

**MINUTES
WESTPORT CONSERVATION
SEPTEMBER 25, 2017**

The September 25, 2017 Special Meeting of the Westport Conservation Commission was called to order at 7:00 p.m. in Room 201/201A of the Westport Town Hall.

ATTENDANCE

Commission Members:

Anna Rycenga, Acting Chair
Donald Bancroft
Robert Corroon
Ralph Field, Alternate
Paul Lobdell, Alternate
Mark Perlman

Staff Members:

Alicia Mozian, Conservation Department Director
Lynne Krynicky, Conservation Analyst
Peter Gelderman, Asst. Town Attorney

Interveners:

Susan & John Tschirhart

This is to certify that these minutes and resolutions were filed with the Westport Town Clerk within 7 days of the September 13, 2017 Public Hearing of the Westport Conservation Commission pursuant to Section 1-225 of the Freedom of Information Act.

Alicia Mozian
Conservation Department Director

Ms. Rycenga asked Rob Pryor, PE with LandTech, if he wanted to speak.

Mr. Pryor indicated he would defer his time to after the public had an opportunity to speak.

Mr. Lobdell asked Mr. Pryor what happens when the water flows toward the low point in the road. How is it handled?

Mr. Pryor responded that there are dykes in the roadway to handle that issue.

Mr. Perlman questioned the efficacy of the Pave Drain system since there is not a long history of use that supports its viability over time.

Mr. Pryor stated they chose the Pave Drain system because it was one the Town of Westport Engineering Department endorsed. The company puts down about 1,000,000 s.f. per year. Maintenance studies often discuss maintenance of permeable asphalt and permeable concrete. Whereas the Pave Drain block has the curved void space as well as the spacing between the blocks. The blocks can be removed and replaced. This is not true with a permeable asphalt or concrete surface.

Mr. Perlman asked about the maintenance of the roadway.

Mr. Pryor stated the Homeowner's Association would be responsible for maintaining the roadway in perpetuity.

Mr. Corroon asked why the Engineering Department required them to go with the Pave Drain system.

Mr. Pryor indicated it was more of a structural component. The Engineering Department does not accept that permeable pavement remains as permeable. They would accept this only permeable paver product.

Mr. Corroon asked for confirmation that the drainage system for the roadway would spread out the stormwater runoff over a larger area than a conventional catchbasin and raingarden design scenario, for example.

Mr. Pryor agreed.

Mr. Corroon asked whether the conventional catchbasin in this case would have an oil separator.

Mr. Pryor indicated that it is not likely.

Ms. Rycenga asked for confirmation that the paver's longevity is 30 years.

Mr. Pryor agreed and indicated that this is the minimum.

John Tschirhart, Intervener and property owner of 113 Old Road, reminded the Commission of concerns with the maintenance of the roadway.

Eric Armour of 8 Hunt Club Lane stated there are 100's of s.f. of wetlands being impacted. The Pave Drain company has been in business for less than 10 years. We are not sure of the viability of the company and if they will be around in the future. He questioned whether this product is viable in a snow environment. He questioned whether this product is viable in a dirty environment (leaf debris, etc.). He stated the technical research questions this. He noted the technical research calls for a 2 to 4 foot reservoir. The applicant is only planning a 1-foot reservoir above the groundwater. There is no record of accomplishment. There have been none of these systems installed in Connecticut. The systems have only been used in commercial locations so far. He stated he reviewed the Conservation

Department applications. There were 422 administrative approvals issued by staff since January 1, 2015. There were 102 applications heard by the Commission. Out of those, three were denials. Of those, two said go back and resubmit, we need more information. He suggested the Commission review what the Town Attorney has written and the experts and the lack of social benefit.

Mr. Corroon asked how the Pave Drain system was chosen.

Mr. Pryor stated they came up with the system on their own in response to concerns raised by staff, peer reviewer and the Commission.

Rick Constantini, Atty. for the applicant, stated that concerns for maintenance of the road is not grounds for a denial. He indicated that is what conditions are for. The applications previously approved or denied by the Commission are not relevant.

Mr. Pryor called attention to Page 3, Item #7 of the Flood Board's Findings. He noted Mr. Armour raised the same concerns at the Flood Board meeting regarding separation. He address those concerns fully at the Flood Board. The CT DEEP recommends 2 to 4 feet of separation for all types of drainage structures to groundwater. The Town of Westport recommends 1-foot of separating distance.

Ms. Mozian asked about whether the groundwater monitoring was done in the roadway.

Mr. Pryor noted there will be at least 1-foot of separating distance based on the testing. The testing was done in April and May.

Mr. Lobdell asked Mr. Pryor to address concerns about the groundwater being able to enter the proposed basements. There has been testimony about groundwater in the basements of neighboring properties.

Mr. Pryor stated typically that homes are designed to be above the groundwater elevation. This could be a condition of approval.

Mr. Field asked if the new owners would be subject to the criteria established by the Commission.

Mr. Pryor stated the subdivision is a conceptual plan. It is subject to change when developers come in to actually build.

Atty. Constantini stated the Town would have the ability to review proposed applications.

Mr. Bancroft asked why the groundwater conditions in the neighborhood have gotten worse over time.

Mr. Pryor stated he did not know. He added it is not because of his clients. The neighbors are all upgradient of his client.

Mr. Perlman asked about Pave Drain's financials.

Mr. Pryor stated he has talked to the company about their viability. They said they produce 1,000,000 s.f. per year.

Mr. Perlman questioned how long Pave Drain has been in business.

Mr. Pryor indicated it has been 10 years.

Ms. Rycenga questioned whether another company's equivalent product would be acceptable.

Ms. Mozian indicated that Engineering has specifically stated that they only approved Pave Drain for its ability to support Fire Trucks.

Ms. Rycenga stated that she is surprised that the Town of Westport would endorse a company.

Mr. Pryor noted that any substitutions would need approval by the Engineering Department and the Fire Marshal.

Ms. Rycenga stated that should include the Conservation Commission.

Mr. Lobdell made a comment regarding manufacturing of the pavers that it is typically outsource and not produced by Pave Drain.

Mr. Pryor stated this is a standard practice. The company licenses production of its product to manufacturers to be produced and distributed throughout the country. He noted with regard to Mr. Armour's comments about the use of pavers in the snow. This likely comes from the CT DEEP Stormwater Manual recommendations. The comments pertain to grass pavers and are not applicable to this kind of proposed paver system.

Mr. Lobdell asked how the paver system stands up to salt.

Mr. Pryor stated by their nature, it does not require as much salt. However, it will only be used in icing conditions. Sand will not be used. He added that the Commission is not a pushover as Mr. Armour suggested. This Commission is legendary in Fairfield County for its attention to detail.

Mr. Corroon noted the process leads to a better product.

Ms. Rycenga referenced the enforcement sections of the regulations under the WPLO and Wetlands.

Ms. Mozian explained the enforcement procedure under WPLO regulations. There is a fine but you must primarily go straight to court. Under the IWW and the WPLO, Notices of Violations are issued. We try to work with the property owners to rectify the violation. If a satisfactory solution cannot be arrived at or if the violation is egregious, a Cease and Correct Order will be issued. Under the IWW Regulations, the Commission will be called together for a Show Cause Hearing to rule on the Order and make recommendations on how to correct, remedy or remove the violation. Fines may be issued under the IWW. Violations are typically issued to the property owner.

Mr. Field asked if she had experience in issuing a violation to a homeowner's association.

Ms. Mozian stated her experience is with violations with property owners.

Atty. Gelderman stated that a common interest community, a property owner owns interest in the property. It is not the homeowner's association that has ownership.

Ms. Mozian stated the Cease and Correct Order is put on the Land Records where it remains until the violation is remedied.

Ms. Rycenga noted the Cease and Correct Order is similar to a lien on the Land Records. She asked Ms. Mozian to clarify its purpose.

Ms. Mozian stated that when selling the house, refinancing, etc., there is typically a title search. A good title search will come up with the Cease and Correct Order.

Ms. Rycenga added that the Cease and Correct Order is one mechanism to bringing the property into compliance.

