Hill Middle School. The schools will open for the 2026-2027 school year on August 3, 2026.

Respectfully submitted,

HALFORD LAW FIRM, LLC
/s/ J. Cameron Halford,
J. Cameron Halford-
Post Office Box 172
Barnwell, South Carolina 29812
803-524-8659 e-mail:
cam@halfordlaw.net
ATTORNEY FOR APPELLANT

RECEIVED

Jul 28 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA IN
THE COURT OF APPEALS

APPEAL FROM YORK COUNTY
Court of Common Pleas Court

Hon. G.D. Morgan, Jr. Circuit
Court Judge

Appellate Case No. 2026-000199

Dennis Floyd Bivens, Appellant

v.

York County by and through Joshua Edwards, York County Manager; Josh Reinhardt, York County Development Services Manager; and Jonathan Buono, York County Planning and Development Services Director, Respondents

APPELLANT MEMORANDUM IN SUPPORT OF
EXPEDITED REVIEW
SCACR 240

Appellant would respectfully show emergency circumstances and specific imminent risks of harm now exist to public health, safety and welfare by Silfab heavy industrial operations in proximity to Appellant's home and where children will begin school at Flint Hill Elementary School and Flint Hill Middle School August 3, 2026. Appellant is seeking the narrow relief of expedited review of this case by the court.

Respectfully submitted,
HALFORD LAW FIRM, LLC
/s/ J. Cameron Halford,
J. Cameron Halford-
Post Office Box 172
Barnwell, South Carolina 29812
(803) 524-8659
cam@halfordlaw.net
APPELLANT ATTORNEY

FACTUAL BACKGROUND

Silfab Solar, Inc. now operates a plant for the assembly and production of solar panels and solar cells at a facility located at 7149 Logistics Lane in Fort Mill, South Carolina 29715 in York County. The operation is next to Appellant's home and in direct proximity to schools. Bivens challenged the Rule 12 SCRCF dismissal with prejudice of his complaint under the Hon. G.D. Morgan, Jr. Provided, pending this entire time has been Silfab's appeal in case no. 2024-CP-46-02641 *Silfab Solar, Inc. and Exeter 7149 Logistics, LP v. York County Zoning Appeals*.

PROCEDURAL STATUS OF THIS APPEAL AND JURISDICTION

Final briefs have been submitted by all parties in this case. Biven's appeal challenged a circuit court dismissal with prejudice, a final order under Rule 72 SCRCF. A final order is now entered in the above referenced case 2024-CP-46-02641, also. Deadlines to file for appeal have not expired and Silfab has proclaimed publicly they will appeal with motion for reconsideration filed July 23, 2026. Additionally, before the Court of Appeals is the pending challenge appeal of the administrative law court as to air permits by neighboring homeowner Walter Buchanan (Intervenor in the Silfab appeal cited above), court of appeals case no. 2025-000288.

CHANGE OF CIRCUMSTANCES

On July 21, 2026, the Hon. William McKinnon affirmed the York County Board of Zoning Appeals in case no. 2024-CP-46-02641. Appellant motions the court of appeals predicated on the company's publicly declared intention to appeal the order of the circuit court and publicly proclaimed statements that the order nor the BZA ruling does not apply to Silfab Solar, Inc.¹ as to the changed land use now being operated in proximity to Appellant's home and public schools.

¹ Queen City News, July 21, 2026 (David Schuman) Silfab Solar responds to South Carolina Judge's zoning verdict amid lawsuits over alleged unpaid work.

1. APPELLANT'S MOTION FOR EXPEDITED REVIEW IS PREDICATED ON CHANGED AND EXIGENT CIRCUMSTANCES.

While Biven's appeal pertained to dismissal with prejudice under Rule 12 SCRCF, and was therefore a final order per SCRCF 72, circumstances have changed exponentially in Fort Mill whereby Bivens now requests an expedited review. Before July 21, 2026, there was not yet a final order arising out of the BZA reversal order of May 30, 2026, which involved Silfab appeal to the circuit court. Now there is. Appellant does not attach this as the order is not within the record on appeal. Provided, the order presents changing circumstances where a circuit court judge now confirms the once planned (but now operational) land use by Silfab at its location is not compatible with zoning. The site is and remains Light Industrial, where Silfab operates a Heavy Industrial use in proximity to Appellant's home, and two (2) public schools. Student attendance at the schools will commence for the 2026-2027 school year on August 3, 2026. Appellant therefore respectfully avers that jurisdiction is proper, the issues are ripe for adjudication, and an expedited review is necessary due to changing circumstances and the paramount need to protect the public health, safety and welfare given two (2) prior chemical spill incidents at the plant.

2. SPECIFIC IMMINENT RISKS OF HARM.

It bears noting that neither Silfab nor the neighboring schools are "*under development*" now. This was cited by Appellant briefing. The plant and schools are fully developed, fully constructed, and fully operational as of date. The two schools at issue are the very same schools that were evacuated and temporarily shut down during the threat of chemical spills that occurred on Silfab's premises in March 2026. School will open August 3, 2026. When they do, the foreign corporation yet operates a Heavy Industrial use, upon a Light Industrial zoned site. Both the BZA and the Circuit Courts have declined to rule Silfab's use complies with zoning, is despite Silfab's focus on

product types, categories, and ignoring all pending cases inherently involve a change of land use specifically.

The foreign corporation defies lawful authority where the BZA board and a circuit court judge have issued legal rulings that the company dislikes, and the corporation to date will not mitigate its course nor mitigate environmental threats to public health and safety. Conversely, the corporation by public statement declares its project was ‘*well under way*’² before the BZA order of reversal of May 30, 2026, and the ruling did not apply to Silfab.³ It is a misleading narrative which is fabricated and materially false. It is false because no York County construction upfit permits or authorizations existed until June 28, 2024. The BZA decision was May 30, 2024. York County was aware of the BZA board order prior to issue of any type of permits or authorizations. Silfab knowingly proceeded fully aware of the BZA determination and persisted in attempts to evade and out-run quasi-judicial board rulings, the courts, and legislative efforts. An expedited hearing should be granted where good-faith conduct is also implicated, and “vested” rights can only arise from good faith conduct but not willful blindness by South Carolina law and judicial rulings.

3. THE ISSUES OF PUBLIC HEALTH, SAFETY AND WELFARE ARE PARAMOUNT TO SILFAB’S RELIANCE UPON COUNTY AUTHORIZATIONS OR PERMITS THAT ISSUED AFTER THE BZA DECISION.

Silfab publicly declares (presumably without guidance of counsel) that its project was “*well underway*” prior to the BZA reversal decision of May 30, 2024 and did not apply to Silfab.³ Again, this decision of the board members of the BZA has now been affirmed by the circuit court. Provided, the foreign corporation still mis-states the law in the public media battle to now defy the

² Appellant does not attach documents which do not exist in the Record on Appeal, including the latest Order.

³ July 23, 2026: National Public Radio South Carolina Public Radio: “Ruling against Silfab Solar allows lawsuits to continue.”

court and continue false narrative as to vested use. Silfab knew when it received its very first (parking lot) permit authorization from York County that the site was Light Industrial, not Heavy Industrial. Whether permits or construction authorizations issued after the May 30, 2024, BZA ruling confer any legally valid or voidable authorization is now before this Court. Nevertheless, the foreign corporation has publicly and falsely claimed a vested use based on subsequently issued permits, a position that cannot be legally sustained and is not supported by law.

South Carolina law is clear that a landowner has no vested right, which could not be taken away in the proper exercise of the protection of health and safety. *Id.* at 259 S.C. at 72 (1972). Generally speaking, South Carolina case law recognizes that the exercise of police power – to protect the health and safety of the citizenry – cannot be hampered by a business reliance upon and receipt of permits. *Whitfield v. Seabrook*, 259 S.C. 66, 73, 190 S.E.2d 743, 746 (1972). Noteworthy for this court is that no permits were issued to Silfab until after it was (a) on notice of zoning classification of the site; (b) on notice of the quasi-judicial ruling of the York County BZA, but this has publicly been misrepresented by the foreign corporation to assure the public it will continue its operations in disregard of legal rulings and the law. As cited in Appellant’s briefing, “[a] landowner acquires a vested right to continue a nonconforming use already in existence at the time his property is zoned in the absence of a showing that the continuance of the use would constitute a detriment to the public health, safety or welfare. *Daniels v. City of Goose Creek*, 314 S.C. 494, 497-98, 431 S.E.2d 256, 258 (Ct. App. 1993). Moreover, a contemplated use property by a landowner on the date a zoning ordinance becomes effective precluding such use is not protected as a nonconforming use. *Friarsgate, Inc. v. Town of Irmo*, 290 S.C. 266, 349 S.E.2d 891 (Ct. App. 1986).

4. CAUSAL CONNECTION EXISTS TO RESPONDENT FAILURES TO ACT AGAINST DELIBERATE SILFAB CONDUCT.

On the very date of Judge William McKinnon's June 21, 2026, Order affirmed the BZA decision, the foreign corporation has, yet again, exhibited its recalcitrance to judicial rulings rejecting any danger the changed land use Silfab created presents legally recognizable environmental hazard that implicates health, safety and welfare of the public. The issue of law regarding zoning approval vs. zoning approval via "zoning compliance verification" argument is pending before this court's review now. It's bad faith conduct further shows the county's failure to recognize that the foreign corporation's site improvements endanger children and threaten the health and safety interests of existing neighboring property uses, where citizens were there first. Now patent is the corporation proceeded under both local government petitions and zoning laws under an erroneous path and has largely created self-inflicted wounds in effort to out-run the legislature and the courts. The Canadian corporation, despite all its capable legal counsel, appears unable to grasp that it operates in a democratic republic with a constitution, not a Canadian democratic system with monarchy. The irreparable consequences will also inevitably include erosion of due process under our state constitution by just this type of foreign corporation conduct, which should be cease.

5. IRREPARABLE CONSEQUENCES.

Appellant files this motion for expedited review where irreparable consequences are presented should the company continue to engage in what manifests itself as a changed land use which was never legislatively authorized by council, and where this court has yet to rule on whether the company has or does not have lawful zoning approval (Appellant has argued that the company holds no zoning approval, which is an issue of law before the court now after final briefing. Respondent has argued legislatively approved action via zoning

compliance verification). While respecting this court's case load and typical review timing, in this case ordinary appellate timing will not adequately protect Appellant, the public, and the school children before August 3, 2026. The public interest is paramount to the company's operations of a now-changed land use especially if there is no lawful zoning approval, and no vested right to non-conforming land use. The foreign corporation has shown recalcitrance as to the zoning, the law, the BZA board, and now the circuit court. Moreover, the company has demonstrated reckless conduct in its operations as evidenced by not one, but two (2) chemical spills at the site.

6. APPELLANT IS REQUESTING NARROWLY TAILORED RELIEF DUE TO CHANGING CIRCUMSTANCES, IMMINENT THREAT OF HARM, AND SILFAB'S PATTERN OF DISREGARDING ESTABLISHED LAW WHERE THE COUNTY GOVERNMENT FAILS THE CITIZENS.

The disregard of law(s) by Silfab from the time of December 2022 are too numerous to list here and are pending before the courts. The foreign corporation has, literally, done everything wrong from the very start. No petition for variance. No petition for change of use. The company knew the zoning classification of the site before being allegedly "induced" to locate into Fort Mill, this false narrative can be proven where Silfab occupied the site warehouse and offices as tenant of Exeter well before zoning or change of land use legal entanglement(s). What once existed as a large distribution warehouse is now an operating as a chemical manufacturing installation, complete with wastewater treatment infrastructure, exhaust towers, and chemicals which never existed previously at the site. Appellant's request to this court is narrow, seeking only expedited review in the interest of changed circumstances and imminent, real threat of harm as evidenced by two chemical spills and the company's chemical operations in proximity to homes and schools. The exercise of police power where a county fails to act, is paramount if it has a sound a reasonable basis. The threat includes public health,

safety, and welfare concerns tied to chemical manufacturing operations, as well as the company's alleged pattern of disregarding the law and reckless indifference to the sensitivity of how neighboring properties were zoned prior to Silfab ever existing in Fort Mill.

CONCLUSION

While respecting this Honorable Court's normal appellate timing, Appellant avers that an expedited review is proper and the case is ripe for review where there now exist imminent and specific risks of harm in Fort Mill community caused by Silfab Solar, Inc. operations. The specific risk of harm includes imminent risks to environment involving neighboring properties. The threat includes public health, safety, and welfare concerns tied to chemical manufacturing operations, as well as the company's alleged pattern of defying the law. Changing circumstances are now presented by the new circuit court order; and the county has never intervened to stop the foreign corporation's history and pattern of willful and reckless disregard of law in proceeding to chemically operate manufacturing in proximity to homes and schools. Prior to Silfab there was only a warehouse, not a warehouse with chemicals and exhaust towers.

A chemical manufacturing operation now fully manifests itself where once existed only the warehouse and offices. There is no vested nonconforming use. Even if an appeal is forthcoming arising out of the circuit order of the Hon. William McKinnon of July 21, 2026, it is patent the company places its operations well ahead of the law and the paramount interest of public welfare, safety, and sensitivity of impact at neighboring parcels. There have been two (2) chemical spills within proximity to homes and schools already. Again, Appellant does not attach documents pertinent to the incidents as they occur after finalization of the Record on Appeal; yet both sides in this appeal by Bivens have implored the courts to take judicial notice of matters outside of

pleadings, inclusive of deed restrictions (Appellant) which ban use of hazardous or toxic chemicals.

On August 3, 2026, children will return to the school facilities next to Silfab Solar. The threat of harm once was argued *contingent* or *abstract*, but that all changed in March 2026 with two (2) back-to-back chemical spills in the same week. The spills involved toxic and hazardous chemicals, hydrofluoric acid (HF) and potassium hydroxide (KOH) in proximity to homes and schools. Appellant avers the issues of public health and safety are *paramount* to the corporation's publicly declared reliance upon permits that *did not exist at the time* of the BZA May 30, 2024, reversal decision. Whitfield, supra. That BZA reversal decision in York County case number 2024-CP-46-02641 is now affirmed by the circuit court.⁴ The reason emergency circumstances exist for expedited review is the reckless pattern exhibited by Silfab at its site and its operations with deliberate indifference to the zoning, state law, quasi-judicial decisions, and now circuit court ruling at law. All the aforementioned affirm the land use for chemical manufacturing operations that now operates is improper at the Light Industrial site. The site has always been Light Industrial and not Heavy Industrial, and Silfab has no vested right to the now-changed land use involving chemical manufacturing and chemical storage operations at 7149 Logistics Lane in Fort Mill. The interest of public health, safety and welfare are paramount. Appellant therefore respectfully requests expedited review of this case.

Respectfully submitted,
HALFORD LAW FIRM
J. Cameron Halford-Attorney at Law-LLC
/s./ J. Cameron Halford, Esq.
Post Office Box 172
Barnwell, South Carolina 29812
(803) 524-8659
e-mail: cam@halfordlaw.net