

**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
for Inland Wetlands and Watercourses Violations**

To: Jared Chviek
132 Mason Road
Brooklyn, CT 06234

May 5, 2021

Location of Violation:
Brown Road
Brooklyn, CT 06234
Assessors Map 34 Lot 31

Facts

In response to a complaint about trees being cut and material being deposited in the wetlands on the subject property, I inspected and took photographs on 4/21/21. Please refer to the attached photographs. On 4/21/21, I taped a Cease and Desist Order on a tree on the Town right-of-way at **your property on Brown Road, Assessors Map 34 Lot 31**. This Order supersedes the Cease and Desist Order dated 4/21/21.

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 wetlands. 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 wetlands 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.

Refer to the attached Chapter XX of the Brooklyn Town Ordinances, in which the fine for a wetlands violation is shown to be \$1,000.00 per day.

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

Margaret Washburn

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



4/21/21



PLEASE & DESIST ORDER

The owner of Map 34 Lot 31 Brown Neck hereby ordered to stop cutting trees, shrubs or any vegetation in wetlands, the 125 foot riparian area to wetlands and the 175 foot riparian area to watercourses. A permit is required for any work removing vegetation or depositing fill including wood chips in these areas.

Contact me immediately at 860-775-3411 ext. 11 and leave your name and a phone number at which you can be reached.

A hearing will be held at 6:00 pm on May 11 at the Brooklyn Inland Wetlands and Watercourses Commission meeting which you can show cause why this order should no remain in effect.

Issued by: Margaret Washburn, Enforcement Officer for the Brooklyn Inland Wetlands and Watercourses Commission



4/21/21



5/4/21



5/4/21

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
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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:

- 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
- 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

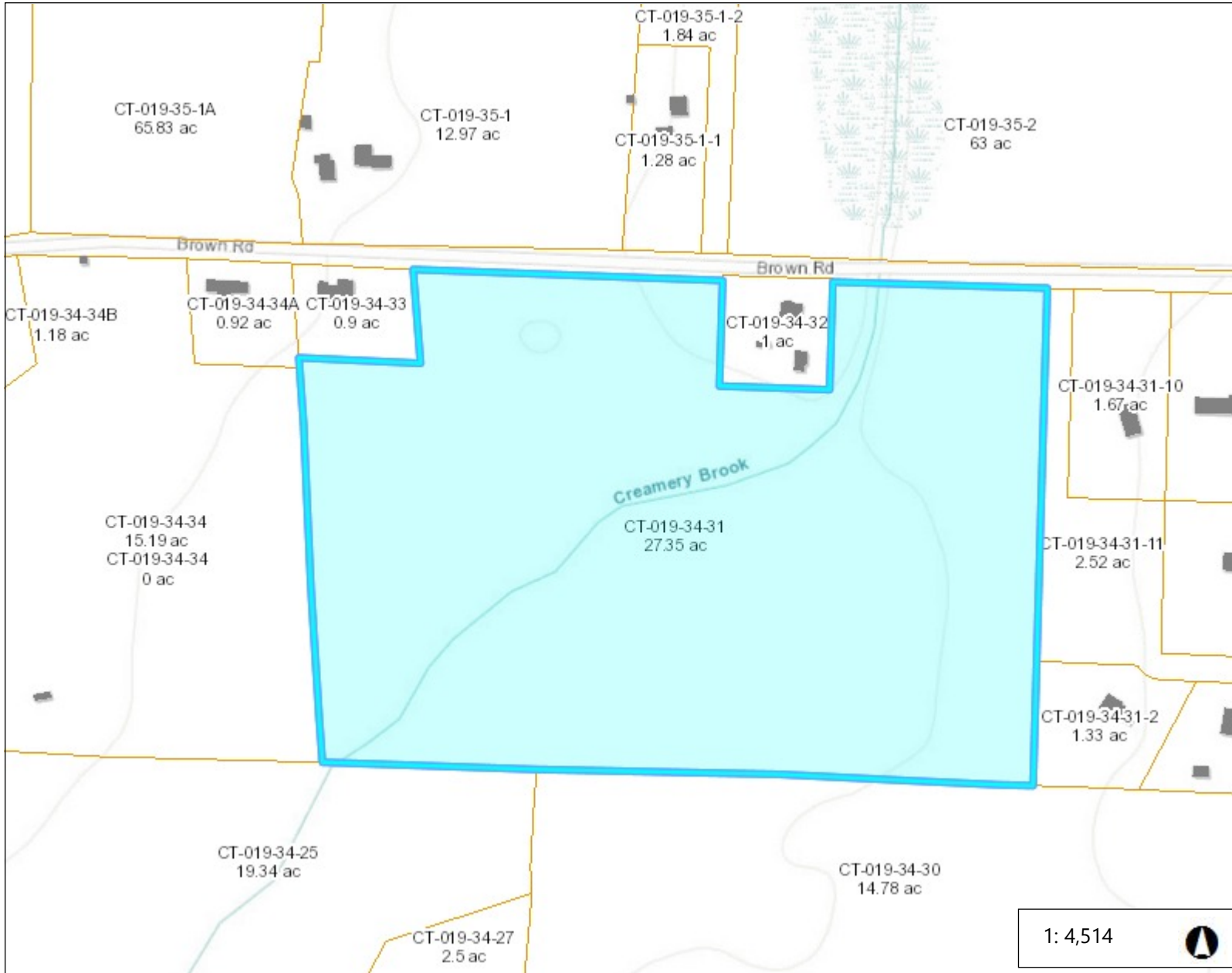
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necog

Necog GIS Site



Legend

-  Town
-  Buildings 2012
-  Parcels

Notes

Brown Road
Creamery Brook

1:4,514



0.1 0 0.07 0.1 Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere
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necog

Neccog GIS Site



Legend

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

Notes

Brown Road Map 34 Lot 31
Showing wetlands in green



WGS_1984_Web_Mercator_Auxiliary_Sphere
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**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**

Jared Chviek
132 Mason Road
Brooklyn, CT 06234

May 6, 2021

Dear Mr. Chviek,

I did not include the agenda in your Cease & Desist Order dated 5/5/21 by mistake. Please see the enclosed agenda for your Show Cause Hearing on May 11, 2021 at 6:00 pm.

Please let me know if you have any questions. If you would please call me at the number below or email me at the email address above, and leave me your email address, it would be appreciated.

Thank you,

Margaret Washburn
ZEO/WEO/Blight Enforcement Officer
69 South Main Street
Brooklyn, CT 06234
(860) 779-3411 ext. 31
m.washburn@brooklynct.org