

**MINUTES  
WESTPORT CONSERVATION COMMISSION  
JUNE 19, 2010**

The June 19, 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  
Paul Davis, Vice-Chair  
Donald Bancroft, Secretary  
Tom Carey  
Paul Lobdell  
Mark Perlman

**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 June 19, 2019 Public Hearing of the Westport Conservation Commission pursuant to Section 1-225 of the Freedom of Information Act.

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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 noted the following items need to be added to the Work Session:

- Receipt of Applications
- Compliance Officer's Report
- Approval of May 22, 2019 minutes
- Approval of June 14, field trip 2019 minutes
- **282 Compo Road South:** Request for driveway modification.

Ms. Mozian noted that Item #3 of the Public Hearing, **1480 Post Road East** has been withdrawn.

Motion to amend the agenda to reflect the changes as noted.

|                |                                                          |                          |                    |
|----------------|----------------------------------------------------------|--------------------------|--------------------|
| <b>Motion:</b> | <b>Rycenga</b>                                           | <b>Second:</b>           | <b>Lobdell</b>     |
| <b>Ayes:</b>   | <b>Rycenga, Lobdell, Bancroft, Carey, Davis, Perlman</b> |                          |                    |
| <b>Nays:</b>   | <b>None</b>                                              | <b>Abstentions: None</b> | <b>Vote: 6:0:0</b> |

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

It was noted that all members have visited the sites.

1. **5 The Fenway:** Application #IWW/M-10825-19 by Patricia Keenan to amend wetland boundary map #B10.

Mr. Kelly distributed the staff report.

Patricia Keenan, property owner, presented the application. She retained Mary Jaehnig, soil scientist, to flag the wetland.

Ms. Mozian stated Eva Szegeti, soil scientist with Evans Associates, was the soil scientist for the Town. There was a discrepancy. Both soil scientists met on-site with Mr. Kelly and agreed upon a line. The survey was amended to June 5, 2019 and both soil scientists certified it accurately reflected the agreed upon line.

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

|                |                                                          |                          |                    |
|----------------|----------------------------------------------------------|--------------------------|--------------------|
| <b>Motion:</b> | <b>Rycenga</b>                                           | <b>Second:</b>           | <b>Perlman</b>     |
| <b>Ayes:</b>   | <b>Rycenga, Perlman, Bancroft, Carey, Davis, Lobdell</b> |                          |                    |
| <b>Nays:</b>   | <b>None</b>                                              | <b>Abstentions: None</b> | <b>Vote: 6:0:0</b> |

**Findings**  
**Application #IWW/M-10825-19**  
**5 The Fenway**  
**Public Hearing: June 19, 2019**

1. **Application Request:** The applicant is requesting to amend wetland map #B10 on tax lot #101. Parcel owned by Patricia Keenan.
2. **Soil Scientist for Applicant:** Mary Jaehnig, Pfizer-Jähmig Environmental Consulting
3. **Soil Scientist for Town of Westport:** Eva Szigeti, Evans Associates Environmental Consulting, Inc.
4. **Plan reviewed:** "Plot Plan Prepared for Greg Keenan 5 The Fenway, Westport, CT", Scale: 1" = 20', dated April 26, 2019, revised, June 5, 2019 prepared by Leonard Surveyors, LLC
5. **Wetlands Description:**

Soil Survey/Wetland Delineation 5 The Fenway Westport CT- prepared by Pfizer-Jähmig Environmental Consulting. Dated July 12, 2013 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 with a firm substratum. The subsoils display mottling and the water table is located near the surface from fall to spring.

**Non-wetland soils were identified as:**

**Woodbridge fine sandy loam (45)** - This soil is deep moderately well drained and formed in glacial till with a firm substratum. Mottling is apparent in the lower subsoil and the depth to seasonal high water table may occur between 18 and 30 inches below grade in the early spring.

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

- The parcel contains a single-family residence served by sewer.
- Previous Applications: #AA-2051-87 for an addition to the single-family residence; #AA-WPL/E-5508-96 for a sewer connection.
- Landscape description is a wooded swamp and pond by The Westport Wetlands Inventory, prepared by Flaherty Giavara Associates, P.C., dated June 1983 from a nearby wetland ~300-350' to the southeast.
- Parcel does not exist within the Aquifer Protection Overlay Zone.
- Parcel does not exist within the Coastal Areas Management Zone.
- A portion of the southern boundary of the property is within the Zone 'X' shaded as determined by FEMA.
- 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 1938 and remodeled in 1978.

**7. Discussion**

The Town of Westport retained the services of Eva Szigeti, Evans Associates Environmental Consulting, Inc. to review the proposed wetland boundary. On May 28, 2019, Ms. Szigeti investigated the site. On May 29, 2019, staff received an email from Ms. Szigeti noting that the wetlands along the eastern property line might be greater than what is flagged. Staff coordinated an on-site meeting on June 4, 2019 with both soil scientists and an agreed upon line was determined. The survey was amended June 5, 2019.

Both soil scientists reviewed the revised boundary on the amended survey and agreed in writing that the survey accurately depicted their agreed-upon flagging.

**Resolution  
Application #IWW/M-10825-19  
5 The Fenway**

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-10825-19 by Patricia Keenan to amend the wetland boundary on Map: #B10 Lot: 101 on the property located at 5 The Fenway with the following conditions:

1. Conformance to the plans titled: "Plot Plan Prepared for Greg Keenan 5 The Fenway Westport, CT", Scale: 1" = 20', dated April 26, 2019 last revised to June 5, 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.



Mr. Logan stated it would. He added that it would be better but there is no way to get to zero impact.

Mr. Lobdell clarified that there will be an impact.

Mr. Logan stated yes but it is minimal.

Mr. Lobdell asked what the impact is if there is no buffer.

Mr. Logan stated there is a natural buffer that is enhanced. The necessity is based on the house and use of the property.

Ms. Mozian stated the buffer provides protection. She noted the Aaron Case, which is a landmark case that established that buffers provide protection.

Mr. Logan stated you look at three things when reviewing a site:

1. The resource of the site;
2. The proposal and stressors; and
3. The quality and effectiveness of a buffer.

Ms. Rycenga asked if there is a significant impact.

Mr. Logan stated there is but the pocket wetland is low functioning. There is an impact, but looking more carefully at the wetland that carries water, the resource will be improved or enhanced.

Ms. Mozian asked about moving the house forward and widening the buffer.

Mr. Logan stated the buffer is only 7 feet wide at the pinch point. If they were able to move the house forward and provide double the buffer, it would be better.

Ms. Mozian asked if he feels there is an interruption of the natural drainage pattern from Valley Road.

Mr. Logan stated he does not based on the scale and magnitude of the work.

Mr. Davis asked how much of the lot is in the 50-foot upland review area.

Ms. Mozian stated over half the property is.

Mr. Kelly reviewed his staff report. He reviewed the Tax Assessor's comment as to why the lot is labeled as "unbuildable." He noted that determination came from the Reval Company.

Ms. Rycenga asked if the request came from the owner.

Mr. Kelly stated there is nothing on record that the request come from the owner. The Reval Company is looking at the size of the lot, the wetlands, the floodplain, the sewer easement, etc. so it is not surprising that the Reval Company deemed the property unbuildable. He noted Planning & Zoning Director, Mary Young's comments that a request for relief from the Zoning setbacks would qualify for a variance application. He also noted that the wetland statutes do not differentiate the value of wetlands. He added that where the house is going there are about 12 Red Maples and other large trees that are proposed to be eliminated. These help to protect the buffer. If the house were moved further toward the street, roughly, 6 of these trees could be saved. He discussed Feasible and Prudent Alternatives. The previous application that was withdrawn proposed a 1,600-s.f. house footprint. Now, a 1,400-s.f. house footprint is proposed. There are no other alternatives proposed. The staff report lists several examples of other houses in town on small lots with smaller footprints. Similarly, a smaller footprint here would have less of an impact and provide a larger buffer from the brook. Finally, the driveway reservoir may encounter groundwater, so it may not be functional.

Ms. Rycenga asked if Engineering reviewed.

Ms. Mozian stated yes Flood and Erosion Control Board did review and they approved it.

Ms. Rycenga opened the hearing to public comment.

Jonathan Whitbourne of 41 Valley Road spoke representing several neighbors who were present. He made it clear that they hold no animosity against the owners of property but are concerned with the wetland. This property acts as a buffer for the neighborhood during flooding conditions and those conditions are increasing. He thought it was significant that there is no differentiation of the wetland value. He submitted photos of a Great Blue Heron.

Ms. Rycenga noted the same photos were submitted by his wife on June 12, 2019.

Mr. Perlman asked if the house were granted a variance to move forward, would they still object.

Mr. Whitbourne indicated he would reserve comment.

Sherry Goldstein of 4 Lakeview Road expressed concern with flooding.

Mr. Allan noted that moving the house forward would only gain 5 more feet of buffer width.

Ms. Mozian stated not only should the setback variance be considered but also a change in footprint is an option.

Mr. Allan indicated that he does not believe a change will happen to interrupt the flow path. He discussed the removal of trees. He understands the concerns and that is why the buffer is being enhanced. The brook will still be shaded.

Mr. Carey expressed concern with the groundwater elevation in the driveway.

Mr. Allan stated they believe it is a perched groundwater condition due to the compaction of the soils. He noted that the Engineering Department already reviewed the drainage.

Ms. Mozian clarified what Mr. Allan stated: that if the driveway were prepped for the reservoir, they would eliminate the compaction.

Mr. Allan stated this was correct. He also noted the bird in the photo is a Great Egret, not a Great Blue Heron. He expressed disappointment that the staff report was not received until now.

Mr. Romano noted how long the Town has had the application and stated the staff report is disingenuous by being completed 6 days ago.

Ms. Rycenga responded.

Mr. Bancroft noted that during the site visit, he noticed a distinguished flow path in the vicinity of the sewer easement toward the stream. He feels this is lower than the house.

James Franco, property owner, stated the neighborhood has been using the property as a dumping area. He indicated that other neighbors have asked him to cut the trees down. This application has had three environmental engineers, three wetland scientists and staff review the application.

Ms. Rycenga indicated she would like to continue the hearing to July 17, 2019 to allow time to consider other options.



Ms. Rycenga asked about the length of the level spreader.

Mr. Romano stated it is 25 feet with a lip.

Ms. Rycenga asked if they would certify that the level spreader is installed properly. She also asked about maintenance.

Mr. Romano agreed and indicated that they would agree with filing a maintenance agreement on the land records. Also, he disagrees with the 3:1 slope comment from Beth Evans that the level spreader is on a steep slope. It is not steep. There is an 18-inch high wall on the plan. The berm is on the grading plan and is 20 feet from the wetland. The property will be rental and will be managed by the owner/operator. The snow management plan shows snow will be stockpiled outside the 75-foot upland review area.

Ms. Mozian stated CT DEEP recommends using GIS, NRCS data and observation to identify offsite wetlands if permission to inspect the property is not granted. The Town reached out to four adjacent owners, 2 of the four owners allowed access, Regents Park and 10 Cottage Lane.

Eva Szegeti, soil scientist with Evans Associates, stated that overall this is a better use than what is there now. Monday, June 17, 2019, she went on 2 of the abutting four properties. She is happy with the wetland boundary based on observation. She could not dig holes. She clarified with Mr. Romano where the berm and the level spreader are. They could not find an outflow and feel this is an isolated wetland. The wildlife habitat is almost nil. The wetland consists of mainly grass. She submitted a photo take on June 4, 2019. She noted that their analysis was done assuming the site was connected to sewer, but tonight she just found out it is not. They would be concerned with that. They are standing by their comments that there is no pre-treatment of runoff and recommend a hydrodynamic separator.

Ms. Rycenga asked if polymer inserts could be a substitute.

Ms. Szegeti reviewed the GHD conclusion; if the soils are removed, they still need to test. If the soils are capped, the infiltrators are still a concern. There are stormwater monitoring and maintenance plans during and post construction.

Mr. Davis asked where the septic system is.

Mr. Romano stated the septic system is on the property located near the northeast corner near the Post Road. The Health Department will oversee the abandonment of the system. The lip of the level spreader will dissipate the flow of the runoff but they do not feel much water will come up. In reference to water quality, they do not want a hydrodynamic separator. They are too expensive. They would be okay with polymer inserts. These may be better because one can easily see if they are saturated rather than a hydrodynamic separator that is buried. Each catch basin will have a 2-foot sump.

Ms. Rycenga asked about the berm.

Mr. Romano stated it was left on the survey from the existing conditions survey.

Ms. Mozian questioned the revision date of June 12, 2019 and if there were any further revision dates.

Mr. Romano stated the June 12, 2019 revisions to remove the detached wellness center. There will be additional changes prior to Zoning to address traffic and fire comments.



Ms. Mozian noted that this proposal is an improvement over what is currently exists. She asked if any LID measures were considered. She suggested that the planting islands in the parking lots could be depressed in order to capture and treat runoff.

Mr. Romano indicated that they could depress the planting islands.

Mr. Davis confirmed that there are no pools or rooftop gardens.

Mr. Romano agreed.

Ms. Mozian commented on the LEP report and discussed the peer review for the stormwater management and contamination. She noted Planning & Zoning hired a consultant to review the Phase I & II reports by GHD. Evans Associates will look at the report and make comments on the water quality and wetland impacts based on the spill and historic use of the site. They want to see the applicant response before rendering a decision. She recommended not closing the hearing in order to allow for more information to be obtained.

Atty. Smith stated they have a response prepared to the GHD comments with a report from Laurero. Brian Curtis' report dated May 23, 2019 stated the site is safe for residential development. LBG did a Phase II report and there is nothing that prohibits development. They are not proposing anything that would disturb soil with this development. The suggested vapor system by GHD is protection for the client, nothing that the DEEP is requiring. From an environmental prospective, if it were a large excavation, he would understand but that will not happen. This is not going to be dug down to groundwater level. The vapor system is similar to a radon system.

Mr. Romano discussed the abandonment of the septic system.

Ms. Rycenga opened the hearing to the public.

David Rutsky of 7 Cottage Lane and President of the Cottage Lane Association stated he has lived there for 60 years. The residents are pleased with this plan. They will not get any better than this.

Ms. Mozian asked if the plan is approved by the Conservation Commission and the Planning & Zoning Commission will the covenant be removed.

Mr. Rutsky stated yes.

Laura Riguzzi of 14 Cottage Lane stated she is glad that the quantity and quality of stormwater will be reduce. She supports the project.

Leslie Meredith of 10 Cottage Lane spoke in support of the proposal especially due to the reduction in runoff. She feels it is integral to their support. They would like to preserve as many existing mature trees in the area of the berm as possible. She noted there are garbage bags in the area of in back of the steep slope that needs to be removed.

Ms. Rycenga indicated she would like to keep the hearing open to get additional information including:

- Fire and traffic changes;
- Septic location;
- Polymer inserts;
- The berm clearly delineated;
- Parking lot islands depressed;
- Snow removal markers; and
- Maintenance plan for level spreader and polymer inserts.



