

July 22, 2021

Via E-mail only (gmctaggart@ctlawyers.com)

Atty. Gail E. McTaggart
Secor, Cassidy & McPartland, P.C.
41 Church Street
P.O. Box 2818
Waterbury, CT 06723-2818

Re: 101 Wykeham Road

Dear Gail:

This is in response to your letter from earlier today. First, I am well and hope you are, also.

We are both agreed that the property owner does not need a zoning permit to demolish the building remnants.

As for the issuance of the special permit and zoning permit, I disagree that the owner is precluded from seeking them as a result of the pending litigation. It has always been my understanding that a property owner is free to act under an approval even when that approval has been appealed unless the court has issued an injunction or restraining order. However, the owner will be acting at his or her own risk and, if the court ultimately sustains the appeal, it can order the removal of anything built under the invalidated permit. So, while I may wish the owner was not trying to move forward given the pending appeals, I don't think they are prohibited from doing so by zoning law. Also, as I'm sure you know, the Commission cannot deny the issuance of a zoning permit on the basis of a private agreement.

Whether the owner's submissions meet the requirements of the appealed special permit is a different question. To the best of my knowledge, the Commission has not considered the issue but will presumably do so at a future meeting.

I have asked Ms. White to send me copies of anything the property owner has submitted in seeking these permits and will forward everything to you promptly. In light of the pending litigation, I ask you not to contact her directly.

Very truly yours,



Michael A. Zizka