



Richelle Hodza,
Director
Land Use Department
rhodza@brookfieldct.gov
(203) 775-7316

TOWN OF BROOKFIELD

LAND USE DEPARTMENT

MEMORANDUM

To: Members of the Zoning Commission and Aquifer Protection Agency

From: Richelle Hodza, Director, Land Use Department and Wetlands Enforcement Officer,
Staff to the Aquifer Protection Agency (per Town Code §5-1A.)

Re: Enforcement Action at 31 Greenknoll Drive – Filling with more than 100 cubic yards of material in a residential zone within one year, constructing a second driveway without approval, and depositing material in the Aquifer Protection District without a permit or agent determination

Date: October 12, 2022

As early as Friday, June 24, 2022 it was brought to my attention that Mr. Scott McGovern had been depositing significant amounts of earthen materials at 31 Greenknoll Drive without a permit. Despite Mr. McGovern's appearance at my offices the following Monday to discuss the matter with me and his assurances that his activities were not excessive, he continued to dump truckload after truckload of some kind of fill behind his house. In addition, he constructed a second driveway on his property, which is also not permitted (§6.1.C.2.j).

I visited the site on August 23rd to witness and photograph the enormous mountain of material, whose origin is unknown and which appears to contain debris. Although it has rained infrequently and lightly, there is already a plume of eroded material and deposits of sediment on the forest floor. Mr. McGovern also filled in a drainage swale, cut down countless trees, and caused potential harm to those that remained by covering their roots and lower trunks. The exposed soil appeared unstable, while no erosion and sedimentation controls had been installed. The effect of the monumental change in landscape is hard to characterize as anything but astonishing. It would be difficult to find anyone seeing with their own eyes, who would not agree that the neighbors' ability to enjoy their property has been wantonly destroyed. Mr. McGovern's mountain has caused a nuisance and possibly reduced property values.

Such activity is strictly prohibited without a permit from the Brookfield Zoning Commission or its duly authorized agent. Regulations regarding filling and grading, or earthworks of any kind, are found in the Brookfield Zoning Regulations Section 6. I have copied and pasted on page two of this letter certain regulations which govern the activities Mr. McGovern has undertaken and ramped up after he was made aware that the Land Use Office was beginning enforcement actions.

In addition to violating the zoning regulations, Mr. McGovern has violated the Aquifer Protection Area Regulations of the Town of Brookfield (Adopted, 10/24/14, Effective 12/18/14). As you know, the Zoning Commission is also the Aquifer Protection Agency per Town Code (Chapter 5) and in my capacity as the APA's designated staff member, I recommend that the actions of Mr. McGovern be dealt with separately by that Agency. The purpose of the APA regulation is, in part, to "regulat[e] land use activity within the aquifer protection area including: prohibiting certain new activities (§ 1(a)(3))." As such, the depositing of fill from an unknown source or, indeed, from many different sources, may have consequences directly addressed by the APA regulations, but not the zoning regulations. The following regulation from Section 4 "Prohibited and Regulated Activities" is relevant:

(1) Any person proposing to carry out a non-regulated activity, as set forth in Section 4(c) of these regulations, in an aquifer protection area shall, prior to commencement of such activity, notify the Agency or its duly authorized agent on a form provided by the Agency. Such form shall provide sufficient information to enable the Agency or its duly authorized agent to properly determine that the proposed activity is a regulated activity or a non-regulated activity within the aquifer protection area.

It is my view that what Mr. McGovern has done to the land, especially in a residential area where people bought homes because of the unique tranquility offered by a mature woods perched on impossibly steep ledges, is the unfortunate reason that enforcement must exist and must be swiftly dispatched.