

**TOWN OF BROOKLYN  
PLANNING AND ZONING COMMISSION  
PUBLIC HEARING  
LEGAL NOTICE**

The Planning and Zoning Commission will hold a public hearing on Wednesday, May 5, 2021, at 6:30 p.m. via Webex meeting on the following:

**Enforcement SPG 20-001:** To review the status of compliance, as outlined in Sec. 9.D.8.5 of the Brooklyn Zoning Regulations, regarding the Cease & Desist Order issued on March 31, 2021 to Paul Lehto for violations of the conditions of SPG 20-001 Gravel Special Permit at his property at the eastern end of River Walk Drive (71 acres, Assessor's Map 32, Lot 148).

A copy of the order is available on the Town of Brooklyn website. Webex meeting information will be included on the May 5, 2021 Planning and Zoning Commission agenda .

All interested parties may attend the meeting, be heard and written correspondence received.

Dated this 12th day of April.

Michelle Sigfridson  
Chairman

**Brooklyn Land Use Department**  
**69 South Main Street**  
**Brooklyn, CT 06234**  
**(860) 779-3411 ext. 31 and ext. 12**

**REVISED CEASE AND DESIST ORDER  
AND ORDER TO REMEDIATE**

Certified# 7018 2290 0001 0997 6438

Paul Lehto  
40 Almada Drive  
Brooklyn, CT 06234

March 31, 2021

Mr. Lehto:

**Facts**

A Notice of Decision was issued on 9/28/21 for the Gravel Special Permit for your property at the end of River Walk Drive (Assessor's Map 32, Lot 148) – 71.34 acres, for the proposed removal of 90,000 cubic yards of gravel from 6.7 acres of land. Refer to the attached copy of this Notice of Decision.

The Gravel Special Permit approval was based on the plan titled Proposed Gravel Excavation Easterly of Allen Hill Road Brooklyn, Connecticut, ("the plan") prepared by Provost and Rovero, dated June 2, 2020 and said approval also contained a number of conditions of the approval which are requirements that are an integral element of the special permit approval.

On 3/23/21, Jana Roberson, Town Planner, and Margaret Washburn, Zoning Enforcement Officer, entered the property that is the subject of the Special Permit to conduct a compliance inspection with your agent, Richard Klingensmith. That inspection resulted in a Cease and Desist Order dated 3/23/21. Refer to the attached copy of this Order. This Revised Cease and Desist Order supersedes the Order issued on 3/23/21 regarding only violations of the Gravel Special Permit. The violations of the Brooklyn Inland Wetlands and Watercourses Regulations will be addressed under a separate Order. Regarding violations of the Brooklyn Inland Wetlands and Watercourses Regulations, the original Cease and Desist Order remains in effect until a superseding Order is issued.

Refer to the attached photographs taken at the 3/23/21 compliance inspection by Ms. Roberson and Ms. Washburn as evidence of the violations of the Special Permit.

The following activities have been observed to have occurred on your property in violation of the Gravel Special Permit:

Excavation commenced without posting any performance bond.

Excavation commenced without the limit of disturbance having been flagged in the field by a licensed land surveyor.

Excavation commenced significantly closer to the property lines (as close as approximately 15 feet) than shown by the limits of disturbance on the approved plan (50 feet).

Excavation commenced prior to the required flagging of property lines within 300' of the area of disturbance.

The erosion and sediment controls were not installed to the satisfaction of the Land Use Office prior to the commencement of Excavation. Excavation commenced prior to the 3/23/21 compliance inspection. A portion of the erosion and sediment controls was in a state of disrepair and in need of maintenance when it was photographed on 3/23/21.

The area of disturbance has far exceeded the 6.7 acres of excavation approved by approximately double the size of 6.7 acres.

The proposed excavation plan (Sheet 4/7) showed that excavation would commence in Phase 1. Extensive excavation was observed to have taken place in Phase 2 during the 3/23/21 compliance inspection.

The proposed excavation plan (Sheet 4/7) states: "Perimeter silt fence and/or staked hay bales shall be installed as shown prior to grubbing and stripping topsoil." No perimeter silt fence and/or staked hay bales had been installed prior to the 3/23/21 compliance inspection.

It was observed and documented at the 3/23/21 compliance inspection that portions of the access road were in poor condition, and that portions of the access road had

been widened significantly. Such widening was not shown on the plan and was not approved under the Gravel Special Permit.

### **Conditions of the Gravel Special Permit that Have Been Violated**

2. Prior to the commencement of any activity undertaken in accordance with this approval, a performance bond in favor of the Town of Brooklyn in the amount of \$115,000 will be submitted to the Brooklyn Land Use Department. The form and content of the bond shall be reviewed and approved by Town Staff. The bond shall include: \$67,000 to restore the 6.7 acre excavation area, \$10,000 to repair erosion on the gravel access road as directed by the Town's consulting engineer, and \$38,000 to repave Riverwalk Drive with a 2" overlay as directed by the Town's consulting engineer. Once the repair work on the gravel access road and Riverwalk Drive is completed to the reasonable satisfaction of the Town's consulting engineer, the portion of the bond attributed to that particular activity can be released. The Town shall document the condition of Riverwalk Drive and the gravel access road prior to the commencement of work on the site. No activity shall occur on the site until the bond has been provided in final form to the Town and approved. Except as otherwise provided, the bond shall remain in place for the life of the operation including restoration of the property to the satisfaction of the Town unless this requirement is subsequently modified by the Planning and Zoning Commission.
3. Prior to the commencement of any activity undertaken in accordance with this approval, the limit of disturbance shall be flagged in the field by a licensed land surveyor and such flags shall be posted high above grade on trees or on construction fence so as not to be disturbed by clearing or excavation activities. The limits of disturbance markings shall remain in place for the duration of the excavation activity and shall be replaced if disturbed. Additionally, property lines within 300' of the area of disturbance shall be flagged. All flagging as required by this approval shall be checked no less frequently than quarterly by the operator to ensure they are in place and shall be restored if disturbed or removed.
4. Prior to the commencement of any activity undertaken in accordance with this approval, erosion and sedimentation control measures as shown on the approved plans shall be installed to the satisfaction of the Land Use Office. The Land Use Office shall have the authority to direct that additional erosion



and sedimentation control measures be installed if deemed necessary to maintain adequate protection from erosion and sedimentation.

5. Excavation activity and the volume of material to be excavated shall be as shown on the plans titled "Proposed Gravel Excavation Allen Hill Road Brooklyn, Connecticut" prepared by Provost & Rovero dated June 2, 2020, and as further revised by these conditions. The excavation area is limited to 6.7 acres and the volume of material is not to exceed a total of 90,000 cubic yards. No on-site processing of excavated material is permitted, and no earth material shall be imported to the site except as is required for restoration of the site in accordance with Condition 7 below.

### **Applicable Laws and Regulations**

#### **Section 6.O.4.2:**

**2. Area of Operation** – The Commission may require project stages to limit the amount of land to be denuded, stripped, or otherwise left in an unrestored condition at any one time. Such requirements shall be based upon the character of the neighborhood, the topography of the site, the potential for erosion by wind or water, unique site conditions, and the recommendation of the Town Engineer or such other State or local agency, or special advisor, as may provide advice to the Commission.

#### **Section 6.O.4.4:**

**Property Line Setbacks** - All property boundaries shall be clearly and permanently marked in the field. There shall be no excavation operations within fifty (50') feet of any property line or of a street line, except that the Commission may modify such buffer where the re-use plan indicates that excavation closer to the property line would facilitate a valid successive use of the property. Where the use of an abutting property is similar or compatible to the proposed use or where the topography of the property is appropriate, and when abutters have provided their consent in writing, the Commission may allow material to be removed to the property line to conform to existing or proposed grades.

#### **Section 6.O.4.8:**

**Fences and Barricades** - Snow fence shall be used to clearly delineate the boundaries of the area of operation. Where necessary to protect the safety of persons entering the permit premises, the Commission may require fences, gates, or barricades to control or prevent vehicular access.

#### **Section 6.O.4.9:**

**Truck Access** - Truck access roads to and within the permit premises shall be so arranged as to eliminate danger to traffic and to minimize the nuisance to surrounding property owners. The maximum grade of truck access roads shall not exceed 12%. Such access roads shall have a dustless surface for the first three hundred (300') feet from the public street, which is to be maintained in good condition at all times. There shall be an anti-tracking pad adjacent to the street, or such other additional or alternative measures as the Commission may approve upon the written request of the applicant to prevent the tracking, washing, spillage or other deposition of material on the street.

#### **Section 6.O.7:**

**Financial Guarantee Required**— a. Before excavation operations commence, the owner shall post a financial guarantee with the Treasurer of the Town of Brooklyn in a manner and form consistent with CT General statutes Sec. 8-3, as amended. The amount of such financial guarantee shall be calculated by the applicant's engineer so as not to exceed the anticipated actual costs the implementation of erosion and sediment controls including final erosion and sedimentation measures plus a contingency amount not to exceed ten per cent of such costs. The amount of such financial guarantee shall be approved by the Town Engineer. Such financial guarantee shall be accompanied by a written agreement of terms and conditions that shall be approved by the Commission's legal counsel.

b. The applicant may request a release of all or a portion of the financial guarantee as provided in CT General statutes Sec. 8-3 (g)(3), as amended. Any request shall be accompanied by an estimate of the cost of all remaining restoration prepared by the permittee's engineer. At all times, the amount of the bond retained shall be sufficient to restore the site.

c. The Town of Brooklyn shall be authorized to withdraw funds or otherwise call the bond whenever the owner or operator fails to perform restorative work required

to prevent environmental and neighborhood degradation following notice to the permittee. Such circumstances may include, but are not limited to, abandonment of the excavation operation by the owner or operator or failure to satisfactorily perform restoration work following revocation or termination of the permit by the Planning and Zoning Commission.

**2. Inspection** - The Commission or the Zoning Enforcement Official may inspect the permit premises for compliance with these Regulations, the approved plans, and any conditions of the permit upon notice to the landowner.

**3. Enforcement** - a. Any permit issued hereunder shall be enforced in accordance with the provisions of these Regulations.

b. Should the Zoning Enforcement Official ("ZEO"), based on an on-site inspection, determine that the holder of the Special Permit may have exceeded the approved limits of the excavation, the ZEO may require field staking of reference points by a licensed surveyor and/or submission of an updated plan by a professional engineer at the ZEO's determination as to what information is required. Such information shall be provided by the holder of the Special Permit within 30 days of written notice of the requirement of the field staking or an updated plan, or both. In the event that the holder of the Special Permit shall fail, neglect or refuse to provide the required information, then the ZEO may contract separately for such work and use the financial guarantee as provided by the holder of the Special Permit to pay for it. If it is determined that the excavation does exceed that authorized by the Special Permit issued by the Commission, the holder of the Special Permit shall apply for a new Special Permit for such work within 30 days of written notice of the exceedance issued by the ZEO. In the event that the holder of the Special Permit does not apply for a new Special Permit within 30 days from the date of the notice from the ZEO, the ZEO may issue a cease and desist order and/or may pursue enforcement penalties as provided by the Connecticut General Statutes.

#### **Section 9.D.8.5:**

##### **Following Approval for Special Permits**

Failure to strictly adhere to the documents, plans, terms, conditions and/or safeguards approved by the Commission shall be a violation of these Regulations. The Zoning Enforcement Officer or the Commission shall notify the applicant in writing of the specifics of the non-compliance and shall provide a reasonable time period for compliance therewith. Unless there is full compliance within such time

period, the Commission may, following a duly advertised public hearing, rescind and revoke such Special Permit.

**YOU ARE HEREBY REQUIRED TO DO THE FOLLOWING WITHIN 30 (THIRTY) DAYS UNLESS A DIFFERENT TIME PERIOD IS SPECIFICALLY OTHERWISE INDICATED FROM THE RECEIPT OF THIS ORDER:**

- 1. IMMEDIATELY CEASE AND DESIST ALL SITE WORK, EXCEPT EROSION AND SEDIMENTATION CONTROL INSTALLATIONS. NO OTHER SITE WORK, EXCAVATION, OR GRADING SHALL OCCUR.**
- 2. ATTEND THE 4/7/2021 MEETING OF THE BROOKLYN PLANNING AND ZONING COMMISSION AT 6:30 PM VIA WEBEX. REFER TO THE ATTACHED DRAFT AGENDA FOR INSTRUCTIONS ON HOW TO ATTEND THIS MEETING BY PHONE OR INTERNET CONNECTION.**
- 3. POST THE FULL AMOUNT OF THE PERFORMANCE BOND (\$115,000.00) IN FAVOR OF THE TOWN OF BROOKLYN AS PER CONDITION NUMBER 2 IN THE NOTICE OF DECISION DATED 9/28/2020.**
- 4. WITHIN 30 (THIRTY) DAYS OF THE RECEIPT OF THIS ORDER SUBMIT A REMEDIATION PLAN SHOWING:**
  - WHERE EXCAVATION OCCURRED OUTSIDE THE LIMIT OF DISTURBANCE**
  - WHERE EXCAVATION OCCURRED CLOSER THAN PERMITTED TO PROPERTY LINES**
  - WHERE EXCAVATION OCCURRED CLOSER THAN PERMITTED TO EROSION AND SEDIMENT CONTROLS**
  - WHERE THE ACCESS ROAD WAS WIDENED BEYOND WIDTHS SHOWN ON THE APPROVED PLAN**
  - THE LIMITS OF DISTURBANCE SHOWN ON THE PLAN APPROVED FOR THE GRAVEL SPECIAL PERMIT**
  - A GRADING AND NATIVE VEGETATION PLANTING PLAN FOR THESE AREAS**

- 5. A LAND SURVEYOR LICENSED TO WORK IN THE STATE OF CT SHALL STAKE REFERENCE POINTS IN THE FIELD, NOT MORE THAN 50 FEET APART, SHOWING THE LIMITS OF DISTURBANCE SHOWN ON THE PLAN APPROVED FOR THE GRAVEL SPECIAL PERMIT.**
- 6. A LAND SURVEYOR LICENSED TO WORK IN THE STATE OF CT SHALL FLAG IN THE FIELD ALL PROPERTY LINES WITHIN 300 FEET OF THE AREA THAT HAS BEEN DISTURBED AS OF 3/23/21.**
- 7. A LAND SURVEYOR LICENSED TO WORK IN THE STATE OF CT SHALL STAKE REFERENCE POINTS IN THE FIELD, NOT MORE THAN 50 FEET APART, SHOWING THE LIMITS OF THE 6.7 ACRES OF LAND WHERE EXCAVATION WAS APPROVED UNDER THE NOTICE OF DECISION DATED 9/28/2020.**
- 8. A LAND SURVEYOR LICENSED TO WORK IN THE STATE OF CT SHALL STAKE REFERENCE POINTS IN THE FIELD, NOT MORE THAN 50 FEET APART, SHOWING THE LIMITS OF THE WIDTH OF THE ACCESS ROAD SHOWN ON THE APPROVED PLAN IN AREAS WHERE THE ACCESS ROAD WAS WIDENED WITHOUT PERMISSION.**
- 9. WITHIN FIVE (5) DAYS OF THE DATE HEREOF, RE-INSTALL THE PORTION OF THE EROSION AND SEDIMENT CONTROLS THAT HAD FAILED AS OF 3/23/21.**
- 10. WITHIN FIVE (5) DAYS OF THE DATE HEREOF, INSTALL DOUBLE-STAKED HAY BALES AND SILT FENCE AS SHOWN ON SHEET 4/7 IN THE PLAN.**

**FAILURE TO COMPLY WILL SUBJECT YOU TO CITATIONS AND FINES OF \$150.00 PER DAY. REFER TO THE ATTACHED SECTION 20-2 OF THE BROOKLYN TOWN ORDINANCE REGARDING CITATION PROCEDURES AND FINES FOR ZONING VIOLATIONS.**

**UNLESS THERE IS FULL COMPLIANCE WITHIN 30 (THIRTY) DAYS  
OF THE RECEIPT OF THIS ORDER THE COMMISSION MAY,  
FOLLOWING A DULY ADVERTISED PUBLIC HEARING, RESCIND  
AND REVOKE THE SPECIAL PERMIT FOR THE SUBJECT PROPERTY.**

Dated at Brooklyn, March 31, 2021.

Margaret Washburn

Margaret Washburn  
Brooklyn Zoning Enforcement Officer

CC: Rick Ives, First Selectman, Jana Roberson, Town Planner, Peter Alter, Town  
Counsel

PLANNING AND ZONING COMMISSION

TOWN OF BROOKLYN

P.O. BOX 356  
CONNECTICUT 06234

9489 0090 0027 6215 8999 61

September 28, 2020

CERTIFIED#

Paul R. Lehto  
40 Almada Drive  
Brooklyn, CT 06234

RE: Notice of Decision – SPG 20-001 Special Permit for Sand and Gravel – Paul Lehto, end of River Walk Drive (Assessor's Map 32, Lot 148) – 71.34 acres, Proposed removal of 90,000 cubic yards of gravel over 6.7 acres.

Dear Mr. Lehto:

On September 15, 2020, the Brooklyn Planning and Zoning Commission approved your Gravel Special Permit application limited to 6.7 acres within the 71.34 acres on the east side of Allen Hill Road (Map 32, Lot 148), identified in the files of the Brooklyn Land Use Office as SPG 20-001. This Gravel Special Permit is to excavate and remove up to 90,000 cubic yards of sand and gravel from the 6.7 acre site, with the finding that the standards of Section 6.O - Excavation Operations and Section 9.D -Special Permit Applications are satisfied in accordance with all final documents and testimony submitted with the application and subject to and including the following conditions:

1. The Inland Wetlands and Watercourses Commission approval with conditions and the Planning and Zoning Commission approval with conditions must be included on the final recorded special permit plans. Draft final approved plans shall be printed on paper and submitted to Town Staff for review prior to printing on archival material. The final approved plans bearing the seal and signature of the appropriate professionals, signed by Commission Chairs, shall be recorded along with the Special Permit in the office of the Town Clerk.
2. Prior to the commencement of any activity undertaken in accordance with this approval, a performance bond in favor of the Town of Brooklyn in the amount of \$115,000 will be submitted to the Brooklyn Land Use Department. The form and content of the bond shall be reviewed and approved by Town Staff. The bond shall include: \$67,000 to restore the 6.7 acre excavation area, \$10,000 to repair erosion on the gravel access road as directed by the Town's consulting engineer, and \$38,000 to repave Riverwalk Drive with a 2" overlay as directed by the Town's consulting engineer. Once the repair work on the gravel access road and Riverwalk Drive is completed to the reasonable satisfaction of the Town's consulting engineer, the portion of the bond attributed to that particular activity can be released. The Town shall document the condition of Riverwalk Drive and the gravel access road prior to the commencement of work on the site. No activity shall occur

- on the site until the bond has been provided in final form to the Town and approved. Except as otherwise provided, the bond shall remain in place for the life of the operation including restoration of the property to the satisfaction of the Town unless this requirement is subsequently modified by the Planning and Zoning Commission.
3. Prior to the commencement of any activity undertaken in accordance with this approval, the limit of disturbance shall be flagged in the field by a licensed land surveyor and such flags shall be posted high above grade on trees or on construction fence so as not to be disturbed by clearing or excavation activities. The limits of disturbance markings shall remain in place for the duration of the excavation activity and shall be replaced if disturbed. Additionally, property lines within 300' of the area of disturbance shall be flagged. All flagging as required by this approval shall be checked no less frequently than quarterly by the operator to ensure they are in place and shall be restored if disturbed or removed.
  4. Prior to the commencement of any activity undertaken in accordance with this approval, erosion and sedimentation control measures as shown on the approved plans shall be installed to the satisfaction of the Land Use Office. The Land Use Office shall have the authority to direct that additional erosion and sedimentation control measures be installed if deemed necessary to maintain adequate protection from erosion and sedimentation.
  5. Excavation activity and the volume of material to be excavated shall be as shown on the plans titled "Proposed Gravel Excavation Allen Hill Road Brooklyn, Connecticut" prepared by Provost & Rovero dated June 2, 2020, and as further revised by these conditions. The excavation area is limited to 6.7 acres and the volume of material is not to exceed a total of 90,000 cubic yards. No on-site processing of excavated material is permitted and no earth material shall be imported to the site except as is required for restoration of the site in accordance with Condition 7 below.
  6. Restoration shall commence upon completion of each phase of excavation as provided in the Zoning Regulations and as noted in the Restoration Notes on page 5 of the approved plans.
  7. Any fill that is imported to the site for the purpose of backfilling the excavation area shall be "clean" as defined by the CT DEEP Regulations of State Agencies Sec. 22a-209-1. Prior to the acceptance of any imported fill to be used to restore the site, the source of the imported fill and the proper certification as to the condition of the fill shall be provided in writing to the Town. No imported fill may enter the site unless proper documentation is provided in advance to the Land Use Office.
  8. Dust shall be controlled throughout the year using water or calcium chloride treatment on surfaces as appropriate for conditions. All trucks exiting or entering the site must have their tarp covers closed. Sweeping of the entrance area shall occur regularly and as needed. The Land Use Office shall have the authority to direct that additional dust control measures be installed and employed if deemed necessary to maintain adequate protection from ambient dust within or beyond the site.
  9. Written reports of the volume of excavated materials shall be submitted by the permittee to the Brooklyn Zoning Enforcement Officer quarterly in March, June, September, and December.
  10. The permit renewal date is September 15, 2022. The renewal procedure shall be as specified in Section 6.O.7 of the Brooklyn Zoning Regulations (effective 10-15-2019).



A legal notice of this approval has been published on September 22, 2020 on [www.brooklynct.org/planning-zoning-commission/minutes](http://www.brooklynct.org/planning-zoning-commission/minutes). Please note that any approval of the Brooklyn Planning and Zoning Commission may be appealed for a fifteen-day period following the publication of the legal notice.

Enclosed is a copy of the record of special permit. It is your duty to file the record of special permit with the Brooklyn Town Clerk. The special permit is not valid until it is filed.

If you have any questions, please call Jana Roberson, in the Land Use Department at 860-779-3411 Extension 14.

Signed,



Jana Roberson, AICP  
Dir. Of Community Development/  
Town Planner

JR/acl

CC: File, Provost and Rovero, Inc.

Appendix:

- Application SPG 20-001
- Site Plans titled "Proposed Gravel Excavation Easterly of Allen Hill Road, Brooklyn, CT, owner/applicant Paul R. Lehto", prepared by Provost & Rovero, Inc., dated 6/2/20, Sheets 1-7
- IWWC Approval Letter dated 7/30/20
- Letter dated 7/14/20 Syl Pauley, PE, NECCOG
- Email dated 8/4/20 from Syl Pauley to Jana Roberson
- Letter dated 8/10/20 Provost & Rovero, Inc.
- Email dated 8/20/20 from David Held to
- Letter dated 8/31/20 Provost & Rovero, Inc.

**Town of Brooklyn  
Record of Special Permit**

In accordance with Section 8-3d of the Connecticut General Statutes, a record of Special Permit shall be filed in the Office of the Town Clerk of Brooklyn before the Special Permit shall be considered valid. It shall be filed under the name of the record owner, who shall be responsible for all fees.

Name of Record Owner(s): Paul R. Lehto

Address: 40 Almada Drive Brooklyn, CT 06234

Property Location: 71.34 acres on east side of Allen Hill Road

Assessors Map-Lot Number: Map 32, Lot 148      Zone: RA

Application Identification Number: SPG 20-001

Activity: Excavation and removal of up to 90,000 cubic yards of sand and gravel from a 6.7 acre site.

Section(s) of Regulations under which the Special Permit was Granted:

Section 6.O - Excavation Operations and Section 9.D -Special Permit Applications

Conditions of Special Permit:

1. The Inland Wetlands and Watercourses Commission approval with conditions and the Planning and Zoning Commission approval with conditions must be included on the final recorded special permit plans. Draft final approved plans shall be printed on paper and submitted to Town Staff for review prior to printing on archival material. The final approved plans bearing the seal and signature of the appropriate professionals, signed by Commission Chairs, shall be recorded along with the Special Permit in the office of the Town Clerk.
2. Prior to the commencement of any activity undertaken in accordance with this approval, a performance bond in favor of the Town of Brooklyn in the amount of \$115,000 will be submitted to the Brooklyn Land Use Department. The form and content of the bond shall be reviewed and approved by Town Staff. The bond shall include: \$67,000 to restore the 6.7 acre excavation area, \$10,000 to repair erosion on the gravel access road as directed by the Town's consulting engineer, and \$38,000 to repave Riverwalk Drive with a 2" overlay as directed by the Town's consulting engineer. Once the repair work on the gravel access road and Riverwalk Drive is completed to the reasonable satisfaction of the Town's consulting engineer, the portion of the bond attributed to that particular activity can be released. The Town shall document the condition of Riverwalk Drive and the gravel access road prior to the commencement of work on the site. No activity shall occur on the site until the

bond has been provided in final form to the Town and approved. Except as otherwise provided, the bond shall remain in place for the life of the operation including restoration of the property to the satisfaction of the Town unless this requirement is subsequently modified by the Planning and Zoning Commission.

3. Prior to the commencement of any activity undertaken in accordance with this approval, the limit of disturbance shall be flagged in the field by a licensed land surveyor and such flags shall be posted high above grade on trees or on construction fence so as not to be disturbed by clearing or excavation activities. The limits of disturbance markings shall remain in place for the duration of the excavation activity and shall be replaced if disturbed. Additionally, property lines within 300' of the area of disturbance shall be flagged. All flagging as required by this approval shall be checked no less frequently than quarterly by the operator to ensure they are in place and shall be restored if disturbed or removed.
4. Prior to the commencement of any activity undertaken in accordance with this approval, erosion and sedimentation control measures as shown on the approved plans shall be installed to the satisfaction of the Land Use Office. The Land Use Office shall have the authority to direct that additional erosion and sedimentation control measures be installed if deemed necessary to maintain adequate protection from erosion and sedimentation.
5. Excavation activity and the volume of material to be excavated shall be as shown on the plans titled "Proposed Gravel Excavation Allen Hill Road Brooklyn, Connecticut" prepared by Provost & Rovero dated June 2, 2020, and as further revised by these conditions. The excavation area is limited to 6.7 acres and the volume of material is not to exceed a total of 90,000 cubic yards. No on-site processing of excavated material is permitted and no earth material shall be imported to the site except as is required for restoration of the site in accordance with Condition 7 below.
6. Restoration shall commence upon completion of each phase of excavation as provided in the Zoning Regulations and as noted in the Restoration Notes on page 5 of the approved plans.
7. Any fill that is imported to the site for the purpose of backfilling the excavation area shall be "clean" as defined by the CT DEEP Regulations of State Agencies Sec. 22a-209-1. Prior to the acceptance of any imported fill to be used to restore the site, the source of the imported fill and the proper certification as to the condition of the fill shall be provided in writing to the Town. No imported fill may enter the site unless proper documentation is provided in advance to the Land Use Office.
8. Dust shall be controlled throughout the year using water or calcium chloride treatment on surfaces as appropriate for conditions. All trucks exiting or entering the site must have their tarp covers closed. Sweeping of the entrance area shall occur regularly and as needed. The Land Use Office shall have the authority to direct that additional dust control measures be installed and employed if deemed necessary to maintain adequate protection from ambient dust within or beyond the site.
9. Written reports of the volume of excavated materials shall be submitted by the permittee to the Brooklyn Zoning Enforcement Officer quarterly in March, June, September, and December.

10. The permit renewal date is September 15, 2022. The renewal procedure shall be as specified in Section 6.O.7 of the Brooklyn Zoning Regulations (effective 10-15-2019).

Reason for Granting the Special Permit: In conformance with the Zoning Regulations as modified by the Planning and Zoning Commission.

Date of Issuance of Special Permit by the P & Z Commission: September 15, 2020

I certify that the above is a true record of the Special Permit granted for the subject property by the Brooklyn Planning and Zoning Commission.

Jana Robinson  
Town Planner

9/28/2020  
Date

# Cease + Desist Order

3/23/21

Paul Lehto and his  
agents are hereby required  
to stop all work on the Allen  
Hill gravel pit  
property subject to the  
provisions of the PZC  
Special Permit issued in 2020  
due to violations of the  
Special Permit and the  
Wetlands Permit.  
Issued by Margaret Washburn  
ZEO + Wetlands Enforcement Officer





Outside limits of  
disturbance





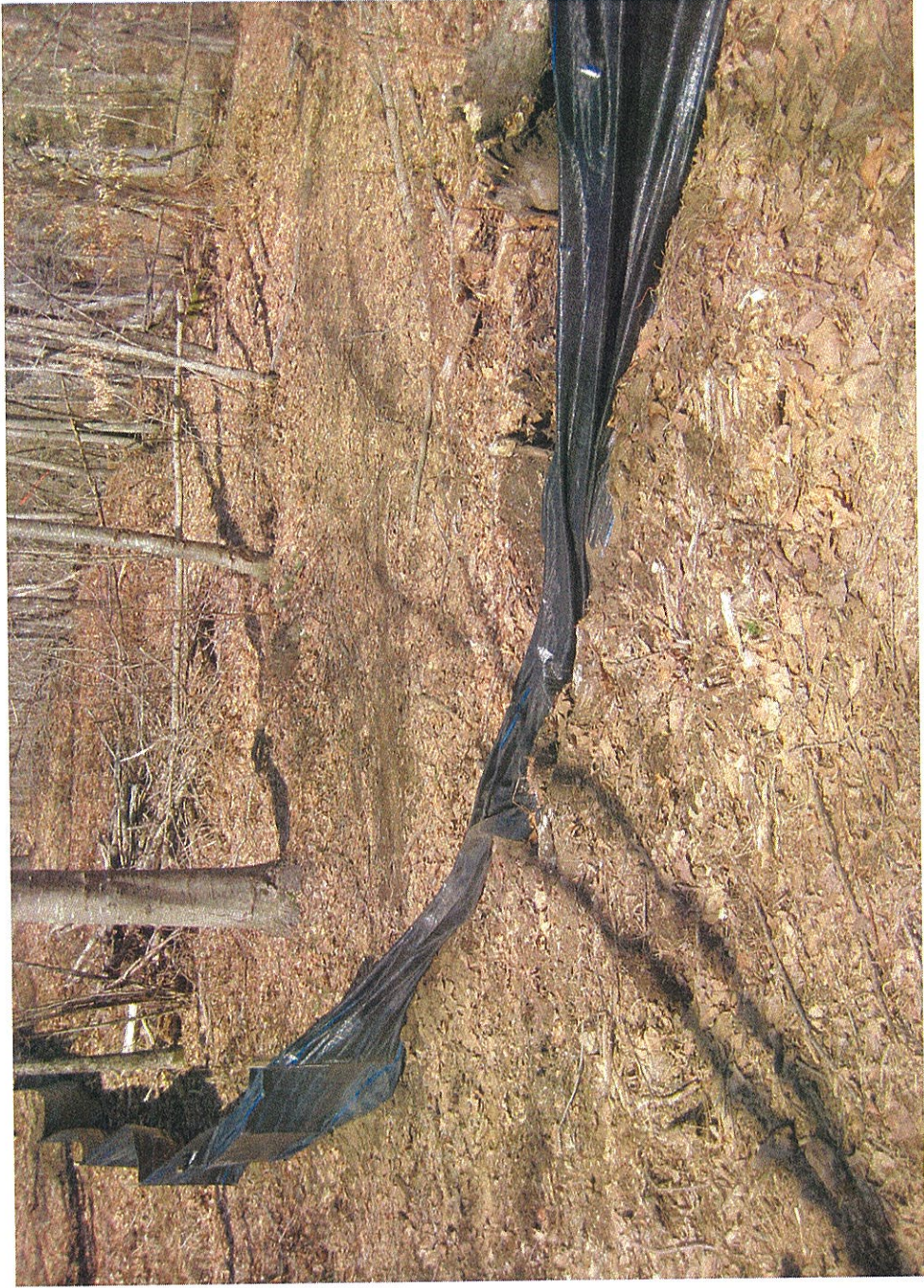
Work outside limits  
of disturbance





Work too close to  
Southern property line





Failed sediment and  
erosion controls





Road widened near  
stream crossing



Facing south  
Property line







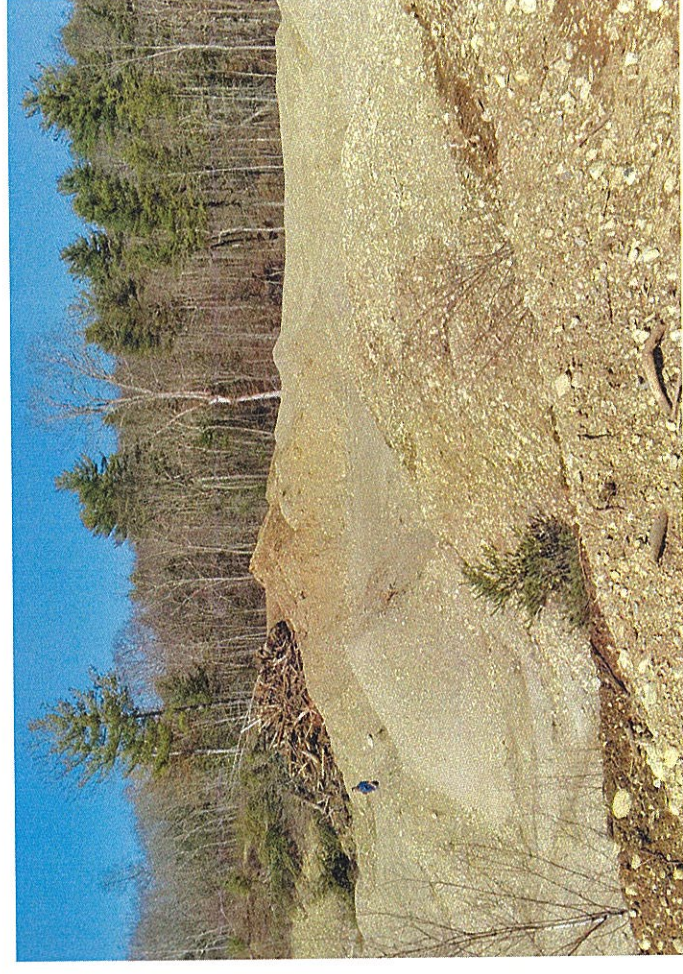
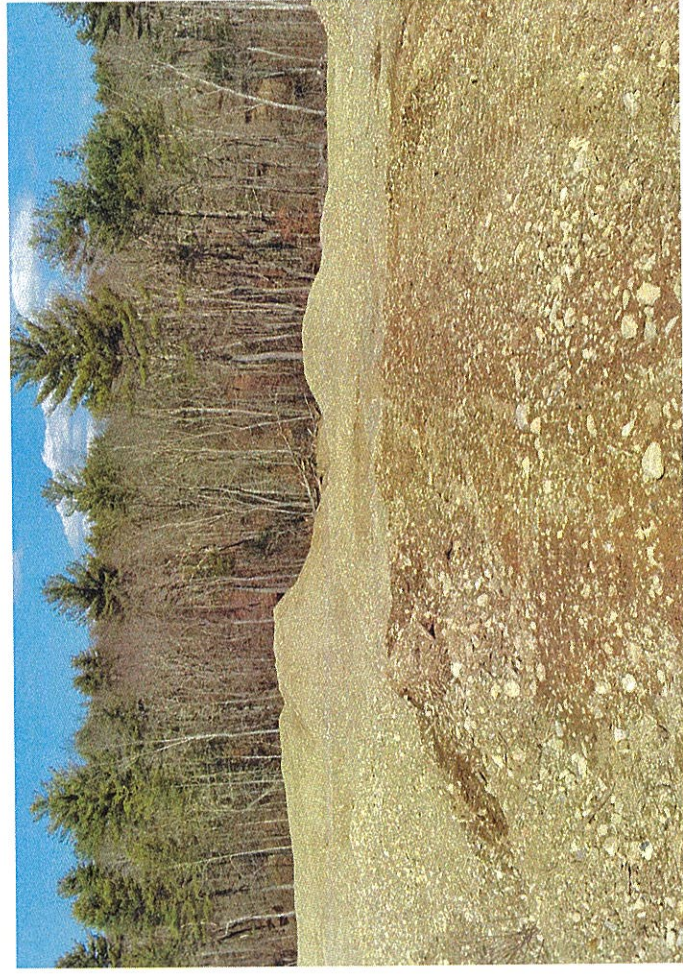
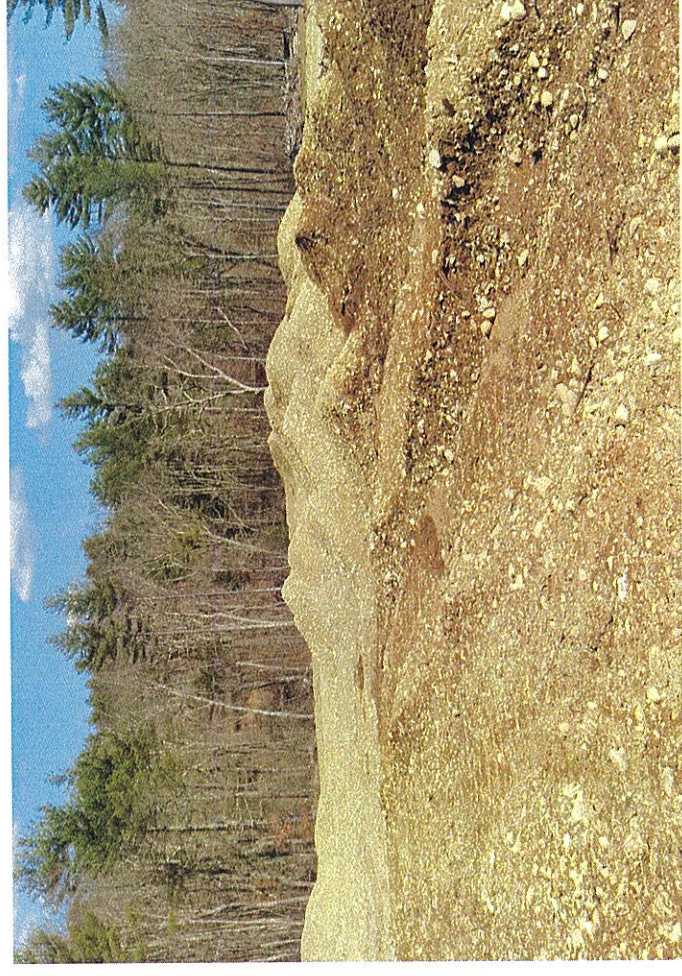
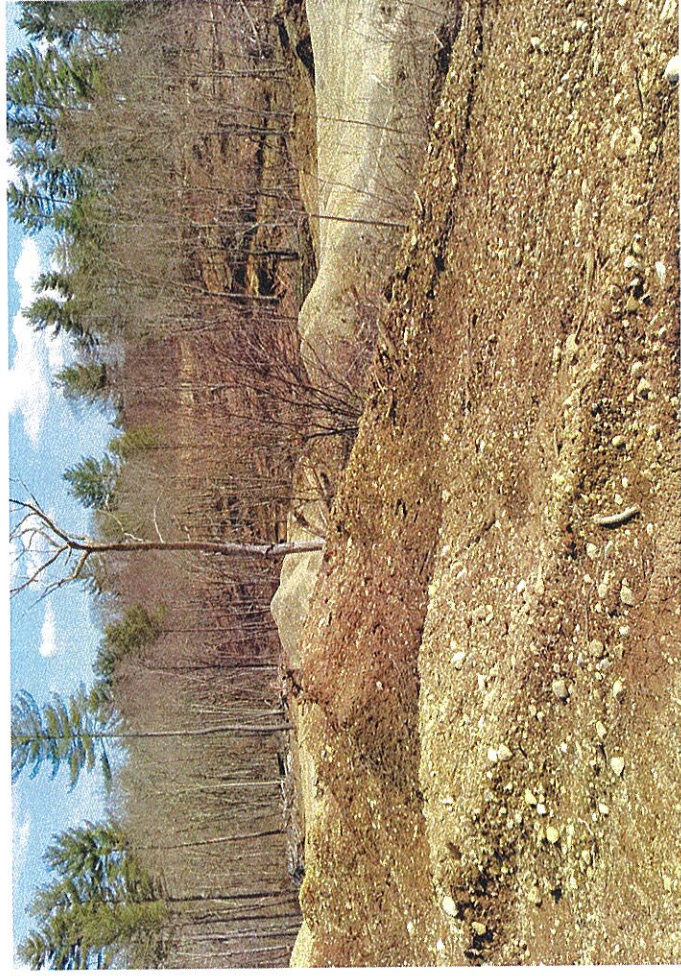
Road created near  
Southern property line





Phase 2 work  
Phasing plan not followed





Phase 2





Phase 2



**TOWN OF BROOKLYN  
PLANNING AND ZONING COMMISSION  
Regular Meeting Agenda  
Wednesday, April 7, 2021  
6:30 p.m.**

**To join this hearing via the web or phone, follow the below instructions:**

<b>Web</b> Go to <a href="http://www.webex.com">www.webex.com</a> Click sign in On the top right, click Join a Meeting Enter meeting ID: 126 815 8731 Enter meeting password: First	<b>Phone</b> Dial 1-415-655-0001 Enter meeting number: 126 815 8731 Enter meeting password: 34778 You can bypass attendee number by pressing #
--	--

- I. Call to Order**
- II. Roll Call**
- III. Seating of Alternates**
- IV. Adoption of Minutes:** Regular Meeting March 3, 2021
- V. Public Commentary**
- VI. Unfinished Business:**
  - a. **Reading of Legal Notice:**
  - b. **New Public Hearings:**
  - c. **Continued Public Hearings: None.**
  - d. **Other Unfinished Business:**
    - 1. **SD 20-003 & SD 20-004** – Proposal to extend the filing deadline an additional 90 days (both Bell subdivisions).
- VII. New Business:**
  - a. **Applications: None.**
    - 1. **GBR 21-001** – Application to renew **SPG 19-001 Gravel Special Permit** - HM & E Co, LLC/Applicant, E. Arters/Owner, 120 acres, 291 Canterbury Road (Assessor's Map 23, Lot 1; Map 22 Lot 1-2; Map 22, Lot 1-4), Phased excavation of approximately 20,000 cubic yards of rock.
  - b. **Other New Business:**
    - 1. Discussion: Contractor's yards, outdoor dining.
- VIII. Reports of Officers and Committees:**
  - a. Staff Reports
  - b. Budget Update
  - c. Correspondence.
  - d. Chairman's Report
- IX. Public Commentary**
- X. Adjourn**

Michelle Sigfridson, Chairman



## CHAPTER XX FEES FOR LAND USE APPLICATIONS

### 20-1 ESTABLISHING LAND USE APPLICATION FEES.

(Prior ordinance history includes portions of Ordinances 3/1/88, 8/15/88, 91-2, 04-5 and 06-4)

#### 20-1.1 Purpose.

The purpose of this chapter is to establish a reasonable and equitable Schedule of Fees, pursuant to Section 8-1c and 22a-42a of the Connecticut General Statutes, to defray the administrative costs and any additional costs, including professional consulting fees, incurred by the Planning and Zoning Commission, Inland Wetlands Agency and Zoning Board of Appeals of the Town of Brooklyn (each a "Land Use Agency") for the processing and subsequent monitoring of Land Use applications. (Ord. 5/3/10)

#### 20-1.2 Definitions.

**Land Use Application** shall mean an application for (1) any permit(s) or approval(s) required by any Land Use Agency regulations for the use of any land, building or structure; (2) proposed amendments to such regulations or the zoning map; (3) a request for a zoning variance; (4) an appeal of a decision of the Zoning Enforcement Officer or (5) a certificate of location approval and or appropriateness pursuant to Section 14-67 and/or Section 14-321 of the Connecticut General Statutes, submitted by any person, organization or corporation (the applicant).

**Staff** shall mean any employee or appointee of the Town of Brooklyn or employees of the Northeast Connecticut Council of Governments "NECCOG" who, as part of his or her duties, render advice or assistance to any land use agency. Planning Staff shall be the Zoning Enforcement Officer, Town Planner or employees of NECCOG.  
(Ord. 5/3/10)

#### 20-1.3 Determination of Fees Charged for Land Use Applications.

a. *Base Fees.* The base fees established hereby are based on a reasonable estimate of the direct and indirect costs for time spent by staff in reviewing and evaluating each type of land use application and, except as noted, the cost of any public hearing. The base fee plus the estimated costs for advertising and required legal notices shall be paid at the time the land use application is filed.

#### b. *Additional Fees.*

1. In addition to the base fees set forth herein, a Land Use Agency may require the applicant to pay an "additional fee" to defray other costs and expenses incurred by the Land Use Agency. Such additional fee shall be assessed to the applicant when the Planning Staff and/or the Land Use Agency determines that there is a need for the assistance of one or more third party consultants for review, evaluation or processing the land use application (consultation services). Consultants may be engaged to render engineering, architectural, environmental and planning services including traffic studies. Consultation services may include, but not be limited to, consultation with Town staff or the Town Attorney, discussions with the applicant or its agents, rendering such information and research that the Land Use Agency may request, the preparation of written findings and recommendations, written or oral testimony at any public hearing and post-approval inspections to ascertain that all terms and conditions of any permit have been met.

2. The additional fee shall be equal to the reasonable cost incurred by the Land Use Agency for such consultation services.

3. Upon the determination by the Town staff and/or Land Use Agency that consultation services are necessary, the Town Staff shall provide to the Land Use Agency, for its approval, a reasonable estimate of the cost based on the nature and the extent of the consultation services deemed necessary.

Such determination shall be made as soon as practicable after the receipt (filing) of the land use application by the Land Use Agency and, upon approval by the Land Use Agency, the applicant shall be billed an additional fee in an amount equal to one hundred twenty-five (125%) percent of such estimate. Such additional fee shall be due and payable ten (10) days after receipt.

4. Upon receipt of an additional fee from the applicant, the Land Use Agency shall create an application specific account and shall document the amount of the additional fee and all payments made for consultation services. The Land Use Agency shall render periodic accounting to the applicant. Any balance remaining after the land use application has been acted upon shall be refunded to the applicant, provided there has been a determination by the Staff that all terms and conditions of the permit have been met.

5. Upon the failure of the applicant to pay such additional fee when due, the land use application shall be deemed to be incomplete and may be denied by the Land Use Agency for that reason with or without prejudice. No land use application shall be approved until the base fee, the additional fee, if any, and costs of advertising and legal notices have been paid in full.

c. No fees shall be required for any land use application submitted by the Town of Brooklyn or any of its municipal agencies.  
(Ord. 5/3/10)

#### **20-1.4 Effective Date; Validity.**

In accordance with Connecticut General Statutes Section 8-1c, upon its effective date the fee structure set forth in this chapter shall supersede any fee schedule adopted by any Land Use Agency (this schedule was adopted May 3, 2010). If any provision or fee imposed by this chapter is, for any reason, found to be invalid by a court of competent jurisdiction, such invalidation shall not affect the validity of the remaining portions of this chapter and the fees imposed. (Ord. 5/3/10)

#### **20-1.5 Amendment of Schedule.**

The Board of Selectmen, acting pursuant to the provisions of Connecticut General Statutes Section 7-157(a), may, by ordinance, amend the Schedule of Base Fees from time to time after consultation with the Land Use Agency(ies). (Ord. 5/3/10)

#### **20-1.6 Fee Schedule.**

##### **Base Land Use Application Fees**

##### **ZONING FEES**

Text Amendment to Regulations	\$250.00
Zoning Map Change	\$250.00
Home Occupation	\$50.00
Special Permit	\$100.00 plus site plan review
Site Plan Review	
2,500 sq. ft. or less	\$300.00
Over 2,500 sq. ft.	\$300.00 plus \$15.00 per each additional 1,000 sq. ft.
Site Plan Review (multi-family/active adult or elderly)	\$300.00 plus \$20.00 per unit
Amendment to Site Plan After Submission	\$150.00
Special Permit (Sand and Gravel)	\$250.00 +
< 1,000 cu. yds.	\$200.00
1,000 to 20,000 cu. yds.	\$300.00
21,000 to 50,000 cu. yds.	\$750.00
51,000 to 100,000 cu. yds.	\$2,500.00
> 100,000 cu. yds.	\$5,000.00
Annual Sand and Gravel Renewal	\$100.00

**ZONING PERMITS**

New Residential Dwelling	\$200.00
Residential Accessory Uses/Additions	\$50.00
Addition/Modification of a Nonresidential Building	\$75.00
New Commercial Building	\$250.00
Change of Use in Existing Commercial Building	\$75.00
Sign Permit	\$20.00

**SUBDIVISION APPROVAL**

Basic Application	\$250.00
Subdivision Plan Review	\$250.00 per lot
Engineering Review for New Road(s) and Drainage	*
Inspection and Supervision of Road Construction and Utilities	*
Text Amendment to Subdivision Regulations	\$250.00

**ZONING BOARD OF APPEALS**

All Applications	\$250.00
------------------	----------

**INLAND WETLANDS APPLICATION FEES**

Residential (Single Lot)	\$150.00
Subdivision Application	\$150.00 plus \$150.00 per lot in the regulated area
Commercial/Industrial	\$200.00
Additional fee based on total impervious surface included in commercial/industrial application	
< 20,000 sq. ft.	\$400.00
20,001–50,000 sq. ft.	\$800.00
> 50,000 sq. ft.	\$1,200.00
Additional Fee for Significant Activity Requiring Public Hearing	\$250.00

\*Included in Plan Review Fee but may be subject to the payment of additional fees as set forth in this chapter.

All fees payable pursuant to this chapter are nonrefundable.

In addition to any other remedies permitted by law, any land use application submitted after work has started on a project shall be subject to a surcharge of \$500.00.

In addition to the fees set forth above payable to the Town of Brooklyn, each application is subject to an additional charge payable to the State of Connecticut, which, as of the effective date of this chapter is \$60.00. (Ord. 5/3/10; Ord. 11/2/11)

**20-2 CITATION PROCEDURES AND FINES FOR ZONING AND WETLANDS VIOLATIONS.****20-2.1 Issuance of Citations; Schedule of Fines.**

The Brooklyn Land Use Officer is authorized to issue citations for violations of the Zoning Regulations and the Wetlands Regulations of the Town of Brooklyn to the extent and manner provided by this section and the Connecticut General Statutes 7-152c. Any such citation may be served either by hand or by certified mail, return receipt requested, to the person named in such citation. If the person(s) named in the citation sent by

certified mail refuses to accept such mail, the citation may be sent by regular United States mail. The Land Use Officer shall file and retain an original or certified copy of the citation, as served.

a. Citations may be issued for those types of zoning and wetlands violations specified in paragraph b. below.

b. The fine for each citation shall be in accordance with this schedule:

### **ZONING REGULATIONS**

<b>Nature of Violation</b>	<b>Amount of Fine</b>
Construction of any building without Zoning approval	\$150.00
Alteration of any building without Zoning approval	\$100.00
Conducting an unauthorized use	\$150.00
Illegal Sign	\$100.00
Building beyond foundation without prior Foundation as-built or erosion control approval	\$150.00
Failure to comply with an approved Site Plan, Special Permit, Subdivision or Re-subdivision including any conditions of approval	\$150.00
Any other violation of the Zoning Regulations	\$100.00

### **INLAND WETLAND REGULATIONS**

For each violation	\$1,000.00
--------------------	------------

\*In the case of a continuing violation, each day's continuation of the violation shall be deemed a separate and distinct violation.

(Ord. 8/1/13)

#### **20-2.2 Citation Hearing Officers.**

The Chief Executive Officer shall appoint one or more Citation Hearing Officers, other than Police Officers or employees or persons who issue citations, to conduct the hearings authorized by this section. (Ord. No. 06-3 § 3)

#### **20-2.3 Notice.**

At any time within twelve (12) months from the expiration of the final period for the uncontested payment of fines, penalties, costs or fees for any citation issued under any ordinance adopted pursuant to section 7-148 or section 22a-226d, for an alleged violation thereof, shall send notice to the person cited:

- Of the allegations against him and the amount of the fines, penalties, costs or fees due;
- That he may contest his liability before a Citation Hearing Officer by delivering in person or by mail written notice within ten (10) days of the date thereof;
- That if he does not demand such hearing, an assessment and judgment shall be entered against him; and

d. That such judgment may issue without further notice.  
(Ord. No. 06-3 § 4)

#### **20-2.4 Liability; Payment of Fines; Costs.**

If the person who is sent notice pursuant to subsection 20-2.3 wishes to admit liability for any alleged violation, he may, without requesting a hearing, pay the full amount of the fines, penalties, costs or fees



admitted to in person or by mail to the Land Use Officer. Such payment shall be inadmissible in any proceeding, civil or criminal, to establish the conduct of such person or other person making the payment. Any person who does not deliver or mail written demand for a hearing within ten (10) days of the date of the first notice provided for in subsection 20-2.3 shall be deemed to have admitted liability, and the Land Use Officer shall certify such person's failure to respond to the Hearing Officer. The Hearing Officer shall thereupon enter and assess the fines, penalties, costs or fees provided for by the applicable ordinances and shall follow the procedures set forth in subsection 20-2.5. (Ord. No. 06-3 § 5)

#### **20-2.5 Hearing.**

Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than fifteen (15) days not more than thirty (30) days from the date of the mailing of the notice, provided the Hearing Officer shall grant upon good cause shown any reasonable request by any interested party for postponement or continuance. An original certified copy of the initial notice of violation issued by the Land Use Officer or Police Officer shall be filed and retained by the Town of Brooklyn, and shall be deemed to be a business record within the scope of CGS 52-180 and evidence of the facts contained therein. The presence of the Land Use Officer or Police Officer shall be required at the hearing if such person so requests. A person wishing to contest his liability shall appear at the hearing and may present evidence in his behalf. The Land Use Officer may present evidence on behalf of the Town of Brooklyn. If such person fails to appear, the Hearing Officer may enter an assessment by default against him upon a finding of proper notice and liability under the applicable statutes or ordinances. The Hearing Officer may accept from such person copies of Police reports, investigatory and citation reports, and other official documents by mail and may determine thereby that the appearance of such person is unnecessary. The Hearing Officer shall conduct the hearing in the order and form and with such methods of proof, as he deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The Hearing Officer shall announce his decision at the end of the hearing. If he determines that the person is not liable, he shall dismiss the matter and enter his determination in writing accordingly. If he determines that the person is liable for the violation, he shall forthwith enter and assess the fines, penalties, costs or fees against such person as provided by the applicable ordinances of the Town of Brooklyn. (Ord. No. 06-3 § 6)

#### **20-2.6 Notice of Assessment Which is Unpaid.**

If such assessment is not paid on the date of its entry, the hearing officer shall send by first class mail a notice of assessment to the person found liable and shall file, not less than thirty (30) days nor more than twelve (12) months after such mailing, a certified copy of the notice of assessment with the Clerk of a Superior Court facility designated by the Chief Court Administrator together with an entry fee of eight (\$8.00) dollars. The certified copy of notice of assessment shall constitute a record of assessment. Within such twelve-month period, assessments against the same person may be accrued and filed as one record of assessment. The Clerk shall enter judgment, in the amount of such record of assessment and court costs of eight (\$8.00) dollars, against such person in favor of the Town of Brooklyn. Notwithstanding any provision of the General Statutes, the Hearing Officer's assessment, when so entered as a judgment, shall have the effect of a civil money judgment and a levy of execution on such judgment may issue without further notice to such person. (Ord. No. 06-3 § 7)

#### **20-2.7 Appeal.**

A person against whom an assessment has been made pursuant to this section is entitled to judicial review by way of appeal. An appeal shall be instituted within thirty (30) days of the mailing of the notice of such assessment by filing a petition to reopen assessment, together with an entry fee in an amount equal to the entry fee for small claims case pursuant to Connecticut General Statutes (Revision of 1958) 52-259, at a Superior Court facility designated by the Chief Court Administrator, which shall entitle such person to a hearing in accordance with the rules of the Judges of the Supreme Court. (Ord. No. 06-3 § 8)

2023

**PUBLIC IMPROVEMENT SPECIFICATIONS.**

a. It is hereby found that rapid growth and development within the Town of Brooklyn are placing unprecedented strain upon Town roads and appurtenant drainage systems, culverts, and catch-basins.

b. To alleviate that siltation, and as empowered by Section 7-148 (c) of the General Statutes, the Board of Selectmen are hereby authorized to develop such regulations as they may deem appropriate to carry out the following purposes:

1. To provide the proper alignment, width, and grades and pavements of existing Town roads serving as a right of way to any proposed subdivision, to ensure that such existing Town roads remain safe and continue to conform to the plan of development of the Town;

2. To provide adequate and sufficient storm drainage systems for carrying off increased storm drainage created by any proposed subdivision and associated access road improvements, whether such additional drainage would impact upon existing Town improvements or private lands;

3. To provide that adequate and sufficient culverts, manholes, and catch-basins be installed to carry run-off water from the road surface and to divert road water from the proposed subdivision beneath or around existing roads without causing significant increases in erosion or sedimentation.

c. Compliance with the regulations adopted by the Board of Selectmen shall be a condition precedent to any application for subdivision of property within the Town of Brooklyn. Failure to comply shall be adequate cause for denial of any such application.

If any portion of this section is deemed by a court of competent jurisdiction to be impermissible, its remaining sections shall continue to be valid and enforceable.  
(Ord. 6/28/89 § 1)

**CHAPTER XX FEES FOR LAND USE APPLICATIONS**

Published by ClerkBase

©2019 by Clerkbase. No Claim to Original Government Works.