

August 24, 2020

**MEMORANDUM**

From: Dwight Merriam, Counsel for Applicant Amy L. Eastman

To: Somers Zoning Commission

Re: Applications #20-009, 010, 011

**Background**

You have pending before you the above-referenced applications:

Application #20-009 – SUP to excavate 9,650 cubic yards of rock at 40 Hallie Lane (will reference as “SUP-1”)

Application #20-010 – rezone a 5.45 acre portion of what was 42 Hallie Lane, but is now part of 40 Hallie Lane following an approved boundary line adjustment, from A to A-1 to enable the removal of rock from portions of 40 Hallie Lane and to finish the landscaping

Application #20-011 – SUP to remove rock from portions of 40 Hallie Lane to finish the landscaping and to bring in 2,500 cubic yards of topsoil to finish the grading (will reference as “SUP-2”)

This memorandum is an overview of Applicant Amy L. Eastman’s presentation for the hearing on September 1<sup>st</sup>. The objective is to provide the Zoning Commission with the background it may wish to have in order to fully assess the applications, to provide the public with a fair opportunity to comment, and to expedite the hearing by eliminating the need for extensive oral presentation.

These applications, if approved, will resolve the ongoing issues regarding the rights and obligations of the Applicant. There is pending litigation and it is the Applicant’s wish to

complete the work to improve her property for her family's benefit. Some of the neighbors have been supportive of the work done by the Eastman's, others are concerned about the impacts on the quiet enjoyment of their property.

Approval of these three applications will enable the completion of the work in relatively short order. The rock excavation at 40 Hallie Lane will take between two and three months using exclusively the drilling and fracturing technique. The Applicant has withdrawn blasting from the proposal because of the concerns of the neighbors. Drilling and fracturing has no impact off-site as the Zoning Enforcement Officer and Town Attorney can attest having observed that operation in person.

The removal of the rock from 40 Hallie Lane to the rezoned portion of what was formerly part of 42 Hallie Lane can be done concurrently with the excavation as the rock is excavated. The bringing in of 2,500 cubic yards of topsoil can be done in fewer than 30 working days, not all consecutively or concurrently, but spread over a two-month period from the commencement of the regrading of the rock from 40 Hallie Lane. Think of it as two parallel and overlapping time lines.

The total time frame ...75 working days to excavate the rock on 40 Hallie Lane and 60 working days, some concurrently with the excavation at 40 Hallie Lane, to regrade the rock and complete the landscaping with topsoil ... will permit completion, once and for all, of the landscaping work on the property in no more than 120 calendar days from the last effective date of the approvals of the three applications. The approval of the three applications will result in the termination of all pending administrative appeals, and all present and potential litigation. Most importantly for the neighbors who have concerns, it will put a hard stop to the excavation and landscaping work at 40 and 42 Hallie Lane.

### **The Process**

These three applications will be heard simultaneously on September 1<sup>st</sup>, because they share for the most part the same facts and issues. After the hearing is closed, the Commission will vote on each separately, one after the other, with SUP-1 first, the rezoning second, and SUP-2 last. The effective date for SUP-2 must be after the effective date of the zone map amendment.

## **The Applications**

The applications are explained in the submissions on file, in the narratives, and in the plans. At the hearing on September 1<sup>st</sup> additional testimony and evidence will be presented. Large copies of the plans have been provided to Commission members.

On the issue of providing plans, Attorney Dorian Reiser Famiglietti, representing Victoria and Tom Clark, at the opening for the hearing on #20-009 SUP, complained that the plan posted on-line was not the same as the one used for presentation. The difference, it turns out, was principally that the one used for presentation was signed and sealed. In a message to me on August 6<sup>th</sup> Attorney Famiglietti said her concerns as to the plan had been satisfied: “As for the issues that I raised in my presentation, 2 have been addressed by my now having a copy of the correct site plan (those were the comments about the property line not being correct and showing excavation over the property line and onto #42).”

However, I do want to comment on Attorney Famiglietti’s complaint about the plan as posted on-line. It is not appropriate to post a signed and sealed plan on-line for public access because of the risk that the seal and signature, or the plan itself, will be copied and misused. The plans are subject for federal copyright and may not be copied without permission. Posting them on-line in signed and sealed form invites violation of the copyright. See, e.g. *In the Matter of Adrian Jadic, Requester v. Wyomissing Borough, Respondent*, 2020 WL 2235454 (Pa. Off Open Rec 2020) (Right to Know Law protects the right to see all and copy most documents and exhibits in connection with applications, except those subject to copyright, such as signed and sealed architectural plans, which may not be copied without permission of the copyright holder).

I now turn to the specific applications.

### **Application #20-009 – SUP to excavate 9,650 cubic yards of rock at 40 Hallie Lane**

Amy L Eastman is applying for a special use permit pursuant to Article XII Earth Removal and Filling of the Somers Zoning Regulations to excavate rock at the property she owns at 40 Hallie Lane. The proposed work will include breaking up rock ledge of approximately 9,650 cubic yards and stockpiling of that material on 40 Hallie Lane. That volume

includes a small amount of rock, a few hundred cubic yards at the most, right on what was the boundary of 40 Hallie Lane, but now is clearly part of that lot as a consequence of the boundary line adjustment. The 40 Hallie Lane property will be landscaped with topsoil to create a lawn area.

It is proposed that the excavation of the rock be accomplished by drilling 3-inch holes on 3-foot centers, 4 feet deep, and then inserting a hydraulic device that will fracture the rock. The grading plan describes the work to be done. Soil erosion and sedimentation controls are provided and will be properly maintained.

The removal of the excavated material to 42 Hallie Lane is not part of this SUP-1 application. This SUP-1 application is solely to allow the work of excavation to occur. If the subsequent rezoning and SUP-2 are granted, the excavated material will be removed to an abutting portion of what was part of 42 Hallie Lane and has been added to 40 Hallie Lane as a consequence of the boundary line adjustment unanimously approved by the Planning Commission on August 13th. A copy of the approved Notice of Reconfiguration of Land and the plan are attached for reference and the record.

This application has been presented and received full public comment for and against. I have not yet made rebuttal and a closing statement on behalf of the Applicant. This memorandum will serve the purpose of providing rebuttal to issues raised during the first session of the hearing. The Applicant reserves the right make further comment and rebuttal as may be required.

First, Attorney Famiglietti on behalf of the Clarks put photographs into the record. She did not give me a copies as she entered them, contrary to accepted practice, and she did not lay any foundation for the photographs, such as who took them, how, when, where, and what they are purported to depict. I chose not to interrupt her presentation as a courtesy to her and her clients. The Applicant now objects to the admission of these photographs and requests that they be removed from the record.

On August 8, 2020, I asked Attorney Famiglietti to provide the foundation for these photographs. She replied they were taken from an airplane based at Ellington: "Per my clients, it was a neighbor who knows someone who flies out of Ellington airport and he said he flies over

this area all the time and offered to take the pictures." Attorney Famiglietti revealed that she had no copy of the photographs in her file and had to request the Zoning Enforcement Officer to make copies from the record so I could inspect them.

On August 16<sup>th</sup> I again requested details. She replied on August 17<sup>th</sup> that she would get the information. She replied on August 20<sup>th</sup> that all she had learned was the aerial photograph was taken on July 14, 2020. The requested information of who was the pilot and who was the photographer has not been provided. She has not said who the neighbor was supplying the photographs. The photographs appear to be from a low altitude, suggesting they are actually from a drone. The Eastmans have experienced several low altitude drone overflights of unknown origin that have trespassed over their property. They have 10 children and they are concerned for their safety and their privacy. If there is no foundation for the admission of these photographs (pilot, photographer, person supplying them to the Clarks) or these photographs were taken by illegal means, they should be removed from the record.

One of the photographs showing a rock pile at ground level is not identified. It could be anywhere, on the Eastman property or elsewhere. While it certainly does appear to be of the Eastman property, we need to know what it purports to depict and to verify that it is indeed of the site. On August 8<sup>th</sup> I asked Attorney Famiglietti to give me the name of the photographer, when it was taken, and from what location:

And your response does not identify who took the ground level photograph of a rock pile, when it was taken, from what location and what it purports to show (e.g. where on the site). Without that, we cannot be certain this is the site and even if it is, whether it looks that way today. You have never been there, so you wouldn't know. Right?

Thank you in advance for your follow up.

She replied on August 20<sup>th</sup>: "As for the ground photo showing the rock pile, that was taken by an abutting property owner from their backyard. That is all I was told." I again requested to know the name of the photographer and from what location it was taken. Given the pictured sedimentation barrier and the buffers from the excavation work, it is apparent that if it was taken at the Eastman property, the photographer necessarily was a trespasser. No one can

get that close to the barrier without entering the property. Again, unless the Clarks lay a foundation for the photograph, it should be removed from the record. It should also be removed if it was taken by a trespasser.

To be clear, it is not what the photographs appear to depict that concerns the Applicant. Most of the Commissioners will have seen the site in person before September 1<sup>st</sup>, and the Zoning Enforcement Officer and Town Attorney recently visited it as well. What is improper about allowing these photographs to remain in the record is that no one will provide basic information on their origin and both appear to have involved a trespass.

Attorney Famiglietti had numerous other concerns expressed during her 20-minute presentation which she made reading from a prepared text. I wanted to respond to her concerns completely, so I requested a copy of her written remarks. She did not provide it, but replied with an explanation of her concerns:

“Our other comments/concerns had to do with the following:

Where will stockpiles on #40 be since moving the material to #42 is not yet before the commission?

What happens to the excavated material if nothing happens with regard to #42?

Lack of bonding estimates, including site restoration

And my clients’ biggest concern is still with regard to the use of the access drive adjacent to their house.”

My recollection and notes indicated she had more to say than that, but because she would not give me a copy of her prepared remarks, I couldn’t immediately confirm that.

So, I watched the recorded presentation and transcribed it where necessary. What follows is a complete and accurate summary of all of the Clarks’ issues as presented by Attorney Famiglietti.

Attorney Famiglietti stated that the work had gone for three years without a permit, as the Applicant has openly acknowledged.

*Response: That is true and important to consider in that this process promises to end, once and for all, the excavation, removal, and filling on the property. The alternative, to return to litigating the issues, will result in a multi-year process that will be an enormous burden for all concerned and, if the Applicant succeeds in that litigation, the work on the property will be unregulated.*

Attorney Famiglietti said: "I think these photos speak volumes."

*Response: They must be removed from the record if they are not authenticated and, regardless, they must be removed from the record if the photographers trespassed.*

Attorney Famiglietti said: "The Eastmans have ignored all orders to cease removal activities."

*Response: That is untrue. All work ceased on the afternoon of July 8th, nearly two months ago, and almost a month prior to Attorney Famiglietti's statement on the record.*

Attorney Famiglietti said: "The site plan is inaccurate and misleading."

*Response: That is untrue. Jay Ussery explained in detail.*

Attorney Famiglietti said the plan "doesn't depict the current property lines of 40 Hallie Lane."

*Response: Regrettably, Attorney Famiglietti became confused over the several plans posted on-line. The plans accurately depict the former and now current boundaries. When she spoke at the hearing on August 3<sup>rd</sup>, the adjustment was not final so the boundary was necessarily depicted in various ways on various plans.*

Attorney Famiglietti asked if the 9,650 cubic yards of material the total amount to be removed or was there more in an area of about one-third acre along the former lot boundary.

*Response: As noted above, there is a small amount at the former border, far less than the 1,000 cubic yards allowed to be excavated without a permit, but now within the 40 Hallie Lane lot. Given the amount and incidental nature, the plans on file with the applications accurately showing the area to be excavated, and the fact that the 9,650 cubic yards is approximate to within roughly 200-300 cubic yards because of the variation of the rock*

*elevation, the excavation of that small amount in that location does not require a separate permit.*

Attorney Famiglietti asked how long it will take to excavate at 40 Hallie Lane.

*Response: As noted above, the excavation using only drilling and fracturing will take not more than 75 working days at hours permitted by the regulations.*

Attorney Famiglietti asked what happens if the rezoning or SUP-2 are not approved.

*Response: The work under SUP-1 can stand alone. The plans indicate how that material can be retained on site.*

Attorney Famiglietti requested the depth to water table before and after excavation required to be no closer than five feet from high water table.

*Response: As Jay Ussery will testify on September 1<sup>st</sup>, the water table before is lower than 300 feet (the Eastmans' well is 480 feet), the water table following excavation will be 280 feet or deeper (20 feet of excavation). The regulations provide that "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." Post-excavation, the water table will be 280 feet below the excavated surface.*

Attorney Famiglietti requested current and final grades.

*Response: The existing and final grades are shown on the plans.*

Attorney Famiglietti requested information on the restoration and grading.

*Response: They are as shown on the plans.*

Attorney Famiglietti asked to show soil and sedimentation controls around the excavation.

*Response: They are shown on the plans.*

Attorney Famiglietti requested the breakdown of the cost of the work.

*Response: The breakdown in detail is attached.*

Attorney Famiglietti expressed concerns about blasting.

*Response: Blasting will not be used.*

Attorney Famiglietti noted the most important issue for the Clarks is access.

*Response: The best and most appropriate access, as has been used for the last three years, is from Mountain Road. It complies with the regulations as within the discretion of the Commission to approve.*

*Because Attorney Famiglietti would not provide a copy of her prepared remarks, I transcribed the following portion of her presentation in its entirety. At each relevant point, a response is given. Following that is an explanation in more detail as to the rationale for permitting the Mountain Road access to be used for this time-limited, final phase of completing the work.*

The recording is available at <https://www.youtube.com/watch?v=6FBg9Yfbn9w>

1:35:15 to 1:54:50

“For almost three years now my client’s use and enjoyment of their own property has been significantly impaired they and their children are woken up in the morning by trucks lumbering along the access drive adjacent to their property. They are startled and disturbed each and every time the blasting occurs and shakes the house through. Their enjoyment of their property is significantly affected when they are in their backyard trying to use the pool or sit by the fire pit or cook out and all they hear is jackhammering or blasting or truck back up signals and equipment and material being moved onto Eastman’s property.

*Response: Amy Eastman understands their concerns (even as these claims are subject to some challenge...children are up for school before work begins, people don’t use fire pits during the day, cookouts are mostly in the evening). There will be no more blasting. There will be no more jackhammering. Only drilling and fracturing will be used. It will cost over \$100,000 more to use only this method. The drilling/fracturing cannot be heard or felt by the Clarks.*

“One might expect to endure this type of brief annoyance from time to time in connection with short-term construction projects that homeowners might sometimes engage in but this has been going on by the applicant’s own admission for three years now. My clients no longer feel they are living in a residential neighborhood. At this point they feel as feel like they’re living right next to a commercial rock quarry.”

*Response: This is not a rock quarry operation. No material has been or will be removed from the site. The intent of the access road provisions in the regulations is exclusively to protect neighbors from ongoing, long-term commercial operations involving removal of large amounts of earth products. This work on a private residential property is not that. In fact, this last, short step to completion is essentially what Attorney Famiglietti describes in acknowledging that “one might expect to endure this this type of brief annoyance from time to time in connection with short-term construction projects that homeowners might sometimes engage in...”*

*Furthermore, all of the work in this final phase will be completed within 75 working days for the excavation at 40 Hallie Lane and 60 working days for regrading and bringing in the 2,500 cubic yards of finishing topsoil, with those periods overlapping such that from the commencement of the work until its completion, no longer the 90 working days are expected. Importantly, the Applicant will commit to using the access from Mountain Road to bring in the finish materials for not more than 30 working days during hours of operation permitted under the regulations.*

“Based on their experience as well as the experiences you’ve heard from the other neighbors tonight, can you and the commission really make the requisite finding that the proposed use, the earth removal operation that’s proposed and in fact happening and has been happening for quite some time will not constitute a nuisance and will not impair the use of the neighboring properties. We say enough is enough.”

*Response: Attorney Famiglietti’s expressed frustration on her client’s behalf might be worthy of consideration if there were blasting, jack hammering, and a commercial operation trucking away tons of material without limitation as to amount or duration; however, what she said was at a time when she expected blasting, jackhammering, and unlimited traffic in and out. That is not the case at all. To deny the requested SUP-1, rezoning, and SUP-2 will not bring an end to the question of the extent to which the zoning regulations reach this activity, but will force the stakeholders back into litigation. That will not be helpful to the Clarks or anyone else and possible outcomes include completely unregulated activity. Attorney Famiglietti ultimately implicitly recognizes that there are real risks in litigating the issues and that the applications are meritorious...when she asks for conditions on the approvals.*

“Section 214-71h of your regulations also says that failure by the applicant to meet any requirement applicable to earth removal shall bar the issuance of a permit. Well, first and foremost your regulations require a special permit to do any earth excavation and we all know that the applicant has failed to comply with that requirement for years and on those grounds alone this commission may be within its right to deny the current application.”

*Response: Attorney Famiglietti is wrong. The Applicant ceased all operations on the property on the afternoon of July 8th. The fact that the Zoning Enforcement Officer issued a cease and desist order, which the Applicant disputes, is no basis for denying a complete and compliant application. No Commission has the authority to punish a property owner for allegedly illegal past acts by denying a property right. It is troubling that anyone would suggest that.*

“We feel it’s time for this commission to follow through on enforcing its regulations and I would submit that the application does not meet the regulations and as such you cannot approve it.”

*Response: The applications, all three, fully comply and should be approved.*

“However, if you are at all inclined to consider approval we inform you that based on everything you heard from me and the other speakers in opposition tonight to place meaningful conditions on any such approval and your regulations in Section 214 102f authorize you to place whatever conditions you deem necessary to assure that the rights and conveniences of local residents will be protected, residents will be protected.”

*Response: Agree. The key to getting this last, short phase done is in conditioning the approvals. The Applicant proposes conditions set out below.*

“If you are going to consider approving this application, please consider prohibiting the use of the access drive located within the easement that runs along 42 Hallie Lane as that is clearly not permitted to be used under your regulations anyway since it’s offsite.”

*Response: The Mountain Road access is the best and most appropriate access, as described below, and fully within the authority of the Commission to approve.*

“Please consider limiting the days of operations. Perhaps consider no weekend activities. Please consider limiting the hours of operation to 9 to 3. I think I heard some consensus in some of the comments this evening.”

*Response: The expected working days assume the Commission will grant hours of operation that are provided for in the regulations at Sec. 214-71D:*

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.

*More limited hours of operation would increase the number of days to complete the work. That would not be in anyone’s best interest.*

“Limit the overall duration of this permit so that my client and other affected neighbors are assured that there is finally an end date in sight.”

*Response: Agree. The Applicant, before the commencement of the hearing on SUP-1, offered as a courtesy to the Clarks to limit the SUP-2 activities to 30 working days in bringing in material and a substantial penalty if the Applicant took more than 30 days. The offer was made to meet the Clarks’ concerns about the truck traffic. They refused the offer and have gone ahead with their opposition and attempts to convince the Commission to deny both SUPs and the rezoning.*

*Regardless, the Applicant offers to the Commission to condition SUP-1 on 75 working days of excavation from the start of the work and 60 working days on SUP-2 with not more than 30 working days of that being used for bringing in topsoil. The Clarks will experience no more than 30 days of trucks entering the site. That is 3% of the number of days the work has gone on already. Then, it will be done. Finally.*

*Because these periods would overlap, the Applicant will commit, upon approval of both SUPs and the rezoning, to complete all of the activity in 90 working days from the commencement of activity assuming the hours of operation are as permitted by the regulations.*

*The applicant will further commit to complete all of the work within 120 calendar days of the commencement of the work if both SUPs and the rezoning are approved.*

“You need to require a bond to ensure that the applicant complies with the conditions of any permit you choose to grant and that the town staff can make necessary inspections to verify compliance.”

*Response: The bond will be provided upon approval by the Commission and town staff. The total amount of the bond combined for SUP-1 and SUP-2 is \$96,767.*

“And for goodness sake, please keep your town attorney close by so that if the applicant continues to thumb his nose at the process as he has done for the last three years.”

*Response: Not true; the work stopped on the afternoon of July 8<sup>th</sup>. It is regrettable that Attorney Famiglietti choses such demeaning language. Importantly, the refusal to cease operations previously was based, and is based, on the sincere belief that the regulations do not apply to this activity. With these three applications, the Applicant (“she,” not “he,” as Attorney Famiglietti states) has ceased operations, and although reserving her rights to assert in the pending litigation that the regulations do not apply to this activity, she has come forward with all that she believes the Commission wants under*

*its interpretation of its regulations to end the controversy. No one can ask more of her. The Applicant should be commended, not condoned.*

“The town is ready to immediately proceed with the pending injunction actions that at least the rest of the nearby residents can have some peace and enjoyment of their property.”

*Response: We don't know what the town's intentions are as to the litigation. Regardless, it's not relevant. We do know that the outcome of any litigation is uncertain. It is in the interest of everyone, among them the Clarks and those neighbors who do not support the Eastman's, to have this settled with civility, finality, and all the necessary protections.*

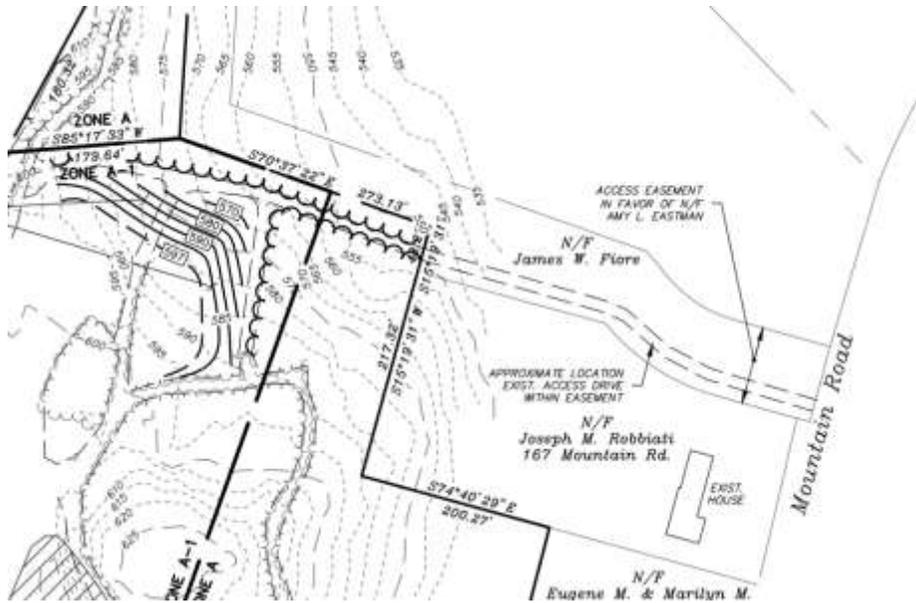
“Again, we submit that his application is not complaint and should not be approved at this time but we ask you to consider those recommendations and conditions of approval if you find it fit to be granted.”

*Response: Disagree. The three applications fully comply with the regulations.*

I turn now to a more specific discussion of the access and why the Commission should approve the access from Mountain Road.

The question is: must the access to the site be set back 100 feet from rear and side property lines? The answer is that it does not, and the Commission has the authority to approve the access from Mountain Road.

The access to this site is either via Hallie Lane and up the Applicant's driveway or an 80-foot wide easement to Mountain Road improved with a 20-foot wide travel way.



The 40 Hallie Road frontage where the driveway to the home is located is 175 feet, making a 100-foot setback impossible.

The 100-foot setback from the side and rear property lines for the access and egress required to be shown on the site plans (Sec. 214-69.E) is intended to protect the buffers required by Sec. 214-70.C(10). There is no protection for buffers along property lines at the frontage on a street, presumably because it is expected that the access way will be from the street, as it is here, and has to cross what would be a buffer.

The buffer provision prohibits earth removal or filling 100 feet from a property line. The prohibited activities include, but are not limited to, “excavation, removal, stockpiling and clearing.”

It is noteworthy that the listed activities, while not exhaustive, all address activity that would disturb an existing landscape. There is nothing to expressly prohibit access on an existing easement with an existing improved travel way that has been continuously used for years for truck access.

The access proposed by the Applicant is existing and has been since before the applicant purchased the property 11 years ago. The use of the access does not create any new disturbance of the landscape and as such the 100-foot setback does not apply to the proposed access in this application

More important, perhaps, is the provision in Sec. 214-70.C(10)(b) which gives the Commission complete discretion in approving the access:

(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.

The 100-foot setback requirement does not apply in this case because the access way is existing, does not disturb any existing landscape, and the Commission has the authority to allow an access road 28-feet wide or less through the buffer or setback area. The Commission should find that the access from Hallie Lane up the driveway past the residence at 40 Hallie Lane is less reasonable and prudent given that the 175-foot frontage could not comply with a 100-foot setback and considering the capacity of Hallie Lane and the driveway that would require small trucks be used, doubling the number of trips in and out. The use of the Mountain Road access for bringing in topsoil will be limited to 30 working days.

Mountain Road is the best access and should be approved for this short, last phase.

**Application #20-010 – rezone a 5.45 acre portion of what was 42 Hallie Lane**

The most logical boundary line adjustment between 40 and 42 Hallie Lane, that would not create fragments and new multiple lots, was to move the boundary north. That resulted in 9.17 acres of 42 Hallie Lane becoming part of 40 Hallie Lane. That process is complete. The Planning Commission unanimously approved it on August 13<sup>th</sup>.

This zone map amendment seeks to rezone a little more than half of the 9.17 acres added to 40 Hallie Lane from A to A-1 to enable approval of SUP-2 to permit excess material from the SUP-1 excavation to be regraded into the 5.45-acre area and to finish the landscaping.

The change in zone from A to A-1 is consistent with the Somers Plan of Conservation and Development “Future Land Use Plan” (page 59), June 30, 2015, as the area is now and will remain “Low Density Residential.” The balance of 40 Hallie Lane (9.17-5.45=3.72 acres) would remain in the A zone, as would the remaining 32.37 acres of 42 Hallie Lane.

On August 13<sup>th</sup> the Planning Commission unanimously recommended approval of this zone map amendment.

**Application #20-011 – SUP to remove rock from portions of 40 Hallie Lane to finish the landscaping and to bring in 2,500 cubic yards of topsoil to finish the grading**

Amy L Eastman is applying for a special use permit pursuant to Article XII Earth Removal and Filling of the Somers Zoning Regulations to remove approximately 9,650 cubic yards of broken rock at the property she owns at 40 Hallie Lane to the abutting portion of what was 42 Hallie Lane in the A-1 zone. The reconfigured 40 Hallie Lane will be landscaped with topsoil to create a lawn area. The topsoil of 2,500 cubic yards for landscaping the reconfigured lot improved with the existing residence will be brought in within 30 working days of the commencement of that work.

On August 13<sup>th</sup> the Planning Commission unanimously recommended approval of SUP-2.

At the hearing on September 1st, Jay Ussery will testify as to compliance with all of the requirements.

**Compliance with the Regulations**

Attached are two checklists used to insure compliance with the regulations.

Respectfully submitted,



Attachments:

2020-07-30 NOTICE-OF-DIVISION-OR-RECONFIGURATION-OF-LAND  
2020-07-20 Lot Reconfig  
SUP-1 Checklist  
SUP-2 Checklist  
2019-10 Shlafstein Clearing Agreement

2019-11-15 Fiore Clearing Agreement