

Reference: Exhibit #249

Answers To Commissioner Queries Regarding
“Exhibit #204 – 22 Reasons to Deny Application PZC #24-8 SUP
For The Excavation of Decatur Mountain”

Prepared by Eric Treaster
18 December 2024

Part 1 of Second Question of Exhibit #249
(Reference: Exhibit #204—Reason #1)

“Who marked up the 1963 Regulations as submitted by Eric Treaster at the end of his narrative from 12/5?”

Answer

Exhibit #204 is titled “22 Reasons to Deny Application #24-8 SUP For the Excavation of Decatur Mountain.”

Item #1, on pages 3 & 4 of Exhibit #204, is the first reason to deny the Application. It is titled “Quarrying Is Not An Allowed Land Use.”

Appended to the end of the transcript is a copy of the cover page and the table of contents of the original “*Town of Ledyard, Conn. ZONING REGULATIONS,*” effective October 11, 1963.

The page following the cover page is titled “*ZONING REGULATIONS*” with the subtitle “INDEX,” which I referenced during my presentation.

Section 8, in the middle of the INDEX page, shows: “*Soil, Gravel, Stone Removal and Quarrying*”

I added [*marked up*] the arrow pointing to the Section 8 entry in the index, and another pointing to the word “Quarrying.”

I added the arrows to show that “*Quarrying*” was expressly permitted as a land use in 1963.

“*Quarrying*” was also expressly permitted as a land use in the 1968, 1970, & 1971 zoning regulations.

I revisited the Clerk's Office on December 16 and, surprisingly, discovered a copy of the August 3, 1971 zoning regulations. Section 8 of its Table of Contents shows that “*Quarrying*” continued to be *an expressly permitted use as of August 3, 1971.*

A copy of the 1971 Table of Contents, and its Section 8 regulations for “Soil, Gravel, Stone Removal and Quarrying” are attached.

Part 2 of Second Question of Exhibit #249
(Reference: Exhibit #204 — Reason #1)

“Who marked up the 1975 Regulations as submitted by Eric Treaster at the end of his narrative from 12/5?”

Answer

The 1975 Zoning Regulations were not submitted into the record.

I also found a copy of the *October 1, 1975 Zoning Regulations*, which I initially thought were missing. (They were overlooked during my first visit because they were comingled and in the wrong folder.)

A copy of the 1975 Table of Contents, and its Section 8 regulations for “*Soil, Gravel and Stone Removal*” is also appended to this “*Answer*.” It shows that, as of *October 1, 1975*, “*Quarrying*” was no longer listed as an expressly permitted use.

Part 3 of Second Question of Exhibit #249
(Reference: Exhibit #204 — Reason #1)

“Do we have a later set of regulations from around that time that shows the omission?”

Answer

The 1963, 1968, and 1971 versions of the zoning regulations are available in the vault. In Section 8, they each show that “*quarrying*” was an expressly permitted land use.

As confirmed on December 16, Section 8 in the Table of Contents of the October 1, 1975 Zoning Regulations shows *the omission of quarrying* as an expressly permitted land use.

However, what is important is not *when* quarrying was omitted as an expressly permitted land use.

What is important is that (a) *quarrying* was an expressly allowed land use in the zoning regulations for about 12 years, (b) *quarrying* was prohibited (by omission) in the zoning regulations as an expressly allowed land use beginning on October 1, 1975, and (c) *quarrying* continues to be prohibited (by omission) as an expressly allowed land use in the current January 2, 2024 Zoning Regulations.

**Eleventh Question of Exhibit #249
(Reference Exhibit #204 – Reasons #1 & #5)**

“Please describe how “blasting” and “rock crushing” and “rock shot” is deemed either as an “Incidental” use or a “Principle” use, in terms of this Application.”

Answer

“Blasting,” “rock crushing,” and the “processing of shot rock” cannot be deemed “Principal Uses” because they are not listed in Section 6.4 [“Schedule of Permitted and Specially Permitted Uses”] of the current zoning regulations.

“Shot rock” is defined at <https://solidasrocks.com/what-is-shot-rock-an-in-depth-guide-to-its-uses-and-benefits/> as follows:

“Shot rock, often called rip rap, consists of large, angular stones and rocks used to stabilize soil, prevent erosion, and provide a solid foundation for different structures. It’s a versatile material that plays a crucial role in maintaining the integrity of roads, riverbanks, and coastal areas. When you see massive rocks lining the sides of a highway or reinforcing a shoreline, you’re looking at shot rock in action. These robust stones are carefully selected and strategically placed to withstand the forces of nature, ensuring that the landscapes and structures they protect remain intact.” [An illustration of “shot rock” is appended to this answer.]

As such, “shot rock” cannot be an *accessory* (or *incidental*) use because it is merely a name for the rock fragments produced by *mining* and *quarrying* (the severing of bedrock), which are not allowed land uses.

To be permitted, an “Accessory Use” [i.e. an “*Incidental*” use] must be “*A use, building, structure and/or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot as the principal use.*” [as defined in §2.2 (page 2-2) in the Zoning Regulations.]

Under its definition, *blasting, rock crushing, and processing of shot rock* could be deemed accessory uses to an “*excavation use*” only if the excavation did not include the *severing of bedrock, which is mining or quarrying, which are not permitted uses.*

In summary, *quarrying (the severing of bedrock) is no longer listed as a permitted principal land use*, which means *the blasting (the severing of bedrock), the rock crushing, and the processing of shot rock* are not allowed accessory uses.

TOWN OF LEDYARD, CONNECTICUT
ZONING REGULATIONS
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May 1968

Amendments October 1970
And August 1971

Price: \$ 2.00

7.6 BUILDING ON EXISTING LOTS: Nothing in these regulations shall prevent the construction of a permitted building or the establishment of a permitted use on a lot which at the time of the adoption of these regulations and continuously thereafter was owned separately from an adjoining lot, as evidenced by deed recorded in the Land Records of the Town of Ledyard, provided however that the following requirements are met:

7.6.1 All the requirements of Section 6 regarding height, yards, setbacks, parking and signs for the appropriate district in which such lot is situated shall be met.

7.6.2 No such construction or use shall be permitted on any lot containing less than 15,000 sq. ft.

7.6.3 All sanitary requirements of the State of Connecticut and Town of Ledyard shall be met.

7.7 HOME HANDICRAFT INDUSTRY: Home handicraft industry shall be an occupation of a resident of the premises using principally his hands and applying personal skill and artistry in making items for sale. Home Handicraft Industry shall be permitted in any Zoning District provided that:

7.7.1 There is no more than one regular employee outside of the immediate family of the owner, working on the premises.

7.7.2 All Handicraft activities and evidence thereof be confined within a building and no objectionable noise, light, or odor, shall be noticeable off the premises which shall have the effect of deteriorating surrounding property values.

7.7.3 The Commission may require that off-street parking for workers and for customers be provided on the basis of 200 sq. ft. per employee.

SECTION 8: SOIL, GRAVEL, STONE REMOVAL AND QUARRYING

Except when a part of, and on the construction site of a bona fide building, farming or grading operation including road construction and pond development, the removal of topsoil, sand, gravel, clay or stone or other minerals shall be allowed in any district only after a special permit has been granted by the Planning and Zoning Commission as hereinafter set forth. A special permit shall be required for all such operations either existing on the date this Regulation becomes effective or undertaken subsequent to such date, except that in the case of already existing operations, only a statement indicating the nature and extent of the operations shall be required until January 1, 1965, when owner shall make new application in conformity with this section. Any removal of top soil, sand, gravel, stone or other minerals occurring beyond the stated extent of an existing operation shall be considered a new operation requiring a special permit and subject to conditions contained herein. Except as indicated above for existing operations, a special permit may be granted by the Commission after a Public Hearing and under the following conditions:"

8.1 The applicant shall submit a statement indicating the nature and extent of the operation and a map executed by a licensed surveyor or civil engineer showing the existing and proposed contours and the location of structures on adjacent property. Such shall be accompanied by a plan showing details of proposals for landscaping the site during and after the completion of the operations. Except in those districts designated as Industrial 1 and Industrial 2 no stone crusher or other device, except screens, not required for the actual removal of the material shall be used. The use of explosive devices may be limited as a condition of the permit.

8.2 Proper drainage of the area of the operation during and after completion of work shall be provided. In the case of sand, gravel, and other loose material no bank shall exceed a slope of one foot of vertical rise in two feet of horizontal distance. No removal shall take place within 15 feet of a property line (such distance to be measured from the top of the bank) nor within 50 feet of a highway taking line.

8.3 Before a permit is granted to any applicant starting any new operation regulated under this section or for existing operations continuing after January 1, 1965 (see paragraph 8) the applicant shall post a cash or surety company bond with the Town of Ledyard in an amount approved by the Board of Selectmen to guarantee conformity with the provisions of the regulations under this section and any conditions under which the permit shall have been granted.

8.4 In passing on such application, the Commission shall consider the effect of such removal on surrounding property, the future usefulness of the premises when the operation is completed, and its effect on the public interest.

8.5 Such permits shall be issued for a period not to exceed two years and may be renewed under the same conditions. Fees for such uses as provided in this section shall be \$10.00 for an area less than 5 acres; \$20.00 for an area five to ten acres, and \$30.00 for an area greater than ten acres.

8.6 When it is considered necessary for the protection of surrounding property, the Commission may require that the area disturbed be covered with four inches of top soil and seeded with a suitable cover crop, planted with trees or shrubs or otherwise treated in an appropriate manner. The intent of this regulation is to insure that the landscape is not needlessly marred during and after operations and that the work will not be a source of dust, or be generally characterized by unsightliness as evidenced by open pits, rubble or other indications of completed digging operations, which would have a deterioration influence on nearby property values.

C. B. Bell

TOWN OF LEDYARD, CONNECTICUT
ZONING REGULATIONS

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EFFECTIVE DATE: OCTOBER 11, 1963 PRICE \$3.00

AMENDMENTS: May 15, 1968, October 6, 1970,

August 3, 1971 and October 1, 1975

SECTION 8: SOIL, GRAVEL AND STONE REMOVAL: The removal of topsoil, sand, gravel, clay, stone or other minerals for commercial use shall be allowed in any district after a permit has been granted by the Commission as hereinafter set forth except when a part of, and on the construction site of a permitted building, farming or grading operation including road construction. Any removal of topsoil, sand, gravel, stone, or other minerals occurring beyond the stated extent of an existing operation shall be considered a new operation requiring a permit and subject to conditions contained herein. The intent of these regulations is to insure that the landscape is not needlessly marred during and after operations and that the work will not be a source of dust, pollution, siltation, or be generally characterized by unsightliness as evidenced by open pits, rubble or other indications of completed digging operations, which would have a deteriorating influence on nearby property values. A permit may be granted by the Commission after a Public Hearing and under the conditions that follow:

8.1 APPLICATION: The applicant shall submit the following data:

8.1.1 A zoning application form indicating the nature and extent of the operation, and the proposed land use with supporting data. It shall include the proposed truck access to the excavation, offsite haul route, the hours of operation, the machinery to be used on site and the type of buildings or structures to be constructed on site.

8.1.2 A map executed by a Land Surveyor or an Engineer, showing existing and proposed contours and location of existing structures on this and adjacent properties. Such proposal shall show details for landscaping the site during and after completion of operations, and proper drainage of the area of the operation during and after completion of the work.

8.1.3 Before the permit is granted to any applicant starting any operation regulated under this section the applicant shall post a cash or surety company bond to the Town of Ledyard in an amount approved by the Commission to guarantee that the premises shall be excavated, graded and landscaped in conformance with the plan of operation approved. Deviation from the plan of operation without the Commission's approval shall be cause for the Commission to revoke the permit.

8.1.4 In passing on such application, the Commission shall consider the effect of such removal on surrounding property, the future usefulness of the premises when the operation is completed, and its effect on the public interest.

8.1.5 The use of explosive devices may be limited as a condition of this permit. The times of operation may be stipulated by the Commission.

8.1.6 Permits shall be issued for a period not to exceed two (2) years. Permits shall not be extended but may be renewed only after following the procedures cited above. No permit will be considered for renewal until the operator has submitted a report on the excavation operation prepared by a certified engineer. The engineer's report shall include, traffic safety, noise, air quality, drainage, erosion control and landscaping. The engineer's report shall attest that the excavation as already completed conforms to the plan of operation as approved.

A plan for sediment and erosion control shall be included in the permit application.

8.2 OPERATIONS:

8.2.1 The gravel bank floor area shall be graded not less than one (1%) percent nor more than four (4%) percent to provide for surface drainage.

8.2.2 No removal shall take place within twenty-five (25) feet of a property line nor within fifty (50) feet of a highway property line, such distances to be measured from the top of the bank, and if within sight of a Town/State road may be required by the Commission to be screened. The Commission may require a similar screen if isolation of adjacent property is deemed necessary. No operation shall take place closer than a minimum of fifty (50) feet from a stream, pond or lake.

8.2.3 Upon completion of operations, no bank shall exceed a slope of one (1) foot vertical rise in three (3) feet of horizontal distance. The disturbed area shall be covered with a minimum of four (4) inches of top soil and graded. On completion of grading, the area will be limed, fertilized and seeded in accordance with the approved site plan. The site shall be maintained until the area is stabilized.

Temporary seeding, used to control erosion, is permitted during the time that the operation is being completed.

8.3 STONE CRUSHING: No stone crusher or other device, except screens, not required for the actual removal of material shall be used in any district except in Industrial Districts.



What Is Shot Rock? An In-Depth Guide to Its Uses and Benefits

/ Uncategorized / By Oliver Garcia

Ever wondered what shot rock is and why it's essential in various construction and landscaping projects?

Shot rock, often called riprap, consists of large, angular stones and rocks used to stabilize soil, prevent erosion, and provide a solid foundation for different structures. It's a versatile material that plays a crucial role in maintaining the integrity of roads, riverbanks, and coastal areas.