

TOWN OF SOMERS
ZONING COMMISSION
P.O. BOX 308
SOMERS, CT 06071

5.1.2019

X SPECIAL USE PERMIT ZONE CHANGE

FEE: \$360 (\$60 ST fee incl.)

#19-006

PLEASE TYPE OR PRINT

DATE:

APPLICANT: Baystate Blasting, Inc PHONE: (413) 583 - 4440

ADDRESS: 36 Carmelina's Circle EMAIL: estimating@baystateblasting.com

LOCATION: 40 Hallie Lane 1/2 #42 Hallie.

OWNER OF PROPERTY: Dan / Amy Eastman

ZONE: A-1 SPECIAL USE SECTION: 214-70

COPY OF DEED REQUIRED FOR PROPERTY DESCRIPTION - ZONE CHANGE ONLY

STATE ACTION AND USE REQUESTED:

It is the intent of the owner of the property to convert the area into a farming area in which they will grow crops to feed their family of 12. The removal of the ledge outcropping will also add a small addition to the kids play area.

All earthwork will result in the re-use of all material blasted and excavated to level the site. There will be no material leaving the property.

INTENDED USE OF PROPERTY SHOULD APPROVAL BE GRANTED:

NUMBER OF OFF STREET PARKING SPACES:

SIGNATURE: Matthew O'Row

DATE: 5/6/19

-----DO NOT WRITE BELOW-----

DATE OF PUBLIC HEARING:

DECISION:

**TOWN OF SOMERS CT
FEES**

600 MAIN STREET
SOMERS, CT 06071
8607638217

By: Jennifer R
01 May-2019 3:20:16P

1 Zoning Commission	\$300.00
1 State Fee	\$60.00
Total	\$360.00
CHECK SALE	\$360.00

Order 44NBQ5GAN9KZ8





TOWN OF SOMERS
Office of Zoning Enforcement
600 Main Street
Somers, CT 06071

June 20, 2019

Attn: Matthew DiLeo
Baystate Blasting, Inc.
36 Carmelina's Circle
Ludlow, MA 01056

RE: Special Use Permit, Dan & Amy Eastman, 40 Hallie Ln, Somers, CT

Dear Matt,

The Zoning Commission has continued the public hearing regarding your application for a Special Use Permit to blast at the above location, at its June 3, 2019 meeting. A public hearing will continue on Monday, July 1, 2019 at 6:30pm at the Somers Town Hall.

The Zoning Commission has requested the site plan be corrected and presented at the next meeting; reflecting: 40 & 42 Hallie Lane as separate parcels, topography, and the wetlands clearly shown.

If you have any questions, please do not hesitate to contact our office.

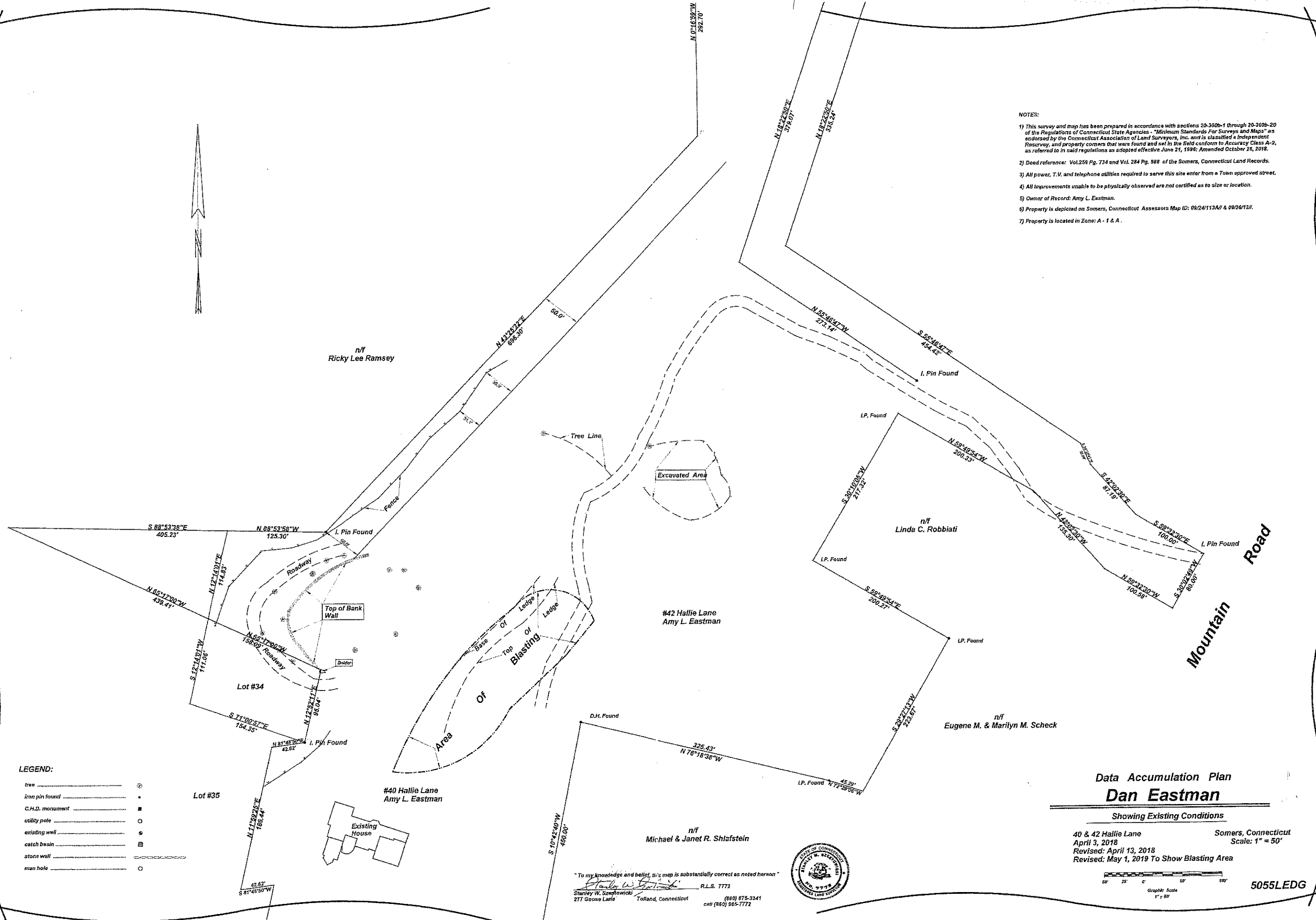
Sincerely,


Jennifer Roy
Zoning Enforcement Officer

Cc: Attorney John Parks

NOTES:

- 1) This survey and map has been prepared in accordance with sections 20-300b-1 through 20-300b-20 of the Regulations of Connecticut State Agencies - "Minimum Standards For Surveys and Maps" as endorsed by the Connecticut Association of Land Surveyors, Inc. and is classified as Independent Resurvey, and property corners that were found and set in the field conform to Accuracy Class A-2, as referred to in said regulations as adopted effective June 21, 1998; Amended October 28, 2018.
- 2) Deed reference: Vol.259 Pg. 734 and Vol. 284 Pg. 988 of the Somers, Connecticut Land Records.
- 3) All power, T.V. and telephone utilities required to serve this site enter from a Town approved street.
- 4) All improvements unable to be physically observed are not certified as to size or location.
- 5) Owner of Record: Amy L. Eastman.
- 6) Property is depicted on Somers, Connecticut Assessors Map ID: 05/24/113A/ & 09/26/12/.
- 7) Property is located in Zone: A - 1 & A.



LEGEND:

- tree *
- iron pin found •
- C.H.D. monument ■
- utility pole ○
- existing well ⊙
- catch basin □
- stone wall ———
- man hole ⊕

Data Accumulation Plan
Dan Eastman

Showing Existing Conditions

40 & 42 Hallie Lane
April 3, 2018
Revised: April 13, 2018
Revised: May 1, 2019 To Show Blasting Area

Somers, Connecticut
Scale: 1" = 50'



5055LEDG

"To my knowledge and belief, this map is substantially correct as noted hereon."

Stanley W. Szeftowski
277 Goose Lane
Toftand, Connecticut
R.L.S. 7773
(860) 675-3341
cell (860) 965-7772



40 Hallie Lane

Area of Work

Legend

40 Hallie Ln

Proposed
Blast Area
300ft x 90ft ^{27000#}
12,000 CY

40 Hallie Ln

Google Earth

© 2018 Google

300 ft

N



The Law Offices of John H. Parks

352A Billings Road, Somers, CT 06071 • Phone: 860-749-0797 • Fax: 860-749-0453

RECEIVED

JUL - 1 2019

BY: JR
LAND USE DEPT.

*Somers Zoning
Commission*

July 1, 2019

Somers Zoning Commission
600 Main Street
Somers, CT 06071

Re: Baystate Blasting, Inc. Application Special Use Permit 40 Hallie Lane

Dear Chairman Jill Conklin:

The Applicant in the above Special Use Permit, hereby Withdraws the Application without prejudice. As the Application has been withdrawn, there should be no further discussion of this matter by the Somers Zoning Commission.

Very truly yours,


John H. Parks

ZONING BOARD OF APPEALS

SOMERS, CONNECTICUT
APPLICATION FOR HEARING

\$360.00 NON-REFUNDABLE APPLICATION FEE
\$100.00 for each additional variance request.

Application Number: 19-006

Date 9/25/19

Applicant Amie L. Eastman

Phone 860-749-0797 (Attorney John Parks)

Applicant E-mail john@jhparkslaw.com (Attorney John Parks)

Address 352 Billings Road Somers, CT 06071 (Attorney John Parks)

Location of Property 40 Hallie Lane Somers, CT 06071 Zone A A1 B I (CIRCLE)

Owner of Record Amie L. Eastman

Address 40 Hallie Lane Somers, CT 06071

Deed Reference Volume _____ Page _____

☐ Variance ☒ Appeal of Decision ☐ Other _____

Zoning Section _____

Description of request: Appeal Cease & Desist Order (ex: side yard, height, front yard)

Clearly state why you are requesting a variance for this property and explain what hardship exists/applies for this case. Also, please provide a pertinent sketch or blueprint of proposed variance.

The undersigned, on behalf of Amie L. Eastman, hereby appeals a Cease & Desist Order issued by Jennifer Roy, Somers Zoning Enforcement Officer dated Sept. 3, 2019, a copy of which is attached hereto.

Signature [Signature]

All applicants hereby certify that they are the _____ owner of record for the above referenced property or they are an appointed representative of the _____ owner of record with permission to act on behalf of the property owner.
(Please check one)

OFFICE USE ONLY

Decision Date _____

Decision:

Conditions:

TOWN OF SOMERS
Office of Zoning Enforcement
600 Main Street
Somers, CT 06071

CEASE AND DESIST ORDER

REPLACING ORDER ISSUED JULY 31, 2019

September 3, 2019

VIA: STATE MARSHAL – IN HAND

Amy L. Eastman
40 Hallie Lane
Somers, CT 06071

RE: 40 Hallie Lane, Somers, CT

Dear Ms. Eastman,

Please be advised that you are found to be in violation of the Somers Zoning Regulations as follows:

§ 214-5. Applicability; conformity with regulations required; prohibited uses. [Amended 6-3-1991, effective 6-17-1991]

The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly provided that no land, building, structure or premises, or part thereof, shall hereafter be used or occupied, and no building or part thereof or other structure shall be erected, constructed, reconstructed, extended, enlarged, moved or altered, except in conformity with all of the regulations herein prescribed for the zone in which it is located. Uses that are not expressly permitted are prohibited.

ARTICLE XII Earth Removal and Filling

§ 214-66 Purpose.

The purposes of this article are to preserve a cover crop on the land, to prevent erosion and to control any excavation or filling operations that may create a safety or health hazard to the public or the nearby property owners or be detrimental to the immediate neighborhood or to the Town of Somers.

§ 214-67 Special use permit required.

No excavation or removal of sand, gravel, clay, soil, humus, quarry-stone, rock or other earth materials and no filling of land shall be allowed in any zone without a special use permit, except as hereafter provided.

§ 214-68 Exemptions.

A special use permit shall not be required for the necessary and incidental excavation or removal of 1,000 cubic yards or less of material on or from a lot or parcel, or for any filling activity, only if such activity occurs in connection with one of the following:

- A. A bona fide construction or alteration of a structure for which a zoning permit or special use permit has been issued and the amount of material to be removed or filled has been approved by the Commission. Topsoil or loam may only be removed to the extent necessary to allow permitted building or other construction activities. Such topsoil or loam shall be retained on the property and shall be re-spread on the property following the completion of construction activities. Such topsoil and loam shall then be reseeded or otherwise stabilized to prevent erosion. Topsoil or loam may be removed from the property only if the applicant demonstrates to the Zoning Commission that such materials cannot be practically reused on the property.

- B. The landscaping of a lot having one or more existing structures.
- C. Normal agricultural operations.
- D. The construction of ponds for agricultural or conservation purposes, provided that the material removed is left on the site, that the excavation or construction does not affect any watercourse or wetlands drainage or flow and will not cause soil erosion or sedimentation problems and that any other state or municipal permits required for such activity have been issued.
- E. A bonded or otherwise secured subdivision approved by the Planning Commission.

§ 214-69 Site plan requirements.

In addition to any other requirements for site plans under these regulations, the site plan for an excavation, removal or filling activity shall include the following information:

- A. Location of area to be excavated or filled and proposed commencement and completion dates.
- B. A detailed statement of the nature, extent, timing and purpose of the operation.
- C. Depth of existing topsoil at various locations.
- D. Depths to water table before and after the operation.
- E. Proposed truck routes. Access and egress to and from the property must be at least 100 feet from side and rear lot lines.
- F. Proposed truck circulation within the property.
- G. Existing and proposed drainage on the premises.
- H. Proposed measures for control of runoff, soil erosion and sedimentation.
- I. Existing topographic contour lines on the premises and proposed final contour lines resulting from the intended excavation, removal or filling, shown on a map, drawn to scale of not more than 40 feet to the inch, and with contour intervals of no greater than five feet. Contour lines must be shown for all areas within, and within 100 feet of, the site of the proposed excavation, removal or filling.
- J. All existing buildings or structures on the site and any buildings, structures or uses being applied for.
- K. Surrounding properties and streets.

§ 214-70 Issuance and renewal of special use permit.

- A. The Zoning Commission may issue or renew a special use permit for excavation, removal or filling operations involving earth products and shall establish an expiration date for any special use permit issued pursuant to this article which shall not exceed one year from the date of issuance. This special use permit shall be filed in accordance with § 214-102H(6) of these regulations prior to commencement of any operations.
- B. The Zoning Commission may renew a special use permit if it determines that the operation, as carried on, is in compliance with these regulations and with any and all conditions set forth in the permit. No special use permit shall be renewed until the Commission or its authorized agent has inspected the work under the previous permit. A project may be divided into stages and approval shall be required by the Commission before each stage is undertaken if deemed necessary or desirable by the Zoning Commission. [Amended 4-16-2001, effective 5-12-2001]
- C. No special use permit shall be issued or renewed pursuant to this article unless the following conditions are met:
 - (1) The activity shall not result in the creation of any sharp declivities, pits or depressions, soil erosion, soil fertility problems or permanently depressed land values, or create any drainage or sewage problems or other conditions which would impair the use or reuse of the property or neighboring property in accordance with these Zoning Regulations or which would create a nuisance.
 - (2) The activity shall be in harmony with the general purpose and intent of these regulations and shall not have an adverse affect on any existing or potential surface water or groundwater supplies.
 - (3) The premises shall be excavated and graded in conformity with the proposed plans as approved.
 - (4) During the period of excavation and removal, adequate barricades and/or woven fences with middle posts, four feet in height, shall be erected for protection of vehicles and pedestrians.
 - (5) No heavy equipment other than for digging, leveling, loading and carting excavated material shall be used on the site, and no material shall be processed on the site, unless permission, in writing, is first obtained from the Zoning Commission.
 - (6) At all stages of operation, proper drainage will be provided to avoid the occurrence of stagnant water and to prevent interference with and contamination of surface water and groundwater.

- (7) During and after the excavation, removal or filling, the site shall be cleared of debris.
- (8) Silt and sediment shall not be permitted to run off the site and settlement basins shall be used to control sedimentation.
- (9) All arable soil from any excavation or fill area shall be set aside and retained on the premises, and shall be respread over the affected area and permanently seeded upon completion of the entire operation or any part thereof.
- (10) Unless a plan for removal is coordinated with the owner of an adjacent tract and approved by the Commission, no activity involving or related to the removal of earth materials or the filling of land shall be conducted nearer than 100 feet from any property line. If the final grade of any excavated or filled area will be below the established elevation of a street, no activity involving or related to the removal of earth materials or the filling of land shall be conducted nearer than 100 feet from such street line. Such prohibited activities include, but are not limited to, excavation, removal, stockpiling and clearing. Measurement shall be made from the property line or street line, as appropriate, to the nearest point of such removal, filling or other activity. [Amended 6-15-1998, effective 7-1-1998]
 - (a) In areas in which the natural vegetation within any such one-hundred-foot buffer area is not, in the opinion of the Commission, sufficient to provide screening of adjacent properties or streets from dust, noise, erosion, drainage or other potential problems arising from the activity, the Commission may require that suitable plantings or other screening be provided by the applicant.
 - (b) Notwithstanding the foregoing provisions, the Commission may allow any buffer area to be crossed by a driveway or other accessway not to exceed 28 feet in width and as close to 90° through the buffer area as possible if such access is necessary to allow the conduct of the proposed activity, or if it would be more reasonable and prudent than any alternative access. The length, cost, location and other characteristics of any alternative access may be considered by the Commission in determining whether such access would be more reasonable or prudent.
- (11) Earth products removal operations shall not be permitted to excavate to a depth any closer than five feet above the site's high-water table.
- (12) Proper measures shall be taken to minimize the generation of dust on access roads or driveways, and to minimize the nuisance of noise, flying dust and rocks, both on and off the premises, including any nuisance created by trucks hauling away or delivering material. If considered necessary by the Zoning Commission, a limitation may be placed upon the stockpiling of excavated or fill material. Local streets shall be kept clean by the permittee of the bank at all times.
- (13) Upon completion of an approved operation, the final grades in any area excavated or filled shall not be steeper than three to one (3:1), horizontal to vertical, or whatever lesser slope is necessary to maintain stability under particular soil conditions, and this area shall be covered with not less than six inches of topsoil, and, unless put under cultivation, it shall be treated with two tons of lime per acre, 1,000 pounds of 10-10-10 fertilizer per acre and permanently seeded. A permanent grass mixture and/or trees spaced apart not more than seven feet on center shall be planted on the re-stabilized area. These plans shall be referred to the Tolland County Soil Conservation District for recommendations.
- (14) Machines and trucks working in, to and from the pit area shall be properly muffled and covered at all times.
- (15) All trucks shall be required to take the shortest distance to a state road.
- (16) Topsoil or loam shall not be removed from any property except in accordance with § 214-68.
- (17) The site will be subject to continuously conform to the State of Connecticut Guidelines for Soil Erosion and Sediment Control, as amended.

§ 214-71 Blasting; operation standards and hours.

- A. Blasting for the removal of earth products shall not be permitted unless written approval is granted by the Zoning Commission and any other local or state agency having jurisdiction over blasting operations. An applicant for any activities involving blasting shall be required to show that the blasting will not cause a nuisance or damage to nearby property.
- B. At no time shall more than one undivided area, which area shall not exceed three acres in size, be opened within the lot, it being the intent of these regulations that the remainder of the lot either shall be undisturbed land or shall have been restored or stabilized in accordance with § 214-70C(13). Boundary stakes shall be maintained at all times for the purpose of inspection for compliance.
- C. No excavation or filling shall be permitted within 50 feet of a wetland or watercourse unless the applicant demonstrates that such excavation or filling will not adversely affect the water quality of such

wetlands or watercourse or cause erosion of or sedimentation into such wetland or watercourse. The applicant should be aware that a permit from the Somers Conservation Commission may be required in such cases.

- D. No activity connected with any excavation, removal or filling operation may be undertaken on any Sunday or any legal holiday, or earlier than 7:30 a.m. nor continue after 5:30 p.m. Monday through Friday; or earlier than 8:00 a.m. nor continue after 12:00 noon on Saturday. No processing of earth products shall take place on Saturdays. Processing of earth products in cases of emergencies may be granted by special permission of the Zoning Commission.
- E. As a condition for granting a special use permit, the Zoning Commission shall decide on the total number of acres to be excavated and the depth of the operation.
- F. Filling operations shall be carried on in such a manner as to prevent the breeding or harboring of insects, rats or other vermin, and to prevent the transport of fill or excavated material, or any waste or debris, off the premises by wind, water or other causes.
- G. No crushing or separating operations shall be permitted unless, after a public hearing is held, written approval is granted by the Zoning Commission.
- H. Failure to meet any requirement shall bar the issuing of a permit, regardless of whether such failure was caused by the applicant, any predecessor in title or any other person.

On April 29, 2019 your contractor, Baystate Blasting was advised that a Special Use permit was required due to the size and area being blasted. An application was submitted on May 6, 2019 for a Special Use permit from the Zoning Commission. At the June 3, 2019 public hearing, the application was deemed to be incorrect as the application and site plan reflected "40" Hallie Lane as the location. The public hearing was continued to allow proper documents to be prepared and provided to myself and the Zoning Commission. The application was subsequently withdrawn at the July 1, 2019 meeting.


To date, no documents or site plans have been submitted to our office, and repeated requests to allow a site visit have been ignored. Concerns have been brought to the Town's attention regarding on-going excavation, noise, possible earth removal and heavy equipment entering and exiting the property.

You are hereby ordered to cease and desist the activity identified as a zoning violation upon receipt of this Order. Your failure to do so will result in further enforcement action. Connecticut General Statute Sec. 8-12 authorizes the institution of a lawsuit to enforce the zoning regulations and provides for the assessment of fines, penalties and costs.

You may appeal this Order to the Somers Zoning Board of Appeals in accordance with Section 8-7 of the Connecticut General Statutes. The appeal shall be filed with the ZBA in the Land Use Office located in Town Hall, 600 Main Street, Somers, CT. The appeal shall be filed no later than 30 days after your receipt of this Order. Failure to appeal this Order or correct the violation within the timeframe prescribed herein will result in the referral of this matter to the Town Attorney for legal action.

Should you wish to discuss this matter in more detail, please contact the Land Use Office directly.

Best Regards,


Jennifer Roy, CZEO
Zoning Enforcement Officer

Cc: Attorney Carl Landolina, Town Attorney
C.G. Bud Knorr, Jr., First Selectman

Joanna Shapiro, Wetlands Agent
Jill Conklin, Zoning Commission Chair
Jeffrey Bord, Director of Land Use

STATE OF CONNECTICUT)

) ss: Somers

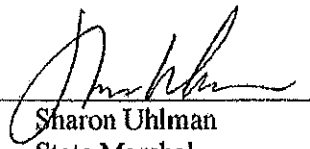
September 3, 2019

COUNTY OF TOLLAND)

Then and by virtue hereof and by direction of the plaintiff, I left a verified true and attested copy of the original **Cease and Desist Order**, with and in the hands of the within named, **Amie L. Eastman**, at 40 Hallie Lane, in the Town of Somers, Connecticut 06071.

The within is the original **Cease and Desist Order** with my doings hereon endorsed.

ATTEST:



Sharon Uhlman
State Marshal
Tolland County

FEES

Service \$40.00

ZONING BOARD OF APPEALS

SOMERS, CONNECTICUT
APPLICATION FOR HEARING

\$360.00 NON-REFUNDABLE APPLICATION FEE
\$100.00 for each additional variance request.

Application Number: 19-007

Date 9/25/19

Applicant Amie L. Eastman

Phone 860-749-0797 (Attorney John Parks)

Applicant E-mail john@jhparkslaw.com (Attorney John Parks)

Address 352 Billings Road Somers, CT 06071 (Attorney John Parks)

Location of Property 42 Hallie Lane Somers, CT 06071 Zone A A1 B I (CIRCLE)

Owner of Record Amie L. Eastman

Address 40 Hallie Lane Somers, CT 06071

Deed Reference Volume _____ Page _____

☐ Variance ☒ Appeal of Decision ☐ Other _____

Zoning Section _____

Description of request: Appeal Cease & Desist Order (ex: side yard, height, front yard)

Clearly state why you are requesting a variance for this property and explain what hardship exists/applies for this case. Also, please provide a pertinent sketch or blueprint of proposed variance.

The undersigned, on behalf of Amie L. Eastman, hereby appeals a Cease & Desist Order issued by Jennifer Roy, Somers Zoning Enforcement Officer dated Sept. 3, 2019, a copy of which is attached hereto.

Signature [Signature]

All applicants hereby certify that they are the _____ owner of record for the above referenced property or they are an appointed representative of the _____ owner of record with permission to act on behalf of the property owner.
(Please check one)

OFFICE USE ONLY

Decision Date _____

Decision:

Conditions:

TOWN OF SOMERS
Office of Zoning Enforcement
600 Main Street
Somers, CT 06071

CEASE AND DESIST ORDER

REPLACING ORDER ISSUED JULY 11, 2019

September 3, 2019

VIA: STATE MARSHAL – IN HAND

Amy L. Eastman
40 Hallie Lane
Somers, CT 06071

RE: 42 Hallie Lane, Somers, CT

Dear Ms. Eastman,

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 - (3) The premises shall be excavated and graded in conformity with the proposed plans as approved.
 - (4) During the period of excavation and removal, adequate barricades and/or woven fences with middle posts, four feet in height, shall be erected for protection of vehicles and pedestrians.
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 - (7) During and after the excavation, removal or filling, the site shall be cleared of debris.

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 - (b) Notwithstanding the foregoing provisions, the Commission may allow any buffer area to be crossed by a driveway or other accessway not to exceed 28 feet in width and as close to 90° through the buffer area as possible if such access is necessary to allow the conduct of the proposed activity, or if it would be more reasonable and prudent than any alternative access. The length, cost, location and other characteristics of any alternative access may be considered by the Commission in determining whether such access would be more reasonable or prudent.
- (11) Earth products removal operations shall not be permitted to excavate to a depth any closer than five feet above the site's high-water table.
- (12) Proper measures shall be taken to minimize the generation of dust on access roads or driveways, and to minimize the nuisance of noise, flying dust and rocks, both on and off the premises, including any nuisance created by trucks hauling away or delivering material. If considered necessary by the Zoning Commission, a limitation may be placed upon the stockpiling of excavated or fill material. Local streets shall be kept clean by the permittee of the bank at all times.
- (13) Upon completion of an approved operation, the final grades in any area excavated or filled shall not be steeper than three to one (3:1), horizontal to vertical, or whatever lesser slope is necessary to maintain stability under particular soil conditions, and this area shall be covered with not less than six inches of topsoil, and, unless put under cultivation, it shall be treated with two tons of lime per acre, 1,000 pounds of 10-10-10 fertilizer per acre and permanently seeded. A permanent grass mixture and/or trees spaced apart not more than seven feet on center shall be planted on the re-stabilized area. These plans shall be referred to the Tolland County Soil Conservation District for recommendations.
- (14) Machines and trucks working in, to and from the pit area shall be properly muffled and covered at all times.
- (15) All trucks shall be required to take the shortest distance to a state road.
- (16) Topsoil or loam shall not be removed from any property except in accordance with § 214-68.
- (17) The site will be subject to continuously conform to the State of Connecticut Guidelines for Soil Erosion and Sediment Control, as amended.

§ 214-71 Blasting; operation standards and hours.

- A. Blasting for the removal of earth products shall not be permitted unless written approval is granted by the Zoning Commission and any other local or state agency having jurisdiction over blasting operations. An applicant for any activities involving blasting shall be required to show that the blasting will not cause a nuisance or damage to nearby property.
- B. At no time shall more than one undivided area, which area shall not exceed three acres in size, be opened within the lot, it being the intent of these regulations that the remainder of the lot either shall be undisturbed land or shall have been restored or stabilized in accordance with § 214-70C(13). Boundary stakes shall be maintained at all times for the purpose of inspection for compliance.
- C. No excavation or filling shall be permitted within 50 feet of a wetland or watercourse unless the applicant demonstrates that such excavation or filling will not adversely affect the water quality of such wetlands or watercourse or cause erosion of or sedimentation into such wetland or watercourse. The

applicant should be aware that a permit from the Somers Conservation Commission may be required in such cases.

- D. No activity connected with any excavation, removal or filling operation may be undertaken on any Sunday or any legal holiday; or earlier than 7:30 a.m. nor continue after 5:30 p.m. Monday through Friday; or earlier than 8:00 a.m. nor continue after 12:00 noon on Saturday. No processing of earth products shall take place on Saturdays. Processing of earth products in cases of emergencies may be granted by special permission of the Zoning Commission.
- E. As a condition for granting a special use permit, the Zoning Commission shall decide on the total number of acres to be excavated and the depth of the operation.
- F. Filling operations shall be carried on in such a manner as to prevent the breeding or harboring of insects, rats or other vermin, and to prevent the transport of fill or excavated material, or any waste or debris, off the premises by wind, water or other causes.
- G. No crushing or separating operations shall be permitted unless, after a public hearing is held, written approval is granted by the Zoning Commission.
- H. Failure to meet any requirement shall bar the issuing of a permit, regardless of whether such failure was caused by the applicant, any predecessor in title or any other person.

On April 29, 2019 your contractor, Baystate Blasting was advised that a Special Use permit was required due to the size and area being blasted. An application was submitted on May 6, 2019 for a Special Use permit from the Zoning Commission. At the June 3, 2019 public hearing, the application was deemed to be incorrect as the application and site plan reflected "40" Hallie Lane as the location. The public hearing was continued to allow proper documents to be prepared and provided to myself and the Zoning Commission. The application was subsequently withdrawn at the July 1, 2019 meeting.

To date, no documents or site plans have been submitted to our office, and repeated requests to allow a site visit have been ignored. Concerns have been brought to the Town's attention regarding on-going excavation, noise, possible earth removal and heavy equipment entering and exiting the property.

You are hereby ordered to cease and desist the activity identified as a zoning violation upon receipt of this Order. Your failure to do so will result in further enforcement action. Connecticut General Statute Sec. 8-12 authorizes the institution of a lawsuit to enforce the zoning regulations and provides for the assessment of fines, penalties and costs.

You may appeal this Order to the Somers Zoning Board of Appeals in accordance with Section 8-7 of the Connecticut General Statutes. The appeal shall be filed with the ZBA in the Land Use Office located in Town Hall, 600 Main Street, Somers, CT. The appeal shall be filed no later than 30 days after your receipt of this Order. Failure to appeal this Order or correct the violation within the timeframe prescribed herein will result in the referral of this matter to the Town Attorney for legal action.

Should you wish to discuss this matter in more detail, please contact the Land Use Office directly.

Best Regards,


Jennifer Roy, CZEO

Zoning Enforcement Officer

Cc: Attorney Carl Landolina, Town Attorney
C.G. Bud Knorr, Jr., First Selectman
Joanna Shapiro, Wetlands Agent

Jill Conklin, Zoning Commission Chair
Jeffrey Bord, Director of Land Use

STATE OF CONNECTICUT)

COUNTY OF TOLLAND) ss: Somers

September 3, 2019

Then and by virtue hereof and by direction of the plaintiff, I left a verified true and attested copy of the original **Cease and Desist Order**, with and in the hands of the within named, **Amie L. Eastman**, at 40 Hallie Lane, in the Town of Somers, Connecticut 06071.

The within is the original **Cease and Desist Order** with my doings hereon endorsed.

ATTEST:



Sharon Uhlman
State Marshal
Tolland County

FEES

Service \$20.00

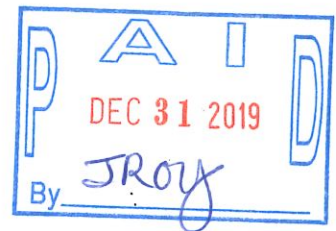
Jennifer Roy

From: John Parks <john@jhparkslaw.com>
Sent: Tuesday, December 10, 2019 10:26 AM
To: Jennifer Roy
Cc: carl@faheyland.com; Amy; Dan Eastman
Subject: 40 & 42 Hallie Lane Somers, CT

Jennifer – On behalf of my client, Amy Eastman, I hereby, request the Somers Zoning Board of Appeals to reschedule the public hearing on the above reference properties to January 14, 2020. Since January 14, 2020 is outside the 65 day period for commencing the public hearing, I on behalf of my client, Amy Eastman, hereby consent to an extension of time for opening the hearing until January 14, 2020.

John H. Parks, Esq.
Law Offices of John H. Parks
352A Billings Road, P.O. Box 869
Somers, CT 06071
860-749-0797

TOWN OF SOMERS
ZONING COMMISSION
P.O. BOX 308
SOMERS, CT 06071



#20-002

☒ SPECIAL USE PERMIT ☐ ZONE CHANGE

FEE: \$360 (\$60 ST fee incl.)

PLEASE TYPE OR PRINT

DATE:

APPLICANT: DAN EASTMAN PHONE: (860) 749-0797
ADDRESS: 40 Hallie Ln. Somers, CT EMAIL: John@jhparks law. com
LOCATION: 40 Hallie Ln Somers, CT
OWNER OF PROPERTY: Amy L. Eastman

ZONE: A-1 SPECIAL USE SECTION: Article XII. Earth Removal and Filling
COPY OF DEED REQUIRED FOR PROPERTY DESCRIPTION - ZONE CHANGE ONLY

STATE ACTION AND USE REQUESTED:

Approval to allow blasting and excavation of material ON ONE section of the properties and placement of the material ON another section of the property. No material will be removed from the properties.

INTENDED USE OF PROPERTY SHOULD APPROVAL BE GRANTED:

Residential

NUMBER OF OFF STREET PARKING SPACES: EXISTING Residential driveway;
No change in parking spaces.

SIGNATURE: [Signature] DATE: 12/31/19

DO NOT WRITE BELOW

DATE OF PUBLIC HEARING:

DECISION:

TOWN OF SOMERS
ZONING COMMISSION
P.O. BOX 308
SOMERS, CT 06071



20-003

☒ SPECIAL USE PERMIT ☐ ZONE CHANGE

FEE: \$360 (\$60 ST fee incl.)

PLEASE TYPE OR PRINT

DATE:

APPLICANT: DAN EASTMAN PHONE: (860) 749-0797
ADDRESS: 40 Hallie Ln. Somers, CT EMAIL: John@jhparks law. com
LOCATION: 42 Hallie Ln. Somers, CT
OWNER OF PROPERTY: Amy L. Eastman

ZONE: A SPECIAL USE SECTION: Article XII. Earth Removal and Filling
COPY OF DEED REQUIRED FOR PROPERTY DESCRIPTION - ZONE CHANGE ONLY

STATE ACTION AND USE REQUESTED:

Approval to allow blasting and excavation of material ON ONE section of the properties and placement of the material ON another section of the property. No material will be removed from the properties.

INTENDED USE OF PROPERTY SHOULD APPROVAL BE GRANTED:

Residential

NUMBER OF OFF STREET PARKING SPACES: EXISTING residential driveway;
No change in parking spaces.

SIGNATURE: [Signature] DATE: 12/31/19

DO NOT WRITE BELOW

DATE OF PUBLIC HEARING:

DECISION:

Fahey & Landolina, Attorneys LLC

A Connecticut Limited Liability Company

Thomas W. Fahey, Jr.
Carl T. Landolina

487 Spring Street
Windsor Locks, Connecticut 06096
Telephone: (860) 627-8300
Facsimile: (860) 627-6817
EMail: tom@faheyland.com
carl@faheyland.com

February 11, 2020

Jennifer Roy, ZEO
Town of Somers
600 Main Street
Somers, CT 06071

**Re: Application of Amy Eastman, et al
40 and 42 Hallie Lane**

Dear Jennifer:

You have requested that I issue an opinion regarding two recent applications submitted by the owners of 40 and 42 Hallie Lane. As I understand it, 40 Hallie Lane is located within the residential A-1 Zone while 42 is located within the Residential A Zone. These two applications have been filed pursuant to Section 214-98 and Section 214-66 et seq of the Zoning Regulations.

Section 214-98 is the use table of the regulations. Subsection 7 of 214-98 is labeled "Removal of Earth Products" and provides that such activities are permitted by special permit in the A-1, B and I zones and not permitted in the A Zone. Apparently the owner of 42 Hallie Lane, which is located within the A Zone, claims that the proposed activity does not include the "removal" of any material from the site and is therefore not prohibited by Section 214-98(7). In my opinion, this position is not supported by the law or the regulations.

The purpose of the use table is to provide a property owner with general information about what activities are permitted in any particular zone. The table is not intended as the exclusive word on uses. Specific language as to how each use is regulated is found in the particular sections regulating those uses. The specific language of the regulations always take precedence over more general language (i.e. the language of the use table).

The specific provisions of 214.66 et seq apply to an application for special permits related to Earth Removal and Filling. Specifically Section 214-67 provides that "[no] excavation or removal of sand, gravel, clay, soil, humus, quarry-stone, rock or other earth materials and no filling of land shall be allowed in any zone without a special use permit, except as hereafter provided" (emphasis added). Section 214-98 provides exceptions in five discreet circumstances. For purposes of this opinion I assume that none of these exemptions applies.

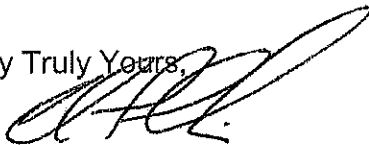
Clearly earth removal, excavation and filling is regulated under Article XII and not under 214-98(7). It is axiomatic under the rules of statutory construction (which rules apply to the interpretation of zoning regulations) that every word in a zoning regulation must be given meaning in order to ascertain the meaning and intent of the whole provision. Given the use of the word "or" in Section 214-67 This provision appears to differentiate between three separate activities: 1) excavation 2) removal and 3) filling. The exercise of any one (or more) of these three activities requires the issuance of a special permit. It is my understanding that the owner of 42 Hallie Lane (A Zone) proposes excavating material and using the excavated material to fill other areas on the site. While this activity does not involve the removal of any material from the site it certainly proposes two regulated activities: excavation and filling.

This interpretation is required not only by the clear and unambiguous language of Section 214-67 but by the general language of 214-66. This section states that the purpose of Article XII is to "preserve a cover crop on the land, to prevent erosion and control any excavation or filling operations that may create a safety hazard or health hazard to the public or the nearby property owners or be detrimental to the immediate neighborhood or to the Town of Somers" (emphasis added). Within this textual framework excavation (without removal) and filling on any site is limited as provided in the Article and despite the general language of 214-98(7) are not permitted within the A Zone. Furthermore, blasting itself is a regulated activity under § 214-71.

Of course the interpretation of the regulations is always the role of the Commission. I do not write this opinion as direction to the Commission but rather as a guide to assist them in their interpretation. The Commission is always free to disregard this letter and assign any meaning to the regulations they feel is reasonable.

If you have any questions regarding this matter do not hesitate to contact me.

Very Truly Yours,



Carl T. Landolina

CTL:amh



The Law Offices of John H. Parks

352A Billings Road, Somers, CT 06071 • Phone: 860-749-0797 • Fax: 860-749-0453

March 2, 2020

Somers Zoning Commission:

- Re: 1. #20-002: Dan Eastman 40 Hallie Lane, Somers, CT. Pursuant to Somers Zoning Regulations, Article XII Earth Removal and Filling, seeking a Special Use Permit to allow blasting and excavation of material, to be relocated on same property.
2. #20-003: Dan Eastman 42 Hallie Lane, Somers, CT. Pursuant to Somers Zoning Regulations, Article XII Earth Removal and Filling, seeking a Special Use Permit to allow blasting and excavation of material, to be relocated on same property

HEARING DATE AND PLACE:

Monday, March 2, 2020, 6:30p.m.
Somers Town Hall Auditorium
600 Main Street
Somers, CT 06071

The undersigned on behalf of the above referenced applicant, hereby requests and consents to a continuance of the above-referenced hearing to the Zoning Commissions next regularly scheduled meeting.

Very truly yours,

John H. Parks

Jennifer Roy

From: John Parks <john@jhparkslaw.com>
Sent: Wednesday, April 29, 2020 3:10 PM
To: Jennifer Roy
Cc: Carl Landolina; Dan Eastman; Edward Pikula; Dwight Merriam
Subject: 40 & 42 Hallie Lane Somers, CT
Attachments: DOC012.pdf; DOC013.pdf; DOC014.pdf; DOC015.pdf

Good afternoon Jennifer – Attached are the following items regarding the above referenced matter:

1. Letter from myself as Attorney for Amy Eastman to Jill Conklin, Chairperson Somers Zoning Commission. ✓
2. Legal Opinion from Attorney Dwight Merriam. *withdrawal of SUP.*
3. Affidavit signed by Patrice Carson dated 4/24/20.
4. Affidavit signed by James E. Ussery dated 4/29/20.

John H. Parks, Esq.
Law Offices of John H. Parks
352A Billings Road, P.O. Box 869
Somers, CT 06071
860-749-0797



The Law Offices of John H. Parks

352A Billings Road, Somers, CT 06071 • Phone: 860-749-0797 • Fax: 860-749-0453

Via Email Only

4.29.2020

Jill Conklin, Chairperson
Zoning Commission
Town of Somers
600 Main Street
Somers, CT 06071

Re: Withdrawal of Special Use Permit Applications, 40 and 42 Hallie Lane

Dear Chairperson Conklin,

Amy Eastman, the applicant for the two above-referenced Special Use Permit (SUP) applications, withdraws her applications.

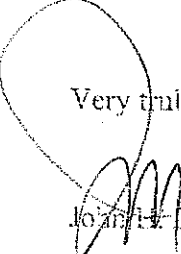
At the time they were submitted, we were unaware of the pattern and practice of the Zoning Commission (Commission) and the Zoning Enforcement Officer (ZEO) with regard to the excavation, removal, and filling of rock and soil on parcels where no material is brought into, or removed from, the property.

After receiving the Town Attorney's opinion letter of February 11, 2020, we undertook a review of the Somers Zoning Regulations (Regulations), the case law in Connecticut, and most importantly, the pattern and practice of the Commission and ZEO with regard to excavation, removal, and filling.

We engaged Dwight Merriam for his opinion and assistance in our review and investigation. His opinion letter and supporting affidavits are enclosed.

We have concluded that no SUP is required for the work currently underway on the two lots. It was unnecessary and, indeed, impermissible for the applicant to make SUP applications for this work. The Regulations, case law, and consistent pattern and practice of the Commission and ZEO with regard to property owners excavating, removing within the limits of their property, and filling as part of landscaping, where no material is brought into, or removed from, the property leads to but one conclusion: Amy Eastman's work in breaking up rock and regrading soil on her two lots is as-of-right and not subject to any SUP requirements under your Regulations as you have consistently interpreted and applied them.

Very truly yours,


John H. Parks

Enclosures

Copy to (w/encls.):

Jennifer Roy, Somers Zoning Enforcement Officer