

**TOWN OF BROOKLYN
INLAND WETLANDS AND WATERCOURSES COMMISSION
69 SOUTH MAIN STREET
BROOKLYN, CT 06234
(860) 779-3411 EXT. 31 AND EXT. 12
M.Washburn@BrooklynCT.org**

**CEASE AND DESIST ORDER
Inland Wetlands and Watercourses Violations**

9489 0090 0027 6215 8992 37

CERTIFIED# _____

To: Shane O'Connor
181 Paradise Drive
Brooklyn, CT 06234

April 28, 2021

Location of Violation:
181 Paradise Drive
Brooklyn, CT 06234
Assessors Map 49 Lot 46

Facts

In response to a complaint about trees being cut and material being deposited in the 175- foot Upland Review Area to a Watercourse on your property, I inspected and took photographs on 4/15/21. Please refer to the attached photographs. On 4/15/21, I left a hand-written Cease and Desist Order on the stairs to the house. This Order supersedes the first hand-written Cease and Desist Order.

The following activities have been observed to have occurred on your property without an Inland Wetlands and Watercourses Permit: Vegetation has been removed and material has been deposited in the 175- foot Upland Review Area to a Watercourse (pond). Your activities, conducted without a permit from the regulatory authority are in violation of the Brooklyn Inland Wetlands and Watercourses Regulations.

Applicable Laws and Regulations

The Brooklyn Inland Wetlands and Watercourses Regulations define, in part, a “regulated activity” as “any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses....”. “Material” is defined to include “means any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, land, gravel, clay, bog, mud, debris, sand, refuse or waste”. The

term “pollution” is defined to include “harmful thermal effect or the contamination or rendering unclean or impure of any waters of the state by reason of any waste or other materials discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters. This includes, but is not limited to, erosion and sedimentation resulting from any filling, land clearing or excavation activity”.

The phrase “rendering unclean or impure” is further defined as “any alteration of the physical, chemical or biological properties of any waters of the state, including, but not limited to, change in odor, color, turbidity or taste”.

Furthermore, a “significant impact” is defined as “any activity, including, but not limited to, the following activities which may have a major effect:

1. Any activity involving deposition or removal of material which will or may have a substantial effect on the wetland or watercourse or on wetlands or watercourses outside the area for which the activity is proposed.
2. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a watercourse system.
3. Any activity which substantially diminishes the natural capacity of an inland wetland or watercourse to: support aquatic, plant or animal life and habitats; prevent flooding; supply water; assimilate waste; facilitate drainage; provide recreation or open space; or perform other functions.
4. Any activity which is likely to cause or has the potential to cause substantial turbidity, siltation or sedimentation in a wetland or watercourse.
5. Any activity which causes substantial diminution of flow of a natural watercourse or groundwater levels of the wetland or watercourse.
6. Any activity which is likely to cause or has the potential to cause pollution of a wetland or watercourse.
7. Any activity which damages or destroys unique wetland or watercourse areas or such areas having demonstrable scientific or educational value.”

“Upland Review Area” means “non-wetland or non-watercourse areas where activities are likely to impact or affect wetlands or continuous watercourses”.

Section 4 of the Regulations addresses exemptions, and Section 6.1 provides that any regulated activity requires a permit.

Section 6.2 states “Any person found to be conducting or maintaining a regulated activity without the prior authorization of the Commission, or violating any other provision of these

regulations, shall be subject to the enforcement proceedings and penalties prescribed in section 14 of these regulations and any other remedies as provided by law”.

The deposition of material within the upland review area and wetlands without a permit constitutes both a “regulated activity” and a “significant impact” under the Regulations and fall within no allowable exception. Therefore, said activities constitute a violation of the Brooklyn Inland Wetlands and Watercourses Regulations because of, at a minimum, the following condition:

- a. The “deposition or removal of material which will or may have a substantial effect on the wetland or watercourse”.

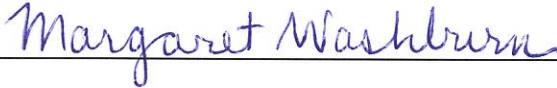
Order

You are hereby ordered to do the following:

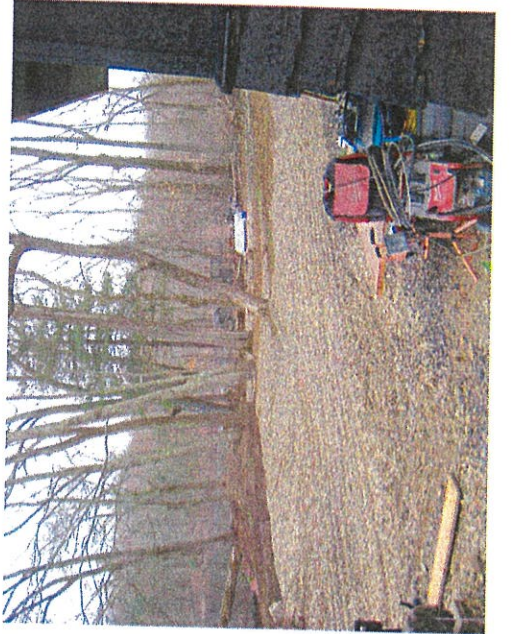
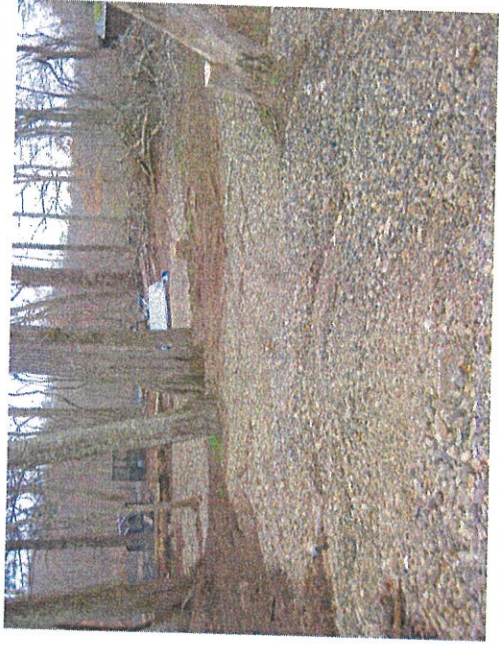
Cease and desist from all site work in the 175-foot Upland Review Area to the Watercourse (pond) on the subject property, including removal of vegetation and depositing material.

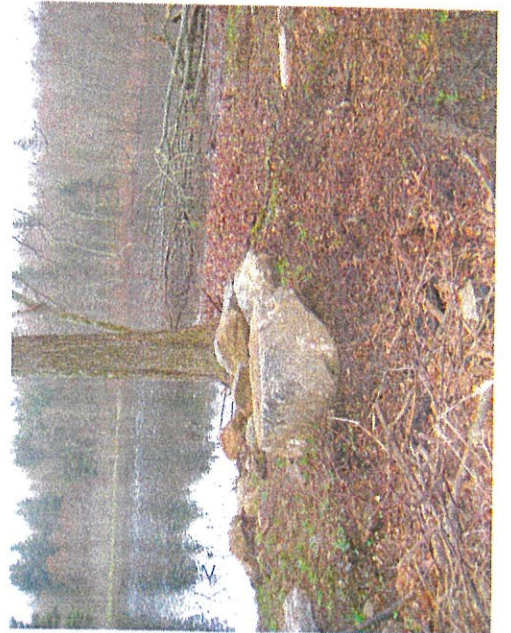
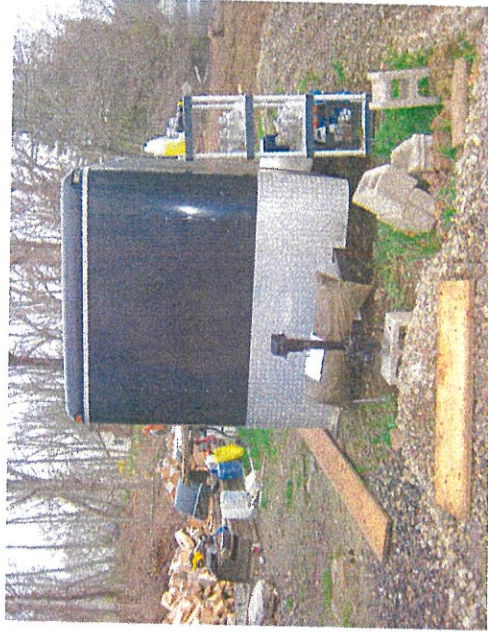
Attend the May 11, 2021 meeting of the Brooklyn Inland Wetlands and Watercourses Commission via Webex at 6:00 p.m. In accordance with Section 15.7 of the Regulations, a Show Cause Hearing will be held on this Order on Tuesday, May 11, 2021 via Webex. At this hearing, you will be given an opportunity to be heard and to show cause why this Order should not remain in effect. Depending on the decision of the Agency, a modified version of this Order may be issued. To attend this hearing please follow the instructions on the attached draft meeting agenda.

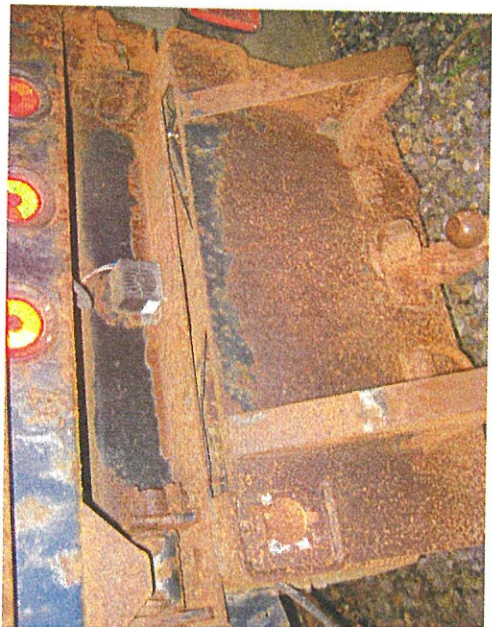
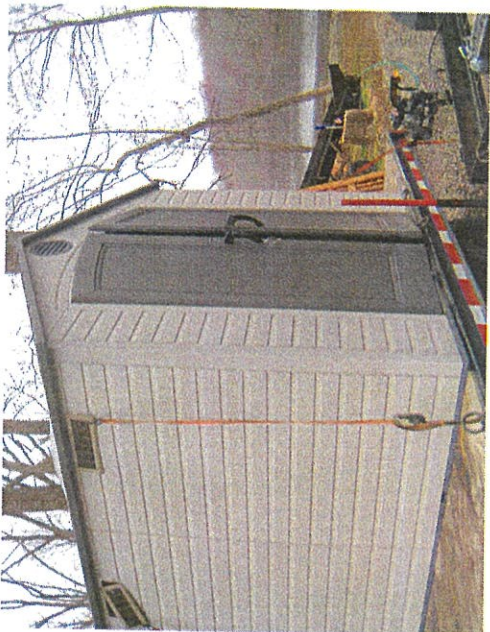
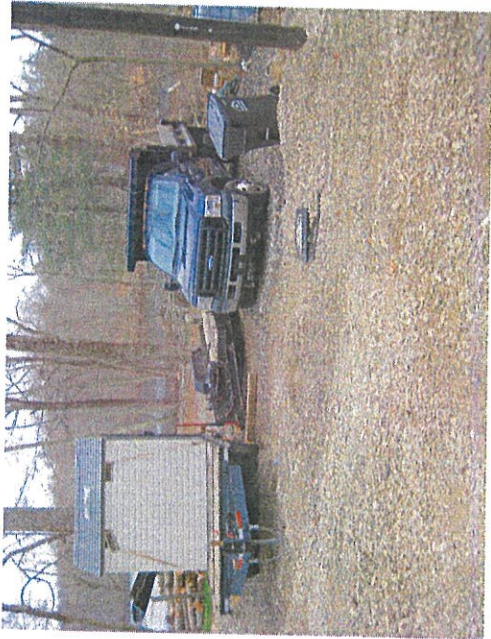
Dated at Brooklyn, this 28th day of April 2021.



Margaret Washburn, Enforcement Officer of the Brooklyn
Inland Wetlands and Watercourses Commission









**Brooklyn Inland Wetlands Commission
Regular Meeting Agenda
Tuesday, May 11, 2021
Web Ex Meeting
6:00 p.m.**

DRAFT

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

Web

www.webex.com

On the top right, click Join

Enter meeting information: 126 058 8201

Enter meeting password: gRAPe88439

Click join meeting

Phone

Dial 1-415-655-0001

Enter meeting number 126 058 8201

Enter password: 47273884

Call to Order:

Roll Call:

Seating of Alternates

Public Commentary:

Additions to Agenda:

Approval of Minutes:

1. Regular Meeting Minutes April 13, 2021.

Public Hearings:

New Business:

Old Business:

1. 041321B Paul Lehto, 40 Almada Drive, Map 21, Lot 6, RA Zone; Proposed 2-lot residential subdivision.
2. 041321C A. Kausch & Sons 53 Proulx Street, Map 41, Lot 85, R-10 Zone; Division of Property, Single Family Homes, Driveway, Minor Grading, Property has public sewer and water.
3. 041321D A. Kausch & Sons, Pomfret Landing Road/Church Street, Map 37, Lot 17 and Map 37 Lot 20 and 21; Wetlands crossing for driveway, 2 residential homes, septic system, well, minor grading.
4. 060920A Paul R. Lehto, Allen Hill Road, Map 32, Lot 148, RA Zone; Wetlands filled in violation of permit.

New Business:

181 Paradise Drive – Shane O'Connor. Show Cause Hearing for wetlands violation.

Brown Road Map 34 Lot 31 - Jared Chviek. Show Cause Hearing for wetlands violation.

35 Kara Road – Deborah Love. Show Cause Hearing for wetlands violation.

Communications:

1. Wetlands Agent Monthly Report.
2. Budget Update.

Public Commentary:

Adjourn:

Jeffrey Arends
Chairman

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
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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

Nature of Violation	Amount of Fine
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
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*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:

- a. Of the allegations against him and the amount of the fines, penalties, costs or fees due;
- b. 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;
- c. 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)

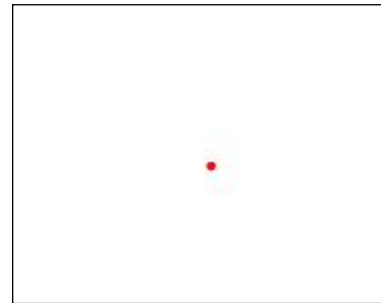
20-2.7 Appeal.

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)



necog

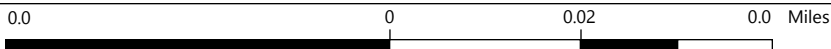
Neccog GIS Site



Legend

- Town
- Buildings 2012
- Parcels
- Wetlands**
 - Alluvial and Floodplain Soils
 - Poorly Drained and Very Poorly Dr

1: 1,128

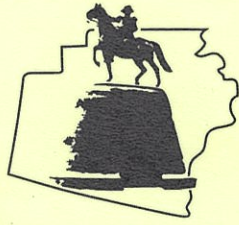


WGS_1984_Web_Mercator_Auxiliary_Sphere
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This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Notes
181 Paradise Drive



Silver BMW 2-dr
MA plates

orange/white Ford pickup

Plates on truck
registered to
Shane O'Connor
181 Paradise Dr.

Brooklyn Land Use Department

Black Dump truck
reg. to Shane
O'Connor

69 South Main Street
Brooklyn, CT 06234
(860) 779-3411 x 31

Inland Wetlands

Zoning Enforcement

Blight Enforcement

SITE INSPECTION NUMBER

1 2 3 4 5

181 Paradise Dr.

April 15, 2021

Address

Date

I received a complaint about trees being cut
and fill being brought in in the upland
review area to a pond. You are hereby
required to Cease + Desist from all site work
until you have applied for and obtained
permits from the Inland Wetlands and
Watercourses Commission and the Planning
and Zoning Commission.

Please call me immediately at 860-
779-3411 ext. 31

and leave your name + a phone
number at which you can be reached.

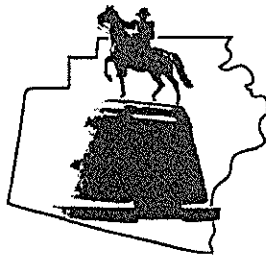
There will be a hearing on May 5
at 6pm at which you can show cause
why this Cease + Desist order should
not remain in effect.

Commission Representative

Margaret Washburn

Owner or Authorized Signature

Wetlands / Zoning / Blight
Enforcement Officer



Brooklyn Land Use Department

69 South Main Street
Brooklyn CT 06234
(860) 779-3411 x 31

Inland Wetlands Zoning Enforcement _____ Blight Enforcement _____

SITE INSPECTION NUMBER

1 2 3 4 5

181 Paradise Dr.

5/6/21

Address

Date

I took photos from the road.

I don't think site work stopped
after I issued the cease + desist order
on 4/28/21.

It looks like more trees have been
cut and more fill has been moved
around.

Commission Representative M Washburn

Owner or Authorized Signature _____



