



**TOWN OF WESTPORT  
CONSERVATION COMMISSION**

TOWN HALL – 110 MYRTLE AVENUE  
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**DRAFT  
MINUTES  
WESTPORT CONSERVATION COMMISSION  
FEBRUARY 17, 2021**

The February 17, 2021 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  
Tom Carey, Secretary  
Donald Bancroft  
Stephen Cowherd, Esq.  
Paul Lobdell

**Staff Members:**

Alicia Mozian, Conservation Department Director  
Colin Kelly, Conservation Analyst  
Susan Voris, Admin. Asst. II

This is to certify that these minutes and resolutions were filed with the Westport Town Clerk within 7 days of the February 21, 2021 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



3. Review of Compliance Report

The Compliance Report was postponed.

Ms. Mozian stated there has not been much activity. 1 Charcoal Hill Road did submit an application, but it is missing a lot of information.

4. **6 Quentin Rd:** Request to release bond held for E&S controls and plantings as a condition of Permit #WPL-10938-19 for a new in-ground pool.

Ms. Mozian stated a pool permit condition required a bond for sediment and erosion controls and for plantings to replace those mature trees which the owner was going to remove. The owner decided not to remove those mature trees but instead pruned and added more lower story grasses and shrubs. The site is fully stabilized. The plantings are doing well. She noted the proposed patio area was not installed. She recommended release of the bond.

Motion to release the bond.

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

5. Review of Conservation Commission By-Laws

This agenda item was tabled to another work session.

Ms. Mozian thanked members for their comments and indicated she has incorporated these comments into the By-Laws. She will distribute the changes.

6. Election of Officers

Ms. Rycenga opened the Election of Officers.

Chair – Anna Rycenga

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

Vice-Chair – Paul Davis

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

Secretary – Thomas Carey

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

Sergeant at Arms – Don Bancroft

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

7. Other Business – **None**

**Public Hearing: 7:30 p.m.**

1. **17 Mortar Rock Road:** Application #IWW/M-11195-21 by David Vynerib, CCO Habitats, LLC on behalf of Thomas E Tighe to amend wetland boundary map #D7.

Dean Martin, PE presented the application on behalf of the applicant and property owner. This is a half-acre property that is bisected by a stream. Otto Theall was the soil scientist hired by the applicant to flag the wetlands. Aleksandra Moch was the soil scientist retained by the Town. Ms. Moch added three flags to complete the wetland flagging to the property line. He noted both soil scientists agree. There are 6,606 s.f. of wetlands or .15 acres.

Ms. Mozian noted that the current GIS map only shows a watercourse but no associated wetlands.

Mr. Martin said he will have Mr. Theall confirm the additional flags added by Ms. Moch.

Mr. Kelly agreed with Mr. Martin's comments. He noted the additional flags A, B & C should be added to the survey.

With no additional comments, the hearing was closed.

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

**Findings**  
**Application #IWW/M 11195-21**  
**17 Mortar Rock Road**  
**Public Hearing: February 17, 2021**

1. **Application Request:** The applicant, David Vynerib, CCO Habitats LLC, on behalf of Thomas Tighe, is requesting to amend wetland map # D07 on Lot #010. The parcel is owned by Thomas & Matthew Tighe.
2. **Soil Scientist for Applicant:** Otto R. Theall, Soil and Wetland Science, LLC
3. **Soil Scientist for Town of Westport:** Aleksandra Moch, Professional Soil Scientist, Wetland Scientist
4. **Plans reviewed:**  
"Data Accumulation Plan Prepared for CCO Habitats 17 Mortar Rock Road, Westport, CT", Scale: 1" = 20', dated December 21, 2020, prepared by Shevlin Land Surveying, LLC
5. **Wetlands Description:**  
Soil Investigation Report, 17 Mortar Rock Road, Westport, Connecticut - prepared by Otto R. Theall, dated December 13, 2020, and sketch map.

**Wetland** soils found on the property:

**Leicester fine sandy loam (4):** This soil occurs on upland drainageways and depression landforms. The parent material consists of melt-out till derived from granite, schist, and gneiss. The drainage class is poorly drained. This Leicester soil has a seasonal high water table at a depth of about 6 inches from fall until late spring. Most areas of this soil are wooded. The seasonal high water table limits this soil for community development; sites for on-site septic systems commonly need extensive filling and require special design and installation. Where suitable outlets are available, footing drains help prevent wet basements. Using siltation basins and quickly establishing plant cover help to control erosion and sedimentation during construction. Even when drained, the soil remains wet for several days after heavy rains. Wetness make this soil poorly suited for trees. The shallow rooting depth to the seasonal high water table causes the uprooting of many trees during windy periods.

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

**Sutton fine sandy loam (51)** - This soil unit consists of gently sloping, moderately well drained soil found in slight depressions and on the sides of hills and ridges. This Sutton soil has seasonal high water table at a depth of about 20 inches from late fall until mid-spring. Many areas of this soil type are used for community development, with limitations caused by the high water table.

**Charlton-Chatfield complex, very rocky (73)** - This component occurs on upland hill landforms. The parent material consists of melt-out till derived from schist, granite, and gneiss. The depth to a restrictive feature is 20 to 40 inches or greater than 60 inches. The drainage class is well drained.

**Udorthents-Urban land complex (306)** - This component occurs on cut (road, railroad, etc.), railroad bed, road bed, spoil pile, urban land, fill, and spoil pile landforms. Urban land is land mostly covered by streets, parking lots, buildings, and other structures of urban areas.

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

- The existing house was built in 1966. It is served by sewer system. A sewer easement is found along the western property line.
- The property is 0.50 acres (16,146 sq. ft.) in size.
- The parcel is located within the Pussy Willow Brook watershed. A watercourse flows from west to east through the property.
- This property **is not** located within a flood zone.
- The property **is not** within the Aquifer Protection Overlay Zone.
- Property does **not** exist within the Coastal Areas Management Zone.
- The Waterway Protection Line is established 15' from the flagged wetland line. It is not shown on the plan.
- The flagged wetland area is **6,606 sq. ft.** as determined by the plan by Shevlin, dated October 16, 2020. The Town of Westport Official Wetland Map does not indicate wetlands however a watercourse is identified on the *Westport GIS*. The proposed amendment represents an **increase of ~6,606 sq. ft. of wetland area.**

## 7. Discussion:

The Commission finds that the applicant submitted a soils report by Otto Theall, dated December 13, 2020, that documents his investigation of the soils on the site. Wetlands soils were found in the rear yard, the northern portion of the site. The rear yard and wetlands consist of a manicured lawn, a watercourse and a natural forested area. A watercourse drains from west to east across the middle of the yard and drains to a pipe inlet near the eastern property line. The sketch map identifies the location of the wetland soil types, marked by flag numbers #1 through #6; flag numbers #101 through #104; and flag numbers #201 through #203. These locations are also reflected on the "Data Accumulation Plan" prepared by Shevlin Land Surveying, LLC, dated December 21, 2020. The Commission notes that the wetland line extending from wetland flag #1 is an approximation of the extent of wetlands to the southeastern corner of the property. This was an oversight by the soil scientist due to the unique property line layout with respect to the landscape. The Commission finds that the additional flags shall be added to the "Data Accumulation Plan" to complete the extent of wetlands on the property. The Commission finds that the "Data Accumulation Plan" be updated to show the Waterway Protection Line on the plan set 15' from the flagged wetland line.

The Commission finds that the Town of Westport retained the services of Aleksandra Moch, soil scientist, to review the proposed wetland boundary findings. Ms. Moch conducted an on-site investigation on January 30, 2021. The letter, dated January 30, 2021 supports the findings of Mr. Theall, and states "*Based on the soil samples taken at the site, it was determined, the wetland line depicted by Otto Theall, on December 13, 2020 and shown on the survey by Shevlin Land Surveying, LLC, dated December 21, 2020 was marked correctly and follows the Westport Wetland Regulations.*

*In addition to the existing wetland survey, three new flags were placed (Flag: A, B & C) marking the most southern end of the stream channel. In general, the flags seem to follow the "Approximate Edge of Inland Wetlands" as shown on the referenced survey. It is recommended, the exact location of the flags be depicted on the revised survey."*

**Resolution**  
**Application #IWW/M-11195-21**  
**17 Mortar Rock Road**  
**Date of Resolution: February 17, 2021**

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-11195-21 by David Vynerib, CCO Habitats, LLC on behalf of Thomas E Tighe to amend the wetland boundary on Map: #D07, Lot: #010 on the property located 17 Mortar Rock Road with the following conditions:

1. Conformance to the plans titled:

“Data Accumulation Plan Prepared for CCO Habitats 17 Mortar Rock Road, Westport, CT”, Scale: 1” = 20’, dated December 21, 2020, prepared by Shevlin Land Surveying, LLC

2. Submit an electronic copy of a revised survey, showing the addition of wetland flags A, B, & C, to the Conservation Department.

**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: Lobdell**

**Second: Carey**

**Ayes: Lobdell, Carey, Rycenga, Davis, Bancroft, Cowherd**

**Nays: None**

**Abstentions: None**

**Votes: 6:0:0**

2. **36 Bonnie Brook Road: Continued Application:** Application #IWW,WPL-11135-20 by Kousidis Engineering, LLC on behalf of Audrey Rabinowitz for a proposed single-family residence with attached garage, driveway, and pool with associated site improvements. Portions of the work are within the upland review area setbacks and the WPLO area of Silver Brook.

Jim Kousidis, PE presented the application on behalf of the property owner. He discussed the changes made to the plan since the last meeting. The planting buffer is now two feet wider. He heard the Commission’s concerns about the distance of the pool and patio to the wetland. Therefore, they eliminated the screen porch and moved the pool to that location and further away from the wetland. They reduced the pool depth to 6 feet. The patio will then be located where the pool was originally planned. He discussed the construction sequence. Mr. Kousidis indicated that he is uncertain as to whether the pool excavation will take place at the same time as the house. If done separately, they will come from the north side of the house to access the pool site. The walls will also be built for the patio.

Ms. Rycenga noted the importance of establishing a Limit of Disturbance.

Mr. Kousidis agreed and noted the contractor will need to notify staff when construction begins.

With no further comments, the hearing was closed.

**Motion: Rycenga**

**Second: Davis**

**Ayes: Rycenga, Davis, Bancroft, Carey, Cowherd, Lobdell**

**Nays: None**

**Abstentions: None**

**Vote: 6:0:0**

**Findings**

**Application # IWW, WPL-11135-20**

**36 Bonnie Brook Road**

**Assessor’s Map: D15 Tax Lot: 034**

**Public Hearing January 20, 2021 continued to February 17, 2021**

1. **Receipt Date:** **November 18, 2020**
2. **Application Classification:** **Plenary**
3. **Application Request:** To construct a new single-family residence with attached garage, driveway, pool, patio, retaining wall and associated site improvements. Portions of the work are within the upland review area and the WPLO area of Silver Brook.
4. **Status:** This application was continued from the January 20, 2021 hearing by vote of the Commission so that the applicant could:
  - a) consider amending the plan to include a smaller and shallower pool;
  - b) pull the pool back from the wetlands to achieve a minimum 20-foot non-disturbance buffer; and,
  - c) increase the width of the proposed planting buffer.

Revised plans were subsequently submitted which now show the pool has been relocated to the north where the covered porch was originally proposed. In addition, the size of the pool has been reduced from 14' x 30' to 14' x 28' with a max depth of 6' from the 7' depth that was originally proposed. The proposed covered porch has been entirely removed from the plan. The proposed patio has changed, in that its location has been re-sized and re-oriented to now be ~17' from the wetland at the closest point. The proposed planted buffer has increased in size to seven feet (7') width though the number of proposed plantings has not increase. The raingarden is proposed to be heavily planted with *Panicum virgatum* (switchgrass).

5. **Plans reviewed: (Revisions Underlined)**
  - a) "Zoning/Location **Survey Map** of Property Prepared for Able Construction, Inc. 36 Bonnie Brook Road, Westport, Connecticut", Scale: 1"=20', dated September 17, 2020, prepared by Walter Skidd, Land Surveyor, LLC
  - b) "**Site Development Plan**, 36 Bonnie Brook Road, Westport, CT prepared for Able Construction Inc.", Scale: 1"=20', dated November 12, 2020 and last revised to **February 4, 2021**, prepared by Kousidis Engineering, LLC
  - c) "**Sediment & Erosion Controls Plan**, 36 Bonnie Brook Road, Westport, CT prepared for Able Construction Inc.", Scale: 1"=20', dated November 12, 2020 and last revised to **February 4, 2021**, prepared by Kousidis Engineering, LLC
  - d) "**Drainage Analysis** Located at 36 Bonnie Brook Road, Westport, CT Prepared for Able Construction Inc", dated November 12, 2020 and last revised to **January 29, 2021**, prepared by Kousidis Engineering, LLC
  - e) "**Architectural Plans**: "Residence for 36 Bonnie Brook Road, Westport, CT", Scale 1/4"=1', Dated October 6, 2020 and last revised to December 2, 2020 prepared by James Schettino Architects, 8 pgs.
6. **Background Information:**
  - a) The existing house was built in 1973.
  - b) The property is 1.54 acres (66,944 sq. ft.) in size.
  - c) The parcel is located within the Aspetuck River watershed. A pond exists on the western portion of the property with Silver Brook flowing through the parcel from the east towards the pond then continues north of the property.
  - d) This property is located within Flood Zone "X" and Flood Zone "X" Shaded as shown on FEMA Map #09001C0411F dated June 18, 2010.
  - e) The property is within the Aquifer Protection Overlay Zone.
  - f) Property does not exist within the Coastal Areas Management Zone.
  - g) The property lies within the Waterway Protection Line Ordinance boundary. The Town Engineer determined the 25-year flood elevation of 47.0'. The Waterway Protection Line is established 15' from elevation 47.0'. The line completely encompasses the site.
  - h) The flagged wetland area is 44,820 sq. ft. as determined by the Walter Skidd survey, dated September 17, 2020.
  - i) Flood & Erosion Control Board approved this application pursuant to the WPLO on December 2, 2020
7. **Previous Permits issued:**  
#IWW/M-11101-20: Amended Wetland Map #D15
8. **Property Description:**  
**Lot Area:** 1.54 acres

**Wetlands:** 1.03 acres of the site are wetlands.

**Location of 25-year flood boundary:** 9 ft. contour interval. WPLO boundary established 15 ft. landward from the 9 ft. contour. Note the entire property is within the WPLO boundary.

**Property is situated in Flood Zone X** as shown on F.I.R.M. Panel 09001C0411F effective date June 18, 2010. The 100-Year Flood Elevation is 47.4 ft., as determined by Westport Town Engineer.

**Proposed First Floor Elevation:** 50.0 ft.

**Proposed Crawl Space Elevation:** 45.0 ft.

**Proposed Garage Elevation:** 48.0 ft.

Proposed Patio Elevation: 48.0 ft.

**Existing Site Coverage: 17.57% (5,461.6 Sq. Ft.)**

**Proposed Site Coverage: 14.29% (4,442 Sq. Ft.)**

The house will be connected to gas service and be served by a new septic system.

## 9. **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

### Discussion:

The Commission finds that the existing residence built in 1973, lies **~12'** from the flagged wetland at its closest point along the southern edge. The applicant proposes to demolish this residence and construct a new single-family residence to be **~26'** from the wetland at its closest point and be **2,850 sq. ft.** The existing house is **3,560 sq. ft.** A septic system consisting of septic tank and eighty-eight (88) linear feet of 24" pre-cast concrete galleries is proposed along the northeastern corner of the site. This will be located **~100'** from the flagged wetland boundary to the west and **~75'** from the flagged wetland to the south. The existing driveway lies **~5'-10'** from the flagged wetland and will be removed. The new driveway is proposed at **30'** from the flagged wetland line, which meets the review area setback from the wetlands.

The Commission finds that the application also consists of a proposed pool and patio in the rear yard. The patio and pool will be elevated to 48.0' and surrounded by a **~3.5' retaining wall**. This wall will be **~17'** from the wetland line at the southwestern corner. The proposed pool (14' x 28') is shown, with a max depth of 6'. The groundwater from Test Pit #3 shows water at **88"** below grade, or approximately elevation **~38'**. The patio proposed at elevation 48' would allow for a **~6' deep pool** without intercepting groundwater.

The majority of the property behind the residence is wetlands. It has a portion of the rear yard maintained as lawn leading to a wooded swamp. Some invasive vines are visible including *Celastrus orbiculatus* (Asiatic bittersweet). A **~5'** wide planted buffer was originally proposed that separates the house, pool, patio, lawn, and drainage area from the wetlands. The buffer is **~230'** long along the length of the wetlands located nearest the southern and western edge of the proposed residence. The Commission finds that the proposed buffer is increased from a proposed five foot (5') wide buffer to a seven foot (7') wide buffer consisting of planting seventeen (17) *Ilex verticillata* (winterberry) evenly spaced and planting the areas between with New England Wet Mix seed mix. This is the same number of plantings proposed in the original submittal. The rain garden is proposed to be planted with forty (40) *Panicum virgatum* (switchgrass) pots.

The Commission finds that a 4' tall pool fence is proposed on top of the wall and the pool mechanicals are depicted south of the proposed wall. The pool mechanicals are sited **~22'** from the wetland line and will be placed adjacent to the residence and wall.



## **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

### **Discussion:**

The Commission finds that the proposed ~7' wide planted buffer is situated between the manicured lawn and the wetland boundary and is comprised of vegetation consisting of a spaced row of native, 4' tall, *Ilex verticillata* (winterberry) which is a shrub species. Additionally, they propose to spread a seed mix into the spaces between the plantings. The Commission finds that this buffer would help restore the wooded area of the yard and protect water quality through bio-filtration. The plants would filter the sheetflow runoff during storm events.

The Commission finds that the site plan incorporates Low Impact Development (LID) through the use of a rain garden feature. Stormwater from the residence will be directed by downspouts to 70' of Cultec units onsite. Stormwater from the driveway and rear patio will be directed to the rain garden, which will be planted with forty (40) containers of *Panicum virgatum* (switchgrass). Any contaminants from these two impervious areas will travel with the stormwater and be treated within the soil and root interface of the plants and be absorbed by the plants or adsorbed to the soils, effectively functioning as a bio-filtration area. The Commission finds that this will treat the stormwater runoff and improve the overall water quality compared to the current condition of untreated runoff. The existing asphalt driveway is proposed to be removed and portions of the area are to be restored to lawn while the rest would become part of the proposed buffer.

Erosion control fencing is proposed to be installed adjacent to the planted buffer and flagged wetland line. Minimal grade changes are proposed up to the silt fence area to blend in the final grade. The grading changes will mostly be kept to the areas of the rain garden, patio/pool area, and driveway. The Commission finds that the silt fence as proposed should be adequate to retain sediment and soils from entering the wetlands if it is properly maintained.

The proposed drainage of the Cultec units and the rain garden are sized to handle the first inch of runoff for water quality. The Commission finds that this will be an improvement over the existing site condition which is without drainage, and, allows for water quality treatment through biofiltration. The Commission finds that the site engineer shall oversee the drainage installation and certify that it is installed correctly prior to the issuance of a CCC. In addition, the plantings for the rain garden and buffer provide a prime water quality treatment onsite. Therefore, in order to discourage/prevent future property owners from moving or mowing the raingarden or the planted buffer, The Commission finds that a performance bond is required for the rain garden plantings and buffer plantings and seed mixture to ensure success and maturity of the plants.

## **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.

**Discussion:**

The Commission finds that the proposed activities will not cause erosion and sedimentation to the wetlands provided the silt fence be installed appropriately and maintained throughout the construction process. An anti-mud tracking pad is proposed in the area of the driveway access point to the property. Two temporary stockpile locations are provided onsite. These appear to be adequate to managing soil and sediment onsite. The Commission finds that the applicant will likely not encounter groundwater during the excavation for the site work as the house will be built on a crawl space and the pool has been moved to an area where test pits show depth to groundwater is 88" and maximum pool depth is 72". Therefore, a dewatering plan is not necessary.

The Commission finds that a rip rap outlet protection is proposed for the drainage discharge into the rain garden which should reduce energy of stormwater flows. A geofabric "Inlet Protection Type D" detail is provided for the catch basin inlet along the road which should trap any sediments that reach the road.

**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.

**Discussion:**

The Commission finds that the existing conditions on the parcel limit habitat potential within the wetland immediately adjacent to the residence due to the presence of a manicured lawn. Plantings within the wetlands will help to reestablish a portion of the wetland boundary and offer an opportunity to increase biodiversity. The proposed site development proposal will result in supplementing vegetation within the biological wetland border.

The applicant provided a seven foot buffer incorporating plantings. The Commission would recommend the applicant remove any invasive species along the wetland border to improve the existing vegetation in the wetlands and help the proposed plants establish themselves. This combined effort will improve habitat potential and improve natural habitat in this area by providing more plant diversity within wetland limits.

**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

**Discussion:**

A surface rain garden retention system and a Cultec R-330 XLHD recharger system is proposed to handle the collection of stormwater runoff from the roof, driveway, and patio for a 25-year storm. The rain garden is currently proposed as the main treatment for stormwater for the property from the driveway and patio. These areas are potential sources of contaminates from residential use, including parking of automobiles. The Commission finds that it is important that the rain garden is installed and functions properly. The Commission finds that the site engineer shall oversee the

drainage installation and certify that it is installed correctly prior to the issuance of a Conservation Certificate of Compliance

The site grading proposed will generally follow the existing site grades and therefore, it is not anticipated to have an impact to the adjacent or adjoining properties. The applicant has provided a "Drainage Analysis" that shows there "will be no increase in flow rate or volume to the wetlands." This drainage complies with the Town of Westport requirements according to the Engineering Department. The Flood & Erosion Control Board approved the application at its January 6, 2021 meeting.

The pool has been relocated from the initial proposal to an area where test pit results indicate groundwater at 88". The Commission finds that having a 6' maximum pool depth, an elevated patio, and the house constructed on a crawl space, it is unlikely that groundwater will be encountered during construction.

#### **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.

#### **Discussion:**

The proposed activities will not significantly impact recreational and public uses.

### **10. 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 Waterway Protection Line boundary exists 15' from the 25-year flood line onsite. The 25-year Flood Line is extrapolated from a Silver Brook flood study recently commissioned by the Town and as determined by the Town Engineer and encompasses the site. The site plan notes the entire property is within the "WPLO Jurisdiction".

This project includes changes to the site that effectively reduce coverage pre and post construction by ~700 sq. ft. The proposed new residence will be built above the 100-year flood plain and will be built utilizing a crawl space construction, which is recommended by the Engineering Department, and would make the house effectively FEMA compliant. The 100-year elevation for this property is established at elevation 47.4'. The elevation of the floor for the garage is proposed at 48.0' and the proposed finished floor for the residence will be 50.0'.

The Commission finds that the stormwater runoff from the new house will be directed to proposed Cultec units. Stormwater from the new patio, pool, and driveway will be collected and directed to the proposed rain garden. These areas have been sized to accommodate the additional runoff from a 25-year storm and to manage the first flush or 1" of rainfall for the Water Quality Volume in accordance with the 2004 Connecticut Stormwater Quality Manual. The Connecticut Stormwater Manual provides research that water quality experiences degradation when coverage in a watershed exceeds 10%. The **building coverage** on site is proposed to decrease from 11.5% (3,560 sq. ft.) to 9.17% (2850 sq. ft.). **The building coverage including the pool is 10.8% (3,362 sq. ft.).** The **overall coverage** on site is proposed to decrease from 17.57% (5,461.6 sq. ft.) to 14.29% (4,442 sq. ft.). The proposed location of the residence and the driveway are slightly adjusted to the north and

east from the existing residence and driveway. The pool is proposed westward of the existing limit of the deck.

The Commission finds that the potential for most projects 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. In keeping with this premise, the Commission would typically request the applicant consider a pervious surface be utilized for the driveway. This would be considered a Low Impact Development and Best Management Practice (LID-BMP). The Commission finds that the that the applicant has proposed a site with less coverage, a residence and driveway further away from the resource, and incorporated a rain garden and vegetated buffer with the proposal.

Sediment and erosion controls are shown installed around the perimeter of the proposed residence and drainage. Construction access and material stockpile areas are noted on the plans. The Commission finds that the these should be adequate, along with routine sweeping of the road if any sediment does move offsite onto the adjacent pavement during site work.

The Commission finds that the applicant shall provide a bond to cover the cost of plantings for one full growing season to ensure vitality of the buffer.

The Commission finds that this house construction and driveway changes will not significantly impact resources as they are protected under the Waterway Protection Line Ordinance and Inland Wetland and Watercourse Regulations

**Conservation Commission**  
TOWN OF WESTPORT  
**Conditions of Approval**  
**Application # IWW, WPL -11135-20**  
**36 Bonnie Brook Road**  
**Assessor's Map: D15 Tax Lot: 034**  
**Date of Resolution: February 17, 2021**

**Project Description:** Applicant is requesting to construct a new single-family residence with attached garage, driveway and pool with associated site improvements. Portions of the work are within the upland review area and the WPLO area of Silver Brook.

**Owner of Record:** Audrey Rabinowitz

**Applicant:** Jim Kousidis, Kousidis Engineering, LLC

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-11135-20** with the following conditions:

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.

**STANDARD CONDITIONS OF APPROVAL**

1. Permits are not transferable without the prior written consent of the Conservation Commission.
2. 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.

3. 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.
4. 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.
5. 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.
6. 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.
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.
9. All plants proposed in regulated areas must be non-invasive and native to North America.
10. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
11. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
12. 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.
13. 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.
14. A final inspection and submittal of an "as built" survey is required prior to the issuance of a Certificate of Compliance.
15. All on-site dumpsters shall be covered at the end of each workday and or when not in use.
16. Conformance to the conditions of the Flood and Erosion Control Board of **January 6, 2021**.
17. Conformance to the previously adopted "Standard Pool Conditions" for pools located near wetlands or watercourses as applicable and as enumerated below:
  - 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. Pool equipment should be located at or above the 100 year flood elevation.
  - c. When pools are proposed in an area that abuts a waterway or wetland, a vegetated buffer should 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 long periods of time, i.e 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) "Zoning/Location **Survey Map** of Property Prepared for Able Construction, Inc. 36 Bonnie Brook Road, Westport, Connecticut", Scale: 1"=20', dated September 17, 2020, prepared by Walter Skidd, Land Surveyor, LLC

- b) “**Site Development Plan**, 36 Bonnie Brook Road, Westport, CT prepared for Able Construction Inc.”, Scale: 1”=20’, dated November 12, 2020 and last revised to **February 4, 2021**, prepared by Kousidis Engineering, LLC
  - c) “**Sediment & Erosion Controls Plan**, 36 Bonnie Brook Road, Westport, CT prepared for Able Construction Inc.”, Scale: 1”=20’, dated November 12, 2020 and last revised to **February 4, 2021**, prepared by Kousidis Engineering, LLC
  - d) “**Drainage Analysis** Located at 36 Bonnie Brook Road, Westport, CT Prepared for Able Construction Inc”, dated November 12, 2020 and last revised to **January 29, 2021**, prepared by Kousidis Engineering, LLC
  - e) **Architectural Plans:** “Residence for 36 Bonnie Brook Road, Westport, CT”, Scale ¼”=1’, Dated October 6, 2020 and last revised to December 2, 2020 prepared by James Schettino Architects, 8 pgs.
19. Provide a foundation as-built plan to verify the locations of the house, pool, and patio and indicate the distance from the wetlands on the plans.
20. The pool fence shall be no closer than the top of the proposed retaining wall. The pool mechanicals shall be placed in the location as shown on the plans unless another location is authorized by staff.
21. The site engineer shall oversee the drainage installation and certify that it is installed correctly prior to the issuance of a CCC.
22. A bond to cover the cost of sediment and erosion controls, plantings for the rain garden, wetland buffer plantings and seed mix shall be submitted prior to issuance of a zoning permit and held for one full growing season to ensure vitality.
23. All proposed plantings shall be installed prior to the issuance of a CCC.

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: Carey Second: Lobdell**  
**Ayes: Carey, Lobdell, Rycenga, Davis, Bancroft, Cowherd**  
**Nays: 0 Abstentions: 0 Vote: 6:0:0**

3. **23 Bermuda Road:** Application #WPL-11190-21 by Ritzzo Development LLC on behalf of Mark Altschuler to construct a new single-family residence, garage, driveway, patio, pool, sewer connection, and stormwater management. The proposed activity lies within the WPLO area of the Saugatuck River.

Fred D’Amico, PE presented the application on behalf of the applicant and property owner for a new single-family residence with attached garage, driveway, pool, and patio. The first floor will be at elevation 14.5. He noted this property lies wholly within the WPLO. They have received approvals from Health Department and the Flood and Erosion Control Board. He indicated they would agree with substituting the privet hedge with native plant species.

Ms. Rycenga asked how many trees had been removed from the site.

Mr. D’Amico stated he did not know. He added that this was a previously developed site.

Ms. Rycenga asked if the low spot in the northeast corner of the property floods.

Mr. D’Amico stated he was uncertain.

Mr. Carey noted the plans show the first floor at elevation 15.5.

Mr. D'Amico stated the plans were revised to 14.5.

Mr. Lobdell asked why there was a change in the floor elevations.

Mr. Kelly stated the Architectural Plans showed the 14.5. This is a split level. The Engineering Department asked for elevation 14.5 to be called out.

Ms. Mozian noted the 100-year base flood elevation is 13 msl.

Ms. Mozian noted the trees that were removed as shown on the existing conditions survey.

The Commission agreed more plantings should be added to the plan in addition to changing the species from privet to a native species. They also noted that a bond should be required.

Ms. Rycenga gave two minutes to allow for the public to submit comments.

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

<b>Motion:</b>	<b>Rycenga</b>	<b>Second:</b>	<b>Lobdell</b>
<b>Ayes:</b>	<b>Rycenga, Lobdell, Bancroft, Carey, Cowherd, Davis</b>		
<b>Nayes:</b>	<b>None</b>	<b>Abstentions:</b>	<b>None</b>
		<b>Vote:</b>	<b>6:0:0</b>

#### FINDINGS

**Application #WPL-11190-21  
23 Bermuda Road  
Public Hearing: February 17, 2021**

- 1. Application Request:** Applicant is proposing to construct a new single-family residence, garage, driveway, patio, pool, pool fence, mechanicals sewer connection, and stormwater management. The proposed activity lies within the WPLO area of the Saugatuck River.
- 2. Plans reviewed:**
  1. "Zoning Plot Plan Map of Property Located at 23 Bermuda Road Prepared for Mark Altschuler & Lori Silverman, Westport, Connecticut", Scale: 1"=20', Dated October 7, 2019, prepared by B.G. Root Surveyor, LLC
  2. "Proposed Site Plan, Michael Ritzzo 23 Bermuda Road Westport, CT", Scale 1"=10', Dated January 8, 2021 and last revised to January 27, 2021, prepared by D'Amico Associates
  3. Architectural Plans entitled "Altschuler Residence 23 Bermuda Road, Westport, Connecticut", Scale: 1/4"=1'0", Dated January 12, 2021, prepared by FGS Design, LLC., Sheets A100 – A201 (4 pgs.)
  4. "Stormwater Drainage Analysis for 23 Bermuda Road Westport, CT", Dated January 3, 2021, prepared by D'Amico Associates
  5. Pool Building Plans entitled: "Ritzzo Development 23 Bermuda Road, Westport, Connecticut", Scale: 1/4"=1'0", Dated 1/11/2011, prepared by in2blue Design
- 3. Property Description:**

**Location of 25-year flood boundary:** 9 ft. contour interval.  
**Location of WPLO boundary:** 15 ft. off the 9 ft. contour. Property is located entirely within the WPLO boundary.  
**Property is situated in Flood Zones AE (el. 13'** as shown on F.I.R.M. Panel 09001C0532G Map revised to July 8, 2013.  
**Proposed First Floor Elevation:** 14.5 ft.  
**Proposed garage floor elevation:** 7.5 ft.  
**Existing Site Coverage:** 20.96%, 2,358 sq. ft.  
**Proposed Site Coverage:** 22.0%, 2,474 sq. ft.  
**Sewer Line:** The existing residence is serviced by municipal sewer.  
**Aquifer:** Property underlain by Canfield Island Aquifer which is a coarse-grained stratified drift aquifer. The property is NOT within the Town's wellfield protection zone.

**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.

**Proposed Storm Water Treatment:** The applicant states that the storm water runoff from the proposed residence is to be discharged to an onsite system comprised of 96 linear feet of concrete galleys. The plans show roof leaders directed to this system. The driveway is proposed as gravel and the patios and walkways are proposed as permeable.

The Engineering Department has stated this drainage proposal substantially complies with their drainage standards and meets FEMA requirements.

Areas for potential bio-filtration or rain gardens are not shown and appear limited due limited room onsite.

**4. Previous Permits issued:** None

The Flood and Erosion Control Board approved the application with conditions on February 3, 2021. 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 residence to be FEMA compliant, a stone driveway, a 5 ft. deep (12'x25') pool, a patio on either end of the pool, associated drainage, a FEMA compliant fence around the pool and rear yard, and to plant a row of privet hedge along the northeast and southeast property line. Minimal grading is shown along the driveway and near the drainage system.

The Commission finds that the house will be built to conform to FEMA standards with the first habitable floor (el. 14.5') constructed above the 100-year base flood elevation (el. 13'). The garage is proposed at elevation 7.5' with the surrounding existing grade shown at an average grade of 7.2'. The ground floor plan depicts a two-car garage along with an unfinished room for storage. Flood openings are proposed to meet FEMA requirements and should be verified by the Engineering Department or Planning & Zoning Department. The plans additionally show a propane tank that will have an anchoring system in accordance with FEMA standards, an elevated platform for pool mechanicals, an elevated platform for an air conditioning unit.

A pervious stone driveway has been proposed with this application. The pool patios are noted as 8" x 8" stone bedded in sand with 4" wide grass strips in between. The Commission finds that the detail of the patio is included on the plan to verify the permeability. The Commission finds that the design engineer shall witness and certify the construction of all permeable surfaces proposed for this project and submit said certification to the Conservation Department prior to the issuance of a Conservation Certificate of Compliance.

The Commission finds that 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 stormwater quality impacts and percentage of impervious area. Proposed site coverage is to be **22.0%** which is within the 10-25% cover that will impact water quality. It should be noted that total coverage onsite is proposed to be increase by **~1.04%** or **116 sq. ft.** The 2004 Connecticut Stormwater Manuel provides research that water quality experiences degradation when coverage in a watershed exceeds 10%. As the Saugatuck Shores is densely developed, the coverage exceeds the



percentage in which water quality can be assumed to be impacted. The stormwater runoff associated with the residence has direct flow by a 6" pipe to the storage within the underground detention system. The rest of the site topography of the site is relatively flat with no other concentrated stormwater runoff areas noted. Sediment and erosion controls are shown on the plan. Construction access will most likely be through the existing driveway and area for material stockpiles are limited due to the site size. A silt fence is depicted around the property.

The pool construction details show a pool depth of 5'. This excavation will be to elevation ~2.5' (7.5'-5'=2.5'). The elevation of mean high water is 3.3 ft. msl. The Commission finds that the applicant may encounter groundwater during excavation. A dewatering detail is on the plan and should be utilized in the case of groundwater interception during construction. Additionally, The Commission finds that setting limits on excavation times to coincide with low tides will minimize the amount of water encountered during digging for the pool. The location of a 6 ft. high FEMA-compliant fence is shown on the plan. The Commission finds that a detail of the pool fence which confirms the free flow of water through it shall be submitted for review and approval by the Engineering Department.

The property will be connected to the municipal sewer service. Health Department approval for the pool was secured on January 12, 2021.

No bio-filtration is provided with the application. Two rows of privet hedges are proposed along the northeast and southeast property line which will function mainly as a visual barrier for the rear yard. Privets, in the genus *Ligustrum*, are native to Europe and Asia, but have been naturalized through North America after introduction. These shrubs are listed on the Connecticut Invasive Plant List by the CT Invasive Plants Council. The Commission finds that these plantings shall be replaced with a native substitute. The Commission further notes that the existing trees, specifically a 24" Maple near the northwest corner of the yard and the 24" triple trunk tree located in the central western portion of the yard (near the proposed stockpile location) have been removed recently. These trees were not located within any area that is proposed for development. The Commission finds that these trees should have been preserved biofiltration measures. The Commission requires a planting plan to replace the loss of these trees.

**Conservation Commission**  
TOWN OF WESTPORT  
**Conditions of Approval**  
**Application # WPL 11190-21**  
**Street Address: 23 Bermuda Road**  
**Assessor's: Map B02 Lot 039**  
**Date of Resolution: February 17, 2021**

**Project Description:** To construct a new single-family residence, garage, driveway, patio, pool, pool fence, mechanicals sewer connection, and stormwater management. The proposed activity lies within the WPLO area of the Saugatuck River.

**Owner of Record:** Lori & Mark Altschuler  
**Applicant:** Ritzzo Development LLC

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 11190-21** with the following conditions:

**STANDARD CONDITIONS OF APPROVAL**

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. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
7. All plants proposed in regulated areas must be non-invasive and native to North America.
8. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
9. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
10. 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.
11. 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.
12. 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.
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 **February 3, 2021**.
15. Conformance to the previously adopted "Standard Pool Conditions" for pools located near wetlands or watercourses as applicable and as enumerated below:
  - 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. Pool equipment should be located at or above the 100 year flood elevation.
  - c. When pools are proposed in an area that abuts a waterway or wetland, a vegetated buffer should 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 long periods of time, i.e 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**

16. Conformance to the plans entitled:
  - a) Zoning Plot Plan Map of Property Located at 23 Bermuda Road Prepared for Mark Altschuler & Lori Silverman, Westport, Connecticut", Scale: 1"=20', Dated October 7, 2019, prepared by B.G. Root Surveyor, LLC
  - b) "Proposed Site Plan, Michael Ritzzo 23 Bermuda Road Westport, CT", Scale 1"=10', Dated January 8, 2021 and last revised to January 27, 2021, prepared by D'Amico Associates
  - c) Architectural Plans entitled "Altschuler Residence 23 Bermuda Road, Westport, Connecticut", Scale: 1/4"=1'0", Dated January 12, 2021, prepared by FGS Design, LLC., Sheets A100 – A201 (4 pgs.)

- d) "Stormwater Drainage Analysis for 23 Bermuda Road Westport, CT", Dated January 3, 2021, prepared by D'Amico Associates
- e) Pool Building Plans entitled: "Ritzzo Development 23 Bermuda Road, Westport, Connecticut", Scale: 1/4"=1'0", Dated 1/11/2011, prepared by in2blue Design

- 17. Design Engineer shall witness and certify the construction of all permeable surfaces proposed for this project (driveway, walkways and patios) and submit said certification to the Conservation Department prior to the issuance of a Conservation Certificate of Compliance.
- 18. Proposed driveway, walkways and patios must be constructed as permeable and remain so in perpetuity with this requirement placed on the land records prior to issuance of a Conservation Certificate of Compliance.
- 19. Pool excavation activities shall be limited to the times within the three (3) hours on either side of low tide.
- 20. A detail of the pool fence that demonstrates the allowance of the free flow of flood waters shall be submitted for review and approval by the Engineering Department prior to the Issuance of a Conservation Certificate of Compliance.
- 21. The Conservation Department must be contacted 48 hours prior to start of construction in order to inspect erosion controls.
- 22. Proposed propane tank to be installed in conformance with floodplain regulations and state building code as required by applicable departments.
- 23. The applicant shall provide a planting plan to the Conservation Department for approval prior to the issuance of a Zoning Permit. Said plan shall indicate a native species to substitute for the proposed Privet hedge and a one-to-one replacement for the three shade trees removed from the site.
- 24. A bond to cover the cost of plantings and erosion controls shall be submitted prior to issuance of a zoning permit.
- 25. Said plantings shall be installed 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.**

**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: Bancroft                      Second: Lobdell**  
**Ayes: Bancroft, Lobdell, Rycenga, Davis, Carey, Cowherd**  
**Nays: 0                                  Abstentions: 0                      Vote: 6:0:0**

- 4. **4 Maplegrove Avenue:** Application #WPL-11193-21 by Christopher Cocco on behalf of 4 Maplegrove Avenue LLC to construct a new single-family residence, permeable patio, deck, sanitary sewer connection, grading and drainage. The proposed activity lies within the WPLO area of the Saugatuck River.

Chris Cocco, property owner, presented the application. He explained the current access is off Imperial Avenue but is really shown off Riverview Road, which is a paper road. The new house will come off Maplegrove Avenue. He is bringing in fill. There is a net reduction of 300 s.f. of impervious area within the WPLO area but an increase of 350 s.f. of impermeable area overall on the site.

Ms. Mozian noted that the house was designed to minimize fill by introducing terracing walls and includes a walkout basement.

Mr. Kelly noted that the long driveway access was eliminated, and the new driveway coming off Maplegrove Avenue greatly reduces impervious area compared to the existing. The stockpile is proposed in a low area of the site. Before the Conservation Certificate of Compliance is issued, it will

need to confirmed that this will remain as the low area. Mr. Kelly showed where the WPLO boundary is and the natural drainage patterns. He noted the Flood and Erosion Control Board condition that the drainage on Maplegrove Avenue shall be protected during construction and if damaged, the applicant is responsible for fixing it. Mr. Kelly noted that the grade change from the front to back is quite significant and asked how the walls will be constructed.

Mr. Cocco stated that no wall is more than 4 feet in height, so they are not structural. The walls will be dry laid.

Ms. Rycenga asked about the construction sequencing.

Mr. Cocco stated the foundation will be done first and then backfilled. Then they will start work on the walls. The construction will come from Riverview Road using the old asphalt driveway. Once the project is complete, the asphalt driveway will be removed and seeded.

Ms. Rycenga noted they are bringing in approximately 1,500 c.y. of fill. She indicated that a written construction sequence and a site monitor for this project are needed.

Mr. Davis agreed.

Mr. Lobdell asked who pays for the site monitor.

Mr. Kelly explained that the applicant retains the site monitor. Weekly monitoring reports are required during the initial construction phase, after storm events greater than ½ inch throughout construction but can be stepped back as construction proceeds.

Mr. Bancroft asked about the garden area and shed shown on the plans.

Mr. Cocco stated both are gone.

Ms. Mozian asked about the large trees being removed and whether the Commission would like a one to one replacement like the previous applicant had to do.

Mr. Cocco noted the 48-inch Oak in the northwest corner of the site was damaged and diseased and had already been removed.

Mr. Kelly confirmed.

Ms. Mozian noted the Flood Board Special Conditions.

Ms. Rycenga gave two minutes for the public to submit comments.

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

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

**FINDINGS**  
**Application #WPL-11193-21**  
**4 Maplegrove Avenue**  
**Public Hearing: February 17, 2021**

- 1. Application Request:** Applicant is a proposing to construct a new single-family residence, permeable patio, deck, sanitary sewer connection, multiple retaining walls, filling, grading and drainage. The proposed activity lies within the WPLO area of the Saugatuck River.
- 2. Plans reviewed:**

- a. "Site Development Plan prepared for 4 Maplegrove Avenue, LLC 4 Maplegrove Avenue Westport, CT", Scale: 1"=20', dated December 30, 2020, Prepared by Ochman Associates, Inc., 3 Sheets 1-3
- b. "Existing Conditions Survey prepared for 4 Maplegrove Avenue, LLC 4 Maplegrove Avenue Westport, CT", Scale: 1"=20', dated October 15, 2020, Prepared by Ochman Associates, Inc., Sheet1of1
- c. Building Plans entitled: "4 Maplegrove Avenue Westport, CT", Scale: 1/4" =1'0", Dated July 7, 2020, Prepared by J. A. Jamieson Architects LLC, Sheets A-1A to T-1 (9 pgs.)
- d. "Drainage Report for 4 Maplegrove Avenue Westport, CT", Dated December 26, 2020, Prepared by Ochman Associates Inc.

### 3. Property Description:

**Location of 25-year flood boundary:** 9 ft. contour interval.

**Location of the WPLO boundary:** The Waterway Protection Line Ordinance (WPLO) boundary is established 15' from elevation nine. This encompasses most of the property from the northern side through approximately half of the existing and proposed residence.

**Property is situated in Flood Zone AE (el. 10.0')** as shown on F.I.R.M. Panel 09001C0413G Map revised to July 8, 2013.

**Existing House built in 1938**

**Proposed First Floor Elevation:** 22.0 ft.

**Proposed Basement Elevation:** 11.0 ft.

**Proposed Garage Floor Elevation:** 21.4 ft.

**Existing Site Coverage:** 15.2% (4,495 sq. ft.)

**Proposed Site Coverage:** 16.44% (4,850 sq. ft.)

**Sewer Line:** The proposal includes connection to the municipal sewer. The existing septic system will be abandoned.

**Aquifer:** Property underlain by the Saugatuck River Aquifer which is a coarse-grained stratified drift aquifer. The property is NOT within the Town's wellfield protection zone.

**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.

**Proposed Storm Water Treatment:** The current site has a house, deck, shed, and asphalt/gravel driveway with most of the stormwater runoff in the rear yard collecting into a depression within the rear yard. The proposed development will direct storm water runoff from the proposed residence to two Cultec stormwater storage systems, one located in the front portion of the property and the other in the rear yard. The relocated driveway and front portion of the roof runoff will be collected into 6 Cultec units, and the rear portion of the roof runoff will be collected into 8 Cultec units. The rear patio is proposed to be permeable pavers and will provide a reservoir for stormwater storage. The relocated driveway, accessing the proposed residence from Maplegrove Ave. instead of Riverview Rd., will eliminate **2,627 sq. ft.** of existing driveway located within the Waterway Protection Line. The site drains to the tidal Saugatuck River. The applicant has provided enough storage for stormwater for the Water Quality Volume as well as the 25-year storm event. The proposed driveway is conventional construction, not proposed as permeable.

The Flood and Erosion Control Board approved the application with conditions on **February 3, 2021**. The drainage proposal is acceptable to the Engineering Department. A special condition was added that the yard drain in the street should be protected during construction and if damaged, the owner will need to replace it.

### 4. Previous Permits issued: None

### 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 Commission finds that portions of the residential development fall within the WPLO. The rear of the residence, patios, terraces, walls, filling and grading are located within WPLO jurisdiction. The new residence will have its basement elevation at 11’ which is 1’ above BFE of 10.0’. This is high enough in elevation to not require FEMA compliance. Approximately 1,050 cubic yards of fill will be brought in to achieve the 11’msl basement elevation. The amount of fill within the WPLO boundary is 600 cubic yards.

The Commission finds that 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 stormwater quality impacts and percentage of impervious area. As noted above, and by the applicant, the rear driveway is proposed to be removed and restored to lawn. The existing septic system will be abandoned, and the proposed residence will be served by sewer. The Commission finds that that both factors are a net benefit to stormwater runoff and local water quality. The Commission finds that proposed site coverage is to be **16.44%** which is within the 10-25% cover that will impact water quality. It should be noted that total coverage onsite is proposed to be increased by **3.95%** or **355 sq. ft.** (4,495 sq. ft. – 4,850 sq. ft.). The 2004 Connecticut Stormwater Manual provides research that water quality experiences degradation when coverage in a watershed exceeds 10%. This property is located adjacent to the Saugatuck River. The development will be ~150’ from the neighboring watercourse/drainage swale to the north and ~215’ from the tidal wetlands of the Saugatuck. The collection of runoff allows for treatment before entering the river and ultimately Long Island Sound. Whereas previously there was no retention or treatment. The site topography also lends to collecting any sheet-flow on site in a localized depression.

The site has a notable elevation change from the front yard (southern end) of ~18’ to the rear depression, elevation ~4.5’ at the lowest. The house has been designed to work within that elevation change and achieve stability with the construction of terraced walls. The Commission is concerned with the stabilization of these walls and controlling erosion of soils onsite. However, any erosion will likely not impact the river due to the grading of the rear yard. Still, the Commission finds that care should be taken during construction and excavation. The Commission finds that the applicant’s intent to use the existing paved driveway off of Imperial Avenue during the duration of construction will help minimize sediment tracking. The Commission finds that a site monitor shall be used to provide weekly reports to ensure the applicant has provided adequate sediment and erosion controls, as indicated on the proposed site plan. A silt fence is depicted around the site protecting sediment from migrating off the lower portions of the property. A double row of silt fence is proposed in areas nearest the rear depression on eastern side of the property. The Commission finds that additional erosion controls should be added in the northwest corner of the site to restrict disturbance in that area. The Commission finds that the protection of the slopes from erosion and disturbance is of utmost importance and care must be taken to ensure final site stabilization. The Commission notes that access to the site is limited due to the elevation change onsite. The Commission finds that the applicant shall provide a construction sequence for the site to staff for review and approval.

A pervious patio and Cultec stormwater units are proposed as the water quality treatments. The Commission finds that these items are of utmost importance to the water quality on the site. The Commission finds that the design engineer shall witness the construction of the rain pervious patio and subsurface drainage units. Additionally, the Commission finds that the site engineer shall certify the construction prior to the issuance of a Conservation Certificate of Compliance.

**Conservation Commission**  
**TOWN OF WESTPORT**  
**Conditions of Approval**  
**Application #WPL-11193-21**  
**Street Address: 4 Maplegrove Avenue**

**Assessor's: Map C07 Lot 099**  
**Date of Resolution: February 17, 2021**

**Project Description:** To construct a new single-family residence, permeable patio, deck, sanitary sewer connection, multiple retaining walls, filling, grading and drainage. The proposed activity lies within the WPLO area of the Saugatuck River.

**Owner of Record:** 4 Maplegrove Avenue LLC  
**Applicant:** Mark Ochman, Ochman Associates Inc

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 11193-21** with the following conditions:

#### **STANDARD CONDITIONS OF APPROVAL**

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 **February 3, 2021**.

#### **SPECIAL CONDITIONS OF APPROVAL**

16. Conformance to the plans entitled:
  - a) "Site Development Plan prepared for 4 Maplegrove Avenue, LLC 4 Maplegrove Avenue Westport, CT", Scale: 1"=20', dated December 30, 2020, Prepared by Ochman Associates, Inc., 3 Sheets  
1-3

- b) "Existing Conditions Survey prepared for 4 Maplegrove Avenue, LLC 4 Maplegrove Avenue Westport, CT", Scale: 1"=20', dated October 15, 2020, Prepared by Ochman Associates, Inc., Sheet1of1
  - c) Building Plans entitled: "4 Maplegrove Avenue Westport, CT", Scale: 1/4" =1'0", Dated July 7, 2020, Prepared by J. A. Jamieson Architects LLC, Sheets A-1A to T-1 (9 pgs.)
  - d) "Drainage Report for 4 Maplegrove Avenue Westport, CT", Dated December 26, 2020, Prepared by Ochman Associates Inc.
17. The applicant shall provide a construction sequence for the site for review and approval prior to the issuance of a Zoning Permit.
  18. An erosion and sediment control site monitor is to be retained by the applicant with contact information submitted to the Conservation Department prior to the issuance of a zoning permit. Weekly reports shall be submitted to the Conservation Department during the initial clearing, excavation, foundation construction, installation of sedimentation controls and at the time of final site stabilization. Reports shall be submitted immediately following rain events of 0.5" or greater.
  19. Additional erosion controls measures to be added in the northwest corner of the site to protect area during construction activity.
  20. The site engineer shall provide certification that all drainage structures have been installed appropriately and are functioning as designed prior to the issuance of a Conservation Certificate of Compliance.
  21. Final Site Stabilization and protection of the slopes from erosion and disturbance is required prior to the issuance of a Conservation Certificate of Compliance.
  22. Conservation Department shall be notified 48 hours prior to the start of construction for inspection of the erosion and sediment control measures.

**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: Lobdell                      Second: Rycenga**  
**Ayes: Lobdell, Rycenga, Davis, Carey, Bancroft, Cowherd**  
**Nays: 0                              Abstentions: 0                      Vote: 6:0:0**

5. **118 Wilton Road:** Application #WPL-11194-21 by Tom Ryder of LandTech on behalf of Victoria Fuller to legalize fill already placed within the WPL and to construct an additional retaining wall and place additional fill.

Tom Ryder of LandTech presented the application on behalf of the property owner. This property has 380 l.f. of shoreline abutting tidal wetland but is 120 feet from open water. He explained that a contractor was brought in to plant screening along the northwestern side of the property. While they were planting, the owner asked the contractor to extend/create a flat area to allow more access. The contractor then commenced wall construction without permits. A Notice of Violation was issued. The owner retained LandTech to secure permits. The purpose of the application is to repair the existing wall, authorize the wall that was constructed and extend the upper wall. He added that drainpipes were daylighted discharge directly to the tidal wetland. These pipes will be cut back and discharge to a level spreader instead. Photos were presented that showed cracks in the existing wall. A mason will fix those by hand. Also, a picture showed an area that had been flattened to create a clear path between the new wall and the edge of vegetated lawn/shrub edge. That area was well stabilized with matting. The picture also showed area where they would like to continue the wall and which is in the location of the level spreader, which would be behind the extended wall. The benefit of this project would be that it will slow down runoff from the lawn before hitting the tidal wetlands.



Ms. Rycenga asked about the source of the two drainpipes.

Mr. Ryder stated they are from the footing drains around the house.

Ms. Rycenga indicated she would like the level spreader certified that it is installed as designed.

Mr. Ryder indicated they could do that. He added in addition to the seed mix already installed for stabilization, they will be adding grass plug to insure greater stabilization.

Ms. Rycenga stressed the importance of maintaining the level spreader.

Mr. Ryder stated it will be very easy to maintain as it will be gravel.

Ms. Rycenga would like something drafted for the homeowner to refer to.

Atty. Cowherd asked if there would be any more work done to the lower wall.

Mr. Ryder stated no. Work would be limited to the upper wall.

Ms. Rycenga gave two minutes to allow the public to submit comments.

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

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

**FINDINGS**  
**Application #WPL-11194-21**  
**118 Wilton Road**  
**Public Hearing: February 17, 2021**

1. **Application Request:** The Applicant is requesting to legalize and extend boulder retaining walls already placed within the WPL, repair and existing stonewall and install a level spreader. Work is proposed within the Waterway Protection Line (WPL) area of the Saugatuck River.

2. **Plans reviewed:**

1. **"Zoning Map of Property** Prepared for Vicky Fuller, 118 Wilton Road Westport, CT" Scale: 1"=30'-0", dated March 28, 2018 and last revised **January 5, 2021**, prepared by Leonard Surveyors, LLC
2. "Proposed Site Improvements to Correct a Stone Wall Violation - **Site Plan** Vicky Fuller 118 Wilton Road Westport, CT," dated January 5, 2020 and last revised **January 28, 2021**, Scale 1"=30'-0", Sheets C1 and C2, prepared by Landtech
3. **"Tidal Wetland Line Delineation** 118 Wilton Road Westport, CT," dated March 20, 2018, prepared by Christopher P. Allan of Landtech

3. **Property Description:**

**Location of 25-year flood boundary:** 9 ft. contour interval.

**Location of the WPLO boundary:** The WPLO is established 15' landward from the 25-year flood boundary of the Saugatuck River. The western portion of the site, including the residence is outside of the WPLO area.

**Property is situated in Flood Zones AE (el. 10')** as shown on F.I.R.M. Panel 09001C0413G Map revised to July 8, 2013.

**Total lot area is 78,500 sq. ft. (1.80 ac.)**

Tidal wetlands identified onsite per site inspection report from Christopher Allan, soil and wetland scientist, March 16, 2018.

**Aquifer:** Property underlain by a coarse-grained sand/sand and gravel. The property is **NOT** within the Town's wellfield protection zone

**Coastal Area Management:** Property is located within CAM zone. The coastal resources identified are Coastal Hazard Area, Tidal Wetlands and Shorelands. 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.

Tidal wetlands are defined as areas flooded by tidal waters twice a day and support a diverse ecosystem of vegetation and wildlife.

Shorelands are land areas within the coastal boundary exclusive of Coastal Hazard Areas. Shorelands function as immediate sources of upland runoff contributing to coastal drainage, a source of upland sediments, provide scenic vistas and have high development and redevelopment potential.

**Original violation leading to proposed legalization:** The Conservation Department inspected the property on November 19, 2020, in response to an anonymous complaint. An unpermitted boulder wall was being constructed within the WPLO which was outside of the currently open permit, #WPL/E-10605-18, for a wooden deck over an existing patio, permit. This un-permitted activity is located within the limits of the Waterway Protection Line Ordinance which is in violation of the ordinance. A Notice of Violation was issued November 20, 2020.

**4. Previous Permits issued:**

- #AA-2016-87: Construct a new single family residence, detached garage, drive, patio, on sewer
- #AA-2327-87: Construction and use/installation of septic system, related site work, residence, garage and drive
- #CAM-2187-87: Partially constructed house
- #WPL/E-10605-18: Deck

The Flood and Erosion Control Board **approved** the application with standard conditions on **February 3, 2021**.

The Westport-Weston Health District approved the application on February 10, 2021.

**5. Waterway Protection Line Ordinance:**

*Section 30-93 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.*

**Discussion:**

The owner was issued a Notice of Violation on November 20, 2020 for conducting a regulated activity without approvals. The work was halted onsite and the owner contacted the Conservation Department upon receiving the Notice. The owner engaged LandTech Consultants to resolve the violation with an application to legalize the previous work and to approve a continuance of the wall to complete the landscaping work.

The site work consists of a placing a dry-stacked lower boulder wall that is ~110' long and ranging in height from 1.5' to 2' tall. This lower wall is set westward of the flagged tidal wetland line onsite, near wetland flags #3 through #6. It originates near the pre-existing mortared fieldstone retaining wall and extends to the north where it ends adjacent to the northern property line. A second, upper retaining wall was partially built as a terrace ~3' westerly of the lower wall. This wall is approximately 2.5' tall. Only ~55' of this wall was installed when the work was halted by Conservation Staff. Grading behind these walls was done, in part, to level an area of pre-existing slopes and remains partially incomplete due to work stoppage.

The applicant is asking to allow for the continuation of the “upper” retaining wall and to allow finishing of the fill to level the yard. The previous fill amount existing in the field at work stoppage was **40** cubic yards. The proposed fill amount is **65** cubic yards, and the total is proposed to be **105** cubic yards, if allowed. Existing footing drains were encountered during the original site work. They were originally extended beyond the constructed wall and allowed to discharge at the tidal wetland line nearest wetland flag #4. The applicant has proposed to pull those pipes back ~5 to discharge into a 20’ long gravel level-spreader set between the two walls.

The applicant notes that the wall’s location is approximately ~120 feet “*landward from the mean high water line...Therefore, the walls are not expected to impact natural patterns of water circulation or energy flow.*” The Commission concurs with the applicant and notes that the area of tidal wetlands between the proposed walls and the nearest open water channel is heavily vegetated with Phragmites and tidal vegetation including spartina and High Tide Bush as noted in Mr. Allan’s 2018 wetland delineation report. The Commission concurs with the applicant, in that evidence from several heavy rainstorms that have occurred since the halting of work has shown no significant erosion issues or ponding and further finds that this wall will not have a significant impact on neighboring properties and should not interfere with the floodwaters of the Saugatuck River.

The Commission finds the new terraced area between the walls will be planted with plugs of *Panicum virgatum* (switchgrass) and an additional seed mixture for grasses to stabilize the area. It finds that a performance bond is required to ensure the vitality of these plantings. The plants will be located in an area of limited access and will be the main stabilization of the soils between the constructed walls. The rest of the yard will be restored and maintained as a manicured lawn and that the walls will effectively limit any further encroachment into the tidal wetlands by the homeowner and will not provide easy access to the tidal wetlands or river from the property.

The applicant states that the existing sheet flow of stormwater runoff from the property will continue to flow in the same direction through the site and be allowed to pass over the boulders and through the gaps as the boulders were placed without the use of mortar. The Commission finds that the wall will not impede stormwater runoff, but care should be taken to ensure long-term soil stabilization through erosive forces of water flowing over and through the wall and that the proposed level spreader should be routinely maintained.

The pre-existing retaining wall, located to the east of the garage and south of the walls seeking legalization, show signs of deterioration. The applicant is proposing to “repair wall and repoint as needed.” The Commission finds that maintenance on this wall is appropriate to preserve and protect it from further deterioration. This work shall be done with minimum site work, mostly manual labor. The pre-existing wall will not change in height or location.

The Commission finds that the sediment and erosion controls proposed for site construction should provide adequate protection if they are properly maintained. The site has shown itself to be stable through several rainstorms since the issuance of the Notice of Violation in November of 2020. This should be continued until final site stabilization.

The Flood and Erosion Control Board approved the application at its February 3, 2021 meeting.

Based on its analysis, the Conservation Commission finds that the project will not adversely impact the natural resources and ecosystem of the Waterway Protection Line Ordinance.

**Conservation Commission**  
**TOWN OF WESTPORT**  
**Conditions of Approval**  
**Application # WPL-11194-21**  
**Street Address: 118 Wilton Road**  
**Assessor’s: Map C10, Lot 070**  
**Date of Resolution: February 17, 2021**

**Project Description:** Applicant is requesting to legalize fill and retaining walls already placed within the WPL and to construct an additional wall and place additional fill. This site lies within the Waterway Protection Line (WPL) area of the Saugatuck River.

**Owner of Record:** Victoria Fuller  
**Applicant:** Tom Ryder, 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-11194-21** 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. All proposed decks shall be provided with a 6" gravel bed beneath.
12. 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.
13. 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.
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 **February 2, 2021** Conditions of Approval of the Flood and Erosion Control Board.

#### **SPECIAL CONDITIONS OF APPROVAL**

16. Conformance to the plans entitled:
  - a. "**Zoning Map of Property** Prepared for Vicky Fuller, 118 Wilton Road Westport, CT" Scale: 1"=30'-0", dated March 28, 2018 and last revised **January 5, 2021**, prepared by Leonard Surveyors, LLC
  - b. "Proposed Site Improvements to Correct a Stone Wall Violation - **Site Plan** Vicky Fuller 118 Wilton Road Westport, CT," dated January 5, 2020 and last revised **January 28, 2021**, Scale 1"=30'-0", Sheets C1 and C2, prepared by Landtech
  - c. "**Tidal Wetland Line Delineation** 118 Wilton Road Westport, CT," dated March 20, 2018, prepared by Christopher P. Allan of Landtech

