

Final Report
Planning and Zoning Commission
Earth Excavation and Removal Study Subcommittee

8-11-14

INTRODUCTION

At the Planning and Zoning Commission meeting of November 13, 2013 the Planning and Zoning Commission appointed an Earth Excavation and Removal Study Subcommittee.

The appointed members were:

Eric Lukingbeal
Jim Sansone
Paula Johnson
Christine Chinni
Doug Marshall
Jason LaChance
Bill Sleavin
Kevin Clark

Jim Sansone and Eric Lukingbeal agreed to serve as co-chairpersons of the subcommittee. Note that Doug Marshall resigned from the Subcommittee just prior to the final meeting as the final meeting date was in conflict with his summer travel plans.

PROCESS

On December 16, 2013 the members held their first meeting. At this meeting we discussed the mission and agreed to review the existing Zoning Regulations, Section 9 and consider changes. We also agreed to look at the regulations of the surrounding communities. While studying the issue we decided to expand the concerns to excavation, removal, filling and grading, in recognition of the effects that filling and grading can have on neighboring properties. After making a variety of suggestions a draft regulation was produced for discussion purposes. The first drafts that we worked on attempted to regulate the amount of material that could be placed and/or removed from properties based on the specific size of a property. We spent time discussing specific examples of soil quantities and viewed computations that showed the number of cubic yards of earth that would result from various activities. These activities included septic repairs, basic home construction and site improvements, road and driveway construction, pond excavation and more.

After much discussion and having gained a useful understanding of the use and generation of earth materials the Subcommittee decided it was best to regulate activity through a process that requires a greater municipal review based on the extent of the proposed activity per lot, rather than per size of the lot. After meeting on 5 separate occasions, we concluded our task on July 24, 2014 with the subcommittee's unanimous agreement on the final draft of a re-write of Section 9.

CONCLUSION

The final draft provides for a more limited amount of earth material that can be removed or deposited **as of right** without any municipal review. While the proposed as-of right activity allows for the removal of less earth material than in the current regulations, we determined that a

larger amount of material could be removed or deposited following the approval of a Zoning Permit, rather than a Special Permit. The proposed **Zoning Permit** allows for the filling or removal of up to 5,000 cubic yards of earth and establishes detailed criteria which regulate the activity. The Zoning Permit requires the submittal of a plan which can be approved by the Zoning Enforcement Officer if it complies with the requirements. Except as noted below, where more than 5,000 cubic yards of earth are to be placed on or removed from any lot the proposed regulation requires an approval of an **Excavation and Removal Special Permit** application by the Planning and Zoning Commission.

The proposed regulation also:

Limits excavation and filling to no more than 7,000 cubic yards of material following the issuance of a **Building Permit**:

Allows up to 3,000 yards of material to be excavated or deposited in conjunction with a **Septic System Installation or Repair Permit by the Farmington Valley Health District**:

Allows for the exemption of a separate Excavation and Removal Special Permit application where the activity is included within the approval of a Subdivision, Special Permit or Site Plan application.

Allows the excavation of up to 7,000 cubic Yards of material where the Inland Wetlands and Watercourses Commission has provided such approval.

Requires a plan prepared by a PE or LA if more than 2,000 cubic yards of material will be excavated or placed on a property. Such plan is also required if more than 500 cubic yards of material will be placed or excavated from any land area containing less than one acre.

Additionally, the regulation; establishes detailed review criteria, operation standards and measures; identifies concerns; requires reports; and notes that applications may be denied if they fail to be in compliance with the regulations or fall out of compliance during the operation.

The Subcommittee members are confident that the Planning and Zoning Commission will find the proposed regulations to be a significant improvement over the existing regulations and we recommend their adoption.

Respectfully Submitted;

PZC Earth Excavation and Removal Study Subcommittee

Prepared by the Earth Excavation Subcommittee
PROPOSED AMENDMENT
SECTION 9
EARTH EXCAVATION, FILLING AND GRADING

PURPOSE

The purpose of this Section to regulate the excavation and removal of sand, gravel, stone, loam, dirt and other such earth materials and to regulate the hauling and depositing of earth materials onto properties within the Town of Granby. Such regulation is necessary to prevent situations that may have a negative impact on neighboring properties, while the activity is occurring and following its completion. Further, these regulations are designed to assure that the final grades are stable and blend naturally into the surrounding area and to assure that the land remains suitable for appropriate future uses, while reducing traffic hazards and nuisances often associated with the excavation, filling and hauling of earth products.

APPLICABILITY

This Section 9 is applicable to all properties within the Town of Granby, regardless of zone.

SCOPE

The cubic yards of material specified below are cumulative from the date of adoption of the regulation.

Permitted without a permit:

On a lot of less than 1 acre, the excavation of earth or the filling of land is permitted without a permit provided that no more than 50 cubic yards of earth are placed on or removed from the lot.

On a lot of 1 acre or more, the excavation of earth or the filling of land is permitted without a permit provided that no more than 100 cubic yards of earth are placed on or removed from the lot.

Permitted following the issuance of a Zoning Permit:

A zoning permit is required for any excavation or filling of land in excess of 100 cubic yards to a maximum of 5,000 cubic yards.

The application for a zoning permit shall include a plan designed to the satisfaction of the Zoning Enforcement Officer and as required herein.

Permitted following the issuance of a Special Permit:

The excavation of earth or the filling of land is permitted only upon the issuance of a Special Permit by the Planning and Zoning Commission where more than 5,000 cubic yards of earth are to be placed on or removed from any lot.

Permitted following the issuance of a Building Permit:

The excavation of earth or the filling of land is permitted upon the issuance of a Building Permit for a residential home provided that no more than 7,000 cubic yards are placed or removed per any one lot.

Permitted following the issuance of a Septic System Installation or Repair Permit by the Farmington Valley Health District:

The excavation of earth or the filling of land is permitted upon the issuance of a permit by the FVHD for septic system installation provided that no more than 3,000 cubic yards of earth are placed or removed per any one lot.

Plan Requirements:

Any plan involving the deposition or removal of more than 2000 cubic yards, or any plan which proposes that more than 500 cubic yards of material will be placed or excavated from any land area containing less than one acre, will require a plan prepared by a PE or LA.

Exemption where the Commission has approved Subdivision, Special Permit or Site Plan Applications:

A separate Excavation and Removal Special Permit application shall not be required where the activity is part of the approval of a Subdivision, Special Permit or Site Plan Application. The Commission may require the separate submission of a separate Excavation and Removal Special Permit application where the amount of material exceeds 30,000 cubic yards or where the Commission determines that the proposed Excavation and Removal is the primary part of the Subdivision, or site plan application. Additionally, the Commission may permit the temporary use of earth material processing, screening or crushing equipment in conjunction with an approved subdivision.

Exemption where the Inland Wetlands and Watercourses Commission has approved the construction or maintenance of a Pond:

A separate Excavation and Removal Special Permit application shall not be required where the Inland Wetlands and Watercourses Commission has approved the construction of a new pond or dredging or modification of an existing pond, provided that the total amount of material does not exceed 7,000 cubic yards, or if the material does not leave the site.

APPLICATION REQUIREMENTS

Plans which detail the proposed activity shall contain all applicable information as outlined in Section 4.0 of these Zoning Regulations. The Commission may require additional information based on the scope, location or special concerns related to the proposal.

Zoning Permit and Special Permit Criteria

The Zoning Enforcement Officer or Planning and Zoning Commission shall approve the plan and grant the permit only when satisfied that the following conditions are understood by the applicant and that they will be complied with in the undertaking of such excavation or filling:

- a) That the premises will be excavated and graded in conformity with the plan as approved.
- b) That Sedimentation and Erosion Control will be designed and installed in accordance with Section 8.7 of these Zoning Regulations.

- c) That no excavation or filling will take place within 25 feet of any property line without the written consent of the abutting land owner(s).
- d) That the existing top soil will remain on site as necessary for the restoration of the property upon completion.
- e) That at all stages of operations, proper drainage will be provided to prevent the collection and stagnation of water and to prevent harmful effects upon surrounding properties.
- f) That during the period of excavation and removal, barricades or fences will be erected as are deemed necessary by the Town for the protection of pedestrians and vehicles.
- g) That truck access to and from the site will be so arranged as to minimize danger to traffic and nuisance to surrounding properties and that any access road constructed to service the operation will be provided with a dustless surface.
- h) That proper measures will be taken to minimize the nuisance of noise and dust. Upon review of the application the ZEO may require specific measures necessary to reduce the anticipated level of noise and dust. Upon inspection of the operation, the ZEO may also require further measures to reduce the level of noise and dust. Such noise measures may include limiting the use of engine braking assist systems such as “jake brakes”, adjusting the work areas during certain periods of the day, modifying work practices to limit back-up alarms, delaying the clearing of vegetation, requiring the creation of temporary earthen berms and other such measures as determined by the ZEO. Measures to control dust may include the regular watering of the site or specific areas of the site, the application of chlorides; the mulching of exposed areas; adjusting the scheduled clearing and grubbing; prioritizing the replanting of vegetation; early hydro-seeding and other such measures as determined by the ZEO.
 - i) That upon completion, the excavated or filled area will be graded so that no gradients in disturbed earth shall be steeper than a slope of 3-1 (horizontal/vertical), unless, after review by the Town Engineer it is determined that the soil condition can support a slope up to 2-1 (horizontal/vertical) and it is further determined that such slope is appropriate for the area..
 - j) That a layer of topsoil of a quality and depth approved by the Town will be spread over the disturbed area, except exposed rock surfaces, in accordance with the approved contour plan. The depth of the top soil shall not be less than 4 inches and the area shall be seeded with a perennial rye or other approved grass and maintained until the area is stabilized.
 - k) That there will be no earth material processing, screening or crushing equipment on the site.
 - l) That where an application for excavation or filling involves adjoining properties, the properties may be considered under a single application.

- m) That activity shall not commence before 7:00 am and shall terminate not later than 6:00 p.m.
- n) That no operations are permitted on Sundays or legal holidays.
- o) That a bond may be required to assure proper completion of the project and guarantee the replacement, improvement or repair of the Town infrastructure which may be damaged by the operation. The amount of such bond will be established after a review by the Town Engineer.
- p) All feasible and prudent steps shall be taken to assure that the operation continues to comply with the above criteria throughout the period of the operation. Upon a determination by the ZEO that the operation is not in compliance, the operation shall immediately cease and the operation shall not be allowed to continue until written approval is provided by the ZEO. Such written approval shall not be provided without a written documentation of the issues which led to the cessation of the operation and the resolution of the issue. Any operation that continues following a notice to cease shall be subject to the remedies and sanctions provided by the Connecticut General Statutes and Section 10.1 of the Granby Zoning Regulations.
- q) A Zoning Permit will remain in effect for a period of 90 days, after which it shall become void. The ZEO shall not issue a new permit without the subsequent filing of a map which shows, through the report of a certified engineer, that the excavation already completed conforms to the plan of operations as approved.

Special Permit Applications:

In addition to the above criteria, when considering Special Permit applications under this Section, the Commission shall review the criteria of Section 8.2 and apply it with the understanding that the Excavation and Filling activity is temporary and base the determination on the proposed condition of the property in its completed state. The Commission shall consider any appropriate action necessary to limit the length of any operation and take other additional measures as necessary to limit the negative impacts on neighboring properties and may deny any application where it finds that the proposal will result in an unusual hardship or exceptional difficulty on the Town and/or the area residents. In its review the Commission shall consider the following additional items:

- a. Potential soil erosion and sedimentation affecting all land and bodies of water both on-site and off-site.
- b. Effects on drainage and groundwater table.
- c. Lateral support slopes, grades and elevations of abutting streets and properties.
- d. Effect of the operation and any related traffic circulation and road condition on streets serving the parcel under consideration.
- e. Any decision issued by the Inland Wetlands and Watercourses Commission.

- f. Any recommendation or approval of the Connecticut Department of Transportation or Department of Energy and Environmental Protection and/or the U.S. Army Corps of Engineers.
- g. The Recommendation of the Town's engineer, Director of Public Works Department, the Conservation Commission, and the Director of Community Development.
- h. The scope and duration of the project and temporary and long term effects on neighboring properties.

Approved Applications:

In approving an application the Commission shall exercise its authority to minimize any negative effects that the proposed operation may have on the Town and the area residents.

1. In approving an application the Commission shall take appropriate action to limit the length of any operation and shall specify the time period within which an excavation, or filling, activity shall be completed, but in no event shall the time period of the approval exceed two (2) years. An approved permit shall then expire on the date set by the Commission or two (2) years from the date of issuance unless such permit is renewed by the Commission. The Commission shall not renew or extend any permit unless the operator is able to show, through the report of a certified engineer, that the excavation already completed conforms to the plan of operations as approved.
2. The Commission may require the applicant to submit periodic reports, prepared by and bearing the seal of a professional land surveyor or engineer, showing the status and progress of the work.
3. As a condition of any special permit, the Commission may require that the applicant furnish a performance and/or maintenance bond, acceptable to the Commission in form, amount, and surety, securing to the Town of Granby the faithful performance of the work proposed, pursuant to both the provisions of this or other applicable sections of these regulations and to the specific conditions of approval.
4. No bond shall be released until:
 - a. The Commission receives an as-built survey prepared by a professional land surveyor that the project has been completed according to approved plans and conditions attached thereto;
 - b. The Commission is satisfied the work has been completed as required; and
 - c. Disturbed areas have been appropriately graded and stabilized with vegetation to result in erosion-free conditions.