



City of Westbrook

ZONING BOARD OF APPEALS

2 York Street Westbrook, Maine 04092 (207) 854-9105 Fax: (866) 559-0642

**CITY OF WESTBROOK
ZONING BOARD OF APPEALS
NOTICE OF PUBLIC HEARING
WESTBROOK HIGH SCHOOL, RM 114
November 13, 2018 7:00 P.M.
AGENDA**

Administrative Agenda

- 1. Approval of August 14, 2018 minutes**

New Business

- 2. Zoning Appeal** – Paul Kapothanasis, owner of 2 Running Brook Road, is appealing the issuance of the fill permit #1881 for 5 Running Brook Road Tax Map: 022, Lot 022B, Zone: Residential Growth Area 2.

Adjourn



City of Westbrook

DEPARTMENT OF PLANNING & CODE ENFORCEMENT

2 York Street

Westbrook, Maine 04092

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MEMO

DATE: November 6, 2018

TO: Zoning Board of Appeals

FROM: David Finocchietti, City of Westbrook Code Enforcement Officer

Cc: File

RE: November 13, 2018 Zoning Board Meeting

Items in this memo:

1. **Administrative Appeal: Paul Kapothanasis, 2 Running Brook Road, Tax Map: 022, Lot: 231**
 - a. **Appealing Fill Permit #1881 for 5 Running Brook Road, Tax Map: 022, Lot: 022B**

Project Description:

Dispute over granting of a fill permit to Larry Allen, owner of 5 Running Brook Road, Tax Map: 022, Lot: 022B

For the Board's reference from the ordinance Section 703.1:

“A person aggrieved by a decision of the Code Enforcement Officer, as provided by this ordinance, may appeal to the Zoning Board of Appeals. The person must file a notice of appeal with the Code Enforcement Officer within 30 days of the action taken. The notice must cite the decision appealed from, identity of the property involved, and state the specific grounds for the appeal. It must be signed by the appellant or legal representative. The appellant shall pay a filing fee to cover the cost of advertising the appeal, as required by Section 703.3.”

Staff Comments:

Mr. Larry Allen requested a Fill Permit for the repair of Ruts caused by logging trucks that remove trees from his lot and to fill the stump holes once the stumps are removed (approx. 10 trees).

Mr. Allen was provided with the City's general building permit application which included requirements for erosion control. Mr. Allen completed the application and checked off "Other" and wrote in "Fill". This would be appropriate for a fill permit. Along with the application was a rough sketch of where the erosion control would be placed. Mr. Allen was advised that the erosion control would have to be in place and inspected by the City's Engineering department before any work could commence. The permit application was then reviewed by the City Engineer (Eric Dudley) who approved the fill permit. The scope of work for a fill permit is restricted to the actual property and not the City's right of way.

In order to work in the City's right of way one would be required to obtain a building permit or a street opening permit. The street opening permit is for driveways, installation of utilities, etc. and is also reviewed by the City Engineer for approval. To excavate in the City's right of way would also require the excavation contractor to be licensed through the City.

In closing, the fill permit that was issued by the City does not violate the intent of the agreement letter between the parties where this permit is not for a driveway or a building.

When the owner decides to move forward with the building permit, the driveway permit would be part of that process and would be reviewed in reference to the letter of agreement.

Therefore, Staff assert that the fill permit was issued correctly.