



WESTPORT, CONNECTICUT

FLOOD AND EROSION CONTROL BOARD

TOWN HALL, 110 MYRTLE AVENUE
WESTPORT, CONNECTICUT 06880
(203) 341-1120

MINUTES

Flood & Erosion Control Board Meeting of May 1, 2019

Present for the Board: Preston H. Koster (Acting Chair)
William S. Mazo
Aimee M. Smith
Edward C. Picard

Present for Department of Public Works: Amrik Matharu, Engineer II

Preston H. Koster, Acting Chair, opened the meeting at 7:33 pm.

1. **20 & 26 Morningside Drive South / Application IWW, WPL/E #10699-18;** *Application of Morningside Drive Homes LLC, on behalf of the owners, Greens Farms Developers LLC & Morningside Drive Homes, LLC to develop 19 Townhouse-style condominiums. This application is a referral by the Conservation Department pursuant to the Inland Wetland and Watercourses Regulations, Section 6.5 entitled, "Discharge and Runoff."*

This project was presented by Attorney David S. Hoopes, of Hoopes, Morganthaler, Raush, & Scaramozza, LLC, and Lou DiMarzo, PE, of DiMarzo & Berezsky, Inc., Jay Fain, of Jay Fain & Associates, LLC, and Annette Perry, on behalf of the owners, Greens Farms Developers LLC & Morningside Drive Homes, LLC.

There were questions from the Board regarding the percentage decrease of stormwater runoff; a memorandum from Jay Fain describing a 10-year storm storage capacity; sump pumps; battery back-ups for sump pumps; construction monitoring; insurance adjuster's opinion of the project; and who removed the trees.

Per the Chair's request, Amrik Matharu summarized the Engineering Department's review of the project, stating that the proposed activity more than complies with Town of Westport requirements. In short, he would recommend approval.

The Chair asked if there were any comments or questions from the Public.

Attorney Patricia C. Sullivan of Cohen and Wolf, P.C., spoke on behalf of concerned homeowners. She reaffirmed the concerns of the home owners, and expressed concern regarding the culverts upstream and downstream. She also described the purpose of the board.

William S. Mazo, of the board, asked Attorney Sullivan, whether the project will increase runoff despite what the engineers have said.

Attorney Sullivan stated, in summary, that the engineering math and sciences cannot evaluate stormwater impacts.

Attorney Hoopes spoke. He stated that at the previous Conservation Commission meeting, the Town Engineer, Keith Wilberg, PE, LS, said that flooding has been a concern in this area of Muddy Brook since it was reported in the 1964 flood study. Attorney Hoopes also stated that engineering reports show a reduction in stormwater runoff based on the proposed activity, that older homes in the Muddy Brook watershed were built without stormwater drainage provisions, that trees were taken down legally, and that Attorney Sullivan's argument is to ignore the science, math, and engineering.

Attorney Sullivan spoke. She clarified her statements regarding the engineering, science, and math, described her zoning concerns as well as her concerns regarding discharge and runoff.

William S. Mazo, of the board, asked Attorney Sullivan if they have brought in any engineering expertise that states this project will have adverse impacts.

Attorney Sullivan stated that all of the engineers worked together in good faith in order to make this project work. She then stated that it does not mean this project is not an over-use of the property, and that it will not be offensive to the brook. Attorney Sullivan also pointed out the culvert closing at Hillandale Road, and issues upstream at the Barnes & Noble parking lot culvert. She then stated that the project will not make flooding better.

William S. Mazo, of the board, asked Attorney Sullivan if it will make flooding worse.

Attorney Sullivan stated that the neighbors would say yes. Attorney Sullivan referred to submitted videos and photographs to describe the flooding, and expressed her concern regarding tree replacement.

Amrik Matharu, Engineer II, spoke. He clarified the work performed on the Hillandale culvert, and stated the culvert was repaired and is functioning. He also stated a downstream impedance would have the most significant impact on the neighboring properties, like a dam, which was not the case with the Hillandale culvert. Mr. Matharu then stated that this past year's rainfall total was approximately 15" above average, and that the homes along Muddy Brook are in a floodplain which are more sensitive to increased rainfall events. Mr. Matharu also pointed out, after a question from Preston H. Koster of the board, that there is to be no stormwater flowing out from the infiltration systems towards Muddy Brook per the design.

Elizabeth Higgins of 3A Iris Lane spoke. Mrs. Higgins acknowledged the existing flooding conditions of Muddy Brook, and also expressed concern regarding flooding from upstream developments, additional channelization of Muddy Brook on her property, and performing additional test pits.

Aurea De Souza of 5 Iris Lane spoke. Mrs. De Souza presented additional photographs and expressed concern regarding the tree clearing and replacement, potential impact to her specific property, and potential impacts to Muddy Brook. She also stated that flooding has occurred in her 6 years of living there, and pointed out that it is worse this year. Mrs. De Souza asked the Board to deny the project.

David Hoopes then concluded by stating that the flooding will not be made worse, but made better. He also stated that the trees are not the point of concern for this project, and stated that there is not a legal basis to discriminate against a project because it is a condominium. Attorney Hoopes also pointed out that the town also has the ability to enforce any violations with respect to the regulations.

The hearing was closed, and the Board went into Work Session. Preston H. Koster, acting chair, pointed out that their decision is based upon the professional and expert testimony submitted as part of the record for this project. Aimee Smith asked Mr. Matharu if he would recommend any special conditions for this project, he said there was one:

1. *Additional deep tests shall be required in the area of Infiltration #1 prior to obtaining a Planning & Zoning Permit.*

It was agreed that the above referenced Special Condition and the following Standard Conditions of Approval were deemed necessary: 1, 2, 3, 4, 8, 9, 10, 11, and 12. (Refer to the appended sheet).

DECISION: Proposed Project Approved, 4(Y)-0(N), with the above referenced Standard Conditions of Approval.

2. **3 Lakeview Road / Application IWW, WPL/E 10782-19; Application of Peter Romano, on behalf of the owner, James Franco, for a new single family residence, driveway, and related site appurtenances as referred from the Town of Westport Conservation Department under Inland Wetlands and Watercourses Regulations, Section 6.5, as well as Planning & Zoning.**

The project was presented by Robert Pryor, PE, LS, of LANDTECH, Inc., on behalf of the owner James Franco.

There were questions from the Board regarding the small portion of the wetland to be filled, the house elevation, the driveway, tree removal, whether the application was previously before the board, and what impact the lower level has on runoff from the site.

Per the Chair's request, Amrik Matharu summarized the Engineering Department's review of the project. Mr. Matharu reviewed the updated plans and noted that the revisions slightly reduced the footprint of the house. He then stated that the proposed activity substantially complies with Town of Westport requirements. He would recommend approval along with the following special conditions:

1. *Plans shall be revised to depict the Leonard Jackson 25-year flood line on the site plan prior to obtaining a Planning & Zoning Permit.*
2. *The revised site plan and stormwater management report shall be reviewed and approved by the Engineering Department as part of obtaining a Planning & Zoning Permit.*

The Chair asked if there were any comments or questions from the Public.

Patricia Whitborn of 41 Valley Road spoke. Mrs. Whitborn expressed concern regarding the location of the house on existing wetlands, the lot being deemed “unbuildable,” the behavior of the site during rainfall, the location of the lot within a flood zone, and impact to the environment.

Robert Pryor, PE, LS, spoke. He stated that the property has been designed to conform to FEMA requirements, and does not dispute that the site receives water. He then stated that decisions need to be made based on professional experience as well as the engineering science.

The hearing was closed, and the Board went into Work Session. It was agreed that the aforementioned Special Condition and following Standard Conditions of Approval were deemed necessary: 1, 2, 3, 4, 6, 9, 10, 11, and 12. (Refer to the appended sheet).

DECISION: Proposed Project Approved, 4(Y)-0(N), with the above referenced Standard Conditions of Approval.

3. **280 Compo Road South / Application WPL 10800-19;** *Application of Ricard A. Bennett, P.E., on behalf of the owner, Simple Plan One, LLC (Lianne Owen), to construct a new single family dwelling, driveway, and related site appurtenances. The site lies within the Water Protection Line (WPL) of Gray’s Creek.*

The project was presented by Richard A. Bennett, PE, on behalf of the applicant, Simple Plan One, LLC.

There were questions from the Board regarding the elevation of the house, the raised deck, difference in elevation between manhole #1 and manhole #4, regarding the basin.

Per the Chair’s request, Amrik Matharu summarized the Engineering Department’s review of the project, stating that the proposed activity substantially complies with Town of Westport requirements. He would recommend approval along with the following special conditions:

1. *Invert elevations of the existing manholes for the drainage pipe shall be verified prior to obtaining a Planning & Zoning Permit.*
2. *An easement map (mylar) depicting the as-built location of the drainage pipe shall be required to be filed on the Town of Westport Land Records as part of obtaining a Zoning Certificate of Compliance.*
3. *The drainage report shall be revised to account for the 1,100 square feet of permeable patio as part of obtaining a Planning & Zoning Permit.*

The Chair asked if there were any comments or questions from the Public.

Scott Stogel of 1 Compo Beach Road spoke. Mr. Stogel expressed concern regarding localized flooding, potential impacts to trees, and potential impact to his specific property with respect to drainage.

Richard Bennet, PE, spoke. Mr. Bennet pointed out that will not be filling any higher than the existing elevations that occur on-site, and that the proposed stormwater system will reduce runoff for the overall site.

The hearing was closed, and the Board went into Work Session. It was agreed that the aforementioned Special Condition and following Standard Conditions of Approval were deemed necessary: 1, 2, 3, 4, 6, 8, 11, and 12. (Refer to the appended sheet).

DECISION: Proposed Project Approved, 3(Y)-0(N), with the above referenced Standard Condition of Approval.

4. **1 Quentin Road / Application WPL 10803-19;** *Application of Peter Romano – LANDTECH, on behalf of the owners, Jeffery & Liz Silverman, to construct a new single family dwelling, and related site appurtenances. The site lies within the Water Protection Line (WPL) of Gray’s Creek.*

The project was presented by Curt Lowenstein, PE, of LANDTECH, on behalf of the applicant, Jeffery & Liz Silverman.

There were questions from the Board regarding the timing of the construction for the subject property as well as 280 Compo Road South, .

Per the Chair’s request, Amrik Matharu summarized the Engineering Department’s review of the project, stating that the proposed activity substantially complies with Town of Westport requirements. He would recommend approval along with the following special conditions:

1. *The wall within the town right-of-way shall be removed or an encroachment waiver be sought.*
2. *The existing driveway shall be modified such that it complies with Town of Westport Requirements.*
3. *The plans shall be revised to depict and describe dewatering provisions as part of obtaining a Planning & Zoning Permit.*
4. *The Foundation Plan shall be revised to depict the flood vents in the garage as well as the associated calculations as part of obtaining a Planning & Zoning Permit.*

The Chair asked if there were any comments or questions from the Public. There were none

The hearing was closed, and the Board went into Work Session. It was agreed that the aforementioned Special Condition and following Standard Conditions of Approval were deemed necessary: 1, 2, 3, 4, 6, and 7. (Refer to the appended sheet).

DECISION: Proposed Project Approved, 4(Y)-0(N), with the above referenced Standard Condition of Approval.

The meeting was adjourned at 10:41 pm.

Respectfully submitted,

Preston H. Koster, Acting Chair
Flood & Erosion Control Board

PHK/asm

Cc: First Selectman, Town Attorney, Public Works Director, Planning & Zoning Director, Conservation Director, Chair of RTM Environmental Committee, Chair of RTM Public Works Committee, Applicants, minutes@westportct.gov

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