

**DRAFT
MINUTES
WESTPORT CONSERVATION COMMISSION
JULY 15, 2015**

The July 15, 2015 of the Westport Conservation Commission was called to order at 7:00 p.m. in the Auditorium of the Westport Town Hall.

ATTENDANCE

Commission Members:

Pat Shea, Esq., Chair
Anna Rycenga, Vice-Chair
Paul Davis, Secretary
Donald Bancroft, Alternate
Robert Corroon
W. Fergus Porter
John Washburn

Staff Members:

Alicia Mozia, Conservation Department Director
Lynne Krynicki, Conservation Analyst
Colin Kelly, Conservation Compliance Officer
Ira Bloom, Town Attorney

This is to certify that these minutes and resolutions were filed with the Westport Town Clerk within 7 days of the July 15, 2015 Public Hearing of the Westport Conservation Commission pursuant to Section 1-225 of the Freedom of Information Act.

Alicia Mozia
Conservation Department Director

Nayes: None Abstentions: None Vote: 6:0:0

5. **5 Hedley Farms Rd.:** Request by Robert Zapfel for bond release posted as a condition of Permit #AA, WPL-8949-11 for a new house, pool and associated site improvements.

Ms. Mozian reviewed a bond release request associated with Permit #AA, WPL-8949-11 for new house and pool construction. The large bond was to cover the cost of the tidal restoration project, which was the mitigation for the work being done. The Commission required 3 years of monitoring. There has only been two years of documentation, plus there is no report from the environmental consultant that the restoration was successfully completed. Therefore, of the \$48,412.10 being held, staff recommended to await the final report from the environmental consultant before releasing all of the money held for this item.

Motion to release \$45,579.10.

**Motion: Shea Second: Davis
Ayes: Shea, Davis, Bancroft, Porter, Rycenga, Washburn
Nayes: None Abstentions: None Vote: 6:0:0**

6. **3 Donald Drive:** Request by Ruth Ayles for a time extension of Permit #IWW, WPL-8026-07 for additions to a single family residence and legalization of a stonewall and fill.

Ms. Mozian reviewed a request for permit extension. The permit was issued in March 2007. It will expire in March 2016. It is eligible under statutes for an extension to March 2021. The legalization work has already been successfully completed.

Motion to grant the permit extension to March 2021.

**Motion: Shea Second: Davis
Ayes: Shea, Davis, Bancroft, Porter, Rycenga, Washburn
Nayes: None Abstentions: None Vote: 6:0:0**

7. **9 Island Way:** Request by staff on behalf of Libby Russ to authorize issuance of a staff-level permit for a deck expansion within the WPLO area of the Saugatuck River.

Ms. Mozian reviewed a request for a staff level approval for a second floor balcony expansion over an existing grade level, permeable patio. The house was elevated in 2013 and then sold. The new owner would like to extend the second floor balcony/deck from 5' x 13' to 14' x 18'. The existing brick patio is below. New deck above would be about the same dimensions. Engineering is okay with issuing a WPL/E. A deed restriction is on the lot that all driveways and patios are to remain permeable. Staff recommends a WPL/E.

Motion to allow staff to issue a staff level permit.

**Motion: Rycenga Second: Shea
Ayes: Rycenga, Shea, Bancroft, Davis, Porter, Washburn
Nayes: None Abstentions: None Vote: 6:0:0**

8. **Other Business**

- a. Ms. Mozian noted there would be a field trip to the Bridgewater facility, 1 Glendinning Place & 25 Ford Road on Friday, July 24, 2015 at 11:00 a.m.
- b. Ms. Mozian noted that the Commission may need to have another Special Meeting in September since the September regular meeting agenda is full.
- c. Approval of the July 13, 2015 field trip minutes.

The July 13, 2015 field trip minutes were approved as submitted.

Motion: **Shea** **Second:** **Rycenga**
Ayes: **Shea, Rycenga, Bancroft, Davis, Porter, Washburn**
Nayes: **None** **Abstentions:** **None** **Vote:** **6:0:0**

9. **79 Newtown Turnpike:** Decision for Application #IWW,WPL/E-9964-15 by Barr Associates on behalf of Chabad Lubavitch of Westport for the proposed expansion and additions of the existing place of worship for a larger sanctuary, more classrooms and a residence with improved parking, septic, drainage and site amenities. The existing detached residence is to be removed. Portions of the work are within the 75 ft. upland review area.

Mr. Washburn stated that all alternatives have not been explored including:

1. Building addition could be reduced;
2. Applicant could seek a variance for parking; and
3. Off-site parking could be explored for High Holy Days.

He added this concept of the wall is okay except that it is in the wetland.

Ms. Rycenga stated that she also agrees that an alternative did exist for the applicant, which was to apply to the ZBA. Those statutes exist for a reason, which is based on hardships, and this option was not explored.

Mr. Porter agreed that a variance could have been sought and if the variance was denied then it would have been determined not to be a feasible alternative.

Mr. Bancroft stated he feels the wetlands are not functioning. The applicant submitted three alternatives, each better than the other with the wall being the best. Plus, by doing nothing there is no benefit to the wetland as there is no treatment of the runoff now.

Mr. Davis acknowledged that he can see both sides. What exists now is not good. He does not like the impact to the wetland but existing asphalt layer is thick. Building the wall will definitely prevent spillage from the parking lot from going into the wetlands.

Ms. Shea stated there is evidence in the record to support approval. There is nothing to support a denial. Only .06 acres of wetlands will be affected. Feasible and prudent alternatives have been explored.

Findings
Application # IWW, WPL/E 9964-15
79 Newtown Turnpike

1. **Receipt Date:** February 17, 2015
2. **Hearing Opened:** March 18th, continued to April 15th, and further the hearing closed on June 17th.
3. **Application Classification:** **Plenary**
4. **Application Request:** Application by Mel Barr on behalf of Chabad Lubavitch of Westport for the proposed expansion and additions of the existing place of worship for a larger sanctuary, more classrooms and a residence with improved parking, septic, drainage and site amenities. The existing detached residence is to be removed. Portions of the work are within the wetlands and the 20ft. non-disturbance area and the 75 ft. upland review area.

The proposed overflow parking application as originally approved in 2013 stated it was for use only on certain occasions a few times of the year when additional parking would be needed. The overflow parking area was to be separated with removable bollards. However, the parking spaces shown on the current site plan are now those spaces that are required to meet the Zoning regulations for the daily use of the proposed facility. The number of parking spaces required per Zoning for the original 2013 approval was

64 spaces and provided was 72, the number of parking spaces required for the proposed expansion under this application is 102 spaces, therefore the approval granted in 2013 is no longer acceptable to meet the current parking requirements.

5. Plans Reviewed:

- a. Proposed Building Addition, Site Plan, Sheet SP-1, 79 Newtown Turnpike, Westport, CT., prepared for Able Construction, Inc.", Scale 1"=30', dated December 15, 2014 and last revised to May 12, 2015, prepared by Rose Tiso & Co. LLC
- b. Proposed Building Addition, Grading and Utility Plan, Sheet SP-2, 79 Newtown Turnpike, Westport, CT., prepared for Able Construction, Inc.", Scale 1"=30', dated December 15, 2014 and last revised to June 17, 2015, prepared by Rose Tiso & Co. LLC
- c. Proposed Building Addition, Erosion Control, Sheet SP-3, 79 Newtown Turnpike, Westport, CT., prepared for Able Construction, Inc.", Scale 1"=30', dated December 15, 2014 and last revised to June 15, 2015, prepared by Rose Tiso & Co. LLC
- d. Proposed Building Addition, Lighting and Landscape Plan, Sheet SP-4, 79 Newtown Turnpike, Westport, CT., prepared for Able Construction, Inc.", Scale 1"=30', dated December 15, 2014 and last revised to May 12, 2015, prepared by Rose Tiso & Co. LLC
- e. Proposed Building Addition, Details, Sheets SP-5 & SP-6, 79 Newtown Turnpike, Westport, CT., prepared for Able Construction, Inc.", Scale 1"=30', dated December 15, 2014 and last revised to May 12, 2015, prepared by Rose Tiso & Co. LLC
- f. "Zoning /Location Survey, Map of Property Prepared for Chabad Lubavitch of Westport, 79 Newtown Turnpike, Westport, Connecticut", Scale: 1"= 30', dated December 12, 2011 and last revised to April 30, 2012

6. Permits/Applications filed:

1. AA-919-83 Expand kitchen and alter parking facilities
2. IWW/M 9091-12 For the amendment of wetland map A-14
3. IWW,WPL 9431-13 For the partial reconstruction and modification of the existing parking lot. It was noted that a portion of the asphalt lot exists within the wetland boundary. The application was approved as existing building was remaining as is and parking lot was not being expanded. Also, that which was to be overflow was to be replaced with grass pavers.

7. Wetland and Property Description

- a. An on-site investigation of the commercial property was conducted by Chris Allan of Land-Tech Consultants, Inc on November 15, 2011. The wetlands along the western boundary of the property were delineated. These wetlands include landscaped lawn areas adjacent to a pond on an abutting property, an inundated area along the western edge of the paved parking lot, and a small section of wooded wetland adjacent to the paved parking lot. The wooded wetland west of the parking lot is the northeast fringe of a much larger off-site red maple swamp. Wetland soils have been identified as Aquents. Wetlands within the larger off-site wetland are identified as Catden and Freetown soils. Concurrence with this wetland boundary was given by William Kenney of William Kenny Associates.

Catden and Freetown soils- This component occurs on depression landforms. The parent material consists of woody and herbaceous organic material. The slope ranges from 0 to 2 percent and the runoff class is negligible. The drainage class is very poorly drained. The minimum depth to a seasonal water table, when present, is about 0 inches. The non wetland soils are identified as Udorthents-Urban land complex. The drainage class of these soils is well drained and the ponding hazard is none.

- b. The FEMA designated 100 year flood plain does not occur on this property.
- c. *Westport Wetlands Inventory, prepared by Flaherty Giavara Associates. P.C.*, dated 1983 describes the wetland to the north of the property to be "streamside, floodplain, with a perennial watercourse and wooded swamp that discharges into Poplar Plains Brook.
- d. Property does not occur within the Coastal Areas Management Zone.
- e. Property is located on the easterly boundary of the Aquifer Protection Overlay Zone.
- f. Fringe perimeter vegetation observed includes phragmites and other invasive species. Interior wetlands dominated by Red Maples.

- g. Non-residential/ commercial structures are subject to a 75' upland review area. A pond also exists within the wetland system adjacent to the proposed addition. The proposed addition will be located within 30' of the delineated wetland edge.

8. Conformance to Section 6 of the Inland Wetlands and Watercourses Regulations
6.1 GENERAL STANDARDS

- a) disturbance and pollution are minimized;
- b) minimize height, width, length of structures are limited to the minimum; dimension to accomplish the intended function;
- c) loss of fish, other beneficial organisms, wildlife and vegetation are prevented;
- d) potable fresh water supplies are protected from dangers of drought, overdraft, pollution, misuse and mismanagement;
- e) maintain conservation, economic, recreational and aesthetic qualities;
- f) consider historical sites

A small section in the rear of the existing parking lot was flagged by a soil scientist and was found to meet the definition of an Inland Wetland and Watercourses regulated area during the previous approval (#IWW/M-9091-12.) Review of the aerial photos available for this property show that this parking lot in its present size and location were in use as far back or before 1975.

In the June 13, 2013 staff report for parking lot improvements, staff recommended that if the use of the present facility changed from that which was approved in 2013, that the Commission reserve the ability to reconsider the use of the overflow parking area and what impact to the adjacent red maple swamp might be expected. The use of the facility is now changing to a larger sanctuary, a religious school with the inclusion of additional religious group meetings and classes. Residential accommodations as well as guest accommodations will be taking place with a substantial second floor addition proposed.

The Commission finds one can expect the use of the facility is being altered from the original review and approval and intensified. The proposed overflow parking, as originally approved in 2013, stated it was for use only on certain occasions a few times of the year when additional parking would be needed and movable bollards would distinguish between regular parking and overflow parking. However, the parking spaces shown on the current site plan are now the number of spaces needed to meet the Zoning regulations for the daily use of the proposed facility. The number of parking spaces required per Zoning for the original 2013 approval was 64 spaces and provided was 72, the number of parking spaces required by Zoning for the proposed expansion under this application is 102 spaces.

The lower area of the existing lot is proposed to be regraded and filled to remedy a flooding and groundwater presence after which the area is to be repaved. The fill required to accomplish this is to be retained utilizing a Bronco Block retaining wall to be constructed at the edge of the existing asphalt pavement. The stormwater runoff will be directed to a hydrodynamic separator and subsurface infiltration units in the northerly portion of the parking lot. The function of the wall is to eliminate further disturbance into the wetlands and to allow treatment of the stormwater runoff to occur further from the wetlands through the use of a hydrodynamic separator and subsurface infiltration. This method also reduces volume, velocity and temperature of storm water runoff and to filter pollutants from the parking lot runoff and from the possible leakage of fluids from parked cars. (Staff did observe an oil sheen running south to north toward the wetland.) This redesign is necessary as the original design of permeable pavers in 2013 to accomplish this goal was determined to be ineffective as subsequent test holes conducted in the area showed 12" or more of asphalt paving and therefore the infiltration method for stormwater runoff needed to be amended.

The Commission finds that the current parking lot does not provide any provisions for drainage and/or water quality.

New construction and expansion of the facility is proposed with this application.

Per the initial 2015 submittal, the application proposed to remove the existing asphalt and soil and pavers would be placed on top. However, in the last month that method of construction has been reconsidered and now the asphalt will remain in place and grading and constructing a retaining wall at the back of the parking lot will occur on top of that which is existing. The Flood and Erosion Control Board reconsidered and approved this change at its workshop on June 3, 2015.

There are changes proposed on the easterly side of the parking lot which includes the curb cut closest to Wilton Rd being removed and a drop off point and turnaround proposed. The curb cut further west on Newtown Turnpike will be widened to accommodate three lanes. The Engineering Department required biofiltration and drainage for this new curb cut. A previously approved rain garden will remain to add to the biofiltration in the southerly portion of the property for the parking lot runoff as well.

Roof leaders from the existing building and proposed addition will be directed to subsurface galleries in the parking lot.

This new application proposal includes a large addition, patio and renovation to the existing building within the 75' upland review area from the wetland. At its closest point the new building addition will be placed 30' from the wetland boundary. The Commission finds the location of the existing building, the Zoning setbacks and the parking requirements per the Planning and Zoning regulations is directing the location for the proposed addition.

A 20' planted area surrounding the existing pond consisting of trees, shrubs, herbaceous plants and upland seed mix north of the building addition is proposed as mitigation for this activity. The area is currently manicured lawn. A small, detached residential structure northwest of the existing building is also proposed to be removed.

The Commission finds the 20' non-disturbance area being revegetated with trees, shrubs and grasses will improve water quality and habitat for the existing wetland and pond. Several large deciduous and evergreen trees will be removed with this proposal, although they are located outside the existing 20' non-disturbance area from the wetland, the Commission finds replacement trees will be replanted within the 20' non-disturbance buffer.

The total area of the immediate adjacent wetlands exceeds 20 acres in size. The parking lot and retaining wall improvements impact approximately .06 acres of wetlands. The wetland function and viability will not be significantly impacted with the parking lot improvements.

6.2 WATER QUALITY

- a) flushing rates, freshwater sources, existing basin characteristics and channel contours will not be adversely altered;
- b) water stagnation will neither be contributed nor caused;
- c) water pollution will not affect fauna, flora, physical or chemical nature of a regulated area, or the propagation and habitats of fish and wildlife, will not result;
- d) pollution of groundwater or a significant aquifer will not result (*groundwater recharge area or Aquifer Protection Overlay Zone*);
- e) all applicable state and local health codes shall be met;
- f) water quality will be maintained **or improved** in accordance with the standards set by federal, state, and local authority including section 25-54(e) of the Connecticut General Statutes
- g) prevents pollution of surface water

The originally submitted proposal for the overflow parking was found to not be viable due to the extent and depth of the existing asphalt. The Commission finds the applicant has submitted a new design wherein the parking area is to be re-graded in order to lessen the grade, so as to slow down the runoff, and a retaining wall is being proposed along the back of the parking area, along its boundary with the wetland and existing asphalt to mitigate water quality issues and to prevent further intrusion into the wetlands. The Commission finds that removing the existing asphalt pavement and installing a viable sub-base capable of storm water infiltration would create a much larger environmental issue.

The retaining wall and proposed grading will prohibit further vegetation removal from the wetlands. The grading further prevents stormwater runoff to the wetlands, adds to the infiltration of the stormwater, cools the storm water runoff and treats the runoff with the use of a hydrodynamic separator and subsurface infiltration which is a positive addition to existing conditions.

The Commission finds the surface of the proposed patio will be impervious, however, storm water runoff will be directed through surface overland flow and then through a 20' buffer of vegetation and will not impact wetlands or watercourses.

A tentative letter of support from the Westport Weston Health Department approval was received on June 17, 2015 and an approval was issued on July 9, 2015. The septic system for the synagogue is currently on the parcel across the street and on the same property as a nursery school. Given the increase in occupants proposed by this expansion, Health District approval was essential.

Demolition details for the cottage were received into the hearing record on May 20, 2015. Testing results did not warrant further action by the Commission. The applicant has prepared a statement that demolition will follow standard protocol if Asbestos and lead removal is required.

The proposed heating source will be oil. The oil tanks are located in the basement of the existing building. This property borders the Aquifer Protection Zone and therefore, the Commission finds the applicant include an oil containment pad beneath the existing and/or proposed tanks.

6.3 EROSION AND SEDIMENT

- a) temporary erosion control measures shall be utilized during construction and for the stabilization period following construction;
- b) permanent erosion control measures shall be utilized using nonstructural alternatives whenever possible and structural alternatives when avoidable;
- c) existing circulation patterns, water velocity, or exposure to storm and flood conditions shall not be adversely altered;
- d) formation of deposits harmful to aquatic life and or wetlands habitat will not occur;
- e) applicable state, federal and local guidelines shall be met.

During the review of the original application, the Flood and Erosion Control Board required the applicant to provide silt fence and haybales. The Commission finds satisfactory dewatering details have been provided to the Conservation Commission.

During the recent clean up and recovery process of the existing asphalt parking lot, it was discovered by the property owners that approximately 18" of sediment had accumulated on top of the asphalt and that phragmites and other invasive plants had become established in the sediment. The sediment and plants have since been removed to the edge of the existing parking lot.

The Commission finds that a maintenance schedule for the parking lot is imperative to be submitted to the Conservation Department staff prior to the issuance of a Zoning permit for this project due to the landscape position of the parking lot and amount of use that can be expected.

6.4 NATURAL HABITAT STANDARDS

- a) critical habitats areas,
- b) the existing biological productivity of any Wetland and Watercourse shall be maintained or improved;
- c) breeding, nesting and or feeding habitats of wildlife will not be significantly altered;
- d) movements and lifestyles of fish and wildlife (plant and aquatic life) will not be significantly affected;
- e) periods of seasonal fish runs and bird migrations shall not be impeded;
- f) conservation or open space easements will be deeded whenever appropriate to protect these natural habitats.

The Commission finds that reduction of the breeding, nesting and or feeding habitats of existing wildlife will not occur with the retaining wall construction and water quality treatment of the stormwater runoff of the parking lot is the mitigation provided for this activity.

6.5 DISCHARGE AND RUNOFF

- a) the potential for flood damage on adjacent or adjoining properties will not be increased;
- b) the velocity or volume of flood waters both into and out of Wetlands and Watercourses will not be adversely altered;
- c) the capacity of any wetland or watercourse to transmit or absorb flood waters will not be significantly reduced;
- d) flooding upstream or downstream of the location site will not be significantly increased;
- e) the activity is acceptable to the Flood & Erosion Control Board and or the Town Engineer of the municipality of Westport

The 100 year flood plain as designated by FEMA does not occur on this property.

An existing 12" drainage pipe enters the property from Newtown Turnpike. The exact location and discharge point have not been determined.

The roof runoff from the new addition will be directed into drainage galleries beneath the existing parking lot. Test pit data shows groundwater at 84" below the surface in the southern section of the parking lot closest to Newtown Turnpike. Dewatering will not be required during the installation of the subsurface galleries.

The Flood & Erosion Control Board approved this application with conditions on March 4, 2015 and approved revisions to the original proposal at a work session on June 3, 2015.

The Commission finds the sediment removal from the stormwater runoff, drainage galleries with no increase in impervious area in the parking lot and an additional rain garden installation will assure velocity and volume of storm water in and out of the wetlands will not be increased.

Existing and proposed topography is key to proper surface runoff and optimum function of the proposed parking lot. The Commission finds that an as-built for this project should include post construction topography as a Condition of Approval for the Certificate of Compliance. The Commission further finds that the on-going regular maintenance of the stormwater galleries is essential to the protection of the wetland. A stormwater maintenance plan is necessary to ensure long term function.

6.6 RECREATIONAL AND PUBLIC USES

- a) access to and use of public recreational and open space facilities, both existing and planned, will not be prevented;
- b) navigable channels and or small craft navigation will not be obstructed;
- c) open space, recreational or other easements will be deeded whenever appropriate to protect these existing or potential recreational or public uses;
- d) wetlands and watercourses held in public trust will not be adversely affected.

The Commission finds the application as proposed will not adversely impact recreational and public uses.

Section 148-9, ***under Information to be submitted to Conservation Commission***, of the **Waterway Protection Line Ordinance** indicates the following:

An applicant shall submit information to the Conservation Commission showing that such activity will not cause water pollution, erosion and/or environmentally related hazards to life and property and will not have an adverse impact on the preservation of the natural resources and ecosystems of the

waterway, including but not limited to, impact on ground and surface water, aquifers, plant and aquatic life, nutrient exchange and supply, thermal energy flow, natural pollution filtration and decomposition, habitat diversity, viability and productivity and the natural rates and processes of erosion and sedimentation.

- a) Does the proposed activity cause environmentally related hazards to life and property?

It is staff opinion that the proposed parking lot redesign, construction of the retaining wall with back fill and installation of a vegetated buffer is an improvement for water quality and sediment transport control. Flooding is being alleviated and/or eliminated with this proposal. It is unknown at this time if the existing residence to be demolished contains any lead paint, asbestos or underground oil tanks.

- b) Does the proposed activity present a "significant impact" to Wetlands and Watercourses as defined by the Inland Wetlands and Watercourses Regulations, Connecticut State Statutes Section 22a-36 and 25a-45?

The existing conditions on the site consist of an asphalt parking lot. Said application proposes to lessen the slope gradient and provide additional storm water runoff treatment through the installation of a hydrodynamic separator, rain garden and a retaining wall to prevent runoff and further intrusion into the wetland. The Commission finds there are no existing drainage provisions nor treatment of storm water runoff for the existing parking lot.

An existing building and manicured lawn are being removed and being replaced with an upland seed mix and wetland buffer plantings for biofiltration. The Commission finds that the proposed vegetated riparian buffer is sufficient in width and substance to provide water quality and nutrient removal.

- c) Does the application propose adequate protection of the resource for the proposed activities within regulated areas?

The Commission finds that the parking lot improvements add stormwater runoff quality protection for the massive wooded swamp at the edge of the lot and protection from excess sediment runoff through the introduction of the retaining wall and grading directing stormwater runoff to a hydrodynamic separator and galleries.

Testimony was presented by William Kenny of William Kenny Associates LLC at the public hearing on June 17, 2015 expressing that there will be no adverse impacts from the proposed activities as compared to the alternative of the wet swale previously presented by the applicant.

The Commission finds that given the addition of classroom space and a new residence within the building and the fact that the septic is located off-site at a nursery school, it was important to receive Health approval. A tentative letter of support was issued by Mark Cooper, Director of the Westport Weston Health District on June 17, 2015 and an approval issued on July 9, 2015.

Proper installation of a rain garden will assure velocity and volume of stormwater runoff will not increase and sediment and nutrient removal will be enhanced.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # IWW,WPL/E 9964-15
Street Address: 79 Newtown Turnpike aka 333 Wilton Road
Assessor's: Map A14 Lot 006
Date of Resolution: July 15, 2015

Project Description: Proposed expansions and additions of the existing place of worship for a larger sanctuary, more classrooms and a residence with improved parking, septic, drainage and site amenities. The existing detached residence is to be removed. Portions of the work are within the 75 foot upland review area.

Owner of Record: Chabad Lubavitch Synagogue
Applicant: Barr Associates LLC

In accordance with Section 6 of the *Regulations for the Protection and Preservation of Wetlands and Watercourses of Westport* and Section 30-93 of the *Waterway Protection Line Ordinance* and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #IWW,WPL/E 9964-15 with the following conditions:

1. Completion of the regulated activity shall be within FIVE (5) years following the date of approval. Any application to renew a permit shall be granted upon request of the permit holder unless the Commission finds there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than TEN (10) years.
2. Permits are not transferable without the prior written consent of the Conservation Commission.
3. It is the responsibility of the applicant to obtain any other assent, permit or license required by law or regulation of the Government of the United States, State of Connecticut, or of any political subdivision thereof.
4. If an activity also requires zoning or subdivision approval, special permit or special exception under section 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit shall commence until such approval is obtained.
5. If an approval or permit is granted by another Agency and contains conditions affecting wetlands and/or watercourses, the applicant must resubmit the application for further consideration by the Commission for a decision before work on the activity is to take place.
6. Conformance to the Flood and Erosion Control Board Conditions of Approval of June 5, 2013.
7. The Conservation Department shall be notified at least forty-eight (48) hours in advance of the initiation of the regulated activity for inspection of the erosion and sediment controls.
8. All activities for the prevention of erosion, such as silt fences and hay bales shall be under the direct supervision of the site contractor who shall employ the best management practices to control storm water discharges and to prevent erosion and sedimentation to otherwise prevent pollution, impairment, or destruction of wetlands or watercourses. Erosion controls are to be inspected by the applicant or agent weekly and after rains and all deficiencies must be remediated with twenty-four hours of finding them.
9. The applicant shall take all necessary steps to control storm water discharges to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and watercourse.
10. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
11. All plants proposed in regulated areas must be non-invasive and native to North America.
12. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
13. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
14. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts, which development in the course or are caused by the work.
15. Any material, man-made or natural which is in any way disturbed and/or utilized during the work shall not be deposited in any wetlands or watercourse unless authorized by this permit.
16. A final inspection is required prior to the issuance of a Certificate of Compliance.

SPECIAL CONDITIONS OF APPROVAL

17. Conformance to the plans entitled:

Nayes: None Abstentions: None Vote: 6:0:0

Public Hearing: 8:00 pm, Room 201/201A

Mr. Corroon arrived at 8:00 p.m.

Ms. Shea, Mr. Porter, Ms. Rycenga, Mr. Washburn, Mr. Davis, & Mr. Bancroft noted they visited the sites.

- 1. 12 Marsh Court:** Continuation of Application #WPL-10014-15 by Land-Tech Consultants on behalf of Jeffrey D Warshaw to remove a 675 s.f. patio and to construct a 370 s.f. two-story addition with a first floor deck and a second floor balcony both totaling 255 s.f. The addition and deck will be supported by piles. The area under the addition will be regraded and the tidal marsh will be restored. Work is within the WPLO area of the Saugatuck River.

The application was withdrawn.

- 2. 1 Glendinning Place and 25 Ford Road:** *(The following application will be opened and continued to 7/29/15. No testimony will be taken at this hearing.)* Application #IWW,WPL-10034-15 by Eric Bernheim & Larry Weisman on behalf of 1 Glendinning Place, LLC & 25 Ford Road, LLC for the removal of some surface parking, relocation of some surface parking, an underground parking garage, the construction of additional stories on an existing structure, a new building, a pedestrian sky bridge, new septic, widening of Route 57 entrance and new entry building and associated site improvements. Work is within the WPLO area of the Saugatuck River, West Branch of the Saugatuck River and the Aspetuck River.

The application was opened and continued to July 29, 2015.

Motion: Shea Second: Rycenga
Ayes: Shea, Rycenga, Bancroft, Corroon, Davis, Porter, Washburn
Nayes: None Abstentions: None Vote: 7:0:0

- 3. 0 Quarter Mile Road (Assessor's Map C14, Lot 005):** Application #IWW,WPL-10023-15 by Jobermar Properties LLC for a one lot subdivision. Portions of the lot are within the upland review area setback and the WPLO area of the Saugatuck River.

Bernard Nevas presented the application. The feasibility plan shows the site can be developed meeting all the conservation setbacks and outside the WPLO. Health Department approval has been received.

Ms. Krynicki suggested a Conservation Easement at the top of the slope. She cited section 5.1(f) and 7.1 of the Regulations to support the easement. She discussed with Mr. Nevas the restrictions of the Conservation Easement. He still wants people to have access to the river. The Commission said trails are okay but with a permit. Mowing could be restricted within a certain distance from the river. It would be a non-exclusive easement so it would not be deducted from lot area when calculating coverage.

Mr. Nevas was okay with a Conservation Easement if certain uses could be carved out.

It was agreed a map and the easement language should be submitted for review and approval before filing on the land records.

With no comment from the public, the hearing was closed.

Motion: Shea Second: Rycenga
Ayes: Shea, Rycenga, Bancroft, Corroon, Davis, Porter, Washburn
Nayes: None Abstentions: None Vote: 7:0:0

Findings
Application # AA, WPLE 10023-15
16 Quarter Mile Road

1. **Receipt Date:** **June 17, 2015**
2. **Application Classification:** **Declaratory**
3. **Application Request:** The Conservation Commission is reviewing the one lot subdivision pursuant to Connecticut State Statute 8-26 governing Planning and Zoning Commissions. Said statute reads as follows:

"If an application involves land regulated as an inland wetland or watercourse under the provisions of chapter 440, the applicant shall submit an application to the agency responsible for administration of the inland wetlands regulations no later than the day the application is filed for the subdivision or re-subdivision. The commission shall not render a decision until the inland wetlands agency has submitted a report with its final decision to such commission. In making its decision the commission shall give due consideration to the report of the inland wetlands agency."

4. **Plans Reviewed:**
 - a. "Existing Conditions, One Lot Subdivision Survey, Map of Property Prepared for Jobemar Properties LLC, Quarter Mile Road, Westport, Connecticut, Scale: 1"= 30', dated April 16, 2015, prepared by Walter H. Skidd-, Land Surveyor LLC.
 - b. "One Lot Subdivision Survey, Map of Property Prepared for Jobemar Properties LLC, Quarter Mile Road, Westport, Connecticut, Scale: 1"= 30', dated April 16, 2015, prepared by Walter H. Skidd-, Land Surveyor LLC.
 - c. "Jobemar Properties, LLC., 16 Quarter Mile Road, Westport, Connecticut, Conceptual Lot Development Plan For a Proposed 1- Lot Subdivision, Site Plan Details & Notes, Sheet 1 of 1, dated June 22, 2015, prepared by Richard Bennett & Associates, LLC.
5. **Permits/Applications filed:** #IWW/M 10001-15 was approved by the Conservation Commission for an amendment of wetland map #C 14.
6. **WPLO** - The Waterway Protection Line is located 15' from the wetland boundary.
7. **IWW Defined Resource (wetland or watercourse)** - Inland wetlands occur on the subject property.

8. **Wetland Soils**

Wetlands Description

Soil Report Summary- prepared by Dr. McNamara dated April 14, 2015 describes the following wetland soil occurring on the property.

Pootatuck Fine Sandy Loam: The Pootatuck series consists of moderately well drained soils on the flood plains of major streams and rivers that formed in recent alluvial deposits. Slopes range from 0% to 3%.

Rippowam soils possess a surface layer of black fine sandy loam about 8 inches thick over a subsoil that is a dark grayish brown, and dark gray, mottles fine sandy loam about 27 inches thick. The substratum is a dark grayish brown mottles gravelly sand that extends to a depth of 60 inches or more. The Rippowam series experiences a seasonally high water table within 6 inches of the surface and is prone to flooding. Permeability is moderate to moderately rapid in the surface layer and subsoil and rapid to very rapid in the substratum. Available water capacity is moderate and runoff is slow. These soils are strongly to medium acid.

9. Dr. McNamara describes non-wetland soils as:

Agawam Fine Sandy Loam: This soil unit consists of well drained soils that form on stream terraces and outwash plains in outwash materials. Slopes range from 0 to 8%.

Agawam soils possess a dark brown fine sandy loam surface layer about 9 inches thick over a dark yellowish brown fine sandy loam subsoil that is about 15 inches thick. The substratum is a light olive brown sand and gravelly coarse sand that extends to a depth of 60 inches or more. Permeability is moderately rapid in the surface layer and subsoil layers and rapid in the substratum. Available water capacity is moderate and runoff is slow. These soils are strongly to medium acid. These soils warm up and dry out rapidly in the spring.

Hinckley Gravelly Sandy Loam: The Hinckley series consists of excessively drained soils that formed in glacial outwash materials. Hinckley soils are found on outwash plains, stream terraces, eskers and kames. Slopes range from 0 to 35%.

Hinckley soils possess a dark brown gravelly loam surface layer about 7 inches thick over yellowish brown gravelly loamy sand that is about 15 inches thick. The substratum is brownish yellow gravelly sand that extends to a depth of 60 inches or more.

Permeability is rapid in the surface layer and subsoil and very rapid in the substratum.

10. Property Description and Relative Facts:

- a. The Westport Wetlands Inventory, prepared by Flaherty Giavara Associates, P.C., dated June 1983 describes this wetland as "isolated floodplain with open water and a wooded swamp. The wetland is located on a large developable aquifer.
- b. Property is located within a the 100 year Flood Boundary Line identified as Flood Zone "X" and Zone "AE".
- c. Property does not lie within the Aquifer Protection Overlay Zone but is located within a groundwater recharge area identified as coarse- grained stratified drift.
- d. Property does not exist within the Coastal Areas Management Zone.
- e. The parcel area is 3.696 acres.

11. Conformance to Section 6 of the Inland Wetlands and Watercourses Regulations

6.1 GENERAL STANDARDS

- a) disturbance and pollution are minimized;
- b) minimize height, width, length of structures are limited to the minimum; dimension to accomplish the intended function;
- c) loss of fish, other beneficial organisms, wildlife and vegetation are prevented;
- d) potable fresh water supplies are protected from dangers of drought, overdraft, pollution, misuse and mismanagement;
- e) maintain conservation, economic, recreational and aesthetic qualities;
- f) consider historical sites

The Commission finds the proposed site improvements shown on the submitted site plan depict viable areas of future development on these parcels.

All upland review areas as set forth in the Regulations are being met with the proposed site development.

No disturbance is proposed within the steep slope area. No existing trees are proposed to be removed within the 50' upland review that encompasses the steep slopes as well as the topography within the steep slope area and the upland review area will remain as existing.

A steep slope area of 25% or greater may be subject to a 100' upland review area pursuant to Section 7.4 of the Regulations for the Protection and Preservation of Wetlands and Watercourses of Westport.

6.2 WATER QUALITY

- a) flushing rates, freshwater sources, existing basin characteristics and channel contours will not be adversely altered;
- b) water stagnation will neither be contributed nor caused;
- c) water pollution will not affect fauna, flora, physical or chemical nature of a regulated area, or the propagation and habitats of fish and wildlife, will not result;
- d) pollution of groundwater or a significant aquifer will not result (*groundwater recharge area or Aquifer Protection Overlay Zone*);
- e) all applicable state and local health codes shall be met;
- f) water quality will be maintained or improved in accordance with the standards set by federal, state, and local authority including section 25-54(e) of the Connecticut General Statutes
- g) prevents pollution of surface water

The Westport Weston Health District issued a recommendation for approval in correspondence dated June 25, 2015.

No drainage activity is proposed within the 50' upland review area. All stormwater is being directed to Cultec subsurface rechargers located in the north central portion of the parcel and has been reviewed and approved for meeting the Town of Westport drainage policy.

6.3 EROSION AND SEDIMENT

- a) temporary erosion control measures shall be utilized during construction and for the stabilization period following construction;
- b) permanent erosion control measures shall be utilized using nonstructural alternatives whenever possible and structural alternatives when avoidable;
- c) existing circulation patterns, water velocity, or exposure to storm and flood conditions shall not be adversely altered;
- d) formation of deposits harmful to aquatic life and or wetlands habitat will not occur;
- e) applicable state, federal and local guidelines shall be met.

The applicant has provided silt fence around the construction envelope on the lot which will be an effective protection measure. The Commission finds the silt fence will also be placed on the westerly side of the stone wall and up gradient of the steep slope area.

Proposed grading is located outside regulated areas.

An anti-tracking pad is proposed for the construction activity.

The Commission finds all activity is proposed to take place within a level area on the parcel.

A steep slope area exists east of the existing stone wall. This area is currently vegetated and serves as an important component of a riparian zone protection area of the Saugatuck River. The Commission finds that this area should remain in its current state in perpetuity for protection and enhancement of the stormwater runoff and flood zone areas. The Commission also recognizes that some portions of this area have been historically mowed and that trails and access to the river may be proposed in the future.

6.4 NATURAL HABITAT STANDARDS

- a) critical habitats areas,
- b) the existing biological productivity of any Wetland and Watercourse shall be maintained or improved;
- c) breeding, nesting and or feeding habitats of wildlife will not be significantly altered;
- d) movements and lifestyles of fish and wildlife (plant and aquatic life) will not be significantly affected;
- e) periods of seasonal fish runs and bird migrations shall not be impeded;
- f) conservation or open space easements will be deeded whenever appropriate to protect these natural habitats.

The Commission finds that removal of vegetation is not proposed within the 50' upland review area setback and steep slope vegetated area is not proposed to be altered. The Commission finds there will be no impact to habitats or biological productivity of the wetlands area with the proposed site layout.

6.5 DISCHARGE AND RUNOFF

- a) the potential for flood damage on adjacent or adjoining properties will not be increased;
- b) the velocity or volume of flood waters both into and out of Wetlands and Watercourses will not be adversely altered;

- c) the capacity of any wetland or watercourse to transmit or absorb flood waters will not be significantly reduced;
- d) flooding upstream or downstream of the location site will not be significantly increased;
- e) the activity is acceptable to the Flood & Erosion Control Board and or the Town Engineer of the municipality of Westport

The Flood and Erosion Control Board reviewed and approved the grading and drainage provisions for this project on July 1, 2015 to assure compliance with the Town of Westport Drainage policy.

6.6 RECREATIONAL AND PUBLIC USES

- a) access to and use of public recreational and open space facilities, both existing and planned, will not be prevented;
- b) navigable channels and or small craft navigation will not be obstructed;
- c) open space, recreational or other easements will be deeded whenever appropriate to protect these existing or potential recreational or public uses;
- d) wetlands and watercourses held in public trust will not be adversely affected.

The Commission finds the current application will not have a significant impact on recreational and public uses.

Waterway Protection Line Ordinance

Section 148-9 of the WPLO ordinance states the following: An applicant shall submit information to the Conservation Commission showing that such activity will not cause water pollution, erosion and or environmentally related hazards to life and property and will not have an adverse impact on the preservation of the natural resources and ecosystems of the waterway, including but not limited to, impact on ground and surface waters, aquifers, plant and aquatic life, nutrient exchange and supply, thermal energy flow, natural pollution filtration and decomposition, habitat diversity, viability and productivity and the natural rates and processes of erosion and sedimentation.

The Waterway Protection Line boundary exists 15' from the 25 year floodplain elevation of the Saugatuck River. The Flood & Erosion Control Board has approved this application on July 1, 2015.

The Commission finds all construction activities are proposed outside the WPLO boundary and the project is eligible for an exemption.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # AA,WPL/E 10023-15
Street Address: 0 Quarter Mile Road aka 16 Quarter Mile Road
Assessor's: Map C14 Lot 005
Date of Resolution: July 15, 2015

Project Description: For a proposed one lot subdivision
Owner of Record: Jobermar Properties LLC
Applicant: Jobermar Properties LLC

In accordance with Section 6 of the *Regulations for the Protection and Preservation of Wetlands and Watercourses of Westport* and Section 30-93 of the *Waterway Protection Line Ordinance* and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #**AA, WPL/E 10023-15** with the following conditions:

1. Completion of the regulated activity shall be within FIVE (5) years following the date of approval. Any application to renew a permit shall be granted upon request of the permit holder unless the Commission finds there has been a substantial change in circumstances which requires a new permit

- application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than TEN (10) years.
2. Permits are not transferable without the prior written consent of the Conservation Commission.
 3. It is the responsibility of the applicant to obtain any other assent, permit or license required by law or regulation of the Government of the United States, State of Connecticut, or of any political subdivision thereof.
 4. If an activity also requires zoning or subdivision approval, special permit or special exception under section 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit shall commence until such approval is obtained.
 5. If an approval or permit is granted by another Agency and contains conditions affecting wetlands and/or watercourses, the applicant must resubmit the application for further consideration by the Commission for a decision before work on the activity is to take place.
 6. Conformance to the Flood and Erosion Control Board approval of July 1, 2015.

SPECIAL CONDITIONS OF APPROVAL

7. Conformance to the plans entitled:
 - a. "Existing Conditions, One Lot Subdivision Survey, Map of Property Prepared for Jobemar Properties LLC., Quarter Mile Road, Westport, Connecticut, Scale: 1"= 30', dated April 16, 2015, prepared by Walter H. Skidd-, Land Surveyor LLC.
 - b. "One Lot Subdivision Survey, Map of Property Prepared for Jobemar Properties LLC Quarter Mile Road, Westport, Connecticut, Scale: 1"= 30', dated April 16, 2015, prepared by Walter H. Skidd-, Land Surveyor LLC.
 - c. "Jobemar Properties, LLC., 16 Quarter Mile Road, Westport, Connecticut, Conceptual Lot Development Plan For a Proposed 1- Lot Subdivision, Site Plan Details & Notes, Sheet 1 of 1, dated June 22, 2015, prepared by Richard Bennett & Associates, LLC.
8. Tree protection fencing of those trees to be protected shall be indicated for the future development on the parcel at the time of the individual lot submission.
9. Adequate erosion and sediment controls will be required and shall be assessed at the time of proposed lot development submission.
10. The existing stone wall traversing the lot in a northerly/southerly direction midway on the parcel shall remain as existing and shall serve as the demarcation of the future limit of site disturbance.
11. A Conservation Easement area shall be identified on the parcel commencing at the existing stone wall and continuing to the easterly most property line adjacent to the Saugatuck River. Easement shall prohibit any structures, grading and/or clearing of vegetation without a full review of activities by the Conservation Commission. Said easement shall be depicted on a map and together with approved easement language shall be placed on the land records prior to the issuance of a Conservation Certificate of Compliance. Easement shall not prevent future trails. The Commission notes that portions of the area have been historically mowed. Trails leading to the river may be proposed in the future.
12. Application submission to the Conservation Department meeting all requirements of the Regulations will be required for the future development of the parcel.

This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void. The applicant may refile another application for review.

This approval may be revoked or suspended if the applicant exceeds the conditions or limitations of this approval, or has secured this application through inaccurate information.

Motion: Corroon

Second: Shea

Ayes: Corroon, Shea, Rycenga, Washburn, Bancroft, Davis, Porter

Nays: 0

Abstentions: 0

Vote: 7:0:0

- 4. 4 Sea Spray Road:** Application #WPL-10026-15 by RI Pools Inc. on behalf of Gregory & Irene Penny for a new pool, patio, outdoor shower, pool equipment, pool fence and drainage. Work is within the WPLO area of the Saugatuck River.

Franco Iannoni of RI Pools and Irene Penny were present on behalf of the application.

Mr. Iannoni explained the project. He noted that part of the driveway will be removed to attain coverage. A low wall 12 to 18 inches in height is proposed on the south side of the pool to prevent mulch from getting into lawn around the pool. All trees along the southern line will remain.

Ms. Krynicky explained the history of the original house construction including the incorporation of LID features. The pool eliminates these features. In response, the engineer has pitched the grading toward the swale along the western property line. The existing trees will remain and this will also serve as a LID feature.

Irene Penny, property owner, explained that the septic galleries will be removed and replaced by the pool. The existing cul-tec will now pick up the yard drains.

Ms. Mozian stated the Flood and Erosion Control Board approved the project at its July 1, 2015 meeting. The bottom 12 inches of fence has 1 ¼ inch openings to allow free flow of flood waters.

With no comment from the public, the hearing was closed.

Motion:	Shea	Second:	Davis
Ayes:	Shea, Davis, Bancroft, Corroon, Porter, Rycenga, Washburn		
Nays:	None	Abstentions:	None
			Vote: 7:0:0

Findings
4 Sea Spray Road
#WPL 10026-15

- 1. Receipt Date:** N/A
- 2. Application Classification:** N/A
- 3. Application Request:** Applicant is proposing the construction of a 16' x 33' inground pool with an on grade pervious patio, outdoor shower, pool equipment, pool fencing and drainage. The proposed activity is below elevation 10.0' and therefore within the WPLO.
- 4. Plans Reviewed:**
 - a) "Existing Conditions Survey Prepared for Gregory Penny & Irene Penny, 4 Sea Spray Road, Westport, Connecticut", Scale 1"=10', dated May 15, 2015, prepared by Ochman Associates, Inc
 - b) "Site Plan Prepared for Gregory Penny and Irene Penny, 4 Sea Spray Road, Westport, Connecticut", Scale: 1" = 10', dated May 25, 2015, prepared by Ochman Associates, Inc.
 - c) Structural Plans for R.I. Pools Inc., Gregory and Irene Penny, 4 Sea Spray Road, Westport, CT 06880, dated July 8, 2013, prepared by A. DiRocco
- 5. WPLO Waterway Protection Line** is located 15 feet from the 10' contour on this property. Portions of this parcel are within the WPLO jurisdiction.
- 6. Permits/Applications filed:** WPL - 7952-06 New single family residence
- 7. Facts Relative to this Application**
 - a. WPLO: The entire property is located below elevation 10.0 NGVD and therefore is entirely within the WPLO.
 - b. Inland Wetlands and Watercourses: No inland wetlands or watercourses are located at the site.
 - c. 100-Year Floodplain: The entire property is located within the 100-year floodplain as designated by the Federal Emergency Management Agency (FEMA). The 100-year base flood zone is identified as AE EI. 13' feet.
 - d. Aquifer Protection Zone: The property is not located within the Aquifer Protection Zone but is located within the Aquifer and Primary Recharge Area identified as coarse-grained stratified drift.

- e. Coastal Area Management Zone: The project is located within the Coastal Area Management Zone. The coastal resource is a "Coastal Hazard Area."
 - f. Physical and Chemical Properties of the Soil: The NRCS Soil Survey of State of Connecticut identifies the on-site soils as Map Unit 306, Udorthents-Urban land complex. Udorthents are a well drained soil, however, shallow excavations in this soil are rated as "very limited" due to cutbanks that cave, slope and depth to the saturated zone.
8. According to the DEEP CAM Manual dated 2000 these resources are described as follows:

Coastal flood hazard area is defined by the DEEP as "those land areas inundated during coastal storm events or subject to erosion induced by such events, including flood hazard areas as defined and determined by the National Flood Insurance Act and all erosion hazards as determined by the Commissioner [Connecticut General Statutes (CGS) section 22a-93-(7) (H)]. In general, coastal flood hazard areas include all areas designated as within A-zone and V-zones by the Federal Emergency Management Agency (FEMA). A- zones are subject to still-water flooding during so called "100 year" flood events. During 100 year flood events, V zones are subject to direct action by waves three feet or more in height. **Coastal flood hazard areas encompass most other important coastal resources, can serve as flood storage areas**, and provide numerous open space and recreational opportunities. **They are, by their nature, hazardous areas for structural development, especially residential-type uses**".

9. Waterway Protection Line Ordinance

Section 148-9 of the Waterway Protection Line Ordinance states that the applicant shall submit information to the Conservation Commission showing that **such activity will not cause water pollution**, erosion and/or environmentally related hazards to life and property and **will not have an adverse impact on the preservation of the natural resources and ecosystem of the waterway**, including but not limited to **impact on ground and surface water, aquifers**, plant and aquatic life, nutrient exchange and supply, thermal energy flow, natural pollution filtration and decomposition, habitat diversity, viability and productivity and the natural rates and processes of erosion and sedimentation.

The Flood & Erosion Control Board (F&ECB) reviewed and approved this application on July 1, 2015 with conditions.

The Westport Weston Health Department approved this application on June 22, 2015.

The site currently contains an existing residence, brick paver driveway and stone patio. Construction on the site took place approximately 8 year ago. A drainage system incorporation low impact development concepts for water quality purposes was installed at that time. The proposal met the Town of Westport storm drainage standards.

The Conservation Commission resolution of Application #WPL 7952-06 required the roof leaders to discharge to grade with the stormwater directed to concave vegetated swales for the smaller storm events and the incorporation of yard drains for the larger storm events. The design engineer is continuing this drainage concept. It has been accomplished with this site design through the retention of the area drains and storm water drainage patterns from the proposed patio and pool first being directed through existing topographical swales on the parcel prior to collection in the area drains and discharge to the subsurface infiltration units.

The client is proposing to construct a 16' x 33' in ground pool with auto cover, pool patio, outdoor shower and pool equipment pad. The existing patio will be removed in order to incorporate the proposed pool and new patio. The new patio will be constructed with open joints so as to be pervious. A section of the driveway will be removed to meet Zoning lot coverage requirements.

In order to attenuate runoff from the new impervious surfaces and to provide groundwater recharge, a system of underground infiltration galleries will be utilized. The existing septic system components in the area of the pool will be properly abandoned.

The pool fencing will be located within the 25 year and the 100 year flood elevation. The Commission finds that information from the applicant as to the type of fencing to be installed be submitted to the Conservation Department prior to the issuance of a Zoning permit. It must meet the Building Code for pool fencing and must also provide for passage of flood waters. The fence style and design is crucial to assure flood water passage is not hindered.

Several mature trees may need to be removed to accommodate the proposed pool location. Tree roots within floodplain areas serve as a method of attenuating stormwater and allowing additional storage time and volume. The Commission finds replacement trees will be necessary to mitigate flood storage volume loss by the removal of existing trees.

The Commission finds that all pool equipment and chemical storage take place above the 100 year flood elevation.

As the pool will be subject to even smaller storm events than a 25 year storm, having a pool cover will prove to limit damage and overflow of pool water.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # WPL 10026-15
Street Address: 4 Sea Spray Road
Assessor's: Map B 02 Lot 151
Date of Resolution: July 15, 2015

Project Description: The construction of an inground pool, patio, outdoor shower, pool equipment, pool fence and drainage. The work is within the Waterway Protection Line Ordinance and the 25 year floodplain of the Saugatuck River.

Owner of Record: Gregory and Irene Penny

Applicant: RI Pools, Inc.

In accordance with Section 30-93 of the *Waterway Protection Line Ordinance* and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #**WPL 10026-15** with the following conditions:

1. It is the responsibility of the applicant to obtain any other assent, permit or license required by law or regulation of the Government of the United States, State of Connecticut, or of any political subdivision thereof.
2. If an activity also requires zoning or subdivision approval, special permit or special exception under section 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit shall commence until such approval is obtained.
3. If an approval or permit is granted by another Agency and contains conditions affecting wetlands and/or watercourses, the applicant must resubmit the application for further consideration by the Commission for a decision before work on the activity is to take place.
4. The Conservation Department shall be notified at least forty-eight (48) hours in advance of the initiation of the regulated activity for inspection of the erosion and sediment controls.
5. All activities for the prevention of erosion, such as silt fences and hay bales shall be under the direct supervision of the site contractor who shall employ the best management practices to control storm water discharges and to prevent erosion and sedimentation to otherwise prevent pollution, impairment, or destruction of wetlands or watercourses. Erosion controls are to be inspected by the applicant or agent weekly and after rains and all deficiencies must be remediated with twenty-four hours of finding them.
6. The applicant shall take all necessary steps to control storm water discharges to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and watercourse.

7. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
8. All plants proposed in regulated areas must be non-invasive and native to North America.
9. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
10. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
11. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts, which development in the course or are caused by the work.
12. Any material, man-made or natural which is in any way disturbed and/or utilized during the work shall not be deposited in any wetlands or watercourse unless authorized by this permit.
13. A final inspection and submittal of an "as built" survey is required prior to the issuance of a Certificate of Compliance.
14. Conformance to the conditions of the Flood and Erosion Control Board of July 1, 2015.
15. **Standard Conditions of Approval for Swimming Pools** Proposed Near Wetlands and Watercourses are as follows:
 - a. The pool is to be serviced by a diatomaceous earth, sand/cartridge or some other kind of re-circulating, closed filter system.
 - b. Pool chemicals should be stored in an enclosed container in an enclosed area preferably above the 100 year flood elevation.
 - c. When pools are proposed in an area that abuts a waterway or wetland, a vegetated buffer is to be maintained between the pool and the waterway or wetland.
 - d. Alternative use of chlorine for sanitation should be sought from the pool company. These include: salt chlorine generators, ozonators, ionizers, or mineral purifiers.
 - e. Pools should be covered over the winter or when they will not be in use for extended periods of time (three (3) or more months).
 - f. When discharging pool water at the end of the season for winterization, no direct discharge to a watercourse or wetland is allowed; a 50ft separating distance with some kind of energy dissipation at end of hose is required.
 - g. The pool water to be discharged shall have a pH between 6.5 and 8.5. The chlorine level shall be less than 0.1 mg/l and not cause foaming or discoloration of the receiving waters.

SPECIAL CONDITIONS OF APPROVAL

16. Conformance to the plans entitled:
 - a. "Existing Conditions Survey Prepared for Gregory Penny & Irene Penny, 4 Sea Spray Road, Westport, Connecticut", Scale 1"=10', dated May 15, 2015, prepared by Ochman Associates, Inc
 - b. "Site Plan Prepared for Gregory Penny and Irene Penny, 4 Sea Spray Road, Westport, Connecticut", Scale: 1" = 10', dated May 25, 2015, prepared by Ochman Associates, Inc.
 - c. Structural Plans for R.I. Pools Inc., Gregory and Irene Penny, 4 Sea Spray Road, Westport, CT 06880, dated July 8, 2013, prepared by A. DiRocco
17. Construction detail of the proposed pool fencing meeting the Building Code and appropriate to installation within a flood zone shall be submitted to the Conservation Department prior to the issuance of a Zoning permit.
18. Patio shall remain pervious with said restriction placed on the Land Records prior to the issuance of Conservation Certificate of Compliance.
19. Should mature trees needed to be removed for the pool construction, the number shall be identified to the Conservation Department prior to the issuance of a Zoning permit. That number of trees shall then be replaced on the parcel with an equivalent number of trees with a minimum of a 2" caliper prior to the issuance of a Conservation Certificate of Compliance. Said trees shall be native to North America.
20. As-built plan shall include post- construction topography of the swale in the westerly portion of the parcel to assure it has remained functional as a stormwater bioswale.

This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no

legal effect, then this conditional approval is likewise void. The applicant may refile another application for review.

This approval may be revoked or suspended if the applicant exceeds the conditions or limitations of this approval, or has secured this application through inaccurate information.

Motion: Rycenga

Second: Shea

Ayes: Rycenga, Shea, Porter, Davis, Bancroft, Corroon, Washburn

Nays: 0

Abstentions: 0

Vote: 7:0:0

- 5. 18 Newtown Turnpike:** Application #IWW,WPL-10033-15 by Land-Tech Consultants on behalf of Grassy Plains LLC for modifications of Permits #IWW-6678-01 and IWW,WPL-8147-07 and legalization of regrading, filling and wall installation.

Ira Bloom, Town Attorney, presented some background on the site and the history that brings the project to the Commission. He believes the modification is properly before the Conservation Commission. The Court will want to know what the local reviewing bodies think about the modification requests. Any changes to the Stipulated Settlement will go to the court. Mr. Bloom reviewed the history of the past year. He noted the Intervenor were not notified about the Flood and Erosion Control Board's July 1, 2015 meeting. They should have been. Therefore, the Flood Board will have to re-do their hearing and the Commission cannot close the hearing until the Flood Board rehears the application.

Alan Spierer, Atty. for the property owner, clarified that he is not the owner and spoke on behalf of the project. He gave his educational background and work experience including working for the DEEP in writing the original Inland Wetlands and Watercourses Act. He has also served in Wilton as an IWW Commissioner and was the Asst. Town Atty. in Westport.

Mr. Spierer gave background of the project. Grassy Plains LLC purchased the property in 2010 with two houses completed and another started. When they bought it, they finished the third house. Then Wright Brothers took over construction. Lot 11 was started first and then started lot 8. There were only 3 house designs to choose from. A level backyard was put in. Lot 7 and Lot 6 about a hydrodynamic separator. A wall to protect the hydrodynamic separator was approved. When the as-built was submitted, it showed the wall and fill was in the conservation easement. The Town asked the applicant to request a modification of the site plan via an official application. This was submitted in November 2014. The Intervenor and staff determined the need for an independent environmental review. Ms. Mozian hired Beth Evans. Mr. Spierer highlighted Ms. Evan's report and the answers to the questions posed by Ms. Mozian. He noted Ms. Mozian asked how do we prevent this from happening in the future in the staff report. He responded to the question by stating that the original plan did not fully anticipate the use of the yard in that it proposed a steep slope near the rear of the house. He addressed the inaccuracies of allegation by the Intervenor stating that no soil has been brought in. He stated there is no good environmental reason to reject the requests. The applicant is not asking for anything that might have been approved if they had asked for permission first.

Tom Ryder of Land-Tech Consultants reviewed each of the requested activities.

- a. Unit #3 – asking for a larger deck to accommodate a screened porch. It would be 10 feet from the conservation easement.
- b. Unit #4 – shifting house 8 feet from wetland with a 2 foot larger deck. Deck would be 10 feet further from the wetland.
- c. Unit #5 – reorientation of the house to be parallel to road. Hydrodynamic separator is in front of the units. They would move it to have a straight discharge to the rip-rap and be more easily maintained. He corrected Mr. Spierer's earlier reference to a hydrodynamic separator that was actually a level spreader.
- d. Unit #6 & #7 – wall continued. 8 feet high by 3 feet wide with stockade fence on top. Both the wall and fence are outside the conservation easement area. Fill was also placed.

- e. Units #8 – fill encroachment. Mr. Ryder explained that the silt fence demarcating the conservation easement line was not in the correct location. The fill is not in the wetlands. It does have interstitial openings and does provide habitat. Beth Evans came up with a similar conclusion.
- f. Slope between Unit #9 & #10 – has been regraded and revegetated.
- g. Unit #8 house – a larger deck was built. 20 feet larger and a screened porch over part of it. Beth Evans said the deck would not pose a threat to the wetlands. When asked why it was built without authorization, Mr. Spierer stated he did not know why exactly. He can only speculate that it must have been agreed upon between the home owner and the builder. Under normal circumstances, the adjustments are made in the field all the time.
- h. Unit #9 – 2 feet of fill was placed in the rear and side yards. There was a patio constructed instead of a deck. The slope on the west side was stabilized with matting and vegetation. The owner wants a wider driveway but now only a turn around. Mr. Ryder submitted a photograph showing the stabilization of the side slope between Units 9 & 10, which was completed Monday, July 13, 2015 in the afternoon. He explained that on July 1, 2015 during a heavy rainfall, the silt fence had blown out behind Units 9 & 10 and was immediately stabilized.
- i. Unit #10 – asking for a larger deck. The house was moved farther toward the street to accommodate the deck. The house will only be 1 foot closer to the conservation easement with the larger deck. The area behind unit 10 will be stabilized shortly.
- j. Road relocation – Mr. Ryder showed a map. The cul-de-sac was built slightly larger by a couple of feet and now they are asking to legalize it.

Ms. Rycenga asked how many cubic yards of fill was place in the conservation easement.

Mr. Spierer stated no fill was brought in but top soil was brought in.

Mr. Bancroft noted the schedule 40 pipe, footer drain, should be cut off to be flush with the boulders.

Ms. Mozian gave the staff presentation. She read 15 letters of opposition from the public into record from:

- Dan Katz, 271 Compo Road South
- Mark VanSummern, 277 Wilton Road
- Chris Woods
- Jeff Block, 67 Partrick Road
- Sally Effman, 4 Crawford Road
- Gary & Sally Effman, 4 Crawford Road
- Wendy Batteau, 6 Arlen Road
- The Kennedys, 4 Partrick Road
- Judy Starr, 23 Surf Road
- Don Bergmann, 32 Sherwood Drive
- David Floyd, 5 Concord Lane
- Michele Lamothe & Jim Conboy, 5 Juniper Road
- Sandi Martin & Adam Brower, 19 Center Street
- Chris Vatis, 64 Partrick Road
- Bart Shuldman, 14 Broadview Road
- Bob Welsh, 81 Wolfpit Avenue #E2, Norwalk

Ms. Mozian continued that a portion of the wall was approved behind the level spreader. No walls or fences were allowed under the agreement. Certain units were allowed decks and others patios. She believes the fences should be see-through and allow animals to move through them. She does not support the screened porch proposal as it is additional roof runoff. She has concerns that unit 3 will impinge upon the conservation easement with the proposed change.

Beth Evans, consultant hired to assist the Conservation Commission, indicated she wants to see the as-built surveys. Things have changed since she did her report especially where construction was taking place. She has serious concerns about the construction management at the site as a result of

her visit to the property at the end of March. She has been assured by Mr. Ryder that weekly visits have been conducted. She asked that she be given time to revise her report based on information she has received tonight and review of the as-built surveys.

The Commission set the next meeting for September 9, 2015 at 7:00 p.m. At that time, Ms. Evans will supplement her report with recommendations and concerns.

Mr. Ryder was asked when the as-builts would be done. Unit 9 is done. Unit 10 the grade is done enough to do an as-built.

Ms. Evans noted she did do a Google Earth study.

Mr. Corroon asked for a long-term review of Google Earth.

Mr. Porter asked Ms. Evans for an overall impact to the wetland of the project.

Ms. Shea asked for the impact of the wall to wildlife movement.

Ms. Evans stated the wall is outside the wetlands. The wall was supposed to be just around a level spreader. The wall is a physical barrier between the residences and the wetlands. The fence you cannot see through it so that you cannot see whether the landscaper is dumping lawn clippings, etc. behind it.

Mr. Corroon asked if there was any benefit of the walls separating wildlife from people.

Ms. Evans stated a wall would not dissuade some animals but definitely amphibians and reptiles movement would be adversely impacted.

Ms. Shea asked about the impact of the screened porch. Does it help to avoid mosquitos?

Ms. Evans stated that a healthy wetland is its own mosquito control. Birds and amphibians like mosquitos.

Ms. Rycenga asked if there are any vernal pools on the site.

Ms. Evans stated there were but they were not impacted from the work that was done.

Motion to continue to September 9, 2015 at 7:00 p.m.

Motion: Shea Second: Rycenga
Ayes: Shea, Rycenga, Bancroft, Corroon, Davis, Porter, Washburn
Nayes: None Abstentions: None Vote: 7:0:0

Work Session II:

1. Other business. – None

The July 15, 2015 meeting of the Westport Conservation Commission adjourned at 11:35 p.m.

Motion: Shea Second: Porter
Ayes: Shea, Porter, Bancroft, Corroon, Davis, Rycenga, Washburn
Nayes: None Abstentions: None Vote: 7:0:0