

**TOWN OF BROOKLYN
PLANNING AND ZONING COMMISSION
Regular Meeting
Tuesday, August 16, 2022 6:30 p.m.**

3 WAYS TO ATTEND: IN-PERSON, ONLINE, AND BY PHONE

Clifford B. Green Meeting Center, Suite 24, 69 South Main Street, Brooklyn, CT		
Click link below: https://us06web.zoom.us/j/84765564828	or	Go to https://www.zoom.us/join Enter meeting ID: 847 6556 4828
Dial: 1-646-558-8656		
Enter meeting number: 847 6556 4828, then press #, Press # again to enter meeting		

MINUTES

- I. Call to Order** – Michelle Sigfridson, Chair, called the meeting to order at 6:31 p.m.
- II. Roll Call** – Michelle Sigfridson, Carlene Kelleher, Allen Fitzgerald, John Haeefe, Lisa Herring, Gill Maiato and Brian Simmons (all were present in person). Seth Pember and Sara Deshaies were absent with notice. J.R. Thayer was absent.

Staff Present (in person): Jana Roberson, Director of Community Development.

Also Present in Person: David Held, Provost & Rovero; Wayne Jolley, Brooklyn Sand & Gravel; Paul Terwilleger, P.C. Survey Associates; Jeff Fountaine, Country View Restaurant; Paul Archer, Archer Surveying; J.S. Perreault, Recording Secretary.
There were two additional people in the audience.

Present via Zoom: Sharon Loughlin.

III. Seating of Alternates

Motion was made by L. Herring to seat Gill Maiato and Brian Simmons as Regular Members for this meeting (August 16, 2022).
Second by C. Kelleher. No discussion.
Motion carried unanimously by voice vote (5-0-0).

IV. Adoption of Minutes: Regular Meeting August 3, 2022

Motion was made by J. Haeefe to accept the Minutes of the Regular Meeting of August 3, 2022, as presented.
Second by G. Maiato. No discussion.
Motion carried unanimously by voice vote (7-0-0).

V. Public Commentary – None.

VI. Unfinished Business:

- a. **Reading of Legal Notices** – Read previously.
- b. **New Public Hearings:** None.
- c. **Continued Public Hearings:**

M. Sigfridson turned over the position of Chair to C. Kelleher, recused herself and left the room.

1. **SPG 22-001:** Gravel Special Permit, Brooklyn Sand & Gravel, LLC, 64+- Acres, 530 Wauregan Road, Removal of approximately 208,000 cubic yards of material.

C. Kelleher opened the continued public hearing for SPG-22-001.

David Held, Professional Engineer and Land Surveyor with Provost & Rovero, represented the Applicant, Wayne Jolley, who was also present. Mr. Held stated that he had no new information to present and offered to display plans if needed for discussion. He explained that the outstanding items from the discussion from the last meeting were centered around which type of monitoring/reporting and things of that nature that the Commission would want to include for the potential permit.

Ms. Kelleher stated that this was also her understanding and asked J. Roberson if she had suggestions for monitoring. J. Roberson stated that she had spoken with Mr. Held, earlier in the day, about enforcement and monitoring. She explained that she has also spoken with Zoning Enforcement Officer, Margaret Washburn who has considerable experience with gravel operations in Massachusetts. Ms. Washburn feels strongly that scale receipts should be required and that it is customary, in her experience, that scale receipts be submitted to the Town as part of permitting enforcement. Ms. Roberson explained that she had not pursued video monitoring since there had been no statements in favor of that. She referred to the sample motion in her Staff Guidance (dated 8/16/2022) which includes:

- Laying out of surveyor staked fencing along the limit of the excavation so they know where to stop.
- She noted that there is no importation as part of this permit, therefore, there is no language included regarding requiring quarterly reports. She explained that it could be if the Commission decided to pursue the request for scale receipts.
- Quarterly inspections because the Commission was interested in increasing the frequency of inspections. She stated that Ms. Washburn is in agreement that quarterly inspections would be adequate.
- It is a one-year permit, so it would require a new survey.

Ms. Kelleher stated that she feels that the items that were left open have been addressed. She asked if there were any comments from the public. There were none, either in person or online.

QUESTIONS/COMMENTS FROM THE COMMISSION/STAFF:

- **L. Herring** stated that she is in favor of what was discussed above and she asked about enforcement regarding over-excavation.
Ms. Roberson explained that the enforcement procedure is in Section 6.O of the Zoning Regulations.
Ms. Roberson explained that inspections weren't happening during COVID, which is part of the reason why enforcement was lax.
- **A. Fitzgerald** asked if the scale is operational.
Mr. Jolley stated that it is.
There was discussion about weighing trucks and Mr. Fitzgerald and Mr. Maiato were in agreement that it is not necessary. It is monitored by volume.
Ms. Roberson explained that quarterly reports are received on importation and, as part of the renewal of the previous permit, the same kind of reporting that we have been receiving was required. She explained that it is not independently verified. Staff tallies them, but there is no cross-referencing to anything else. She repeated that Ms. Washburn strongly recommends that scale tickets be required.

Mr. Held explained that it is different because with this one, there is no importation. If it is required to stake out all of the limits of disturbance, it makes the inspection enforcement easier and it would show up on the survey at the annual renewals. He said that the importation is what needed the tracking.

- **B. Simmons** asked how far to the nearest residence to the excavation and what kind of well they have. He voiced concern about run-off. He asked if the water will be tested.

Mr. Held explained that the closest would be the Church to the south of the property. The closest house would be the abutter furthest to the south (175 feet) and he said that that limit had already been excavated during the last permit. He explained that they are asking for the same limits of the work, but it is separated from that work area. He explained that the Phase Two area is separated by the Eversource Easement which is 125 feet wide (Ms. Roberson displayed Sheet 2 of the Plan Set).

Mr. Held said that he does not know what kind of well and he explained that it would be impossible for run-off going into the well. He said that if there were going to be any impacts to the well, it would have already occurred. Mr. Held stated that he doesn't feel that there would be a need to test the water if they have a drilled well. Ms. Roberson stated that there is no public water in that area and it is not known whether the wells are dug or drilled. Mr. Held noted that they were notified of the public hearing and have not provided public comment.

- **J. Haefele** asked if this information (weight of material excavated) is typically required of other gravel pits in Town and why is the ZEO interested in it for this one.

Ms. Roberson explained that it is not so much the weight as being able to monitor the activities. She explained that one permit has been renewed that included importation and processing and this permit includes excavation and processing (no importation). She feels that a very realistic concern is that, with the processing equipment on the site, it would be possible to continue to import and process material. So, having scale receipts might be a way to collect information that could be used as a reality check against that potential.

There was discussion.

Mr. Jolley explained that for trucks going in, that material is weighed. Truck going out is processed stuff, not gravel. He said that anybody bringing gravel in is going to get paid for it. They would not throw the slips away or add slips. Mr. Fitzgerald stated agreement with this and feels that getting the tickets is a waste. Mr. Maiato stated agreement with Mr. Fitzgerald.

- **Ms. Roberson** stated that she would like her Staff Guidance, dated August 16, 2022, to be entered into the record.

Motion was made by G. Maiato to close the public hearing for **SPG 22-001: Gravel Special Permit, Brooklyn Sand & Gravel, LLC, 64+- Acres, 530 Wauregan Road, Removal of approximately 208,000 cubic yards of material.**

Second by J. Haefele. No discussion.

Motion carried by voice vote (5-0-0). M. Sigfridson had recused herself. J. Haefele abstained as he was not properly prepared to vote on this Application as he had not been present at the previous public hearing and, although he had reviewed the Minutes of that meeting, he had not had an opportunity to listen to the audio recording.

M. Sigfridson returned and resumed the Chair position.

2. **SP 22-002:** Special Permit Application for a 6,000 s.f. storage/maintenance building with associated driveway, septic, well, drainage, and grading at 170 South St., Applicant: Country View Restaurant, LLC, R-30/Golf Course Overlay Zone.

Paul Terwilleger, Licensed Land Surveyor with P.C. Survey Associates, represented the Applicants. Jeff Fountaine was also present. Mr. Terwilleger explained the following:

- The public hearing had been continued due to waiting for IWWC approval and that they now have IWWC approval.
- Staff had referred the plans to the Town Engineer who had some comments which have been addressed to his satisfaction.

Ms. Roberson expressed agreement. Mr. Terwilleger explained that the plans were revised/clarified per the Engineer's comments, nothing substantially changed. Ms. Roberson expressed agreement and said that the Engineer that signed off on the plans is Norm Thibeault. Ms. Roberson explained that storm water mitigation had been looked at pretty closely and it was found to be sufficient.

Ms. Roberson entered the following (which came in after the Agenda was posted) into the record: E-mail from Syl Pauley dated August 15, 2022, in which he states that he is satisfied that the Applicant is meeting the storm water run-off requirements; E-mail from Syl Pauley dated August 12, 2022, follow-up to his comments.

Mr. Terwilleger explained the following:

- Comment #5 regarding evergreen plantings. Mr. Terwilleger doesn't feel that it would be a good idea to put something up against the building.
- Regarding the proposed well, Mr. Terwilleger stated that it is the Health Department's jurisdiction. He reviewed the plans and approved it. Mr. Terwilleger does not feel that roots will infiltrate the well head.
- Temporary stockpile area was an IWWC concern. It was addressed and they didn't have a problem with where it is located.
- Proposed utility line - The Applicant is working with the utility company. Underground would cause a severe disturbance, so they prefer to go overhead.
- Outdoor lighting – Building-mounted lighting, not proposing any pole-mounted lighting.

There were no comments from the Commission at this time.

There were no comments from the public, either in person or online.

Ms. Roberson stated that a building rendering was included in packets to Commission Members. Mr. Terwilleger explained about the doors on the building.

Motion was made by C. Kelleher to close the public hearing for **SP 22-002: Special Permit** Application for a 6,000 s.f. storage/maintenance building with associated driveway, septic, well, drainage, and grading at 170 South St., Applicant: Country View Restaurant, LLC, R-30/Golf Course Overlay Zone.

Second by B. Simmons. No discussion.

Motion carried unanimously by voice vote (7-0-0).

d. Other Unfinished Business:

1. **SPG 22-001:** Gravel Special Permit, Brooklyn Sand & Gravel, LLC, 64+- Acres, 530 Wauregan Road, Removal of approximately 208,000 cubic yards of material.

M. Sigfridson turned over the position of Chair to C. Kelleher, recused herself and took a seat in the audience.

Ms. Roberson explained that J. Haefele was not eligible to vote on this Application as he had not been present at the previous public hearing and, although he had reviewed the Minutes of that meeting, he had not had an opportunity to listen to the audio recording. She stated that five voting Members are needed for a quorum.

Motion was made by G. Maiato (as read by J. Roberson) to approve the Gravel Special Permit application of Brooklyn Sand and Gravel for the property located at 530 Wauregan Road, Assessor's Map 30, Lots 97, 97-1, 97-2, identified in the files of the Brooklyn Land Use Office as SPG 22-001, proposed removal of 208,000 cubic yards of sand and gravel and processing of such material (including the 71,000 cy of exceedance already mined), in accordance with all final documents and testimony submitted with this Special Permit application 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 submitted to town staff for checking prior to printing on archival material. The final approved plans bearing the seal and signature of the appropriate professionals and the August 16, 2023 expiration date shall be printed on archival material, signed by Commission Chairs, and recorded along with the Record of Special Permit in the office of the Town Clerk.
- 2) Prior to the recording of the special permit, a performance bond in the amount of \$300,000 shall be provided to the Town and remain in place for the life of the operation including restoration of the property to the satisfaction of the Town unless modified by the Planning and Zoning Commission or its designated Staff. Such bond will replace the \$200,000 bond already in place.
- 3) Excavation is limited to the area shown on the plans dated 4/28/22 prepared by Provost & Rovero. Prior to the recording of the special permit, the final extent of the excavation area shall be staked out in the field by a licensed surveyor and orange snow fence shall be installed along the boundary to provide a visual marker in the field of the limit of excavation.
- 4) All truck traffic to and from the operation will remain off Maynard Road and travel on State highways to and from Brooklyn Sand and Gravel on Wauregan Road.
- 5) Dust shall be controlled throughout the year using water or calcium chloride 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.
- 6) Quarterly site inspections shall be conducted in March, June, September, and December. Notice shall be provided to the applicant by the ZEO one week in advance of any site inspections.
- 7) 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 7 of the plans. Restoration for the 21 acres of additional areas (including parking and driveways, processing plants and ponds, raw and finished material stockpiles) shall commence within the timeframe specified in the Restoration Notes on page 7 of the approved plans. Failure to do so will result in appropriate enforcement action including the use of bond funds to restore the site.
- 8) The permit shall be approved for a one-year period from date of issue on August 16, 2022. The renewal date is August 16, 2023. The renewal procedure shall be as specified in Section 6.O.7.4. of the Brooklyn Zoning Regulations.

Second by A. Fitzgerald.

There was discussion regarding Item #2. Ms. Roberson explained that Mr. Held had said, at the last meeting during the public hearing, that they were amenable to increasing the bond amount to \$300,000. There was discussion regarding language in the first paragraph regarding whether the 71,000 c.y. exceedance has been processed yet. It was already processed.

C. Kelleher amended the Motion to add “and processed” into the first paragraph, to read as follows: “Motion was made by G. Maiato (as read by J. Roberson) to approve the Gravel Special Permit application of Brooklyn Sand and Gravel for the property located at 530 Wauregan Road, Assessor’s Map 30, Lots 97, 97-1, 97-2, identified in the files of the Brooklyn Land Use Office as SPG 22-001, proposed removal of 208,000 cubic yards of sand and gravel and processing of such material (including the 71,000 cy of exceedance already mined and processed), in accordance with all final documents and testimony submitted with this Special Permit application and including the following conditions:”

Amendment was seconded by A. Fitzgerald.

The Amendment to the Motion #6 carried unanimously by voice vote (5-0-0). M. Sigfridson had recused herself. J. Haeefele abstained as he was not properly prepared to vote on this Application as he had not been present at the previous public hearing and, although he had reviewed the Minutes of that meeting, he had not had an opportunity to listen to the audio recording.

There was no further discussion.

Main Motion #5, as amended, carried unanimously by voice vote (5-0-0). M. Sigfridson had recused herself. J. Haeefele abstained as he was not properly prepared to vote on this Application as he had not been present at the previous public hearing and, although he had reviewed the Minutes of that meeting, he had not had an opportunity to listen to the audio recording.

2. **SP 22-002:** Special Permit Application for a 6,000 s.f. storage/maintenance building with associated driveway, septic, well, drainage, and grading at 170 South St., Applicant: Country View Restaurant, LLC, R-30/Golf Course Overlay Zone.

M. Sigfridson returned and resumed the Chair position.

Motion was made by A. Fitzgerald to approve the Special Permit application of Country View Restaurant, LLC for a 6,000 s.f. storage/maintenance building with associated driveway, septic, well, drainage, and grading at 170 South St., identified in the files of the Brooklyn Land Use Office as SP 22-002, in accordance with all final documents and testimony submitted with the application with the finding that the proposal is consistent with Sec. 5.C of the Zoning Regulations and is consistent with the Special Permit criteria outlined in Sec. 9.D.5 and with the following conditions:

1. The Planning and Zoning Commission approval with conditions must be included on the final recorded special permit plans. Draft final approved plans shall be 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 and signed by the Commission Chair shall be recorded along with the Record of Special Permit in the office of the Town Clerk.
2. The 6,000 s.f. storage/maintenance building with associated driveway, septic, well, drainage, and grading at 170 South St. shall be used exclusively for storage and maintenance accessory to the Country View Restaurant and the Country View Driving Range, both located at 170 South Street. It shall not be used for any other business use.
3. The applicant shall apply for a Zoning Permit from the Zoning Enforcement Officer prior to conducting any site work (including, but not limited, to clearing and grubbing). Proposed changes of business uses within the 6,000 s.f. structure must be reviewed by the Planning and Zoning Commission as a modification of SP 22-002. If approved as a modification of the Special Permit, future business uses must subsequently apply for and receive a Zoning Permit from the Zoning Enforcement Officer.

Second by G. Maiato. No discussion.

Motion carried unanimously by voice vote (7-0-0). M. Sigfridson stated that she had not been present for the previous public hearing for this Application, but had reviewed the material and is prepared to vote.

3. **SD 22-002:** A proposal for a four-lot subdivision on Day St. (Map 43, Lot 6), Applicant: Jeffrey Weaver. ***Awaiting appraisal***

Paul Archer, Archer Surveying, represented the Applicant. The only thing that had been left open was the appraisal for fee-in-lieu of open space.

Ms. Roberson explained that the appraisal was received (Northeast Appraisals) after the Agenda had been posted. Estimated value of the four lots (the 2.5 acres being developed) is \$90,000. Fee in lieu per lot is \$2,250.

Ms. Roberson explained that the Conservation Commission has not met, but they had recommended fee-in-lieu for the subdivision.

There were no comments from Commission Members.

There were no comments from the public, either in person or online.

Motion was made by J. Haefele to approve the application SD 22-002 – 4-Lot Subdivision, Applicant: Jeff Weaver, 2.85 acres on south side of Day St., (Map 43, Lot 6) in the R-30 Zone; Proposed creation of four residential lots in accordance with all final plans, documents and testimony submitted with the application and including the following conditions:

- 1) Prior to endorsement by the Commission of the Final Subdivision Plan(s) for filing in the office of the Town Clerk:
 - a. The approval and/or review letters from the Inland Wetlands and Watercourses Commission, the Northeast District Department of Health, and the Planning and Zoning Commission shall be added to the Final Subdivision Plan(s).
 - b. All boundary pins and monuments shall be set and field verified by the surveyor.
- 2) At the time of sale of any building lot:
 - a. At the time of sale of any of the four building lots, a payment in lieu of open space dedication shall be paid by the applicant to the Town in the amount of \$2,250 per lot in accordance with the requirements of CT General Statutes 8-25 and Brooklyn Subdivision Regulation Sec. 8. An open space lien may be placed on the building lots to ensure that the fee-in-lieu of open space is paid at the time of sale.
- 3) Prior to the issuance of a Zoning Permit on any lot:
 - a. The developer shall notify the Zoning Enforcement Office and Town Planner at least seven days in advance of any site work to schedule a pre-construction meeting.
 - b. Prior to any lots being developed, driveway permits must be obtained from the Road Foreman in accordance with the adopted policy concerning driveways. No stonewalls, mature trees, or ledge within the r.o.w. shall be removed or modified unless necessary for safety. The responsibility of clearing, grubbing, blasting, and earthmoving within the Town of Brooklyn r.o.w. shall be the responsibility of the individual lot developer. Any cutting of trees greater than 30" d.b.h. for sightlines shall require prior approval by the Town of Brooklyn Tree Warden upon finding that the removal of trees is unavoidable to guarantee adequate driveway sightlines.
 - c. The applicant and/or individual lot developers shall minimize impacts to natural features both on private lots and in the Town of Brooklyn r.o.w. to the greatest extent possible. This shall include but is not limited to the preservation of stonewalls, the protection of mature trees lining any public road, and the minimization of clearing and grading.
 - d. Stonewalls that have been modified by development activities must be repaired or rebuilt prior to the issuance of a Certificate of Zoning Compliance on any lot containing a stone wall.

Second by G. Maiato.

There was discussion regarding that a zoning permit is supposed to be obtained before any clearing and grubbing is done. In this case, it had been done before a permit was issued. Mr. Fitzgerald commented that many of the builders in Town have expressed to him that they are displeased with these occurrences. It was noted that there is a need for consistency/enforcement. Ms. Roberson will relay this, again, to the Zoning Enforcement Officer and suggested that it be discussed the next time that Ms. Washburn attends a PZC meeting.

Paul Archer stated that Mr. Weaver has a zoning permit and a building permit to build one house on that lot, it is an existing lot of record. Mr. Archer agreed that the lot was cleared before it was supposed to be.

Gene Flemming, 567 Wauregan Road, commented that Regulations need to be enforced equally across the board to everybody and there should be repercussions if they don't adhere.

J. Haefe amended his motion to include the following Item:

4) The applicant shall apply for a Zoning Permit from the Zoning Enforcement Officer prior to conducting any site work (including, but not limited, to clearing and grubbing).

Amendment was seconded by G. Maiato.

Motion, as amended, carried unanimously by voice vote (7-0-0).

4. **ZRC 22-006:** Revision to the Groundwater Protection Overlay Zone Sec. 5.F.4.1.1 to except uses that are determined by the Commission to present no threat to groundwater. ***Awaiting September 7 Public Hearing***
5. Plan of Conservation and Development Update – Housing Chapter

Ms. Roberson reported that, on August 9th, she sent it to all of the entities that need to be notified. The closest date that the public hearing could be opened is October 18, 2022.

Motion was made by A. Fitzgerald to schedule the public hearing to consider amending the Brooklyn Plan of Conservation and Development to include the Brooklyn Housing Plan for the regular meeting of the Planning and Zoning Commission to be held on October 18, 2022 at 6:30 p.m. in the Clifford B. Green Memorial Building, 69 South Main Street, Brooklyn, CT and via Zoom.

Second by C. Kelleher. No discussion.

Motion carried unanimously by voice vote (7-0-0).

VII. New Business:

a. Applications:

1. **ZC 22-001:** Proposal to rezone 5.5 acres from PC (Planned Commercial) to R-10 in the vicinity of 538 Providence Road (Map 41, Lot 16), Applicant: Townsend Development Associates, LLC.

Ms. Roberson explained that the maps (included in packets to Commission Members) show the existing zone boundary and the proposed new boundary. The Applicant has done a pre-application meeting with the Commission and the Application has been submitted in its entirety.

Motion was made by C. Kelleher to schedule the public hearing for **ZC 22-001:** Proposal to rezone 5.5 acres from PC (Planned Commercial) to R-10 in the vicinity of 538 Providence Road (Map 41, Lot 16), Applicant: Townsend Development Associates, LLC for the regular meeting of the Planning and Zoning Commission to be held on September 7, 2022 at 6:30 p.m. in the Clifford B. Green Memorial Building, 69 South Main Street, Brooklyn, CT and via Zoom.

Second by L. Herring.

Discussion: Ms. Roberson orientated the area.

Motion carried unanimously by voice vote (7-0-0).

b. Other New Business:

1. **SD 22-001:** Request for 90-day filing extension for recording subdivision plans.

Ms. Roberson stated that this is on Woodward Road and that she has the mylars in her office for Ms. Sigfridson to sign. There was discussion regarding capacity at the WPCA and also about gallons per unit. Ms. Sigfridson will bring this up to Al Carpenter and the WPCA.

Motion was made by C. Kelleher to extend the filing deadline for **SD 22-001** an additional 90 days.

Second by J. Haefe. No discussion.

Motion carried unanimously by voice vote (6-0-0). G. Maiato was not in the room at the time of the vote.

VIII. Reports of Officers and Committees:

Margaret Washburn's ZEO Report dated August 1, 2022, was included in packets to Commission Members. There was discussion regarding the Weaver application and about imposing penalties going forward. Ms. Sigfridson will e-mail Ms. Washburn for her opinion regarding what kind of enforcement/consequences would be appropriate.

There was discussion regarding the Country View Restaurant application. Ms. Sigfridson expressed concern regarding what the Applicant had to go through to build that building.

There was discussion regarding the ZEO's role and the Town Engineer's role for inspections.

IX. Public Commentary – None.

X. Adjourn

M. Sigfridson adjourned the meeting at 8:19 p.m.

Respectfully submitted,

J.S. Perreault
Recording Secretary