

**MINUTES
WESTPORT CONSERVATION COMMISSION
MAY 15, 2019**

The May 15, 2019 Public Hearing of the Westport Conservation Commission was called to order at 7:00 p.m. in Room 201/201A of the Westport Town Hall.

ATTENDANCE

Commission Members:

Anna Rycenga, Chair
Donald Bancroft, Secretary
Tom Carey
Paul Lobdell
Stephen Cowherd, Alternate

Staff Members:

Alicia Mozian, Conservation Department Director
Colin Kelly, Conservation Analyst

This is to certify that these minutes and resolutions were filed with the Westport Town Clerk within 7 days of the May 15, 2019 Public Hearing of the Westport Conservation Commission pursuant to Section 1-225 of the Freedom of Information Act.

Alicia Mozian
Conservation Department Director

Changes or Additions to the Agenda. The Commission may amend the agenda by a 2/3 vote to include items not requiring a Public Hearing.

Ms. Mozian stated there was one item to add to the Work Session:

- **2 Pierway Landing:** Request for bond release being held for plantings under Permit #WPL-9657-13.

Motion to amend the agenda to include 2 Pierway Landing.

Motion: Rycenga **Second:** Bancroft
Ayes: Rycenga, Bancroft, Carey, Lobdell, Cowherd
Nayes: None **Abstentions:** None **Vote:** 5:0:0

Public Hearing: 7:00 p.m., Room 201/201A.

1. **58 Turkey Hill Road South:** Application #IWW/M-10776-19 by Richard Gordon c/o John F Fallon, Esq. to amend wetland boundary map # G7.

John Fallon, Esq. presented the application on behalf of the property owners. Otto Theall was the soil scientist for the applicant. Bill Kenny was the soil scientist retained by the Town. Mr. Kenny found an area of discrepancy around Flag # 20. The two soil scientists along with Mr. Kelly visited the site again and flag #20A was added.

Mr. Kelly noted the Town's wetland map does not show wetland soils on the property though watercourses do show up. He explained that wetland flag #20A resulted in more wetlands.

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

Motion: Rycenga **Second:** Lobdell
Ayes: Rycenga, Lobdell, Bancroft, Carey, Cowherd
Nayes: None **Abstentions:** None **Vote:** 5:0:0

Findings
Application #IWW/M-10776-19
58 Turkey Hill Road South
Postponed from April 17, 2019 Hearing
Public Hearing: May 15, 2019

1. **Application Request:** The applicant is requesting to amend wetland map #G07 on tax lot #036. Parcel owned by Richard F. Gordon. The existing Town wetland map shows no wetlands present.
2. **Permits Issued for this Property:** No previous permits issued for this property.
3. **Soil Scientist for the Applicant:** Otto Theall, Soil & Wetland Science, LLC.
4. **Soil Scientist for the Town of Westport:** William Kenny, William Kenny Associates
5. **Plan Reviewed:** "Existing Conditions Plot Plan Prepared for Gordon Freeland Trust 58 Turkey Hill Road South Westport, CT", Scale: 1" = 30', dated July 15, 2015 last revised to May 8, 2019, prepared by Leonard Surveyors, LLC
6. **Wetland Description:**
Soils investigation Report 58 Turkey Hill Road South Westport, CT- prepared by Soil & Wetland Science LLC. dated July 3, 2015 revised April 12, 2019 describes the following wetland soils occurring on the property:

Ridgebury, Leicester and Whitman Soils, extremely stony (3) - These soils are poorly drained and very poorly drained loamy soils formed in glacial till. This component occurs on upland drainageways and depression landforms.

Non-wetland soils were identified as:

Sutton Fine Sandy Loam (50) - This soil unit consists of gently sloping, moderately well drained soil found in slight depressions and on the sides of hills and ridges.

Udorthents-Urban land complex (306) - disturbed land areas containing fill.

7. Property Description and Facts Relative to the Map Amendment Application:

- The parcel contains a single family residence served by septic system.
- Landscape description is a wooded swamp. The Westport Wetlands Inventory, prepared by Flaherty Giavara Associates, P.C., dated June 1983 does not have a nearby wetlands inspection that is reliable to report. The "Official Town of Westport Wetlands Map" has incomplete information on panel G7 to rely on for a guide.
- Parcel does not exist within the Aquifer Protection Overlay Zone.
- Parcels do not exist within the Coastal Areas Management Zone.
- The Waterway Protection Line Ordinance boundary will be 15' from the flagged wetland boundary or from the 25-year flood boundary, whichever is greater.
- The residence was constructed in 1964.

8. Discussion:

The Town of Westport retained the services of Bill Kenny of William Kenny Associates to review the proposed wetland boundary. On April 6, 2019 Mr. Kenny investigated the site. On April 8, 2019 staff received an email from Mr. Kenny stating that he had a question regarding flags #14-23 and would like them rehung in the field for his review. He specifically mentioned the area southeast of flag #21.

Staff recommended that both soils scientists meet onsite to re-establish the missing flags and resolve any questions regarding #21 location. On April 12, 2019, Mr. Theall and Mr. Kenny and Conservation Staff met onsite to review and discuss the wetland flagging. Discussion centered on the area near wetland flag #20. The soil scientist agreed to mark a new flag location for wetland flag #20 and to install a new flag #20a. Mr. Theall revised his July 3, 2015 report on April 12, 2019 to include the updated flag locations. On May 2, 2019, Mr. Kenny submitted a letter noting that he agreed with the modification to the wetland boundary.

On May 13, 2019 the applicant submitted a **revised** survey: "Existing Conditions Plot Plan Prepared for Gordon Freeland Trust 58 Turkey Hill Road South Westport, CT", Scale: 1" = 30', dated July 15, 2015 and last revised to May 8, 2019, prepared by Leonard Surveyors, LLC. Both scientist attest by email that this survey accurately shows the agreed upon boundary.

Resolution
Application #IWW/M-10776-19
58 Turkey Hill Road South

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-10776-19** by John Fallon on behalf of Richard Gordon to amend the wetland boundary on Map #G07 on the property located at 58 Turkey Hill Road South with the following conditions:

1. Conformance to the plans titled: "Existing Conditions Plot Plan Prepared for Gordon Freeland Trust 58 Turkey Hill Road South Westport, CT", Scale: 1" = 30', dated July 15, 2015 last revised to May 8, 2019, prepared by Leonard Surveyors, LLC.
2. An electronic file in a format acceptable to the Town Engineer shall be submitted to the Conservation Department.
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 to be void or of no legal effect, then this conditional approval is likewise void.

Ms. Mozian confirmed. She indicated she tried to speak with the Tax Assessor but he was not available. The property is shown on an approved subdivision map and is served by sewer. Otherwise, the lot could not be built on because it is unlikely a septic system would meet the Health Code. The closest point of the house to the wetland next to Pussy Willow Brook is 20 feet. She asked if they considered other alternatives like a Zoning variance or a building on stilts.

Mr. Kelly asked if they had any issues with the requirement for a site monitor.

Mr. Allan stated there were no issues.

Ms. Rycenga noted the total coverage is 13.6%. She asked for verification that 80% of the wetland area was deducted from the total lot area.

George Logan, soil and wetland scientist of REMA Ecological Services and outside consultant to the Commission, apologized for the delay in getting his report out. He reviewed the general findings of his report of May 14, 2019. He generally agrees with Mr. Allan's report of the wetland function and value. There is a discrepancy with the soils. He feels the site is a bit more disturbed and the pocket wetland is actually larger. He looked at the aerials:

- The 1934 aerial show wetlands present;
- The 1951 aerial show the watercourse was channelized and the meandering was eliminated.

There is surface disturbance in the southwest corner.

Hydrologic B group infiltrates more water with less runoff. Hydrologic C group does not infiltrate as much as B group. He noted the wetland boundary was determined by 3 soil scientists but his sampling showed more wetland in the area of the pocket wetland. The vegetation shows a mixture of upland and wetland plantings and is very transitional. An aquatic species inventory was done in November but little was found. CT DEEP classifies Pussy Willow Brook as Class A but that is because there is no data on the watershed. There is 19.1% impervious area within the watershed and he noted at 10%, the watershed becomes impaired. In looking at the proposed conditions, he noted that 2 yards of fill are proposed. He indicated there is a lot of irregular topography that will most likely be smoothed out and additional 10 yards of topsoil will likely be needed due to the nature of the existing soils. He added there is no grading shown on the plans. In reference to the sediment and erosion control plans, there are silt fence and hay bales proposed. He noted there are sizable boulders presents and questioned whether these will be removed. He noted they will be in the way of the silt fence. He added that a silt sock filled with compost would be better than haybales.

Ms. Rycenga asked about the pollutant removal as discussed on page 6 of his report.

Mr. Logan stated no because the buffer is quite limited. Therefore, he made recommendations for enhancement. The proposed buffer needs enhancement. He would like to see specific protocols for invasive removal with a 3 year monitoring. The shrub/tree density should be increased by 30%. The seed mix should be augmented or changed to include shade tolerant plantings. He noted that 250 s.f. of the wetland was missed in the conservation easement area between flag 1 and 3. However, he questioned the wetland delineation in that area. He indicated he is concerned with use of pesticides and fertilizers, which is why a larger buffer is needed. He questioned whether bioretention was possible on this lot. It would depend on where. He indicated that perhaps a riparian buffer is more realistic in this situation.

Mr. Kelly asked if the plans for dewatering are sufficient.

Mr. Logan stated yes. They will be using a dirt bag and will most likely be hitting water when they excavate for footings and driveway installation.

Mr. Kelly asked if the patio will be pervious. He questioned whether it could be expanded.

Mr. Logan indicated it looks sufficient. It is good to have the patio to confine the usage of the future property owners. There will be minimal impacts on wetland functions.

Ms. Mozian asked if the Tree Warden has seen the revised plan. It looks like his letter of May 2, 2019 is not only concerned with the driveway but also the pipe installation.

Ms. Rycenga asked about proposed landscaping.

Mr. Bennett stated it will be sod with Cyprus trees along the southern property. The total coverage will be 23.02% without the pool; 26%+ cover when the pool gets built.

Ms. Rycenga asked about the drainage flow.

Mr. Bennett stated it is mostly from Compo Road South.

Ms. Mozian noted that during a flood event, it is from Gray's Creek.

Mr. Bennett indicated the fuel source will be propane. There is no pool at this time. They have not received Health Department approval yet. They intend to apply soon so the pool can be done at the same time as house construction is taking place.

Mr. Kelly read Amrik Matharu's e-mail of May 15, 2019 into the record. Mr. Matharu is still concerned with the Oak tree but will leave the details up to the Tree Warden.

Mr. Bennett noted the changes made to the plan since the Flood and Erosion Control Board meeting having to do with the Compo Beach Road driveway detail. The house elevation changed. This driveway was lowered to store runoff. He also offered that his clients are willing to plant 3 new Red Oaks in addition to keeping the existing Red Oak.

Mr. Kelly read an e-mail from Dave Ginter, PE, who was retained by the owner of 1 Compo Beach Road, raising concerns but also noting that they need more time to fully evaluate the revised plans.

Ms. Rycenga asked for comments from the public.

Scott Stogel, 1 Compo Beach Road, stated he would like to hear from Mr. Bennett before he comments.

Mr. Bennett indicated Mr. Ginter's comments were unrealistic since the flooding is tidal. He added that more information is not needed. The Flood Board and the Engineering Department did not need more information. The existing contours were noted. He noted the driveway design originally had a turn-around to the south, then it was changed to the north which resulted in it being closer to the tree. Then the Tree Warden did not like the new location so they switched it back and made changes to the driveway. Mr. Bennett stated this is a delay tactic to continue the application.

Ms. Rycenga stated she would like to continue the application to get more information.

Lianne Owen, 5 Keyser Road, developer of the project, stated they would like to do everything they can to protect the tree.

Renato Gasparian, AIA, stated they have met with the neighbor and tried to address their concerns. The neighbors have been sent copies of the plans and have been informed throughout the process.

Mr. Stogel apologized to the applicants but stated they have not been given the plans. The last thing he wanted to do was hire an engineer. At the Flood Board meeting, the driveway turn-around was moved away from his property and then it was changed back toward his house. There are no provisions for tree protection on the south side along his property line. He is concerned because when 5 Compo Beach Road was built, his trees on that side were compromised.

Findings
1 Quentin Road
Application #WPL-10803-19
Public Hearing: May 15, 2019

1. **Application Request:** Applicant is proposing to construct a new single family dwelling and related site appurtenances. The property lies within the boundaries of the Waterway Protection Line of Gray's Creek
2. **Plans Reviewed for This Application:**
 - a) **"Zoning/Location Survey Map of Property Prepared for Peter D. Griffin 1 Quentin Road, Westport, Connecticut"**, Scale: 1" = 20', dated March 3, 2017 and last revised to September 3, 2018, prepared by Walter Skidd, Land Surveyor LLC
 - b) **"Site Improvements for a Proposed Single Family Residence Site Plan Jeffrey and Liz Silverman 1 Quentin Road Westport, CT"**, Scale: 1" = 10', dated April 11, 2019 last revised to May 9, 2019, prepared by Landtech, Sheet C-1 + C-2,
 - c) **"Stormwater Management Report for 1 Quentin Road Westport, CT"**, 10 pages, dated April 11, 2019 revised to May 3, 2019, prepared by Landtech
 - d) Architectural Plans (Sheets S-100 through A-201; 5 pages) entitled **"Silverman Residence 1 Quentin Road Westport, CT"**, Scale: 1/4" = 1', dated April 11, 2019 last revised to May 6, 2019, prepared by Sellars Lathrop Architects, LLC
3. **Property Description:**
 - a) Wetlands: There are no inland or tidal wetlands present on this site.
 - b) Location of 25-year flood boundary: 9 ft. contour interval. Property is located entirely within the WPLO boundary.
 - c) Property is situated in Flood Zones AE (el. 11') as shown on F.I.R.M. Panel 09001C0551G Map revised to July 8, 2013.
 - d) Proposed First Floor Elevation: 12.08 ft.
 - e) Proposed Garage Floor Elevation: 7.6 ft.
 - f) Existing Site Coverage: 18.96%
 - g) Proposed Site Coverage: 19.01%
4. **Facts Relative to This Application:**
 - a. **Sewer Line:** The proposed new residence will be serviced by municipal sewer.
 - b. **Aquifer:** Property underlain by Sherwood Island Aquifer which is a coarse-grained stratified drift aquifer. The property is NOT within the Town's wellfield protection zone.
 - c. **Coastal Area Management:** Property located within CAM zone. The coastal resource identified is coastal hazard area. Coastal hazard areas are defined as those land areas inundated during coastal storm events. A-zones are subject to still-water flooding during "100-year" flood events. Coastal hazard areas serve as flood storage areas. They are, by their nature, hazardous areas for structural development, especially residential-type uses.
 - d. **Proposed Storm Water Treatment:** Storm water runoff from the roof of the new single family residence is proposed to be directed to a constructed rain garden. The rain garden and pervious lower patio subbase (6" deep stone reservoir) have been sized to provide storage for the Water Quality Volume for the proposed work. Portions of the existing driveway and rear walkway are proposed to remain as they are currently designed and adapted to match up to the proposed site work.
 - e. **Previous Permits issued:** WPL/E 10459-17 Shed; WPL/E 10521-17 Porch, walkway, generator and propane tank
 - f. The Flood and Erosion Control Board **approved** the application with conditions on **May 1, 2019**. The drainage proposal is acceptable to the Engineering Department.
5. **Discussion:**

The WPL Ordinance requires that the Conservation Commission consider the following when reviewing an application:

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

aquifers, plant and aquatic life, nutrient exchange and supply, thermal energy flow, natural pollution filtration and decomposition, habitat diversity, viability and productivity and the natural rates and processes of erosion and sedimentation.”

The entire property lies within the WPLO boundary. The application proposes to construct a new FEMA compliant residence and rear patio and associated grading.

The Commission finds that house will be built to conform to FEMA standards with the first habitable floor constructed at ~1' above the 100-year base flood elevation of 12.08'. Portions of the existing house foundation will be reused for the construction of the FEMA compliant house. Existing areas of crawl space and basement will be filled. New foundation walls will be installed to accommodate portions of the house. The new house will require appropriate flood vent openings in accordance with the FEMA requirements. The Engineering Department staff will verify the opening sizing requirements and locations for the proposed residence.

The porous lower patio construction detail and rain garden detail have been provided with this application for review and approval. The Commission finds that the design engineer shall witness and certify the construction of the lower patio as a permeable surface and the rain garden proposed for this project. The design engineer should submit said certification to the Conservation Department prior to the issuance of a Conservation Certificate of Compliance.

The Commission finds that potential for the proposed project to have an adverse impact on the preservation of natural resources and the ecosystem of the adjacent waterways should focus on stormwater quality impacts and percentage of impervious area. Proposed site coverage is to be 19.01% which does not significantly increase the existing cover of 18.96%. The new residential stormwater runoff associated with the proposed work will now be directed to the rain garden to be treated. The proposed rain garden has been sized by the design engineer but provides no detail for the vegetation to be used as the final cover. Rain gardens are typically planted with perennials, grasses and shrubs to aid in biofiltration (turf grasses are not acceptable). The Commission finds that the applicant shall submit a planting plan for the rain garden to staff for approval prior to issuance of a Zoning Permit.

The 2004 Connecticut Stormwater Manual provides research that water quality experiences degradation when coverage in a watershed exceeds 10%. The Compo Beach neighborhood is already abundantly developed. However, the proposed coverage for this project does not significantly increase. The existing driveway will drain as it currently exists and the new house is generally within the same location of the existing. The Commission finds that capturing the water runoff from roof leaders and treating onsite is an improvement from the pre-construction condition.

Sediment and erosion controls are shown being installed around the perimeter of the proposed residence and rain garden. Construction access and material stockpile areas are noted adjacent to the existing driveway. A small soil stockpile is depicted for this project as little excavation for the foundation is required and final grade changes are limited to the front walkway and planter areas. The Commission finds that these should be adequate, along with routine sweeping of the road if any sediment does move offsite onto the adjacent pavement during site work especially as a result of the fill activity required for filling in the existing basement and crawl space.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application #WPL-10803-19
Street Address: 1 Quentin Rd
Assessor's: Map D04 Lot 118
Date of Resolution: May 15, 2019

Project Description: to construct a new single family dwelling and related site appurtenances. The property lies within the boundaries of the Waterway Protection Line of Gray's Creek

Owner of Record: Jeffrey & Liz Silverman

Applicant: Pete Romano, Landtech

In accordance with Section 30-93 of the *Waterway Protection Line Ordinance* and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #**WPL 10803-19** with the following conditions:

1. It is the responsibility of the applicant to obtain any other assent, permit or license required by law or regulation of the Government of the United States, State of Connecticut, or of any political subdivision thereof.
2. If an activity also requires zoning or subdivision approval, special permit or special exception under section 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit shall commence until such approval is obtained.
3. If an approval or permit is granted by another Agency and contains conditions affecting wetlands and/or watercourses, the applicant must resubmit the application for further consideration by the Commission for a decision before work on the activity is to take place.
4. The Conservation Department shall be notified at least forty-eight (48) hours in advance of the initiation of the regulated activity for inspection of the erosion and sediment controls.
5. All activities for the prevention of erosion, such as silt fences and hay bales shall be under the direct supervision of the site contractor who shall employ the best management practices to control storm water discharges and to prevent erosion and sedimentation to otherwise prevent pollution, impairment, or destruction of wetlands or watercourses. Erosion controls are to be inspected by the applicant or agent weekly and after rains and all deficiencies must be remediated with twenty-four hours of finding them.
6. The applicant shall take all necessary steps to control storm water discharges to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and watercourse.
7. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
8. All plants proposed in regulated areas must be non-invasive and native to North America.
9. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
10. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
11. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts, which development in the course or are caused by the work.
12. Any material, man-made or natural which is in any way disturbed and/or utilized during the work shall not be deposited in any wetlands or watercourse unless authorized by this permit.
13. Any on-site dumpster shall be covered at the end of each workday to prevent debris/litter from inadvertently entering surrounding wetlands and/or watercourses.
14. A final inspection and submittal of an "as built" survey is required prior to the issuance of a Certificate of Compliance.
15. Conformance to the conditions of the Flood and Erosion Control Board of **May 1, 2019**.

SPECIAL CONDITIONS OF APPROVAL

16. Conformance to the plans entitled:
 - a. **"Zoning/Location Survey Map of Property Prepared for Peter D. Griffin 1 Quentin Road, Westport, Connecticut"**, Scale: 1" = 20', dated March 3, 2017 and last revised to September 3, 2018, prepared by Walter Skidd, Land Surveyor LLC
 - b. **"Site Improvements for a Proposed Single Family Residence Site Plan Jeffrey and Liz Silverman 1 Quentin Road Westport, CT"**, Scale: 1" = 10', dated April 11, 2019 last revised to May 9, 2019, prepared by Landtech, Sheet C-1 + C-2,

