

Town of Pepperell  
**INSPECTOR OF BUILDINGS**  
1 Main Street  
Pepperell, Massachusetts 01463-1644  
(978) 433-0329 Fax (978) 433-0338

October 9, 2018

Board of Selectmen  
Roland Nutter, Chair  
1 Main Street  
Pepperell, MA 01463

Dear Mr. Nutter,

I received your letter dated September 24, 2018 requesting a zoning determination concerning a proposed soil reclamation project proposed by Mass Composting Group Inc. at 161 Nashua Road. I understand that the Board of Selectmen seeks a determination as to whether:

1. The soil reclamation project proposed by Mass Composting Group, Inc., described in its June 28, 2018 proposal to the Town, with Attachments A-C, qualifies as a "commercial dumping ground" as defined in Section 10000 of the Zoning Bylaw; and
2. Whether a commercial dumping ground is an allowed use at the property located at 161 Nashua Road under Appendix A (Table of Principal Uses) of the Zoning Bylaw.

In response to your letter, I make the following comments:

1. Section 10000 of the Zoning Bylaw defines a "Commercial Dumping Ground" as "A disposal site for garbage, rubbish, the deposit of demolition materials or other refuse or as a site for a refuse disposal incinerator."
2. "Refuse" is defined in Webster's II New Riverside Dictionary as "matter thrown away or rejected as worthless trash."
3. The Table of Principal Uses, Appendix A, of the Zoning Bylaw lists a commercial dumping ground as not being allowed in any zoning district in the Town of Pepperell.
4. As a point of information, Section 9222 of the Zoning Bylaw does not allow the Board of Appeals to grant use variances.
5. Based upon Mass Composting's June 28, 2018 proposal to the Town, the company proposes to use the property at 161 Nashua Road to deposit unwanted or unusable soil removed from remote construction projects for no purpose other than the permanent storage of the material.

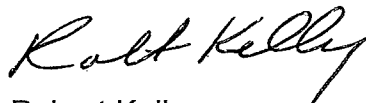
6. In a 1996 Land Court case involving Mass Composting, a prior use of the 161 Nashua Road property was determined to be a "Manufacturing" use allowed at the site as of right under the Zoning Bylaw, and not a Commercial Dumping Ground. See Town of Pepperell v. Mass Composting Group, Inc., Miscellaneous Case. No. 197658 (1996). In that case, Mass Composting proposed using the site as an "organic materials composting project" where various organic waste products would be brought onto the site and processed indoors to create compost to be sold for off-site use. In finding that the composting use qualified as Manufacturing and not a Commercial Dumping Ground, the Land Court decision noted that:

"[I]f the project constitutes a manufacturing use it is not also a commercial dumping ground, as 'dumping ground' implies a depository for unwanted materials. See Webster's New World Dictionary ('dump' is defined as 'to throw away (garbage, rubbish, etc.),' and 'ground' as 'any particular piece of land, esp. one set aside for a specified purpose'). The project's purpose is to take a raw material and produce humus through a compositing process. All processing activities would occur in a fully enclosed building. The raw material and the finished product--both valued by [Mass Composting] would not be stored outdoors on the ground... The finished product would be sold and used by consumers at places remote to locus."

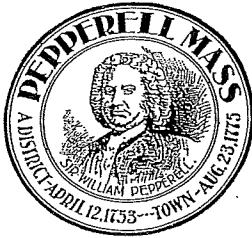
7. Unlike the proposed composting use at issue in the 1996 Land Court case, the soil reclamation use proposed by Mass Composting would be "a depository for unwanted materials," consisting of taking unwanted materials and storing them permanently outdoors on the ground.

Based upon the forgoing, it is my determination that Mass Composting's use would qualify as a Commercial Dumping Ground because the proposed operation would use the property at 161 Nashua Road as a depository of otherwise unwanted or unusable soil removed from remote construction projects, for no purpose other than the permanent storage of the material. Under the Zoning Bylaw's Table of Use Regulations, Mass Composting's proposed use is prohibited at 161 Nashua Road.

Sincerely,



Robert Kelly  
Zoning Officer



# TOWN OF PEPPERELL

BOARD OF SELECTMEN/TOWN ADMINISTRATOR

September 24, 2018

Robert Kelly  
Building Inspector / Zoning Officer  
Town of Pepperell  
Town Hall  
One Main Street  
Pepperell, MA 01463-1644

Re: Zoning Determination Request; 161 Nashua Road

Dear Mr. Kelly:

At its meeting on September 24, 2018, the Board of Selectmen voted to submit this zoning determination request to your office, in accordance with M.G.L. c. 40A, Sec. 7. The Board seeks a determination as to whether:

1. The soil reclamation project proposed by Mass Composting Group, Inc., described in its June 28, 2018 proposal to the Town, with Attachments A-C, qualifies as a "commercial dumping ground" as defined in Section 10000 of the Zoning Bylaw; and
2. Whether a commercial dumping ground is an allowed use at the property located at 161 Nashua Road under Appendix A (Table of Principal Uses) of the Zoning Bylaw.

Thank you for your time and attention to this matter.

Sincerely,

Roland P. Nutter, Chair

Encl.