



# TOWN of BETHEL INLAND WETLANDS COMMISSION

Clifford J. Hurgin Municipal Center  
1 School Street  
Bethel, Connecticut, 06801

May 23, 2024

Cohen and Wolf, P.C.  
Attn: Neil Marcus  
158 Deer Hill Avenue  
Danbury, Connecticut 06810

Re: #7 Rockwell Road – Permitted Use as-of Right Ruling Request

## **NOTICE OF RULING**

To Attorney Marcus:

At the May 20, 2024 Regular Meeting of the Bethel Inland Wetlands Commission (“Commission”), a Permitted Use as-of Right Exemption Request was considered and reviewed for the following:

“The property owner is performing residential landscaping and property maintenance and repairs which includes the restoration and rehabilitation of the rear yard along the western bank of the Lime Kiln [sic] Brook. This includes the removal of debris in the brook and diseased and dead trees lying in the water or ready to fall in the water. The stones lining the bank comprised an existing wall in disrepair and that has been corrected (see attached sketches of proposed stone work required).”

The items reviewed by the Commission include the following Exhibits:

- “Original Complaint” (88 digital photographs) taken by Brian Blanchette, received October 23, 2023;
- “Site Visit #1” (8 digital photographs) taken by David McCollum on August 7, 2023 and received October 23, 2023;
- “Notice of Violation” prepared by David McCollum, dated August 9, 2023 and received October 23, 2023;
- “Additional Complaint Material” (7 digital photographs) taken by Brian Blanchette on August 22, 2023 and received October 23, 2023;
- “Site Visit #2” (3 digital photographs) taken by David McCollum on August 23, 2023 and received October 23, 2023;
- “Order to Correct” prepared by David McCollum, dated September 6, 2023 and received October 23, 2023;
- “Revised Order to Correct” prepared by David McCollum, dated September 14, 2023 and received October 23, 2023;
- “Verified Petition to Intervene” from Brian Blanchette, dated September 21, 2023 and received October 23, 2023;
- “Re: Restoration Plan – 7 Rockwell Road, Bethel, CT” from James M. McManus, *MS, CPSS*, dated October 15, 2023 and received October 23, 2023;
- Town of Bethel Inland Wetlands Commission Application for Permit, dated October 16, 2023 and received October 23, 2023;

- "IWC Site Walk Photos" (8 digital photographs) taken by David McCollum on November 19, 2023; received November 27, 2023;
- "Commissioner Jordan Photos" (11 digital photographs) taken by Nicholas Jordan on November 19, 2023 and received November 27, 2023;
- "Staff Report" prepared by David McCollum, dated November 20, 2023 and received November 27, 2023;
- "Re: 7 Rockwell Road" from Steven Danzer, *PhD*, of Wetlands & Environmental Consulting, dated November 21, 2023 and received November 27, 2023;
- "Map Prepared for Violet Mattone and Mary B. Baillie, Bethel – Connecticut Area = 1.023 Acres" prepared by David L. Ryan, L.S. #8175, dated December 8, 1971 and received December 11, 2023;
- "Re: 7 Rockwell Road – Bjorken" from Neil R. Marcus, Esq. dated and received December 11, 2023;
- "Property Survey Depicting Lot Line Revision Prepared for Bennett B. Kellogg, Jr. & Elba Enrici 10 Old Hawleyville Road & 17 Rockwell Road" prepared by Paul A. Hiro, L.S. 15167, dated January 10, 2010 and received January 22, 2024;
- "Rain Event" (12 digital photographs) taken by David McCollum on December 18, 2023 and received January 22, 2024;
- "Site Inspection" (3 digital photographs) taken by David McCollum on December 21, 2023 and received January 22, 2024;
- "#7 Rockwell Road – Restoration Plan – JMM Wetland Consulting Services, LLC" email from Dave McCollum, dated December 21, 2023 and received January 22, 2024;
- "#7 Rockwell Road – Restoration Plan – JMM Wetland Consulting Services, LLC" email from Neil R. Marcus, Esq., dated December 26, 2023 and received January 22, 2024;
- "#7 Rockwell Road – Restoration Plan – JMM Wetland Consulting Services, LLC" email from Dave McCollum, dated December 28, 2023 and received January 22, 2024;
- "Brian Blanchette Photos" (3 digital photographs) taken by Brian Blanchette on January 5, 2024 and received January 22, 2024;
- "#7 Rockwell Road – Restoration Plan – JMM Wetland Consulting Services, LLC" email from Dave McCollum, dated January 7, 2024 and received January 22, 2024;
- "Rain Event" (5 digital photographs) taken by David McCollum on January 10, 2024 and received January 22, 2024;
- "Brian Blanchette Photos" (3 digital photographs) taken by Brian Blanchette on January 12, 2024 and received January 22, 2024;
- "#7 Rockwell Road – Restoration Plan – JMM Wetland Consulting Services, LLC" email from Dave McCollum, dated January 18, 2024 and received January 22, 2024;
- "Re: 7 Rockwell Road – Bjorken" from Neil R. Marcus, Esq. dated and received January 22, 2024;
- "Inland Wetlands Commission Notice Pursuant to Section 3.2.1 of the IWWC" received April 22, 2024 (9 pages);
- "Re: 7 Rockwell Road" from Neil R. Marcus, Esq., dated April 2, 2024 and received April 22, 2024 (1 page); and
- "Re: 7 Rockwell Road – Staff Report April 18, 2024" from Neil R. Marcus, Esq., dated May 14, 2024 and received May 20, 2024 (5 pages)

The Commission accepted this ruling request for their review on April 22, 2024, continued their review on May 20, 2024, and concluded their review on May 20, 2024. The Commission deliberated this request, and upon a vote in favor of **3-0-0 (IN FAVOR; AGAINST; ABSTAINING)**, the Commission resolved to **DENY** this ruling request during their Regular Meeting on May 20, 2024, for the following reasons:

1. The Applicant failed to submit sufficient information for the Commission to determine that the activity proposed is eligible for an exemption. In particular, the Applicant failed to include data including wetlands soils delineation for the Commission to determine that the use did not include removal or deposition of significant amounts of material from or onto a wetland or watercourse or diversion or alteration of a watercourse.
2. Based on the information provided, the Commission believes that the proposed activities constitute activities requiring a Regulated Activities permit.

The Application was reviewed in accordance with the Inland Wetlands and Watercourse Regulations, in consideration to the Inland Wetlands and Watercourse Act, and pursuant to Chapter 440 of the State of Connecticut General Statutes, §22a-36 to §22a-45, as amended.

This decision becomes effective 15 (fifteen) days after publication in the News Times. I have enclosed a copy of the Legal Notice for your records.

Very Truly Yours,



Danielle Monroe, *Inland Wetlands Commission Chair*

Cc: Mark Bjorken