

INLAND WETLANDS
COMMISSION
Telephone (203) 563-0180
Fax (203) 563-0284



TOWN HALL
238 Danbury Road
Wilton, Connecticut 06897

March 13, 2023

Jorge Valentin
573 Nod Hill Road
Wilton, CT 06897

Stephen J. Mogila, Partner
Mogila Law Group
5 Penn Plaza, 23rd Floor
New York, NY 10001

**RE: Uphold Cease and Desist Order
573 Nod Hill Road, Wilton, CT, Map 52, Lot 30**

Dear Mr. Valentin and Mr. Mogila,

At the March 9, 2023 meeting of the Inland Wetlands Commission, the Commission made a Motion to uphold the Cease and Desist Order after considering the testimony of the unauthorized work that was completed on your property.

The commission requires that a Corrective Action Wetlands Application is submitted by 12 noon on April 17, 2023. This Motion to uphold the Order carried 5-0-0.

The Legal Notice of this action is attached.

If you have any questions please do not hesitate to contact Mike Conklin, the Director of Environmental Affairs, or the commission directly. Thank you for your cooperation.

Sincerely,

Rick Stow
Chairman

RS/el

cc: Lynne Vanderslice, First Selectwoman
Ira Bloom, Town Counsel

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LEGAL NOTICE

The Wilton Inland Wetlands Commission took the following ACTION on March 9, 2023

UPHOLD CEASE & DESIST ORDER, VALENTIN – 573 Nod Hill Road, Wilton, CT (Assessor's Map #52, Lot#30). The order requires the owner to complete a "corrective action" application to address the tree removal that was completed in a regulated area.

The full record of the Commission's action is available for public review at its offices in the Town Hall Annex at 238 Danbury Road, Wilton, CT.

Dated this day March 13, 2023 at Wilton, CT
Publish in the Wilton Bulletin March 23, 2023

Penelope Koechl
Secretary

Inland Wetland Permit Application Process for Significant Development Proposals – A Neighbor's Guide

The process of bringing an application before the Inland Wetlands Commission begins well before the Town or its staff becomes involved and, in some cases, becomes aware that development feasibility is being investigated.

A prospective developer first has a rough layout of a potential subdivision or other development prepared. This is usually done by a licensed surveyor and is based on meeting the basic lot dimensions and other planning and zoning criteria. Working off this first feasibility draft, deep test holes and percolation test holes are dug to investigate potential sewage disposal areas, if applicable. This requires a backhoe to dig the deep test holes and the "perc" holes are dug with a post hole digger. The deep test holes allow the developer's engineer to "read" the soil profile to determine if and where any limiting features exist. Limiting features such as ledge or high groundwater need to be accommodated for in the design of the proposed leaching fields. The perc test details how fast water is absorbed into the soil. This too is taken into consideration in designing the leaching field. Town staff from the Health Department witness these tests and take notes to verify the accuracy of the final design. Redesign of the draft subdivision may be needed at this time if proposed leaching areas proved to be infeasible.

A second piece of important information gathered at the early stages is wetland flagging. In Connecticut, wetlands are determined by soils only. A soil scientist, contracted by the developer, goes to the site and examines the top 24" or so of the soil profile using a hand auger. The soil scientist hand "drills" a hole roughly four inches across, checking the extracted core sample. Soils inundated with high groundwater for a prolonged period alter the chemical and subsequently physical characteristics of the soil. Wetland soils tend to be more gray in color and have orange polka dots known as mottles. It takes a long time (geologic time) to form these features, so no road drain can form them, nor can you drain a wetland and erase these features. Soils also won't mislead a soil scientist during the dry season or even a particularly wet year. There are definite surface clues (topography, plants, etc.) that guide the soil scientist. After looking at the soil, the soil scientist uses numbered flagging tape tied to branches and the like to mark the wetland boundary. A surveyor then surveys these flags and transfers the information to a map.

In an effort to satisfy wetland permit application requirements and good design practices, the applicant will also submit the following investigation reports:

Environmental Impact Statement: This report is prepared by a qualified professional with a background in environmental biology. The report describes existing natural resource conditions of both the uplands and wetlands and what impacts to the wetlands are likely to result from the proposed development. Mitigation for these impacts would also be discussed.

Engineering Report: This report describes the septic system design criteria and how the surface hydrology of the area will be affected by the development. The proposed storm drainage system would be spelled out here as well.

Alternatives: The Inland Wetland Regulations require applicants of larger projects to provide maps and narrative describing alternatives that were considered. It is required by statute that, in the case where an application warrants a public hearing, the commission cannot approve an application until they make the finding that there is no feasible or prudent alternative with a lesser impact on the wetlands and/or watercourse. Alternatives can include different development layouts, different grading, house design, driveway configuration, etc. on individually proposed lots, and/or use of methods other than those proposed to limit disturbance.

The above items are the biggest pieces of the application, in addition to the proposed development maps. The commission also has the right to ask for additional information than what is specifically called for on the application form if particular site conditions warrant this. They can also hire consultants on behalf of the town if there is a feeling that a second opinion is needed.

After an applicant has assembled this information the application is made to the Wetlands Commission. The wetland application can run concurrently with the Planning and Zoning application. However, P&Z cannot make its decision until the Wetlands Commission acts in order for P&Z to give due consideration to the Wetlands Commission's ruling. Once the application is submitted to the commission it is put on the agenda as a new application. At this first meeting nothing happens except the application is "received" and scheduled for discussion or a public hearing.

Public hearings are scheduled for four weeks out from the meeting in which the application was received. During this month, the commission will conduct a site walk, notification to adjoining property owners will be made by direct mailing, and notices will be published in the local paper under the "legal notices" section. These notices will inform the recipient of the date and time of the public hearing. At any time after the application is **submitted** to the office, the public is free to come in to the commission's office and review the application. While you do not have to wait for a notice of the public hearing, there is no notification procedure to alert persons that the application has been submitted other than the public hearing notice.

If there is an ongoing concern regarding an anticipated application, one can call the Monday before each Wetlands Commission meeting to check if an application has been made. The Wetlands Commission meets the 2nd and 4th Thursday of each month.

With respect to reviewing the application, anyone can visit the Town's website at www.wiltonct.org to review the materials or come in during business hours to review the file. Comments by neighbors, their consultants or anyone else can be submitted before the closing of the hearing. These reports and letters will be distributed to commissioners and become part of the hearing record.

During the public hearing, elements of the application, including letters, etc. are reviewed. The applicant then gives a presentation explaining the proposal to the commission and public. The commission and staff ask questions and then the chairman will invite the public to speak. Rarely will public hearings open and close on the same night except when a rather simple project is before the commission. Subdivisions and more complex applications likely need 2-4 meetings to have all questions answered. Once the public hearing is closed, no additional information can be received by the commission. This is important. If the neighbors have something to say or are contracting with their own consultants, all information has to be submitted to the commission before the hearing closes. Anything submitted after will not be part of the record and will not be seen by the commissioners or considered during their deliberations.

The commission deliberates the project based on written and oral testimony given by the applicants and others. Opinions expressed during the hearing will be weighted based on the expertise of the individual providing such information. What this means is that statements/written correspondence given by a person with no particular background in ecology, engineering, or the like will not carry the same weight as information submitted by a licensed professional engineer or a professional environmental analyst for example. If a neighbor has pertinent credentials, these need to be stated on the record or the neighbors et. al. can hire experts of their own to provide opposing expert testimony.

Following the close of the hearing, the commission will deliberate the information in an effort to make a decision. If the application is approved, the resolution will likely include Special Conditions. These are additional directives and/or modifications to the proposal that the applicant must follow. The permit and its conditions "run with the land", so the developer or anyone who takes ownership of the land as a whole or its resulting parcels are bound by the permit. Once the permit is issued, it is the commission's obligation to publish a legal notice of decision. From this date of publication, there is a 15-day period in which appeals to the decision can be made. Appeals are made to the CT Superior Court.

Inland Wetlands Commission

https://www.wiltonct.org/inland-wetlands-commission

Sign-inGetting Started

Home

Permits & Reviews

Past Applications as of 12/1/2020


Inland Wetlands Commission

The Inland Wetlands Commission was established to conserve, protect, supervise, and regulate the wetlands and watercourses within the Town of Wilton. The Commission is comprised of seven members who serve in three year terms.

The Commission is responsible for administering the Inland Wetlands and Watercourse Regulations for the Town. The Commission reviews applications on all land use projects within wetlands, and watercourses within the regulated areas adjacent to them (100 ft.). The Commission also pursues violations and the corresponding corrective action.

Please follow the following additional steps when submitting an Application to the Office of the Commission: Once you have completed the application and gathered the required supporting materials you can drop it off along with the required copies and the check made out to "Town of Wilton" in the Dropbox located in the Town Hall Annex vestibule. You will also need to scan all of the documents and submit them electronically to these emails mike.conklin@wiltonct.org and Elizabeth.Larkin@wiltonct.org.

- Inland Wetland and Watercourse Regulations
- Inland Wetland Permit Application Process
- Fee Schedule (Effective June 1, 2021)



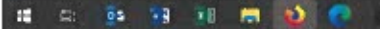
Community News

[Early March 2023-Commercial Blight Legislation, Budgets, Housing Legislation & Transportation for Individuals with Disabilities](#)

[The Board of Finance Encourages Residents to Complete FY 2024 Budget Survey](#)

[February 2023-First Selectwoman's Update](#)

[Legislative Update-Housing Committee Hearings on Tuesday, February 28th](#)



43°F Light Rain

1:55 PM
2/15/2023

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TOWN HALL
238 Danbury Road
Wilton, Connecticut 06897

"corrective action"
APPLICATION FOR AN INTERMEDIATE REGULATED ACTIVITY

For Office Use Only:

Filing Fee \$ <u>960.00</u>	WET# _____
Date of Submission _____	Wilton Land Record Map# _____
Date of Acceptance _____	Volume # _____ Page # _____
	Assessor's Map # _____ Lot# _____

APPLICANT INFORMATION:

Applicant _____	Agent (if applicable) _____
Address _____	Address _____
_____	_____
Telephone _____	Telephone _____
Email _____	Email _____

PROJECT INFORMATION:

Property Address _____	Site Acreage _____
Acres of altered Wetlands On-Site _____	Cu. Yds. of Material Excavated _____
Linear Feet of Watercourse _____	Cu. Yds. of Material to be Deposited _____
Linear Feet of Open Water _____	Acres of altered upland buffer _____
Sq. Ft. of proposed and/or altered impervious coverage _____	Sq. Ft. of disturbed land in regulated area _____

APPLICATION REQUIREMENTS:

Is The Site Within a Public Water Supply Watershed Boundary? NO _____ YES* _____	Is The Site Within 500 Feet of a Town Boundary? NO _____ YES* _____
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* If the answer is yes, then the applicant is responsible for notifying the appropriate water authority and/or adjoining community's Wetlands Department. Instructions for notification are available at the office of the commission.

Project Description and Purpose: _____

In addition, the applicant shall provide nine (9) collated copies of the following information as well as an electronic submission via email to mike.conklin@wiltonct.org & elizabeth.larkin@wiltonct.org **

- () A. Written consent from the owner authorizing the agent to act on his/her behalf
- () B. A Location Map at a scale of 1" = 800'
- () C. **A Site Plan showing existing and proposed features at a scale not to exceed 1" = 40'**
- () D. Sketch Plans depicting the alternatives considered
- () E. Names and addresses of adjoining property owners
- () F. A narrative describing, in detail
 - a. the proposed activity
 - b. the alternatives considered
 - c. impacts
 - d. proposed mitigation measures
- () G. Soils Report prepared by a Certified Soil Scientist and Wetlands Map prepared by a Registered Land Surveyor
- () H. Description of the chemical and physical characteristics of fill material to be used in the Regulated Area
- () I. Description and maps detailing the watershed of the Regulated Area
- () J. One original application form and eight (8) copies

****Application materials shall be collated and copies of documents more than two pages in length shall be double sided.**

See Section 7 of the Wetlands and Watercourses Regulations of the Town of Wilton for a more detailed description of applications requirements.

The Applicant or his/her agent certifies that he is familiar with the information provided in this application and is aware of the penalties for obtaining a permit through deception, inaccurate or misleading information.

By signing this application, permission is hereby given to necessary and proper inspections of the subject property by the Commissioners and designated agents of the Commission or consultants to the Commission, at reasonable times, both before and after a final decision has been rendered.

Applicant's Signature: _____ Date: _____

Agent's Signature (if applicable) _____ Date: _____

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ADDENDUM TO APPLICATION – NOTICE TO WATER COMPANY & CT DEPT. OF PUBLIC HEALTH

Section 8-31 of the Connecticut General Statutes states, in part, “When an applicant files with the Zoning Commission, Planning and Zoning Commission or Zoning Board of Appeals of any municipality an application, petition, request or plan concerning any project on any site which is within the watershed of a water company, as defined in Section 25-32a, the applicant shall provide written notice of the application, petition, request or plan to the water company...Such notice shall be made by certified mail, return receipt requested, and shall be made within seven days of the date of the application...”

The watershed map is located in the Planning and Zoning Office in the Town Hall Annex.

The certified letter should state the address of the property and the intention of the application. It is helpful to include a project plan, although not required.

The address is either:



SNEW
South Norwalk Electric and Water Company
164 Old Boston Road
Wilton, CT 06897
CT#1030021
South Norwalk Reservoir/City Lake
Pope's Pond/Street's Pond

First Taxing Dist. Water Department
12 New Canaan Avenue
Norwalk, CT 06851

CT#103011
Brown's Reservoir

Public Water Supply Watershed or Aquifer Area Project Notification

Under the Public Act 06-53 notification requirement, applicants with projects in public water supply watersheds or aquifer protection areas must notify the CTDPH in addition to the project area water company.



The CT DPH Drinking Water Section prefers applicants use the listed website to satisfy the notification requirement. You may access the online PA 0653 Notification Form on the Source Water Protection Program website: https://portal.ct.gov/-/media/Departments-and-Agencies/DPH/dph/drinking_water/pdf/WatershedorAquiferAreaProjectNotificationFormpdf.pdf

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TOWN HALL ANNEX
238 Danbury Road
Wilton, Connecticut 06897

IWC BONDING INFORMATION

Updated: 10/30/2018

The following types of performance bonds are acceptable:

CASH:

To be deposited in the appropriate Town account by a Town official. Submit with a W-9 tax form.

CERTIFIED CHECK:

Made payable to the Town of Wilton; to be deposited in the appropriate Town account by a Town official. Submit with a W-9 tax form.

IRREVOCABLE

LETTER OF CREDIT:

Subject to acceptance by the Town of Wilton's Finance Department, an irrevocable letter of credit may be accepted from any bank that is deemed by the Town of Wilton to be a qualified public depository, as defined in the Connecticut General Statutes, with offices located in Connecticut and chartered to conduct business in the State of Connecticut.

The Letter of Credit must be automatically renewable and must state that sixty (60) days notice will be provided to the Town of Wilton if the Letter of Credit is not to be renewed. Said notice must be sent by certified mail to the head of the department that is requiring the bond. The Letter of Credit must state that the revocation or modification of the Letter of Credit on behalf of the beneficiary is effective only upon the written consent of a Town official for the Town of Wilton.

A draft copy of the Letter of Credit must first be reviewed by Town officials and by the Town Attorney for approval prior to submission.

ENVIRONMENTAL CONSULTANTS

DiDona Associates 203-778-1840
Danbury, CT

Environmental Land Solutions 203-855-7879
Norwalk, CT

Land Tech Consultants 203-454-2110
Westport, CT

Keith Simpson Associates 203-966-7071
New Canaan, CT

Evans Associates 203-393-0690
Bethany, CT

Steve Danzer, PhD and Associates 203-451-8319
Stamford, CT

JMM Wetland Consulting Services 203-364-0345
Newtown, CT

Tracy Chalifoux 845-364-1360

SOIL SCIENTISTS

Marc Beroz 860-349-3334
Durham, CT

Soil Science Services 203-272-7837
Rocky Hill, CT

Jay Fain Associates 203-254-3156
Southport, CT

Bill Kenny 203-366-0588
Fairfield, CT

BL Companies 203-630-1406
Meriden, CT

Aleksandra Moch 203-975-7834

Mary Jaehnig 203-431-8113

Otto Theall 203-845-0278

James McManus 203-364-0345

Elizabeth Young 203-457-1356

Steven Danzer 203-451-8319
Stamford, CT

ENGINEERS

Land Tech Consultants 203-454-2110
Westport, CT

McChord Engineering 203-834-0569
Wilton, CT

Peak Engineering 203-834-0588
Georgetown, CT

LANDSCAPE CONTRACTORS

L.A. Landscapes 203-329-7189
Laura Morano

Hoffman Landscaping 203-834-9656

C&M Landscapes, LLC 203-431-1969

HERPETOLOGIST

James L. Warner 203-762-7080

LANDSCAPE ARCHITECTS

Environmental Land Solutions 203-855-7879
Kate Throckmorton

Wesley Stout Associates 203-966-3100

Tracy Chalifoux 845-364-1360

SURVEYORS

Roger Stalker 203-563-0048

Ryan & Faulds 203-762-9492

ARBORISTS

Lars Cherichetti 203-761-1307

Nick Lee 203-761-0330

Halfdan Prael 203-733-5383

Charlie Robinson 203-834-0866

Victoria McCarthy 203-448-9196