

**DRAFT
MINUTES
WESTPORT CONSERVATION COMMISSION
DECEMBER 14, 2011**

The December 14, 2011 of the Westport Conservation Commission was called to order at 7:00 p.m. in the Auditorium of the Westport Town Hall.

ATTENDANCE

Commission Members:

Lanning Bryer, Esq., Acting-Chair
Pat Shea, Esq., Secretary
Ralph Field
Arthur Hayes, Alternate

Staff Members:

Alicia Mozian, Conservation Department Director
Lynne Krynicki, Conservation Analyst

Guests:

Anna Recenga
John Washburn

This is to certify that these minutes and resolutions were filed with the Westport Town Clerk within 7 days of the December 14, 2011 Public Hearing of the Westport Conservation Commission pursuant to Section 1-225 of the Freedom of Information Act.

Alicia Mozian
Conservation Department Director

Work Session I: 7:00 p.m., Auditorium

Motion to move into work session.

Motion:	Bryer	Second:	Shea
Ayes:	Bryer, Shea, Field, Hayes		
Nayes:	None	Abstentions:	None
			Vote: 4:0:0

1. Receipt of Applications – THERE WERE NO IWW APPLICATIONS TO RECEIVE.

Ms. Mozian reported there were no IWW applications to officially receive, but noted the submission deadline is December 15, 2011.

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

Ms. Mozian gave an update on the status of existing enforcement activity, which included two leaf dumping violations and two clearing violations.

3. 22 Evergreen Avenue: Request by Craig Smith of Complete Home on behalf of Robert and Marian Precious to issue an Administrative Approval for installation of a 112 ft length of fence located partially along the northern property line adjoining the property at 24 Evergreen Avenue and within the 25 ft upland review area.

Ms. Mozian reviewed a request for staff to issue an Administrative Approval for a fence partially along the property line, a portion of which is located within the 25-foot upland review area. The fence would have an 8-inch gap between the top of grade and the bottom of fence and would be installed by hand with no concrete footings. She noted the property owners have withdrawn their request for installation of a semi-circle fence within the wetlands.

Ms. Mozian noted the Commission entertained this request at its November 16, 2011 meeting and it was decided that the applicant should file an application to be reviewed by the Commission at a public hearing. The Commission also requested that staff seek an opinion from the Town Atty. as to whether the statutes governing spite fences were in the Commission's purview. She stated staff decided to put the request back on this month's work session agenda after being notified by the applicant that they had misrepresented the location of the property line to the Commission. She stated the property line is about 3 to 5 feet up the hill and in the area that is lawn. She noted the new information in the file includes an opinion from the Town Atty. that the Commission may not consider the spite fencing statutes; confirmation from the Town Engineer that the fence is eligible for a WPLO exemption; and a letter from the owner. She indicated that the fence would have no adverse impact on the wetlands or waterway though staff would prefer plantings. She also informed the Commission that since the November hearing, the owner installed numerous plantings on the hillside in the vicinity of the proposed fence. Those these may address the issue of privacy protection, the owners would like to retain the right to secure a permit for the fence if they think it is still necessary.

Motion to allow staff to issue an Administrative Approval for the installation of a fence partially within the 25-foot upland review area setback.

extended period of time in this flat area after snowmelt or rainstorms due to the compaction of the soil.

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

- a. The Westport Wetlands Inventory, prepared by Flaherty Giavara Associates, P.C., dated June 1983 describes this wetland as "streamside, floodplain, with a permanent watercourse and a wooded swamp. The hydrological connection of this system is with the Saugatuck River.
 - b. The 100 year floodplain as designated by FEMA does not occur on the property.
 - c. Landscape position is a moderate to steep back slope.
 - d. Property does exist within the Aquifer Protection Overlay Zone.
 - e. Property does not exist within the Coastal Areas Management Zone.
 - f. Dominant vegetation includes Red Maple, Black Walnut and various shrub species.
 - g. The Waterway Protection Line Boundary is located 15' from the wetland boundary line or top of bank.
8. The Town of Westport retained the services of Tom Pietras of Soil Science and Environmental Services, Inc. to review the boundary as delineated in the field by Otto Theall of Soil & Wetland Science, LLC. On November 22, 2011 a site investigation was done and it was determined that Mr. Pietras was in agreement with the wetland line as flagged by Otto Theall. The Conservation Department received the letter from Mr. Pietras dated November 23, 2011 confirming his agreement with wetland boundaries.

Resolution
Application #IWW/M- 8946-11
5 River 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 the evidence of record, the Conservation Commission resolves to **APPROVE** Application #IWW/M-8946-11 by Bernard Pellegrino, Esq. on behalf of Mark Graham to amend the wetland boundary on Map #C-12 on the property located at 5 River Lane with the following conditions:

1. Conformance to the plan entitled: "Map of Property Prepared for Mark Graham, 5 River Lane, Westport, Connecticut", Scale: 1" = 30', dated October 20, 2011, prepared by Richard W. Plain, Land Surveyors
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 to be void or of no legal effect, then this conditional approval is likewise void.

Motion: Field

Second: Shea

Ayes: Field, Shea, Hayes, Bryer

Nays: 0

Abstentions: 0

Votes: 4:0:0

2. **5 Hedley Farms Road:** Application # AA,WPL-8949-11 by Michael Horvath on behalf of Robert Zapfel to demolish existing and construct a new single family residence with attached garage, pool with pool house, driveway, septic system and drainage system. Portions of the work are within the WPLO area and the 25-year and 100-year floodplain of Sasco Brook.

Rich Bennett, PE, presented the application on behalf of the property owner. He noted Michael Horvath, builder, and Matt Popp, tidal wetland biologist and soil scientist with

Environmental Land Solutions were also present. He stated this is a 7.26 acre property, which has a tidal pond and inland wetlands surrounding it. The proposal received approval from the Flood and Erosion Control Board on December 7, 2011. The application will also need approval from the Planning & Zoning Commission for excavation and fill and a CAM Site Plan. He indicated the WPLO elevation is 9' and the FEMA 100 year flood elevation is 10'; however, they are expecting the FEMA maps will change next year and the 100 year flood elevation will be 11'. Mr. Bennett reviewed the plan highlighting the differences between the existing site development and the proposed.

Mr. Bryer asked what the increase in coverage is.

Ms. Mozian stated there is a 1.15% increase or 2,079 s.f. and most of that is a result of expanding the driveway area. The proposed coverage is 8.6%

Mr. Bennett stated the proposed pool is further away from the tidal pond than the existing pool. The pool house, as proposed, does not contain a bathroom but he indicated the septic system is designed to accommodate one. He noted the proposed driveway would be permeable except for the area in front of the garage, which would be a 40' x 40' asphalt area. He indicated the area for the house would be filled since the idea is to have the lowest level of the house at the anticipated new 100 year flood elevation of 11. The pool would be at elevation 10 and the pool house at elevation 11. He stated the new first floor/main level would be elevation 21. They are proposing bringing in 1500 cubic yards of fill, which amounts to 2 to 3 feet of fill on average.

Ms. Shea asked if the fill would be leveling out or sloping toward the pond.

Mr. Bennett stated they did flatten the slope behind the pool toward the pond since the original application submission. He indicated the wetlands are over run by phragmites, multi-flora rose and porcelain berry. He reviewed the drainage plan. They propose to collect the drainage into one area, then pipe it into a grass swale and then into a raingarden. He stated they had originally planned detention galleries but staff had expressed concern due to the high permeability of the soils that no treatment would occur and suggested bio-filtration instead.

Matt Popp submitted a plan entitled "Environmental Landscape Plan" dated December 14, 2011. He indicated they are proposing to create a meadow area between the lawn and the pond ranging in width from 30 to 80 feet. The plan is to cut and spray the phragmites and then put the meadow mix down. For the next three years, they would spot treat the phragmites. He noted the proposed path would be grass and mowed. Boulders would delineate the lawn from the meadow area. He noted that a plant list was provided and the raingarden is located in the area that is porcelain berry. He indicated other trees and shrubs would be added for habitat value. He reviewed the sediment and erosion control plan, which includes silt fencing and haybales. He stated the scheduling would be to bring in the fill in early May over the entire site. The septic area would be wrapped in a chainlink fence to protect it from vehicles. There are two stockpile areas delineated on the plan. He noted Purple Martin bird houses are being added. He stated the improvements to this proposed project over the existing conditions include the addition of a drainage plan and the removal of invasive species.

Mr. Bryer asked how many trees are being removed as a result of this project.

Mr. Popp stated the proposal calls for the removal of 3 trees in the wetland, 6 in the upland along with 10 evergreens. He noted they are all very large in size.

Mr. Bryer asked how many trees are being planted.

Mr. Popp indicated they are proposing to add more trees than what is being removed.

Mr. Field asked about the Green Leach septic system.

Mr. Bennett explained how the system works. He noted that it is deep and uses less leaching area. Cells within the system cleanse the water.

Ms. Shea asked about plans for demolition.

Ms. Krynicki asked why the fill should be brought in all at once. Would it be at final grade or would it have to be redistributed.

Mr. Popp stated the area behind the pool is the biggest concern.

Mr. Bennett indicated they want to get a working grade to start construction but the slopes would be final seeded immediately.

Mr. Bryer asked what flooding occurs on the property now.

Mr. Bennett stated flooding occurs at elevation 6 and regularly floods.

Ms. Mozian noted the house is 21,000 s.f. in size. She asked how long it would take to build.

Mr. Horvath indicated it would take 14 months to build.

Ms. Krynicki presented the staff report. She indicated that the fill area covers over an acre. She explained the Green Leach septic system provides a lot of surface area which removes the organic matter only not nutrients like nitrogen and phosphorus. She indicated the Green Leach septic system does meet the state's Health Code.

Mr. Bryer asked if this system will be better than the existing septic.

Ms. Krynicki stated that it would not be worse than the existing septic system but indicated staff does not have any details of the existing system to know if it is better. She noted the area of disturbance is greater than 1 acre, which the state requires the submission of a sediment and erosion plan. She stated that what has been submitted is inadequate, though the plan submitted at the meeting is better it should include a construction sequencing plan and a narrative. She stated the fill is being brought to the property lines and the tidal pond. She questioned how this will affect current flow paths to the adjacent properties but especially to the tidal pond. Will more freshwater going into the pond change the salinity? She noted that the raingarden was originally proposed within the phragmites stand, which is a thick, dense matt. Its removal will be a big undertaking. In the interim, she questions if the meadow will establish itself and will the raingarden realistically function as intended if overwrought by phragmites.

Ms. Krynicki noted the proposed fill is to have living area below the main level of the house. She stated the amount of fill could be significantly reduced if the house were on a crawlspace.

Ms. Mozian noted the project meets the IWW setbacks but with so much site disturbance in the upland, there is concern that the proposed work could impact the wetland. Section 5.1(f) of the IWW regulations allows the Commission to consider those impacts. She stated the WPLO line is incorrectly placed on the site plan and should be shown an additional 15 feet from the 25 year flood. She indicated the wetland is hydraulically connected to Sasco Creek.

Ms. Krynicki discussed the soils on the site.

Mr. Popp discussed the raingarden with swale. He stated he does not feel that several, smaller raingardens would work as well one large one and are more likely to be filled and moved. He stated a large raingarden could be better protected. He stated his plan requires a long-term maintenance plan, which could be longer than 3 years. He noted the dock was shown on the 1995 aerials. The trees along the front property line will be saved except for the driveway and septic system. He offered sediment and erosion monitoring. He stated the notes on his plan adequately address the sediment and erosion control and construction sequencing.

Mr. Bryer asked how the velocity will change.

Mr. Popp stated he feels the raingarden near the septic system would not be good and will fill.

Ms. Krynicki noted that the raingarden is only 6-inches deep.

Mr. Bryer asked if stormwater could be retained in some other way.

Ms. Krynicki indicated staff is recommending surface treatment.

Mr. Bryer asked how the velocity of runoff will be changed.

Mr. Bennett stated it would not be changed. The grades on the perimeter of the property will not be changed. He added there are steep slopes on the site around the house now.

Michael Horvath, applicant, stated the owner would be willing to enter into an agreement relating to the use of fertilizers and pesticides.

Mr. Bennett stated the proposed septic system would be an improvement over the existing system.

Mr. Bryer noted there would be an increased in load/ usage since the existing structure is a 7 bedroom and they are proposing an 8 bedroom system.

Mr. Bennett asked for clarification of staff's comments about more freshwater reaching the tidal pond.

6. 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."

FEMA compliance for the existing residence will be accomplished by filling with earth and capping with a concrete slab at elevation 11.0' which is approximately 3'. The activity will take place within the existing foundation walls. The existing foundation walls will then be raised with additional concrete block to the height necessary for a two story residence.

The 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 storm water quality impacts and percentage of impervious area.

Brian L. Howes, manager of the Coastal Systems Program, School of Marine Science and Technology at U Mass, Dartmouth (January 2006) states that increased levels of nitrogen in estuaries is resulting in the loss of fisheries habitat, submerged aquatic vegetation and a general disruption of benthic communities and the food chain all along the Eastern Seaboard. At high levels, nitrogen causes aesthetic degradation and even inhibits recreational uses of coastal waters.

The application proposes to renovate a portion of the existing structure add on to the existing structure with additions and to modify as necessary for the entire structure. Proposed site coverage is to be 48.36% which is significantly greater than the percentage that has been proven to impact water quality.

This parcel is nearly level and therefore storm water and surface runoff from the smaller and more frequent storm events could be expected to be relatively stationary and to have the opportunity infiltrate the ground where it falls. Therefore, the Commission finds it is important that the applicant provide maximum opportunity for surface infiltration on this site. The area adjacent to the rear property line appears to be where this activity would take place most efficiently.

As the average elevation on the site is a 6.0' NGVD, surface infiltration is recommended to keep storm water infiltration above the very shallow tidally influenced high groundwater table on this parcel.

The 2004 Connecticut Stormwater Manual provides research that water quality experiences degradation when coverage in a watershed exceeds 10%. As the Saugatuck Shores is densely developed, the proposed coverage significantly exceeds the percentage in which water quality can be assumed to be impacted.

To compensate or mitigate for the impervious coverage, biofiltration is recommended. Organic matter, plant roots and biologically active soil help remove nutrients and pollutants at the surface or in the upper biologically active soil horizons prior to discharge to the inert parent material and eventually ground and surface waters.

There are roof leaders proposed for this project. Storm water is proposed to be discharged at the surface into a surface rain garden. The Commission finds this measure provides the best opportunity for water quality treatment on this parcel. The Commission finds the existing grassed swale along the rear property line in addition to the rain garden area will help retain the stormwater for infiltration purposes.

The property will be connected to the municipal sewer service.

The permeability of the driveway surface on this intensely developed site is important as porous surfaces detain stormwater and allows it to slowly infiltrate it into the subgrade. This mechanism mimics the natural water cycle and allows for groundwater recharge. The design should incorporate a sufficient base and storage capacity for the required rainfall capacity. Water that is slowly recharging groundwater sustains base flow for streams, wetlands and rivers. The constant flow of water they receive sustains water levels and contributes to the health of the aqua

The entire property lies within the WPLO boundary. The house will be rebuilt to conform to FEMA standards with the first habitable floor constructed at the 100 year base flood elevation. New flood openings are proposed for the garage doors and along two sides of the crawl space foundation.

Sediment and erosion controls are not shown on the site plan. The Commission finds a silt fence should be provided along the perimeter of the property line. As well, an anti-tracking bed should be constructed in the location of the existing drive. Construction access is limited. A soil stockpile is not be required for this project as no excavation or grading is proposed.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # WPL 8954-11
Street Address: 15 Island Way
Assessor's: Map B 02 Lot 164
Date of Resolution: December 14, 2011

Project Description: The partial demolition and reconstruction of an existing residence for FEMA compliance including construction of a new second story, a new 2 car garage and the removal of a shed. The work is within the Waterway Protection Line Ordinance and the 25 year floodplain of the Saugatuck River.

Owner of Record: John Watkins

Applicant: Barr John Watkins

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 8954-11** 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. A final inspection and submittal of an "as built" survey is required prior to the issuance of a Certificate of Compliance.
14. Conformance to the conditions of the Flood and Erosion Control Board of December 7, 2011.

SPECIAL CONDITIONS OF APPROVAL

15. Conformance to the plans entitled:
 - a. "Zoning/Location Survey, Map of Property Prepared for John B. Watkins & Lisa R. Watkins, 15 Island Way, Westport, Connecticut", Scale: 1"=20', dated September 28, 2011, prepared by Walter H. Skidd- Land Surveyor LLC
 - b. "Zoning/Location Survey, Map of Property Prepared for John B. Watkins & Lisa R. Watkins, 15 Island Way, Westport, Connecticut", Scale: 1"=20', dated September 28, 2011 and last revised to October 25, 2011, prepared by Walter H. Skidd- Land Surveyor LLC
 - c. Architectural Plans for 15 Island Way, Westport, CT", Fifteen sheets, dated November 15, 2011, prepared by JBW Architects
16. A permeable driveway detail shall be submitted to the Conservation Department for review and approval prior to the issuance of a zoning permit.
17. Driveway and terraces shall remain pervious in perpetuity with said restriction placed on the Land Records prior to the issuance of Conservation Certificate of Compliance.
18. A detailed landscape plan for the proposed plantings for the rain garden shall be submitted to the Conservation Department prior to the issuance of a zoning permit.
19. A bond to cover the cost of the plantings shall be submitted to the Conservation Department prior to issuance of a zoning permit. Bond monies shall be held for one year following the date of planting.

20. All proposed mechanical equipment shall be installed in conformance with all floodplain regulations and state building code requirements.
21. Sediment and erosion control fencing must be placed around the perimeter of the property boundary prior to work commencement and must remain in place until site is fully stabilized.

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:** Field
Ayes: Shea, Field, Bryer, Hayes
Nays: 0 **Abstentions:** 0 **Vote:** 4:0:0

Motion to close the Public Hearing and move into Work Session II.

Motion: Bryer **Second:** Shea
Ayes: Bryer, Shea, Field, Hayes
Nays: None **Abstentions:** None **Vote:** 4:0:0

Work Session II:

1. Approval of October 6, 2011 Show Cause Hearing minutes.

The October 6, 2011 Show Cause Hearing minutes were approved with corrections.

Motion: Shea **Second:** Bryer
Ayes: Shea, Bryer, Field, Hayes
Nays: None **Abstentions:** None **Vote:** 4:0:0

2. Approval of November 16, 2011 meeting minutes.

The November 16, 2011 meeting minutes were approved with corrections.

Motion: Bryer **Second:** Shea
Ayes: Bryer, Shea, Field, Hayes
Nays: None **Abstentions:** None **Vote:** 4:0:0

3. Report by the Wetland Boundary Map Verification Sub-committee on draft policy regarding changes to policies for wetland boundary determinations involving site plan and subdivision applications.

This agenda item was tabled to a future meeting date.

4. Other Business

- a. Ms. Mozian recognized perspective Commission members, Anna Recenga and John Washburn, who were in the audience.

The December 14, 2011 Public Hearing of the Westport Conservation Commission adjourned at 9:55 p.m.

Motion:	Bryer	Second:	Shea	
Ayes:	Bryer, Shea, Field, Hayes			
Nayes:	None	Abstentions:	None	Vote: 4:0:0