

**MINUTES
WESTPORT CONSERVATION COMMISSION
MAY 17, 2017**

The May 17, 2017 of the Westport Conservation Commission was called to order at 7:00 p.m. in Room 309 of the Westport Town Hall.

ATTENDANCE

Commission Members:

Pat Shea, Esq., Chair
Paul Davis, Secretary
Donald Bancroft
Mark Perlman, Alternate
W. Fergus Porter

Staff Members:

Lynne Krynicki, Conservation Analyst
Colin Kelly, Conservation Compliance Officer
Susan Voris, Recording Secretary

This is to certify that these minutes and resolutions were filed with the Westport Town Clerk within 7 days of the May 17, 2017 Public Hearing of the Westport Conservation Commission pursuant to Section 1-225 of the Freedom of Information Act.

Lynne Krynicki
Conservation Analyst

Changes or Additions to the Agenda. – There were no changes to the agenda.

Work Session I: 7:00 p.m., Room 201/201A

1. Receipt of Applications

Ms. Krynicki reported there were three applications to receive including:

- a. 205 Bayberry Lane:** Application #IWW-10411-17 by James W Tate RLA on behalf of James & Dawn Henry to realign the front drive entry with pier to allow better sightlines; to provide underground electric/CATV; new fieldstone retaining walls; replace damaged 12" CMP culvert with arched culvert; fill 2' cover and repave. Portions of the work are within the wetland and the upland review area setback.
- b. 275 North Avenue (aka 39 Coleytown Road):** Application #IWW,WPL-10417-17 by Barr Associates, LLC on behalf of ELDA Capital Corp. for a proposed subdivision with Lot A comprised of a 1.25 acre parcel comprised of the cottage and barn and Lot B being a vacant 1.87 for a new house. Portions of the property are within the upland review area and the WPLO area of the Aspetuck River.
- c. 41 Little Fox Lane:** Application #IWW/M-10419-17 by Chad & Caroline Kapp to amend wetland boundary map #C14.

Ms. Krynicki continued there were four WPLO applications also in for the June hearing. Staff expects two more before the submission deadline tomorrow.

Ms. Krynicki noted staff is considering adding some of these applications to the June 12, 2017 Special meeting along with the 107 Old Road application.

She updated the Commission on the status of 793 Post Road East. The Commission's consultant, HRP, has received the materials necessary to prepare a proposal for their scope of services. The applicant will be responsible for posting 150% of that fee as required under the regulations for the application to be considered complete. Then HRP will do a thorough review of the materials and advise the Commission and the applicant as to whether additional information may be required.

Motion to receive the applications as presented by Ms. Krynicki.

Motion:	Shea	Second:	Davis
Ayes:	Shea, Davis, Bancroft, Perlman, Porter		
Nays:	None	Abstentions:	None
		Vote:	5:0:0

2. Report by Colin Kelly, Conservation Compliance Officer on the status of existing enforcement activity.

Mr. Kelly noted he issued a Notice of Violation for tree clearing at **91 Coleytown Road**. The trees were in poor shape but proper procedures were not followed. This is a rental property. He has been in contact with the owner, who lives on the West Coast. He will be meeting with the landscaper tomorrow to work on a solution to remedy the situation.

Mr. Kelly stated there are a number of drainage complaints he has received. He is working on these and trying to deal with them verbally at this time.

3. Approval of April 19, 2017 meeting minutes.

This agenda item was postponed to the June 12, 2017 Special Meeting.

4. 45 Owenoke Park: Report on modification of Permit #WPL-9762-14 for permeable patio expansion.

Ms. Krynicki reported to the Commission staff issued a modification to Permit #WPL-9762-14 for a permeable patio extension. This modification allowed the patio to be extended to the pool equipment pad and was within the envelope of the allowed work area.

5. Other Business - NONE

Public Hearing: 7:15 p.m., Room 201/201A.

1. 793 Post Road East: CONTINUED APPLICATION - Application #IWW/M-10365-17 by Evans Associates on behalf of DMC Westport LLC to amend wetland boundary map #E9.

Eva Szigeti of Evans Associates presented the application on behalf of the property owners. She stated she and Beth Evans delineated the wetland in August 2016. Ed Pawlak reviewed the line in April 2017. They met with Mr. Pawlak and staff on site on April 10, 2017 to come to a consensus of the wetland boundary.

Ms. Krynicki stated the site is highly disturbed and determining the boundary was difficult. The soil scientists did come to a consensus on the wetland boundary.

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

Motion:	Shea	Second:	Perlman
Ayes:	Shea, Perlman, Bancroft, Davis, Porter		
Nayes:	None	Abstentions:	None
			Vote: 5:0:0

FINDINGS

**Application #IWW/M 10365-17
793 Post Road East**

- 1. Application Request:** The applicant is requesting to amend wetland maps #E9.
- 2. Soil Scientist for Applicant:** Beth Evans of Evans Associates
- 3. Soil Scientist for Town of Westport:** Ed Pawlak of Connecticut Ecosystems
- 4. Plan reviewed:**
 - a.** "Existing Conditions Plan, Mixed Use Development, 793 Post Road East, Westport, CT, prepared for DMC Westport, LLC", Scale: 1" = 20', dated February 23, 2017 and last revised to April 25, 2017, prepared by Evans Associates Environmental Consulting, Inc. and Redniss & Mead, Project Surveyor
- 5. Previous Permits for this parcel:**
 - IWW/M 7508-05 for the amendment of E9 and F9
- 6. Soils Description**

The wetlands on the site comprise a hillside seep wetland with a short section of watercourse and a very small, essentially isolated, depressional wetland.

The drainage channel from the corrugated pipe observed on site contained alluvial materials (stones, sand and sediment) likely deposited after a large storm event.

Because of the highly disturbed nature of the wetlands and surrounding areas, soils in the wetland are best described as Udorthents, wet substratum (altered soils).

The uplands of this parcel has been or is developed with structures, asphalt, and/or parking areas, or their remains. Much of the uplands have been disturbed or altered and are overgrown with mainly nuisance and/or invasive species.

Soils in the uplands nearest the road are mapped as Urban Land complex; further to the rear of the lot the soils are mapped as Udorhtent-Urban Land complex; and along the steep slopes of the lot, the soils are mapped as Charlton-Chatfield complex, 15-45 percent slopes, very rocky. Urban Land represents highly developed areas and Udorhtents are altered/disturbed soils. Charlton and Chatfield loams are found on hilltops and hillsides in areas of bedrock-controlled topography. Charlton is deep to bedrock and Chatfield is moderately deep. Shallow-to-bedrock Hollis soils and rock outcrops are likely complexed with these soils.

7. Property Description

- a. The Westport Wetlands Inventory, prepared by Flaherty Giavara Associates, P.C., dated June 1983 describes this wetland as “streamside, floodplain, intermittent, wooded swamp.” This wetland is part of the watershed for Muddy Brook which outlets to Sherwood Mill Pond.
 - b. The 100 year floodplain as designated by FEMA does not occur on the properties.
 - c. The properties do not exist within the Aquifer Protection Overlay Zone or within a groundwater recharge area.
 - d. Properties are not within the Coastal Areas Management Zone.
 - e. The properties are serviced by municipal sewer and water .
 - f. The non-wetland soils have previously been cleared of a significant area of the overstory and understory vegetation.
 - g. The Waterway Protection Line Ordinance is applicable for this property.
 - h. A portion of the parcel is currently a vacant property. A residence originally built in 1948 has been removed and a swimming pool has been filled in. On a remaining portion of the property previous activity indicates car parking existed. A former residential building is located on the property.
 - i. Drainage improvements on the sites have been observed by staff and the soil scientists. Consultation with town engineering staff confirms that the drainage structures are not the property of nor maintained by the town.
 - j. The wetland pocket centrally located is connected to the eastern watercourse by an intermittent watercourse that is partially piped.
 - k. A previous field observation in 2005 by Tom Pietras of Soil Science and Environmental Services, Inc. indicated a possible drainage pipe traversed 793 Post Road East in a southeasterly direction and appeared to discharge groundwater to an eastern intermittent watercourse.
8. The Town of Westport retained the services of Ed Pawlak of Connecticut Ecosystems to review the proposed wetland boundaries determined by Beth Evans and Eva Szigeti of Evans Associates. A joint site inspection meeting was held on April 10, 2017 where several flag locations were minorly adjusted.

In a letter dated April 24, 2017, Mr. Pawlak indicates in his professional opinion the wetland delineation performed by EAEC, revised by the inclusion of the additional revised flagging on April 10, 2017 accurately depicts the wetland boundaries on the subject property.

RESOLUTION **Application #IWW/M 10365-17** **793 Post Road East**

In accordance with Section 8.0 of the Regulations for the Protection and Preservation of Wetlands and Watercourses of Westport, and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #IWW/M-10365-17 by Evan Associates on behalf of DMC Westport LLC to amend the wetland boundary on Map #E 09 on the property located at 793 Post Road East with the following conditions:

1. Conformance to the plan entitled: “Existing Conditions Plan, Mixed Use Development, 793 Post Road East, Westport, CT, prepared for DMC Westport, LLC”, Scale: 1” = 20’, dated February 23, 2017 and last revised to April 25, 2017, prepared by Evans Associates Environmental Consulting, Inc. and Redniss & Mead, Project Surveyor.
2. An electronic file of the above referenced plan in a format acceptable to the Town Engineer must be submitted to the Conservation Department before permits for any further activity will be authorized.

surface has been filled over, graded or excavated. Aquents are recently formed soils, which have an aquic moisture regime. The key feature is the presence of a ground water table at or near to the soil surface for a period of fourteen days or longer during the growing season.

Mr. McManus identified the non-wetland soils on the site as:

Udorthents, smoothed (308): This unit consists of areas that have been altered by cutting or filling. The areas are commonly rectangular and mostly range from 5 to 100 acres. Slopes are mainly 0 to 25 percent. The materials in these areas are mostly loamy, and in the filled areas it is more than 20 inches thick. Some of the filled areas are on floodplains, in tidal marshes, and on areas of poorly drained and very poorly drained soils. Included in this unit in mapping are small areas of soils that have not been cut or filled. Also included are a few larger urbanized areas and a few small areas containing material such as logs, tree stumps, concrete, and industrial waste. A few areas have exposed bedrock. Included areas make up about 30 percent of this map unit. The properties and characteristic of this unit are variable, and the unit requires on-site soil investigation and evaluation for most uses.

Ningret fine sandy loam (21): This series consists of very deep moderately well drained soils formed in a coarse-loamy mantle underlain by sandy water deposited glacial outwash materials. They are nearly level to gently sloping soils on glaciofluvial landforms, typically in slight depressions and broad drainageways. The soils formed in loamy over stratified sandy gravelly outwash derived from a variety of acid rocks. Typically, these soils have a very dark grayish brown fine sandy loam surface 8 inches thick. The subsoil from 8 to 26 inches is yellowish brown fine sandy loam with mottles below 16 inches. The substratum from 26 to 60 inches is mottled, pale brown, loose, stratified loamy sand.

7. Wetland Description

- a. The property lies within the 100 floodplain but outside the 500 year floodplain as identified by FEMA.
 - b. Property is outside the Coastal Areas Management Zone.
 - c. Wetland is characterized as a "woodland swamp," "permanent watercourse," "streamside" and "floodplain" by the Westport Wetlands Inventory, dated June 1983, prepared by Flaherty Giavara Associates P.C.
 - d. Property is outside aquifer/wellfield protection zones and aquifer/recharge area.
8. Town of Westport retained the services of Otto Theall to review the proposed wetland boundaries determined by Jim McManus of JMM Wetland Consulting Services, LLC. Mr. Theall submitted a letter dated May 7, 2017 stating his agreement with the wetland line as delineated by Jim McManus.

RESOLUTION APPLICATION #IWW/M 10392-17 12 Rustic Lane

In accordance with Section 8.0 of the Regulations for the Protection and Preservation of Wetlands and Watercourses of Westport, and on the basis of evidence of record, the Conservation Commission resolves to **APPROVE** Application #IWW/M 10392-17 by Carol Kaplan to amend wetland boundary map #H 7 on the property located at 12 Rustic Lane with the following conditions:

1. Conformance to the plan entitled: "Existing Conditions Plot Plan Prepared for Jeffrey A. & Carol A. Kaplan, 12 Rustic Lane, Westport, Connecticut", Scale 1"=20' dated March 24, 2017, prepared by Leonard Surveyors, LLC.
2. An electronic file of the above referenced plan in a format acceptable to the Town Engineer must be submitted to the Conservation Department before permits for any further activity will be authorized.
3. 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 void or of no legal effect, then this conditional approval is likewise void. The applicant may refile another application for review.

Motion: Porter **Second:** Bancroft
Ayes: Bancroft, Porter, Davis, Perlman
Nays: 0 **Abstentions:** 0 **Votes:** 4:0:0

3. **320 Bayberry Lane:** Application #IWW,WPL-10391-17 by Rob Pryor of LandTech on behalf of Frederica S Brennehan to subdivide the existing property into two lots, preserving the existing structure and barn structure. One lot will be developed and consist of a single-family dwelling, driveway, pool and associated site improvements. A portion of the proposed activity is within the upland review area and the WPL area of the Aspetuck River.

Rob Pryor, PE, of LandTech presented the application on behalf of the property owners. This is a 4.61 acre parcel in a AAA zone. They are proposing to subdivide the property into two lots. Lot 1 would be comprised of a 2.3 acre parcel with the existing house and barn. Lot 2 will be a 2.5 acre parcel for development.

Mr. Davis asked what would happen to the shed, patio and outhouse that currently exists on the parcel.

Mr. Pryor noted these exist in the conservation easement area. The shed and outhouse would be removed. However, the patio would likely remain as it would be more destructive to remove rather than to leave it. He noted the owners have a buyer for Lot 1 and they are very interested in retaining the existing house and barn. For lot 2, the conceptual plan is shown for maximum zoning coverage and the drainage is designed for maximum coverage. As proposed, there are no surface structures within the 100-year floodplain. There is a 40-foot conservation easement along the Aspetuck River, which is approximately 1-acre.

Mr. Bancroft noted the cul-tec system is located within the 25-year flood zone. He questioned whether it could be moved outside the 25-year flood zone.

Mr. Pryor stated there is not enough soil testing done to determine this. He believes it may be able to be done. However, as designed, the house is outside the 100-year floodplain/

Ms. Krynicki stated the proposal proves the site can handle improvements. When a development plan comes in, if any activity is within the regulated area, it would have to come back to the Commission. She noted that the proposed driveway is within a steep area. The drainage is proposed to be captured in catchbasins. Should the driveway be proposed in the same location in the development plan, she would like to see the catchbasins proposed.

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

Motion: **Shea** **Second:** **Porter**
Ayes: **Shea, Porter, Bancroft, Davis, Perlman**
Nays: **None** **Abstentions:** **None** **Vote:** **5:0:0**

Findings
Application # IWW, WPL10391-17
320 Bayberry Lane

1. **Receipt Date:** **April 19, 2017**
2. **Application Classification:** **Plenary**
3. **Application Request:** Applicant is requesting to subdivide a 4.86 acre parcel to create a 2.33 acre lot identified as Lot 1(with the existing residence and site amenities to remain) and a 2.54 acre lot identified as as Lot 2 to be developed in the future with a single family residence, septic system, drainage and other site amenities.

The parcels will be served by municipal water and individual on-site septic systems.

All proposed development activity as currently depicted, meets or exceeds the IWW upland review areas as determined by the Conservation Commission. Drainage for proposed Lot 2 is within the WPLO boundary.

The Conservation Commission is not authorizing any construction activity. The purpose of this application is to depict two areas of proposed development that will not cause adverse impacts to the wetlands and watercourses and will not have an adverse impact on the preservation of the natural resources and ecosystems of the waterway.

The Conservation Commission is reviewing the 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."

Section 5.1(f) allows the Commission to take into consideration impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with, or reasonably related to, the proposed activity which may have an impact on wetlands or watercourses.

4. Plans Reviewed:

- a. "Zoning Map of Property Prepared for Russell & Frederica Brenneman, 320 Bayberry Lane, Westport, Ct", Scale: 1" = 40', dated January 27, 2017, prepared by Dennis A. Deilus- Land Surveyors
- b. "Preliminary Site Development Plan for a 2-Lot Residential Subdivision, Prepared for Russell & Frederica Brenneman, 320 Bayberry Lane, Westport, Ct.", (Sheet C-1), Scale: 1"= 30', dated January 30, 2017 and last revised to April 28, 2017, prepared by LandTech
- c. "Preliminary Site Development Plan for a 2-Lot Residential Subdivision, Notes and Details Prepared for Russell & Frederica Brenneman, 320 Bayberry Lane, Westport, Ct.", (Sheet C-2), dated January 30, 2017, prepared by LandTech

5. Permits/Applications filed:

- a. No previous permits have been issued for this parcel.

6. WPLO – The Waterway Protection Line is located 15' from the wetland boundary.

7. Wetland Soils

An on-site investigation of the residential property at 320 Bayberry Lane in Westport, CT was conducted on September 12, 2016 by Chris Allan of LandTech.

8. Wetlands Description

The following wetland soils occur on the property:

Rippowam fine sandy loam: These riparian wetland soil series consists of very deep, poorly drained loamy soils formed in alluvial sediments. They are nearly level soils on flood plains subject to frequent flooding.

The sites non-wetland soils were not evaluated in detail. Observations regarding non-wetland soils were made in the process of identifying and delineating the wetland soils. Upland soils on the site are identified as Agawam fine sandy loam and Charlton-Chatfield complex. The Agawam series consists of very deep, well drained soils formed in sandy, water deposited materials. They are level to steep soils on outwash plains and high stream terraces. The Charlton and Chatfield soils consist of very deep and moderately deep, well drained soils formed in loamy mantle underlain by sandy till. They are nearly level to very steep soils on moraines, hills and ridges. The Chatfield soils are moderately deep to bedrock.

9. Property Description and Relative Facts:

- a. The Westport Wetlands Inventory, prepared by Flaherty Giavara Associates, P.C., dated June 1983 describes this wetland as “a permanent streamside, floodplain with a wooded swamp and easement vegetation.” This wetland is connected to the Aspetuck River.
- b. The landscape position of the proposed development site would be classified as a backslope with a land surface shape of this property of linear/linear, moderately sloping.
- c. The 100 year floodplain (Flood Zone A-7) as designated by FEMA does occur on the property.
- d. Property does not exist within the Aquifer Protection Overlay Zone or within a groundwater recharge area.
- e. Property does not exist within the Coastal Areas Management Zone.
- f. The property is serviced by a septic system and municipal water.

10. 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

Proposed site improvements are shown on the submitted site plan to depict viable areas of future development.

All proposed activities lie outside the Inland Wetland and Watercourses upland review areas as designated by the Conservation Commission.

Lot 1

The existing house, barn and associated site improvements on Proposed Lot 1 are to remain as is. No changes to the structures on the parcel are proposed. An existing well is to be abandoned for this lot and a code complying septic system area has been depicted outside all upland review areas and the WPLO boundary. There are no grade changes proposed.

All activity is proposed outside the 100 year flood plain boundary as designated by FEMA. An existing garden located south and connecting to the existing residence is to be bisected in half with the new proposed lot line of Lot 2. The Commission finds reconsideration of the location of the house and driveway on Lot 2 to preserve the mature vegetation and plantings associated with this garden be considered during the final site development process.

Lot 2

The applicant has proposed a five bedroom dwelling and a future proposed pool site.

The Commission finds a substantial portion of the remaining lot area of this proposed parcel will experience temporary and permanent disturbance necessary to accommodate the associated septic system, driveway, grading and storm water retention structures. This design layout depicts activities that are located outside the IWW upland review area setbacks.

The Commission finds the applicant is offering a 40' Conservation Easement along the western edge of the Aspetuck River for the length of both proposed Lot 1 and Lot 2.

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 NRCS soils map indicates the upland soils in the vicinity of the proposed improvements to be Charlton-Chatfield complex which is a well-drained soils group.

Test hole #1 in the vicinity of the infiltration system for Proposed Lot 2 showed that the proposed infiltration units will be sufficiently above the groundwater table to assure adequate treatment of the stormwater runoff.

The understory of this riparian zone of the Aspetuck River has been cleared and is maintained as lawn down to the edge of the river.

The driveway for proposed Lot 2 enters off Bayberry Lane in an area of approximately 12% grade which will increase velocity of the stormwater runoff. The Commission finds that relocating this drive to a lesser slope area is preferred for stormwater runoff management and may help preserve the existing stone wall and garden area.

The subsurface infiltration units for proposed Lot 2 is located approximately 50' from the wetland boundary, however, no grading is required and numerous mature trees to the south and east will remain. The Commission finds the final site design should consider redesign of the septic and drainage to avoid the WPLO boundary and the large deciduous trees.

A 40' wide Conservation Easement is being offered adjacent to the Aspetuck River. The Commission finds that field delineation of this easement will be required and restoration of riparian vegetation east of this boundary would be beneficial for the floodplain and water quality of the Aspetuck River.

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 activity on both lots. All areas wetland ward of the silt fence should not be disturbed during construction. Proposed grading is depicted outside regulated areas. As the silt fence is shown around the entire proposed activity area and the grade is gently, no physical impact due to erosion and sediment is anticipated within IWW setbacks.

An anti-tracking pad is proposed for the construction activity on Lot 2 and a soil stockpile area has been identified.

The soil stockpile area is located on a very steep slope. This needs to be relocated to an area of flatter topography.

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 the vegetation is not proposed to be removed within regulated areas in conjunction with this development proposal. Any vegetation intended to remain on site should utilize tree protective fencing at canopy drip line to protect root zones.

The 40' Conservation Easement adjacent to the Aspetuck River will serve as a natural habitat protection and enhancement area.

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

Increased development without proper consideration of storm water impacts can be a cumulative and significant source of pollution. As the number of opportunities for non point pollutant sources increases and the distance decreases, the likelihood of water quality impact increases.

The Commission finds the applicant is providing a large and wide buffer within the wetlands, floodplain and upland review areas for this proposal. Native vegetation within this easement area would contribute to habitat potential and water quality.

In addition, the Engineering Department has reviewed and approved the drainage design for this subdivision.

Deep test results witnessed by the Engineering Department confirm a well-drained soils hydrologic rating of this area. The proposed drainage assumes a 25% coverage of proposed Lot 2.

As the topography of Lot 2 is steeper adjacent to Bayberry Lane, the stormwater drainage design for proposed Lot 2 incorporates catch basins within the driveway which are connected to the subsurface drainage design. This will help assure a faster velocity of driveway runoff will not be an erosive problem downgradient. The Commission finds should the applicant choose this driveway layout design, then the final site design should retain this drainage design.

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 in combination of 15' from the wetland limit. The Flood & Erosion Control Board has approved this application on May 3, 2017.

The stormwater subsurface infiltration units for proposed Lot 2 are located within the WPLO boundary. The Commission finds there may be an opportunity to relocate the proposed septic system and subsurface infiltration units on this lot to minimize the intrusion within the WPLO and to possible eliminate the removal of two mature deciduous trees. The Commission finds the applicant will reexamine these proposed locations at the time of final site design and application submission.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # IWW, WPL 10391-17
Street Address: 320 Bayberry Lane
Assessor's Map E-18, Lot 25
Date of Resolution: May 17, 2017

Project Description: To subdivide the existing property into two lots, preserving the existing structure and barn structure. One lot will be developed and consist of a single-family dwelling, driveway, pool and associated site improvements. A portion of the proposed activity is within the upland review area and the WPL area of the Aspetuck River. The Commission is reviewing the subdivision pursuant to Connecticut State Statute 8-26 governing Planning and Zoning.

Owner of Record: Frederica S. Brenneman

Applicant: Rob Pryor of LANDTECH

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 10391-17** 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 or ordered by the court or settlement reached in any other proceeding, and contains conditions affecting wetlands and/or watercourses, the applicant must resubmit an application for further consideration by the Commission for a decision before work on the activity is to take place.
6. The Conservation Department shall be notified at least forty-eight (48) hours in advance of the initiation of any regulated activity.
7. 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.
8. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association. No herbicide or pesticides to be used within regulated areas.
9. All plants proposed in regulated areas must be non-invasive and native to North America.
10. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts, which may develop.
11. Any material, man-made or natural shall not be deposited in any wetlands or watercourse unless authorized by this permit.
12. Conformance to all Conditions of Approval as set forth by the Flood and Erosion Control Board approval of May 3, 2017.

SPECIAL CONDITIONS OF APPROVAL`

13. Conformance to the plans entitled:
 - a. "Zoning Map of Property Prepared for Russell & Frederica Brenneman, 320 Bayberry Lane, Westport, Ct", Scale: 1" = 40', dated January 27, 2017, prepared by Dennis A. Deilus- Land Surveyors
 - b. "Preliminary Site Development Plan for a 2-Lot Residential Subdivision, Prepared for Russell & Frederica Brenneman, 320 Bayberry Lane, Westport, Ct.", (Sheet C-1), Scale: 1"= 30', dated January 30, 2017, prepared by LandTech
 - c. "Preliminary Site Development Plan for a 2-Lot Residential Subdivision, Notes and Details Prepared for Russell & Frederica Brenneman, 320 Bayberry Lane, Westport, Ct.", (Sheet C-2), dated January 30, 2017, prepared by LandTech
14. Application submission and review by the Conservation Commission will be required for the site development for Proposed Lot 2 should any proposed site development activity be located within the IWW upland review area and/or the WPLO boundary.
15. Tree protection fencing shall be required upon final site design review where trees are located near construction activities.
16. The Conservation Easement Areas shall be shown on the recorded subdivision map. A licensed Land Surveyor shall delineate all Conservation Easement Areas in the field prior to work commencement. Easement area shall be demarcated in the field with the use of posts with easement signs placed along the western edge of the easement at 50' intervals. Easement language shall be submitted for review and approval to the Conservation Department before permits for individual site development can be issued.

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: Shea **Second:** Bancroft
Ayes: Shea, Bancroft, Shea, Porter, Perlman
Nays: 0 **Abstentions:** 0 **Vote:** 5:0:0

4. **303 Bayberry Lane:** Application #IWW,WPL-10390-17 by McChord Engineering Associates, Inc. on behalf of Jacob & Marjorie Salik for the construction of a new pool and spa, pizza oven, outdoor bar, patio, and associated site improvements. A portion of the proposed activity is within the upland review area and the WPL area of the Aspetuck River.

Tom Nelson, PE, with McChord Engineering Associates, Inc. presented the application on behalf of the property owners. This is a 1.92 acre parcel. They have an administrative approval for an addition, driveway changes and a new septic. The gas line has been rerouted. The new septic is in the front of the house. They are using permeable pavers for much of the driveway. There is a permeable lower patio. They have proposed rain gardens. Grading and filling will be kept to a minimum as they are in the 100-year floodplain. They will be working mostly at natural grade. They have tried to work within the footprint of the house and preserve the natural wooded area.

Tara Vincenta, Artemis Landscaping, reviewed the changes to the landscaping plan. They removed the pea stone in the patio area based on the Staff Report comments and are replacing with native plantings.

Mr. Perlman asked what the elevation of the dining terrace is compared to the Aspetuck River.

Mr. Nelson noted the dining terrace elevation is 82 msl. The Aspetuck River is 77 msl. There is a 5-foot difference in elevation.

Ms. Krynicki asked if any trees would have to be removed in order to access the work area.

Mr. Nelson stated the owners want to preserve the trees. It is his plan to access the work area over the new patio area.

Ms. Krynicki asked if they are planning on supplementing the plantings that already exist in the field or are they planning on clearing and/or manicuring the wetland area.

Ms. Vincenta stated the plan is to supplement the planting already in the field. She questioned staff's comments on use of organic leaf mulch.

Ms. Krynicki stressed the importance of the use of organic leaf mulch especially within the 100-year floodplain, as much of this property is. She indicated that organic land care needs to be implemented in order to protect the wetlands and the Aspetuck River.

Ms. Vincenta questioned the use of pea stone in the walkway at the front of the house indicating that the owner wanted to soften the look and lessen the amount of hardscape.

Ms. Krynicki stated staff is against the use of pea stone within the 100-year floodplain as it can be washed away during flooding events. It would be a better alternative to use stepping stones for the walkway.

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

Motion: **Shea** **Second:** **Davis**
Ayes: **Shea, Davis, Bancroft, Perlman, Porter**
Nays: **None** **Abstentions:** **None** **Vote: 5:0:0**

Findings
Application # IWW, WPL 10390-17
303 Bayberry Lane

1. **Application Classification:** **Plenary**
2. **Application Request:** Applicant is proposing to construct a new pool, spa, pizza oven, outdoor bar, patio and associated site improvements. A portion of the proposed activity is within the WPL area of the Aspetuck River.
3. **Plans Reviewed:**
 - a. "Improvement Location Survey Prepared for Jacob & Marjorie Salik, 303 Bayberry Lane, Westport, Connecticut", Scale: 1"= 30' dated January 4, 2017, and last revised to April 12, 2017, prepared by Brautigam Land Surveyors, P.C.
 - b. "Septic System/ Site Development Plan, 303 Bayberry Lane, Westport, Connecticut, Plan Prepared for Jacob and Marjorie Salik, Westport, Connecticut (Sheet SE 1)", Scale: 1"= 20', dated April 18, 2016 and last revised to April 13, 2017, prepared by McChord Engineering Associates, Inc.
 - c. "Construction Notes and Details, 303 Bayberry Lane, Westport, Connecticut, Plan Prepared for Jacob and Marjorie Salik, Westport, Connecticut (Sheet SE 2)", Scale: 1"= 20', dated April 18, 2016 and last revised to April 13, 2017, prepared by McChord Engineering Associates, Inc.
 - d. "Site Development Plan, Salik Residence, 303 Bayberry Lane, Westport, CT (Sheet L- 100.00), Scale: 1"= 10', dated April 12, 2017 and last revised to May 10, 2017, prepared by ARTEMIS Landscape Architects, Inc.
 - e. "Planting Plan, Salik Residence, 303 Bayberry Lane, Westport, CT (Sheet L-400.00), Scale: 1"= 10', dated April 12, 2017 and last revised to May 10, 2017, prepared by ARTEMIS Landscape Architects, Inc.
4. **Permits/Applications filed:**
 - a. IWW/M 10267-16 Amendment of wetland map E 17
 - b. AA, WPL/E 10250-16 Additions and renovations
5. **WPLO – Waterway Protection Line** is located 15' from the 25 year flood boundary.
6. **IWW Defined Resource (wetland or watercourse)**
Wetlands and Watercourses occur on the subject property.
7. **Wetland and Property Description**

This property is situated on the west side of Bayberry Lane and is bounded on its west and north by the Aspetuck River. An existing residence is located near the southern end of the site. The property is generally level with slopes down to the river and to a wetland at the southernmost part of the site. Wetland delineation marks the latter mentioned wetland as well as the river with its associated narrow floodplain terraces. The soils are coarse textured and formed in glaciofluvial materials.

Wetland soil

Walpole Series: This poorly drained and somewhat poorly drained soil is found in nearly level areas in depressions and broad outwash terraces and narrow stream valleys. Permeability is moderately rapid in the surface layer and subsoil and is very rapid in the substratum. The water table is near the surface in winter and early spring.

- a. 100 year flood plain as designated by FEMA does occur on this property with the majority of the proposed site improvements lying within this boundary.
- b. The 1983 report as prepared by Flaherty Giavara Associates, Inc. refers to the wetland as being streamside to a permanent watercourse and being part of a floodplain. The vegetation is that typical of a wooded swamp.
- c. Property does not exist within the Aquifer Protection Overlay Zone or a groundwater recharge area.
- d. Property does not exist within the Coastal Areas Management Zone.
- e. This parcel is located near the toe slope of the watershed.

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

The Commission finds the existing residence and the improvements that were approved under application #AA, WPL/E 10250-16 lie within the upland review areas of the adjacent wetland boundary but the extent of the activity qualified the project for Administrative Approvals. All proposed residential additions that were issued Administrative Approvals and the proposed pool lie outside the required upland review areas. The proposed patio lies within the 20' non-disturbance area.

The rear property boundary is the Aspetuck River. A narrow fringe riparian zone flanks the river and a larger area of wooded swamp is located on the southern portion of the parcel.

The proposed activity is to take place within an existing lawn area. The Commission finds no vegetation or trees are being removed due to the proposed construction activity. The Commission finds the construction access may involve tree removal will be located on a revised site plan. Tree protection will be placed around perimeter trees to be saved and all excess excavated material will be removed from the site.

A large 35' by 18' permeable patio is proposed off the rear of the residence and will be approximately 15' from the wetland line adjacent to the Aspetuck River. The Commission finds that the additional patio renovation which is on the wetland line will be eliminated and instead the proposed planting scheme will be continued in this area.

A large planting scheme is proposed around the entire perimeter of the construction area. The site is now naturally vegetated. The proposed planting areas will be mulched with organic shredded leaf mulch only. Fertilization of the planted areas is discouraged.

The Commission finds the construction access and the associated tree removal will be shown on a revised site plan. The area is tight for maneuvering machinery and is wooded. The residential addition is already constructed and the excavation equipment will need to traverse between the addition and the existing mature trees on the parcel to reach the pool and patio site.

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 Commission finds that currently this site provides no provisions for the retention or treatment of stormwater runoff. To improve overall water quality, plantings for biofiltration with the use of a rain

garden just east of the existing residence and subsurface infiltration in the south of the existing residence will be incorporated into the site design.

A new septic system is proposed just east of the proposed addition where there was indication of a high groundwater table at 42" below existing grade.

The Commission finds the proposed plantings will provide increased habitat area along with filtration and renovation of storm water runoff prior to entering the wetland complex.

All patio and driveway surfaces are proposed to be permeable.

An application for review and approval dated April 28, 2017 has been received from the Weston Westport Health District.

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.

Erosion control measures are specified as haybales and silt fence in tandem. The Commission finds this method will prove most reliable as a recent site visit indicated rutting of the storm saturated soils and ponding of stormwater are possible. An additional silt fence location will be shown at the outer most limits of the planting beds on a revised landscape plan to be submitted for review and approval by the Conservation Department prior to the issuance of a Zoning permit.

The Commission finds that dewatering will be required for the pool installation as soil testing in the wet season showed groundwater to be present at 63" below existing grade. A revised plan showing the location of the dewatering location is required to be submitted to the Conservation Department prior to the issuance of a Zoning permit.

The Commission finds all proposed pea stoned areas for finished surface of patios and/or walkways within the 100 year floodplain boundary will be eliminated so as to prevent washing into the river during a large storm event.

As minimal or no grading is proposed, the Commission finds the proposed erosion control methods should prove to be the best management practice under normal conditions and is acceptable.

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.
- g) Planting plan included with application as mitigation for the proposed activities

Residential additions are proposed outside the upland review areas and the patio and pool are within previously cleared areas. A very large wooded swamp complex adjacent to the Aspetuck River and north of the residence will remain in its natural state.

The landscape design proposes additional plantings at the perimeter of the project which are native and will provide habitat but may not mimic what the natural forest is currently providing.

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 Commission finds a detail of the pool fence has been provided by the applicant as it will lie within the WPLO boundary and the 100 year floodplain boundary.

The drainage plan and calculations have been reviewed and approved by the Engineering Department.

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 flood plain boundary of the Aspetuck River. The Commission finds that providing additional native plants adjacent to the construction area will supplement the following natural functions adjacent to a watercourse or waterbody and will help to safeguard natural resources as they are protected by the Waterway Protection Line Ordinance: 1) provides additional stormwater runoff filtration area that will improve water quality prior to discharge into a waterbody 2) reduces construction impacts on water bodies by reducing erosion and sedimentation impacts in waterbodies 3) reduces water velocities from stormwater runoff prior to discharge into waterbodies which allows vegetation to absorb some non-point pollutants such as fertilizers or herbicides that may otherwise discharge into wetlands/waterbodies 4) provides slower water velocities which allow more water to infiltrate into the soil, improving groundwater recharge functions and water quality improvement functions 6) provides and improves upland habitat needed for wildlife dependent on wetlands/watercourses.

The Commission finds that the walkways and patios are proposed to be permeable to help stormwater infiltration and reduce non-point source runoff to the adjacent river. Additional plantings will encourage habitat and filter stormwater runoff.

Pea stoned pathways and patios within the 100 year floodplain boundary will be eliminated.

Findings
Application # IWW, WPL 10390-17
303 yberry Lane

1. **Application Classification:** **Plenary**
2. **Application Request:** Applicant is proposing to construct a new pool, spa, pizza oven, outdoor bar, patio and associated site improvements. A portion of the proposed activity is within the WPL area of the Aspetuck River.
3. **Plans Reviewed:**
 - a. "Improvement Location Survey Prepared for Jacob & Marjorie Salik, 303 Bayberry Lane, Westport, Connecticut", Scale: 1"= 30' dated January 4, 2017, and last revised to April 12, 2017, prepared by Brautigam Land Surveyors, P.C.
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4. **Permits/Applications filed:**
 - a. IWW/M 10267-16 Amendment of wetland map E 17
 - b. AA, WPL/E 10250-16 Additions and renovations
5. **WPLO** – Waterway Protection Line is located 15' from the 25 year flood boundary.
6. IWW Defined Resource (wetland or watercourse)
Wetlands and Watercourses occur on the subject property.
7. **Wetland and Property Description**
This property is situated on the west side of Bayberry Lane and is bounded on its west and north by the Aspetuck River. An existing residence is located near the southern end of the site. The property is generally level with slopes down to the river and to a wetland at the southernmost part of the site. Wetland delineation marks the latter mentioned wetland as well as the river with its associated narrow floodplain terraces. The soils are coarse textured and formed in glaciofluvial materials.

Wetland soil

Walpole Series: This poorly drained and somewhat poorly drained soil is found in nearly level areas in depressions and broad outwash terraces and narrow stream valleys. Permeability is moderately rapid in the surface layer and subsoil and is very rapid in the substratum. The water table is near the surface in winter and early spring.

- a. 100 year flood plain as designated by FEMA does occur on this property with the majority of the proposed site improvements lying within this boundary.
- b. The 1983 report as prepared by Flaherty Giavara Associates, Inc. refers to the wetland as being streamside to a permanent watercourse and being part of a floodplain. The vegetation is that typical of a wooded swamp.

- c. Property does not exist within the Aquifer Protection Overlay Zone or a groundwater recharge area.
- d. Property does not exist within the Coastal Areas Management Zone.
- e. This parcel is located near the toe slope of the watershed.

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

The Commission finds the existing residence and the improvements that were approved under application #AA, WPL/E 10250-16 lie within the upland review areas of the adjacent wetland boundary but the extent of the activity qualified the project for Administrative Approvals. All proposed residential additions that were issued Administrative Approvals and the proposed pool lie outside the required upland review areas. The proposed patio lies within the 20' non-disturbance area.

The rear property boundary is the Aspetuck River. A narrow fringe riparian zone flanks the river and a larger area of wooded swamp is located on the southern portion of the parcel.

The proposed activity is to take place within an existing lawn area. The Commission finds no vegetation or trees are being removed due to the proposed construction activity. The Commission finds the construction access may involve tree removal will be located on a revised site plan. Tree protection will be placed around perimeter trees to be saved and all excess excavated material will be removed from the site.

A large 35' by 18' permeable patio is proposed off the rear of the residence and will be approximately 15' from the wetland line adjacent to the Aspetuck River. The Commission finds that the additional patio renovation which is on the wetland line will be eliminated and instead the proposed planting scheme will be continued in this area.

A large planting scheme is proposed around the entire perimeter of the construction area. The site is now naturally vegetated. The proposed planting areas will be mulched with organic shredded leaf mulch only. Fertilization of the planted areas is discouraged.

The Commission finds the construction access and the associated tree removal will be shown on a revised site plan. The area is tight for maneuvering machinery and is wooded. The residential addition is already constructed and the excavation equipment will need to traverse between the addition and the existing mature trees on the parcel to reach the pool and patio site.

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 Commission finds that currently this site provides no provisions for the retention or treatment of stormwater runoff. To improve overall water quality, plantings for biofiltration with the use of a rain garden just east of the existing residence and subsurface infiltration in the south of the existing residence will be incorporated into the site design.

A new septic system is proposed just east of the proposed addition where there was indication of a high groundwater table at 42" below existing grade.

The Commission finds the proposed plantings will provide increased habitat area along with filtration and renovation of storm water runoff prior to entering the wetland complex.

All patio and driveway surfaces are proposed to be permeable.

An application for review and approval dated April 28, 2017 has been received from the Weston Westport Health District.

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.

Erosion control measures are specified as haybales and silt fence in tandem. The Commission finds this method will prove most reliable as a recent site visit indicated rutting of the storm saturated soils and ponding of stormwater are possible. An additional silt fence location will be shown at the outer most limits of the planting beds on a revised landscape plan to be submitted for review and approval by the Conservation Department prior to the issuance of a Zoning permit.

The Commission finds that dewatering will be required for the pool installation as soil testing in the wet season showed groundwater to be present at 63" below existing grade. A revised plan showing the location of the dewatering location is required to be submitted to the Conservation Department prior to the issuance of a Zoning permit.

The Commission finds all proposed pea stoned areas for finished surface of patios and/or walkways within the 100 year floodplain boundary will be eliminated so as to prevent washing into the river during a large storm event.

As minimal or no grading is proposed, the Commission finds the proposed erosion control methods should prove to be the best management practice under normal conditions and is acceptable.

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.

g) *Planting plan included with application as mitigation for the proposed activities*

Residential additions are proposed outside the upland review areas and the patio and pool are within previously cleared areas. A very large wooded swamp complex adjacent to the Aspetuck River and north of the residence will remain in its natural state.

The landscape design proposes additional plantings at the perimeter of the project which are native and will provide habitat but may not mimic what the natural forest is currently providing.

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 Commission finds a detail of the pool fence has been provided by the applicant as it will lie within the WPLO boundary and the 100 year floodplain boundary.

The drainage plan and calculations have been reviewed and approved by the Engineering Department.

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 flood plain boundary of the Aspetuck River. The Commission finds that providing additional native plants adjacent to the construction area will supplement the following natural functions adjacent to a watercourse or waterbody and will help to safeguard natural resources as they are protected by the Waterway Protection Line Ordinance: 1) provides additional stormwater runoff filtration area that will improve water quality prior to discharge into a waterbody 2) reduces construction impacts on water bodies by reducing erosion and sedimentation impacts in waterbodies 3)reduces water velocities from stormwater runoff prior to discharge into waterbodies which allows vegetation to absorb some non-point pollutants such as fertilizers or herbicides that may otherwise discharge into wetlands/waterbodies 4) provides slower water velocities which allow more water to infiltrate into the

soil, improving groundwater recharge functions and water quality improvement functions 6) provides and improves upland habitat needed for wildlife dependent on wetlands/watercourses.

The Commission finds that the walkways and patios are proposed to be permeable to help stormwater infiltration and reduce non-point source runoff to the adjacent river. Additional plantings will encourage habitat and filter stormwater runoff.

Pea stoned pathways and patios within the 100 year floodplain boundary will be eliminated.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # IWW,WPL 10390-17
Street Address: 303 Bayberry Lane
Assessor's: Map E 17 Lot 11
Date of Resolution: May 17, 2017

Project Description: For the construction of a new pool and spa, pizza oven, outdoor bar, patio and associated site improvements. A portion of the proposed activity is within the upland review area and the WPL area of the Aspetuck River.

Owner of Record: Jacob and Marjorie Salik

Applicant: McChord Engineering Associates, Inc.

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 10390-17** 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. 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.
7. 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.
8. 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.
9. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.

10. All plants proposed in regulated areas must be non-invasive and native to North America.
11. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
12. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
13. 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.
14. 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.
15. Conformance to the Conditions of Approval of the Flood and Erosion Control from May 3, 2017.

SPECIAL CONDITIONS OF APPROVAL

16. Conformance to the plans entitled:
 - a. "Improvement Location Survey Prepared for Jacob & Marjorie Salik, 303 Bayberry Lane, Westport, Connecticut", Scale: 1"= 30' dated January 4, 2017, and last revised to April 12, 2017, prepared by Brautigam Land Surveyors, P.C.
 - b. "Septic System/ Site Development Plan, 303 Bayberry Lane, Westport, Connecticut, Plan Prepared for Jacob and Marjorie Salik, Westport, Connecticut (Sheet SE 1)", Scale: 1"= 20', dated April 18, 2016 and last revised to April 13, 2017, prepared by McChord Engineering Associates, Inc.
 - c. "Construction Notes and Details, 303 Bayberry Lane, Westport, Connecticut, Plan Prepared for Jacob and Marjorie Salik, Westport, Connecticut (Sheet SE 2)", Scale: 1"= 20', dated April 18, 2016 and last revised to April 13, 2017, prepared by McChord Engineering Associates, Inc.
 - d. "Site Development Plan, Salik Residence, 303 Bayberry Lane, Westport, CT (Sheet L-100.00), Scale: 1"= 10', dated April 12, 2017 and revised to May 10, 2017, prepared by ARTEMIS Landscape Architects, Inc.
 - e. "Planting Plan, Salik Residence, 303 Bayberry Lane, Westport, CT (Sheet L-400.00), Scale: 1"= 10', dated April 12, 2017 and revised to May 10, 2017, prepared by ARTEMIS Landscape Architects, Inc.
17. Organic leaf mulch shall be required for all regulated planted areas and no pea stone shall be allowed within the 100 year floodplain area. Any method other than organic landscaping practices are discouraged.
18. Existing raised pea stoned patio on the western side of the patio construction area shall be eliminated and the proposed planting beds shall be continued through this area.
19. Revision to the site plan to show the proposed construction access route for the pool and patio construction activity with appropriate erosion and sediment controls shall be submitted to the Conservation Department prior to the issuance of a Zoning permit.
20. Revision to the site plan to show an alternative surface for the proposed pea stone walkway shall be submitted to the Conservation Department for review and approval prior to the issuance of a Zoning permit.
21. Tree protection fencing shall be placed around existing perimeter trees in areas of construction access to pool and patios.
22. Dewatering provisions to be available on site and proposed installation location identified on a revised site plan to be submitted to the Conservation Department prior to the issuance of a Zoning permit.
23. A bond to cover the cost of plantings and sediment and erosion controls for the south and west side of the residence shall be submitted for review and approval by the Conservation Department prior to the issuance of a Zoning permit.
24. Walkways and patios shall remain permeable in perpetuity with a deed restriction filed on the land records prior to the issuance of a Conservation Certificate of Compliance.

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.

- IWW, WPL 10293-16 For a single family residence with a wetland crossing

3. Plans and Reports reviewed:

1. "Site Preparation Plans for a Proposed Residence on Lot 2, Site Plan, Details & Notes" prepared for MLR Properties, LLC, 61 Kings Highway South, Westport, CT (Map B07, Lot 045), Prepared by Richard Bennett & Associates, LLC, dated September 14, 2016, revised to March 27, 2017, scale as shown. (Outlined in red depicting previous lot line and house location).
2. "Site Preparation Plans for a Proposed Residence on Lot 2, Site Plan, Details & Notes" prepared for MLR Properties, LLC, 61 Kings Highway South, Westport, CT (Map B07, Lot 045), Prepared by Richard Bennett & Associates, LLC, dated September 14, 2016, revised to April 5, 2017, scale as shown.

4. Soils Description

Mr. Theall described the soils on the vacant property, "Lot 2) a/k/a Lot 45, as:

The wetland soils on site are described as:

Ridgebury, Leicester and Whitman soils (3): This unit consists of poorly drained and very poorly drained soils found in depressions and drainageways on uplands and in valleys. Stones and boulders cover 5 percent to 35 percent of the surface. This unit consists of three soil types mapped together because they have no major differences in use and management. The soils have a seasonal high water table at or near the surface from fall to spring. The permeability of Ridgebury and Whitman soils is moderate or moderately rapid in the surface layer and subsoil and slow or very slow in the substratum. The permeability of the Leicester soils is moderate or moderately rapid throughout. Available water capacity is moderate in all three soils. Runoff is slow on all three, and water is ponded on the surface of some areas of the Whitman soils. The high water table, ponding, and the stones and boulders on the surface limit these soils for community development. Excavations are commonly filled with water. Quickly establishing plant cover and using siltation basins help to control erosion and sedimentation during construction.

Mr. Theall describes the non-wetland soils as the following:

Udorthents, smoothed (308): This unit consists of areas that have been altered by cutting or filling. The areas are commonly rectangular and mostly range from 5 to 100 acres. Slopes are mainly 0 to 25 percent. The materials in these areas are mostly loamy, and in the filled areas it is more than 20 inches thick. Some of the filled areas are on floodplains, in tidal marshes, and on areas of poorly drained and very poorly drained soils. Included in this unit in mapping are small areas of soils that have not been cut or filled. Also included are a few larger urbanized areas and a few small areas containing material such as logs, tree stumps, concrete, and industrial waste. A few areas have exposed bedrock. Included areas make up about 30 percent of this map unit. The properties and characteristic of this unit are variable, and the unit requires on-site soil investigation and evaluation for most uses.

5. Property Description

- a. The property is in a Residential A Zoning District which requires a minimum of a ½ acre.
- b. The property is serviced by public water and sewer. A town sewer easement aligns the southern property line and crosses the back, or eastern property line.
- c. A 250 ft. long retaining wall aligns the southern half of the property. The Birchwood Country Club abuts the property to the north. Lot 2 is approximately 1 ft. higher .
- d. The property is outside the Aquifer Protection Overlay Zone and is not within the primary groundwater recharge area.
- e. The property is not located within the Coastal Area Management Area.
- f. The property is not located within a FEMA-designated Special Flood Hazard Area.
- g. A brook is located in the rear of Lot 2 which is part of a larger wetland and watercourse system that drains from the north to the Saugatuck River.
- h. The Town of Westport Wetlands Inventory prepared by Flaherty, Giavara Associates, describes this wetland system as a streamside floodplain with an intermittent watercourse and wooded swamp (not including cleared area. The dominant vegetation is Red Maple and Tussock Sedge. The perimeter of this wetland system is forested with 50% developed residentially and 50% by a

golf course. The wetland system is hydraulically connected to an unnamed brook on the easterly property line and is a tributary to the Saugatuck River.

- i. The WPLO boundary is located 15' from the flagged wetland boundary.
- j. Landscape position of this parcel is a backslope. Land surface shape is linear/linear.

6. 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 entire house is located within the 50 ft upland review area and a very small part of the southern edge of the proposed foundation crosses the wetland boundary line.
- The driveway encroaches into the wetland by 1,200 sq.ft. and within the 30 ft. upland review area.
- The proposed 2 ft. +/- boulder retaining wall is located within the 30 ft. upland review area.
- A portion of the fill for the driveway and house grading is within the 20 ft upland review area.
- Approximately 38% of the land will be developed by placement of 2 feet +/- of fill.
- The 2 ft. +/- boulder retaining wall will delineate the filled portion of the property
- The driveway will be permeable but no detail has been submitted to support how it will be constructed.
- The house will have no basement and will be built on a crawlspace with the slab elevation proposed at 57.04' which is one foot into the existing grade.
- The retaining wall is meant to limit the developed area from the "natural" area.
- Test pit data shows 0" to 8" of topsoil over up to 4 ft of fill comprised of soil, stones, rocks and debris. Beneath the 4ft. of fill is silt and organic matter. In order to install a functioning drainage system, new select fill will be brought in to accommodate the 96 ft of 18" high concrete galleries.
- The existing lawn area in the rear, which was the wetland area not subject to past filling, will be overseeded with a flowering meadow mix. A 3 ft wide planting bed is proposed above the wall in the rear and northern side yard. A minimum of a 5 ft. planting buffer below the wall would extend from the wall to the wetland and would surround the entire perimeter of the area of lot development.
- A shallow in-ground pool is a part of this application submission. It is proposed to have a depth of less than six feet for the purpose of not obstructing groundwater flows.
- The property line was amended with an increase of 658 square feet of area to accommodate a front yard setback as required by the Planning and Zoning regulations.
- Test holes done and witnessed in September showed no evidence of ground water in test pit #2. Groundwater was observed at a depth of 60" or at elevation 53.0'.
- The proposed pool bottom is at elevation 54.27 which is approximately 1'-4" above the groundwater elevation of 53.0'.
- Additional wet season testing may be available from a structural engineering exercise to size the foundation footings.

The Commission considered the proposal and wetland impacts and approved the crossing during the last application review. The Commission finds the location and grading associated with the proposed driveway has not changed with this new submission.

The proposed house location is closer to the wetland, but the approved retaining wall location is in the same location and utilizes the same depth of fill as the original application.

Special Condition #22 of the Commission resolution for Application # IWW, WPL 10293-16 stated that any future pool would need to return to the Commission for approval. It further stated that the pool design should show substantial evidence that it will not adversely impact groundwater flow or exacerbate flooding conditions.

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 distance between the brook and the wetland boundary is 70 ft at its closest point. The majority of that wetland area is now lawn. The previous application approval permitted the applicant to convert the lawn area to a meadow. The Commission finds on going maintenance will be required to prohibit the intrusion of woody shrubs and trees. Without maintenance, the area will revert to a wooded swamp and possibly a large population of invasive plant species.. Water quality should not be an issue as long as that area adjacent to the brook does not become heavily fertilized.

The Commission finds the property is served by sewer and the oil tank will be in the house.

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.

Lot 2 is a "flag" lot. A mud-tracking pad is proposed where the end of the existing gravel driveway ends that serves the house at #61. Stockpile areas are proposed in the front and back of the house and outside the wetlands. The stockpile in the rear of #61 Kings Highway South is quite large. It is surmised that it is larger because in order to install the new drainage system, the existing fill material will have to be excavated out as it is unsuitable. New fill material will then need to be brought into the site. Furthermore, evidence of gray silt and organic material is found at 42 inches with water evident at 60 inches. The Commission finds that provisions for dewatering should be contemplated and submitted to the Conservation Department prior to the issuance of a zoning permit. The Commission finds that dewatering may also be needed for the 6 ft. deep sewer lateral installation and the pool installation.

A temporary "right-to-grade" easement is proposed on 61 Kings Highway North to accommodate the grading for the fill for the drainage, driveway and house design. The Commission finds the temporary easement will also need to be recorded on the land records to alert future property owners.

The commission finds that the proposed 2ft. +/- boulder retaining wall be constructed first as a means of limiting site disturbance, and preventing wetland encroachment during construction.

6.4 NATURAL HABITAT

- 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 wetland area primarily now exists as lawn though there is woody vegetation directly adjacent to the brook. The applicant proposes the lawned wetland area become a meadow established through it being seeded with a flowering meadow mix. The Commission finds that applicant should include the promotion of pollinators. Long term management of the meadow to control the infestation of invasive plants that would outcompete the meadow is required. This could take several years. The Commission finds the meadow will need to either be mowed seasonally or weeded to remove tree saplings. The Commission finds the establishment of a conservation easement of this wetland area will allow continued maintenance of the meadow and the sewer lateral but would not allow the construction of any structures or filling.

A 3 ft wide planting buffer is also proposed above the 2 ft +/- high boulder retaining wall in the rear yard and northern side-yard. A minimum 5 ft wide planted buffer is proposed below the wall would extend from the wall to the wetland and surround the area of development. The Commission finds a detailed landscape plan submitted to the Conservation Department for review and approval will be required prior to the issuance of a Zoning permit.

The Commission finds the 2 ft. +/- boulder retaining wall will not be constructed with mortar. Mortar precludes the habitat potential of the wall for a variety of species such as snakes and chipmunks.

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 revised plans at its May 3, 2017 meeting. Because of the past fill activity on the lot, special attention was given as to the type of drainage system that can operate in a fill situation with a high water table. The Engineering Department will be on site as the drainage system is being installed. If required, the existing soil will be removed to make way for select fill to install the gallery system as the existing soil showed evidence of soil, stones, rocks and debris from past filling activity.

The applicant's proposal to build the house on a crawlspace is commendable and essential to avoid displacement of groundwater onto adjacent properties to the north and south. The Commission finds a deed restriction will be placed on the land records to alert potential buyers that any future house design be predicated on this restriction.

The Commission finds the pool design depth is limited as to not interfere with groundwater flow.

Furthermore, the applicant proposes a permeable driveway. The patio will be permeable. The Commission finds a detail of both will be submitted to ensure they are installed as such.

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 project will not adversely impact recreational or public use of the property.

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 brook in the rear of Lot 2 along the eastern property line is an unnamed tributary to the Saugatuck River. There is no FEMA-designated 100 year floodplain nor a 25 year floodplain associated with the brook. Therefore, the WPLO boundary is established 15 ft from the wetland boundary. The Commission finds the encroachment into the WPLO includes: a small portion of the proposed garage, the majority of the driveway, a small portion of the pool and patio, a portion of the drainage galleries and high level overflow spreader in the rear of the house.

The Flood and Erosion Control Board approved the application at its May 3, 2017.

The Commission concurs with the original conditions imposed by the Flood and Erosion Control Board for this environmentally sensitive property due to the soil conditions and the anticipated high groundwater table.

“a. The Proposed Retaining Wall: The wall to the rear of the dwelling shall be installed prior to the development of the remainder of the site so as to act as a sedimentation and erosion control structure for the construction phase of development. This wall is to remain onsite as part of the site, and be maintained in perpetuity.

b. Dwelling Construction: Slab on Grade, No Basement. Due to the nature of the underlying soil and the existing groundwater table on the site, the proposed dwelling shall not be designed with a basement. It shall be a of a “slab on grade” style of construction.

c. Drainage Pipe Coming off the Site: Should any existing drainage structures or piping be discovered on the site that are not currently depicted on the submitted plans, it shall be the responsibility of the contractor investigate the nature and extent of such entities, and if required, modify the proposed design so as to create no adverse drainage impacts to the or the surrounding properties Any such modifications shall be reviewed by the Town Engineering Department to verify compliance with all Town requirements.”

**TOWN OF WESTPORT
CONSERVATION COMMISSION
RESOLUTION: APPLICATION #IWW,WPL-10389-17
KINGS HIGHWAY SOUTH, MAP B7, LOT 46 AND 61 KINGS HIGHWAY SOUTH, MAP B7, LOT 45
PUBLIC HEARING DATE: May 17, 2017**

Project Description: For the modification of Permit #IWW,WPL 10293-16 for the construction of a new single family dwelling with driveway, retaining wall, stormwater drainage system and to seek permission

for an in-ground pool and patio. A portion of the proposed activity is within the upland review area and the WPL area of an unnamed tributary of the Saugatuck River.

Owner of Record: Joseph Mark Valeski

Applicant: Richard Bennett, P.E. Bennett & Associates

In accordance with Section 6 of the "Inland Wetland and Watercourse Regulations for the Town 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-10389-17 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. 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.
7. 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.
8. 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.
9. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
10. All plants proposed in regulated areas must be non-invasive and native to North America.
11. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
12. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
13. 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.
14. 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.
15. A final inspection and submittal of an "as built" survey is required prior to the issuance of a Certificate of Compliance.
16. Conformance to the conditions of the Flood and Erosion Control Board of May 3, 2017.
17. **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

18. Conformance to the plans entitled:
 - a. "Site Preparation Plans for a Proposed Residence on Lot 2, Site Plan, Details & Notes" prepared for MLR Properties, LLC, 61 Kings Highway South, Westport, CT (Map B07, Lot 045), Prepared by Richard Bennett & Associates, LLC, dated September 14, 2016, revised to March 27, 2017, scale as shown (Red lined to show previous lot line and proposed house location).
 - b. "Site Preparation Plans for a Proposed Residence on Lot 2, Site Plan, Details & Notes" prepared for MLR Properties, LLC, 61 Kings Highway South, Westport, CT (Map B07, Lot 045), Prepared by Richard Bennett & Associates, LLC, dated September 14, 2016, revised to April 5, 2017, scale as shown.
19. This house or any future house design shall be constructed on a crawl space with lowest elevation at or above elevation 56.0'.
20. The "Temporary Right to Grade Easement" as shown on the plan shall be recorded on the land records with a copy submitted to the Conservation Department prior to issuance of a zoning permit.
21. Upon the start of construction, the retaining wall shall be built first and serve as the limit of disturbance for site development. Said retaining wall shall not be mortared.
22. The location of the retaining wall around the house as shown on the plans shall not be expanded closer to the wetland.
23. The proposed bottom of pool elevation shall not be lower than elevation 54.00'.
24. The driveway and patios shall be constructed as permeable with a detail of each submitted to the Conservation Department prior to issuance of a zoning permit. The driveway and patio shall remain permeable in perpetuity with said restriction placed on the land records prior to issuance of a Conservation Certificate of Compliance.
25. A management plan for establishment of the wetland meadow to promote pollinator habitat shall be submitted prior to issuance of a Conservation Certificate of Compliance. Said plan should include a method for removing invasive plant species as needed.
26. A detailed planting plan shall be submitted for the wetland buffer planting area. Said plan should include native species in a quantity and variety that will establish a protective buffer. The wooded area adjacent to the brook should remain undisturbed.
27. A bond to cover the cost of sediment and erosion controls, wetland buffer plantings, the flowering meadow mix and three (3) years of monitoring of establishment of the wet meadow by a qualified wetland scientist shall be submitted prior to issuance of a zoning permit.
28. A dewatering plan shall be submitted to the Conservation Department prior to issuance of a zoning permit should dewatering become necessary for installation of the sewer lateral for the house and/or the installation of the pool.
29. The existing pipe located in the rear yard and which discharges into the stream shall be removed to the point where the outlet is 20 ft from the top of the stream embankment.

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: Shea **Second:** Perlman
Ayes: Bancroft, Davis, Shea, Porter, Perlman
Nays: 0 **Abstentions:** 0 **Vote:** 5:0:0

Work Session II:

1. Other business. – **NONE**

The May 17, 2017 Public Hearing of the Westport Conservation Commission adjourned at 8:55 p.m.

Motion: **Shea** **Second:** **Bancroft**
Ayes: **Shea, Bancroft, Davis, Perlman, Porter**
Nays: **None** **Abstentions:** **None** **Vote:** **5:0:0**