



The Law Offices of John H. Parks

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Via Email Only

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