



Town of South Hadley

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BOARD OF APPEALS

TOWN HALL - ROOM 204
SOUTH HADLEY, MA 01075



Notice of Administrative Appeal

Time for acting on this administrative appeal will not commence until all items on this appeal form are complete.

APPELLANT—

Appellant's name: Chicopee Concrete Service

Appellant's address: 652 Prospect Street Chicopee, MA 01020

Appellant's phone #: 413-536-3370

OWNER—

If the appellant and owner are not the same person, the following must be completed:

Owner's name: J & L Realty Management LLC / LEO CONCRETE SERVICE, INC.

Owner's address: 67 White Birch Avenue Chicopee, MA 01020

Owner's phone #: 413-533-5960

The owner hereby appoints Jason Ouellette (name of person appointed) to act as agent for purposes of submitting and processing this administrative appeal.

Date: 4/8/2019


Owner's signature

TITLE TO THE PROPERTY—

The owner's title to the land that is the subject matter of this administrative appeal is

derived from deed/will/other of J & L Realty Management LLC / Leo Concrete Service, Inc.
dated August 2017, and recorded in Hampshire
September, 1967

Registry of Deeds, Volume 12727, Page 168
1518 451

Or as Land Court Certificate of Title No. _____

Registered in _____ District, Volume _____, Page _____

ASSESSOR'S RECORDS—

The land shown on the plan is located on Map 54, Lot 20 / 15 of the

Assessor's records and has an address of 40 Sullivan Lane / Hadley Street.

ZONING REQUIREMENTS—

The land is located in the RES
zoning district.

THE PLAN (if Applicable)

Title of plan: _____

Drawn by: _____

P.E. or surveyor's registration #: _____

Date of plan: _____

THE REQUEST—

The administrative appeal is based on a decision by: Building Commissioner

dated: March 12, 2019

whose decision was (indicate the details of the decision you are appealing):

: _____

The order of Chicopee Concrete Service to cease all earth removal operations

YOU MUST ATTACH A COPY OF THE DECISION YOU ARE APPEALING.

Relief is requested (specify what you want the board to do). If you fail to request specific relief, the Board must deny your administrative appeal, as it has nothing upon which to act.

Vacate Building Commissioner cease & desist order dated 3/12/19

Purpose of requesting relief (what do you want to do?): _____

we wish to continue operating our business, including earth removal operations
at the subject property.

THE GROUNDS—

Explain grounds for your appeal and explain why the board should find in favor of your request for relief: _____

Earth removal on parcels 15 and 20 constitutes a "prior non-conforming use" that is not subject subsequently enacted zoning by-laws;

South Hadley Planning Department lacked authority to issue previously granted "permits";

South Hadley is estopped from issuing cease and desist order and/or requiring special permit or other permit for earth removal on subject property;

South Hadley is barred from enjoining earth removal operation on subject property by laches and/or applicable statutes of limitations;


South Hadley Building Commissioner exceeded his authority in issuing the cease and desist order of March 13, 2019;

South Hadley Building Commissioner failed to allow petitioner opportunity to bring parcel into compliance prior to issuing order;

South Hadley Building Commission's cease and desist order was arbitrary and capricious;

Enforcement of cease and desist order against Petitioner violates due process clause of the United States constitution; and

Enforcement of cease and desist order against Petitioner constitutes an unconstitutional taking.

Signature of appellant:  Date: 4-6-19

Received by Town Clerk on: _____ (date)

Filing feed paid \$ _____

Signature of Town Clerk: _____

Reference: *The Zoning Guidebook 2004*, Carol Rolf, Esq., for the Massachusetts Federation of Planning and Appeals Boards.