



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

The March 17, 2021 Public Hearing of the Westport Conservation Commission was called to order at 7:00 p.m. via Zoom.

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

This is to certify that these minutes and resolutions were filed with the Westport Town Clerk within 7 days of the March 17, 2021 Public Hearing of the Westport Conservation Commission pursuant to Section 1-225 of the Freedom of Information Act.

Alicia Mozian
Conservation Department Director

Changes or Additions to the Agenda: The Commission may amend the agenda by a 2/3 vote to include items not requiring a Public Hearing. - **None**

Work Session: 7:00 p.m.

1. Receipt of Applications

Ms. Mozian noted there were three applications to receive:

- **59 Red Coat Road:** Application #IWW-11237-21 by LandTech on behalf of Kevin Dorsey to construct a new single family residence, pool, patio, septic and related drainage. Portions of the work are within the upland review area setbacks.
- **17 Mortar Rock Road:** Application #IWW,WPL-11241-21 by CCO Habitats LLC to remove the existing dwelling and construct a new single family dwelling with driveway connected to sanitary sewer and associated site improvements. Work is within the upland review area setbacks and the WPLO area of Pussy Willow Brook.
- **228 Saugatuck Avenue:** Application #IWW,WPL-11229-21 by William Kenny Associates on behalf of Braemax Holdings LLC for a pond dredging and other enhancement activities related to the pond and adjacent wetlands and wetland buffer. Work is within the wetland, upland review area setbacks and the WPLO area of Indian Brook.

Ms. Mozian noted that the submission deadline is March 18, 2021. Staff is expecting at least 3 more submissions at that time. Knowing there are 7 potential items for the agenda, staff will be contacting the Commission to discuss possible dates for a Special Meeting.

Motion to receive the above applications.

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

2. Approval of March 1, 2021 special meeting minutes.

The March 1, 2021 Special Meeting minutes were approved as submitted.

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

3. Review of Compliance Report

Ms. Mozian reviewed the March Compliance Report as follows:

4 Blind Brook Road South – Conservation received an anonymous complaint of tree removal and fill being brought in onsite on 12/16/20. G. Carroll inspected and found several trees were cut and some of them were within the non-disturbance area of the wetland/watercourse onsite.

12/16/20- G. Carroll issued a Notice of Violation.

12/28/20 – Received email from homeowner pertaining to NOV received, homeowners are currently dealing with COVID and are working to put together a planting plan.

1/13/21 – Email received from homeowners and are still working on a plan due to COVID issues. They explained some discrepancies between what was observed during inspection and what the contractor described. Will wait for receipt of planting plan.

1 Charcoal Hill Road – Complaint by Peter Howard of the Building Department received in Conservation on 11/30/20. G. Carroll inspected and found site work and virtually a major house renovation including a second story house was under construction without any approval from Conservation, nor Health, Building P&Z or Engineering. Site work included, cutting, clearing, grading, within the wetlands or the 20 ft setback all without a permit. On 11/12/20 the Building Department ordered a stop work order.

12/1/20 – The Conservation Department received an application from owners to “ Take both east and westside of the structure and create appropriate pitch roof. Square footage to remain same”.

12/3/20 – G. Carroll issued a Notice of Violation and Citation. Requiring owners to stop work, submit site plan, soil report, structural design, WWHD approval for septic, drainage report and cost of construction for fee purposes. As of 12/3/20, Conservation had not yet heard from violators.

12/10/20 – Received call from Mr. Benitez, owner/violator he would like to rectify issues and has installed S & E controls, tracking pad, and has Mr. Chris Allan scheduled to flag wetlands.

12/21/20 – G.Carroll and A. Mozian inspected site – Mr. Allan was onsite flagging wetlands. S&E controls need to be adjusted according to flagging, tracking pad was installed and instructed to lengthen, extensive wood pile was instructed to be removed without the use of heavy machinery. Awaiting updated new application for regulated activities to be submitted to the Conservation Dept. accompanied by a site plan/survey with the newly flagged wetlands and “proposed” construction, health approval, structural design and planting plan. A fence was also installed without permits.

2/8/2021 – Application received but is incomplete. No work is taking place.

3/11/2021-No change

61 Richmondville Avenue – Previous Violation sent to 61 Richmondville in 2019 for drainage being directed into the Saugatuck River. Inspection by the Engineering Department on 9/8/2020 to remove current violation lead to a discovery of new violations onsite including mortared patio and ramp into the Saugatuck and mortared retaining wall on bank of the river. New Notice of Violation sent on 9/18/2020. Have been in correspondence with contractor and awaiting response from homeowner and contractor on decisions moving forward to meet compliance.

11/10-20 – Email sent to contractor responsible for open permit and violation to inquire about steps moving forward to remove the Notice of Violation, no response yet.

Open Violations

- **8 Lone Pine Lane** - Planting planned for the Spring Season – no noticed of completion yet.
- **42 Kings Highway South** - Construction without a permit and fence installation – no response since violation was sent on 4/7/20. Resent – returned undeliverable on 12/11/20.
- **3/11/2021**-Working with contract purchaser, who will apply to legalize fence and new septic system.

Trespassing Violations: involving dumping of leaves, brush in wetlands by one property owner on another's property: 274 North Ave, 43 Hermit Lane and illegal pipe discharge at 23 Stoneboat Rd.

All ongoing remediation is continuing and will be reported once they have met compliance.

Ms. Mozian noted she has spoken with the owner of **8 Lone Pine Lane**. He is aware that the plantings have not been completed and will work to install those this spring.

4. **11 Roosevelt Rd.:** Request by Robert M. Berger on behalf of Roni and Ken Goldberg for a staff-level WPLO permit to construct a 16' x 13.5' one-story, FEMA-compliant addition. Work is within the WPLO area of the Saugatuck River.

Ms. Mozian discussed a request for a proposed addition that will be cantilevered above the ground supported by two pilings. Between the slab and the first floor, it will be open but three sides will be surrounded by horizontal lattice with spacing to allow the free passage of water. The spacing will be enough to meet the FEMA flood opening requirements.

Motion to allow staff to issue a staff-level permit with conditions including:

- The survey/site plan to be updated to show sediment and erosion controls to include the location of the stockpile, mud-tracking, tree protection measures, silt fence, as necessary.
- Any existing vegetation removed during construction will need to be replaced before a Certificate of Compliance is issued.

Motion: Rycenga **Second:** Lobdell
Ayes: Rycenga, Lobdell, Bancroft, Carey, Cowherd, Davis
Nays: None **Abstentions:** None **Vote:** 6:0:0

5. Other Business - **None**

Public Hearing: 7:15 p.m.

1. **28 Spicer Road:** Application #IWW/M-11219-21 by Andy Soumelidis of LandTech on behalf of Franklin Investors CT LLC to amend wetland boundary map #E9.

Andy Soumelidis, PE of LandTech presented application on behalf of owners. Chris Allan, soil scientist of LandTech investigated and found more wetlands than is shown on the Town map.

Mr. Kelly stated Mary Jaehnig, soil scientist, was retained by the Town to verify the wetland boundary. This is a .5 acre parcel. 6,690 s.f. of wetlands were found where none were shown on the Town maps. Ms. Jaehnig found the boundary and the soil type were accurate.

There was no public comment.

Ms. Mozian noted that the WPLO boundary should be added to the survey, which is 15 feet from the flagged wetland.

Mr. Soumelidis noted an application to develop the site will be submitted.

Motion to close the hearing.

Motion: Cowherd **Second:** Carey
Ayes: Cowherd, Carey, Bancroft, Davis, Lobdell, Rycenga
Nays: None **Abstentions:** None **Vote:** 6:0:0

Findings
Application #IWW/M 11219-21
28 Spicer Road
Public Hearing: March 17, 2021

1. **Application Request:** The applicant, Andy Soumelidis, Landtech on behalf of Franklin Investors CT LLC., is requesting to amend wetland map # E09 on Lot #024.
2. **Soil Scientist for Applicant:** Christopher P. Allan, Registered Soil Scientist, Landtech
3. **Soil Scientist for Town of Westport:** Mary Jaehnig, Professional Soil Scientist, Wetland Scientist
4. **Plans reviewed:**
"Zoning Map of Property Prepared for Scott Kiley 28 Spicer Road, Westport, CT", Scale: 1" = 10', dated January 21, 2021, prepared by Dennis Deilus Land Surveyors

5. Wetlands Description:

"Inland Wetland & Watercourse Delineation 28 Spicer Road, Westport, Connecticut" - prepared by Christopher P. Allan, Registered Soil Scientist, Landtech, dated October 26, 2020, and sketch map Dated October 21, 2020.

6. Wetland soils found on the property:

Ridgebury, Leicester and Whitman fine sandy loam (3): This soil consists of poorly drained and very poorly drained loamy soils formed in glacial till. They are found in depressions and drainage ways in uplands and valleys. Their interpretations are very similar, and they typically are so intermingled on the landscape that separation is not practical. The Ridgebury and Leicester series have a seasonal high water table at or near the surface from fall through spring. The Whitman soil has a high water table for much of the year and may be frequently ponded.

Non-wetland soils were identified as:

Charlton-Chatfield complex, fine sandy loam (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 moderately, well drained.

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

- The existing house was built in 1951. It is served by sewer system. A sewer easement is found along the western property line.
- The property is 0.50 acres (21,879 sq. ft.) in size; located in Zone A.
- The parcel is located within the Pussy Willow Brook watershed. A watercourse flows from west to east through the southern portion of 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 **6,690 sq. ft.** as determined by the plan by Deilus, dated January 21, 2021. 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 ~6,690 sq. ft. of wetland area.**

8. Discussion:

The Commission finds that the applicant submitted a soils report by Christopher Allan, dated October 26, 2020, that documents his investigation of the soils on the site. Wetlands soils were found in the western portion of the site. Most of the wetlands consist of a manicured lawn with an intermittent watercourse. The watercourse drains from north to south across the property and drains to a 12" metal pipe inlet under the neighbor's driveway. The Commission finds that the sketch map identifies the location of the wetland soil types, marked by flag numbers #WL1 through #12. These locations are also reflected on the "Zoning Map of Property Prepared for Scott Kiley 28 Spicer Road, Westport, CT", Scale: 1" = 10', dated January 21, 2021, prepared by Dennis Deilus Land Surveyors. The Commission finds that the "Zoning Map" shall be updated to show the Waterway Protection Line on the plan set 15' from the flagged wetland line.

The Commission finds that Town of Westport retained the services of Mary Jaehnig, soil scientist, to review the proposed wetland boundary findings. Ms. Jaehnig conducted an on-site investigation on March 8, 2021. The Commission finds that her letter dated March 12, 2021 supports the findings of Mr. Allan, and states "*found the wetland boundary to be accurate as well as the soil types described...*".

The Commission finds that the wetland boundary be amended to reflect the flagged areas and concurred to by both soil scientists as shown on the referenced plan.

**Resolution
Application #IWW/M 11219-21
28 Spicer Road**

Date of Resolution: March 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-11219-21 by Andy Soumelidis, Landtech on behalf of Franklin Investors CT LLC., to amend wetland map # E09 on Lot #024 on the property located 28 Spicer Road with the following conditions:

1. Conformance to the plans titled:
"Zoning Map of Property Prepared for Scott Kiley 28 Spicer Road, Westport, CT", Scale: 1" = 10', dated January 21, 2021, prepared by Dennis Deilus Land Surveyors
2. Submit a copy of a revised survey, showing the Waterway Protection Line on the plan, set 15' from the flagged wetland line.

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: Bancroft Second: Lobdell
Ayes: Bancroft, Lobdell, Rycenga, Davis, Carey, Cowherd
Nays: None Abstentions: None Votes: 6:0:0

2. **6 Meadowbrook Lane:** Application #IWW/M-11220-21 by Andy Soumelidis of LandTech on behalf of Ronny Ceballo to amend wetland boundary map G10.

Andy Soumelidis, PE of LandTech presented the application on behalf of the property owner. The map amendment reduces the wetland area on the property. They used Steven Danzer, soil scientist to flag the line.

Mr. Davis asked where the septic system is relative to the wetland.

Mr. Kelly shared the plan showing the septic system.

Ms. Rycenga noted there would be a decrease of 6,645 s.f. of wetland area as noted in the staff report.

Mr. Kelly stated the Town retained soil scientist, Mary Jaehnig to review the line and she found it to be accurate.

There was no public comment and the hearing was closed.

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

Findings
Application #IWW/M 11220-21
6 Meadow Brook Lane
Public Hearing: March 17, 2021

1. **Application Request:** The applicant, Andy Soumelidis, LandTech on behalf of Ronny Ceballo, is requesting to amend wetland map # G10 on Lot #071.
2. **Soil Scientist for Applicant:** Steven Danzer, Steven Danzer PhD & Associates, LLC
3. **Soil Scientist for Town of Westport:** Mary Jaehnig, Professional Soil Scientist, Wetland Scientist
4. **Plans reviewed:**

"Zoning Location Survey 6 Meadow Brook Lane Westport, Connecticut Prepared for Ronny Ceballo", Scale: 1" = 20', dated January 26, 2021, prepared by K&A Land Surveyors LLC

5. Wetlands Description:

"Soil Report, 6 Meadowbrook Lane, Westport, Connecticut" - prepared by Steven Danzer, Ph.D. Soil Scientist Senior Professional Wetland Scientist, dated December 3, 2020, and sketch map Dated December 2, 2020.

6. Wetland soils found on the property:

Saco silt loam (108): This component occurs on flood plain, depression, and drainageway landforms. The parent material consists of silty alluvium and is very deep, very poorly drained. The flooding frequency for this component is frequent.

Non-wetland soils were identified as:

Hinckley gravelly sandy loam, 3 to 15 percent slopes (38C) - This component occurs on valley outwash plain, terrace, kame, and esker landforms. The parent material consists of sandy and gravelly glacioluvial deposits derived from schist, granite, and gneiss. The slope ranges from 3 to 15 percent and the runoff class is low. The depth to a restrictive feature is greater than 60 inches. The drainage class is excessively drained.

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

- The existing house was built in 1952. It is served by an onsite septic system.
- The property is 1.08 acres (46,910 sq. ft.) in size; located in Zone AA.
- The parcel is located within the Muddy Brook watershed. The Muddy Brook watercourse flows from north to south through the eastern portion of the property.
- A portion of the property is located within a Flood Zone **AE**, with a Base Flood Elevation (BFE) of 48' near the driveway. In addition, portions of the property contain the 0.2% Flood Zone as depicted by the survey.
- 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 25-Year Flood line.
- The flagged wetland area is **12,535 sq. ft.** as determined by the plan by K&A Land Surveyors, dated January 26, 2021. The Town of Westport Official Wetland Map indicates **~19,180 sq. ft.** of wetlands as identified on the *Westport GIS*. The proposed amendment represents a **decrease of ~6,645 sq. ft. of wetland area.**

8. Discussion:

The Commission finds that the applicant submitted a soils report by Steven Danzer, Ph.D., dated December 3, 2020, that documents his investigation of the soils on the site. Wetlands soils were found in the eastern portion of the site adjacent to Muddy Brook. Most of the wetlands consist of a manicured lawn and the floodplain of the watercourse. Muddy Brook drains from north to south across the property through twin 48" reinforced concrete pipes under the driveway section then to an open watercourse that flows to the rear yard of the neighbor downstream. The sketch map identifies the location of the wetland soil types, marked by flag numbers #WF1 through #WF28. The Commission finds that these locations are also reflected on the "Zoning Location Survey 6 Meadow Brook Lane Westport, Connecticut Prepared for Ronny Ceballo", Scale: 1" = 20', dated January 26, 2021, prepared by K&A Land Surveyors LLC.

The Commission finds that the Town of Westport retained the services of Mary Jaehnig, soil scientist, to review the proposed wetland boundary findings. Ms. Jaehnig conducted an on-site investigation on March 8, 2021. Her letter dated March 12, 2021 supports the findings of Dr. Danzer and states: "*found the wetland boundary to be accurate as well as the soil types described...*".

The Commission finds that the wetland boundary be amended to reflect the flagged areas and concurred to by both soil scientist as shown on the referenced plan.

Resolution
Application #IWW/M 11220-21
6 Meadow Brook Lane
Date of Resolution: March 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-11220-21 by Andy Soumelidis, Landtech on behalf of Ronny Ceballo to amend wetland map # G10 on Lot #071 on the property located 6 Meadow Brook Road with the following conditions:

1. Conformance to the plans titled:
"Zoning Location Survey 6 Meadow Brook Lane Westport, Connecticut Prepared for Ronny Ceballo",
Scale: 1" = 20', dated January 26, 2021, prepared by K&A Lands Surveyors LLC

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: Cowherd Second: Bancroft
Ayes: Cowherd, Bancroft, Rycenga, Davis, Carey, Lobdell,
Nays: None Abstentions: None Votes: 6:0:0

3. **11 Stony Point Road:** Application #WPL-11218-21 by Frangione Engineering LLC on behalf of Meredith Anand to replace the existing dock, piles, float and add a boat lift per CT DEEP Certificate of Permission #202079513-COP. Work is within the WPLO area of the Saugatuck River.

Rob Frangione, PE presented the application on behalf of the property owner. The application is to replace the existing dock which has been there since at least 1975. Since then, DEEP has made some changes in the dock design standards, which include a fixed pier and float stops. Work has to be done at high tide. Most of the work will be done from the water except the deck replacement. The materials will be floated in by barge.

Mr. Lobdell confirmed the project is going from 2 pilings to 22 pilings.

Mr. Frangione agreed. He stated this is in order to accommodate the new fixed pier and boat lift.

Ms. Rycenga asked Mr. Frangione to elaborate on the Flood and Erosion Control Board's Special Condition about stone.

Mr. Frangione confirmed that the owner has no intention to convert this to a patio area.

Mr. Kelly asked about the mechanics of the boat lift.

Mr. Frangione stated the boat would be driven into the lift and a winch attached to the pier would lift the boat out of the water to prevent scouring of the bottom and during storm events, it would prevent from having to be moored in deeper waters.

Mr. Kelly asked about the State DEEP conditions of approval.

Mr. Frangione stated Diamondback terrapin exist in the area and they should be on the lookout for them during construction as they are on the State's endangered species list. Also, the floating dock will be removed during winter months. He noted the condition about the work to be done between October and May. He asked for an extension into June as his contractor is likely not going to be able to install before then. He added that the area is a mudflat and is not likely to have shellfish.

Mr. Davis asked about power for the boat lift.

Mr. Frangione stated there is lighting to the existing dock. It will be easy to extend the power line to get power to the boat lift.

Ms. Mozian clarified about the presence of shellfish beds. She noted there are natural shellfish beds in the Saugatuck River though in some years they are more prolific than in others. She added that oysters like a hard bottom whereas clams like a soft or muddy area. Yearly, the Shellfish Commission does transplants from the Saugatuck River out to the recreational area. She emphasized that pile driving activity should be avoided during the spawning season. However, the height of that season is between July 15 and September 15, so in-water work should be avoided or minimized during that time-frame.

Ms. Rycenga asked what if there are delayed and the dock is not complete.

Mr. Carey suggested that staff be given the authority to make that judgment.

Ms. Mozian stated she is most concerned with the pile driving activity but other work like the ramp and float will be built off-site and barged in so the disruption to the beds will not be much of a concern.

There was no public comment and the hearing was closed.

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

Findings
Application #WPL-11218-21
11 Stony Point Road
Public Hearing: March 17, 2021

1. **Application Request:** Applicant is proposing to replace an existing deck, ramp, float and piles with a new deck with stairs up to a new pier, ramp and float as well as a boat lift and supporting piles per CT DEEP Certificate of Permission #202079513-COP. Work is with the WPLO area of the Saugatuck River. (WPL) of Saugatuck River.
2. **Plans reviewed:**
 - a) **"Locus Map 11 Stony Point Road** Prepared for Meredith G. Anand Westport, CT", Prepared by William W. Seymour & Associates, P.C., Scale 1" = 600', Dated November 18, 2020. Sheet 1 of 7.
 - b) **"Improvement Location Survey Depicting Proposed Conditions** 11 Stony Point Road Prepared for Meredith G. Anand Westport, CT", Prepared by William W. Seymour & Associates, P.C., Scale 1" = 600', Dated November 18, 2020, Sheet 4 of 7.
 - c) **"Improvement Location Survey Depicting Existing Cross Section** 11 Stony Point Road Prepared for Meredith G. Anand Westport, CT", Prepared by William W. Seymour & Associates, P.C., Scale 1" = 600', Dated November 18, 2020 Sheet 5 of 7.
 - d) **"Improvement Location Survey Depicting Proposed Cross Section** 11 Stony Point Road Prepared for Meredith G. Anand Westport, CT", Prepared by William W. Seymour & Associates, P.C., Scale 1" = 600', Dated November 18, 2020, Sheet 6 of 7.
 - e) **"Proximity Map** 11 Stony Point Road Prepared for Meredith G. Anand Westport, CT", Prepared by William W. Seymour & Associates, P.C., Scale 1" = 600', Dated November 18, 2020, Sheet 2 of 7.
 - f) **"Improvement Location Survey Depicting Proposed Cross Section** 11 Stony Point Road Prepared for Meredith G. Anand Westport, CT", Prepared by William W. Seymour & Associates, P.C., Scale 1" = 600', Dated November 18, 2020, Sheet 7 of 7.
 - g) **"Improvement Location Survey Depicting Existing Conditions** 11 Stony Point Road Prepared for Meredith G. Anand Westport, CT", Prepared by William W. Seymour & Associates, P.C., Scale 1" = 600', Dated November 18, 2020, Sheet 3 of 7.
 - h) **CT D.E.E.P.** License #202079513-COP, Issued February 2, 2021.
 - i) **"Project Narrative & Conservation Application Schedule D Supporting Documentation,** Property of Raul & Meredith Anand 11 Stony Point Road, Westport, CT" Prepared by Frangione Engineering, LLC., Dated February 9, 2021

3. Property Description:

Location of 25-year Flood Boundary: the 9 ft. contour interval.

Location of WPLO boundary: 15 ft. landward of the 9 ft. contour. The entire dock is located within the WPLO area.

Property contains Flood Zones Limit of Moderate Wave Action line, and VE (el. 14') as shown on F.I.R.M. Panel 09001C05551G Map revised to July 8, 2013.

- 4. Coastal Area Management (CAM):** The property is located within the CAM zone. The coastal resources identified on the property include coastal hazard area and tidal wetlands. The off-shore area is classified as an estuarine embayment.

5. Previous Permits issued:

WPL/E-10590-18: Construct a pool, patio, wall, mechanicals and associated site work. Shed legalized per ZP #33286

WPL/E-10552-18: Dormer addition within existing footprint and interior renovations.

WPL/E-7305-04: Inground swimming pool and retaining wall.

WPL/E-6307-99: Demolish existing house and construct a new house

6. Permits/Approvals Granted by Others for the Dock:

CT Dept. of Energy and Environmental Protection License: Certificate of Permission #202079513-COP; Modify an existing dock

The Flood and Erosion Control Board approved the application at its March 3, 2021 hearing. The F&ECB did add a special condition that states:

- a. "There are areas of decorative stone near the existing pier which may not be converted to patio, and must remain either landscaped, decorative stone, or lawn."

Ordinarily, the Shellfish Commission would have also been required to review the application prior to it being submitted to the CT DEEP but because it was a COP application, their review was not necessary. However, the Shellfish Commission did recently review an application for a new dock at #15 Stony Point and found that there were natural shellfish beds in the area and that the new dock would have an adverse impact. Therefore, it recommended to the CT DEEP that the dock be installed so as not to interfere with the spawning season. Ideally, work should be conducted between October 1st and May 31st.

- 7. Discussion:** The WPL Ordinance requires that the Conservation Commission consider the following when reviewing an application:

- a. "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 the property abuts the tidal portions of the Saugatuck River. It has a pre-existing seawall (pre-1939) and a pre-existing dock (pre-1975 per Frangione Eng.). A review of a 1975 aerial image shows the existence of some type of dock/float structure in the area of the existing dock. This would have pre-dated the adoption of the Waterway Protection Line Ordinance. However, this proposal includes removal of the existing ramp, float, and piles and to replace it with a modified deck, a 4' x 48' pier, an 8' x 20' floating dock, a 30' ramp, an 18' x 30' boat lift, and pilings and therefore, a WPLO approval is now required.

The Commission finds that this new, private recreational boating facility will have a float with float stops to keep the base elevated over the river bottom and the lift will keep the boat from resting on the mud during extreme tides and prevent scouring. Twenty-two pilings will be driven to sufficient depth to preclude pullout in the event of flooding or high-velocity water flows. The floating dock will be removed during winter months. The elevated pier and boat support allow for clearance of extreme high tides to flow beneath. The Commission finds that the floating dock and pier will not impede water flow. It does not appear to have any existing tidal vegetation surrounding the immediate area. The encroachment into the waterway will be similar to the existing dock and ramp of ~58' overall.

The CT DEEP COP list "Terms and Conditions" for the applicant to adhere to during site work. The Commission finds that the applicant shall follow "best management practices recommended" or protection of the Diamondback Terrapin. Additionally, the float shall have float stops to maintain a minimum clearance of 18" from the bottom of the float to the substrate.

The Commission finds that the that the proposed pier, ramp, and float do not significantly impact natural resources as they are protected by the Waterway Protection Line Ordinance as long as appropriate conditions are employed. Furthermore, the Commission finds that pile driving activity taking place outside the prime spawning season between July 1st and September 30th will further protect the shellfish resource in the area.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # WPL-11218-21
Street Address: 11 Stony Point Road
Assessor's: Map B05, Lot 108
Date of Resolution: March 17, 2021

Project Description: Applicant is proposing to replace an existing deck, ramp, float and piles with a new deck with stairs up to a new pier, ramp and float as well as a boat lift and supporting piles per CT DEEP Certificate of Permission #202079513-COP. Work is with the WPLO area of the Saugatuck River. (WPL) of Saugatuck River.

Owner of Record: Meredith Anand

Applicant: Rob Frangione, P.E., Frangione Engineering, 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-11218-21** 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 **March 3, 2021** Conditions of Approval of the Flood and Erosion Control Board including its special condition.

SPECIAL CONDITIONS OF APPROVAL

16. Conformance to the plans entitled:
 - a) "Locus Map 11 Stony Point Road Prepared for Meredith G. Anand Westport, CT", Prepared by William W. Seymour & Associates, P.C., Scale 1" = 600', Dated November 18, 2020. Sheet 1 of 7.
 - b) "Improvement Location Survey Depicting Proposed Conditions 11 Stony Point Road Prepared for Meredith G. Anand Westport, CT", Prepared by William W. Seymour & Associates, P.C., Scale 1" = 600', Dated November 18, 2020, Sheet 4 of 7.
 - c) "Improvement Location Survey Depicting Existing Cross Section 11 Stony Point Road Prepared for Meredith G. Anand Westport, CT", Prepared by William W. Seymour & Associates, P.C., Scale 1" = 600', Dated November 18, 2020 Sheet 5 of 7.
 - d) "Improvement Location Survey Depicting Proposed Cross Section 11 Stony Point Road Prepared for Meredith G. Anand Westport, CT", Prepared by William W. Seymour & Associates, P.C., Scale 1" = 600', Dated November 18, 2020, Sheet 6 of 7.
 - e) "Proximity Map 11 Stony Point Road Prepared for Meredith G. Anand Westport, CT", Prepared by William W. Seymour & Associates, P.C., Scale 1" = 600', Dated November 18, 2020, Sheet 2 of 7.
 - f) "Improvement Location Survey Depicting Proposed Cross Section 11 Stony Point Road Prepared for Meredith G. Anand Westport, CT", Prepared by William W. Seymour & Associates, P.C., Scale 1" = 600', Dated November 18, 2020, Sheet 7 of 7.
 - g) "Improvement Location Survey Depicting Existing Conditions 11 Stony Point Road Prepared for Meredith G. Anand Westport, CT", Prepared by William W. Seymour & Associates, P.C., Scale 1" = 600', Dated November 18, 2020, Sheet 3 of 7.
 - h) CT D.E.E.P. License #202079513-COP, Issued February 2, 2021.
 - i) "Project Narrative & Conservation Application Schedule D Supporting Documentation, Property of Raul & Meredith Anand 11 Stony Point Road, Westport, CT" Prepared by Frangione Engineering, LLC., Dated February 9, 2021
17. The boat dock should be installed between October 1st and July 1st of any given year in order to avoid the prime shellfish spawning season. Should construction continue beyond that time-frame, then approval from Conservation Department staff shall be secured.
18. Best management practices should be employed to avoid impact to the Diamondback terrapins.
19. The floating dock will be removed during winter months.
20. The Conservation Department must be contacted 48 hours prior to start of construction.
21. Final inspection conducted by and submission to the Conservation Department of an "as-built" survey prior to the issuance of a Certificate of Completion.

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

4. **11 Birchwood Lane:** Application #IWW,WPL-11206-21 by Robert Pryor of LandTech on behalf of Jason Stiber for a proposed pool, patio, and stormwater management system. A portion of the work is within an unnamed tributary of the Saugatuck River.

Robert Pryor, PE of LandTech presented the application on behalf of the property owner. Jason Stiber, property owner and Chris Allan, soil and wetland scientist, were also present. Mr. Pryor described the property. The rear of the property backs up to the Birchwood Country Club. A sanitary sewer easement runs along the northeast property line. This is a .5 acre property with approximately 10,000 s.f. of wetlands or 46% of the total lot area. The wetland to the west of the brook was previously filled. The wetland to the east of the brook is in a natural state. The wetland boundary was recently flagged and approved. The Flood and Erosion Control Board approved the pool on March 3, 2021. Mr. Pryor noted that a new plan was submitted on March 16, 2021, yesterday, late in the day.

Ms. Rycenga noted she did not get a chance to review the new plan and asked Mr. Pryor to highlight the changes.

Mr. Pryor reviewed the stormwater improvements. He noted there currently are no stormwater provisions on the site. In fact, some of the roof leaders are discharged directly into the brook. In the new plan, those direct discharges are abandoned. A new underground detention system is proposed in the front yard and will take the front portion of the roof runoff. There will also be a permeable patio. They have proposed sediment and erosion controls as part of this plan. A 4-foot high pool fence is proposed outside the wetland. The dewatering plan has been beefed up. Soil stockpiling on-site is not allowed. The excavated material has to be directly off-loaded to a truck and hauled away. The deeper portions of the pool will be in the groundwater and will require dewatering. The contractor has to be able to manage water so it is pumped 12-inches below the bottom of the pool excavation. The dewatering will go through a filtration bag with two rows of silt fence and haybales for extra filtering before it discharges into the wetland. Buffer plants now exist as a requirement of an earlier approval for an addition. The pool equipment will be located under a raised portion of the house on a raised slab. The above-ground propane tank will be replaced with an under-ground propane tank. Mr. Pryor noted the coverage on the Zoning Table had an error that was corrected. The coverage is going from 3759 s.f. to 3875 s.f. or 27.28 % to 28.13%. There is no FEMA floodplain.

Chris Allan, soil and wetland scientist with LandTech discussed the potential impact to the wetlands. The deck will be replaced with a patio. The pool is going over the portion of the wetland that is currently lawn. He believes the net benefit is due to the stormwater improvements. The pool will be underlain with a layer of stone so the groundwater will be able to move underneath the pool.

Ms. Rycenga asked about the size of the pool coping.

Mr. Pryor indicated it is 12-inches.

Ms. Rycenga asked if they will have an autocover.

Mr. Pryor indicated that the owner is planning on installing an autocover.

Ms. Rycenga noted the plans should show the autocover because the cover is usually wider than the pool.

Mr. Lobdell asked about the distance of the pool to the wetland.

Mr. Pryor stated it is 6.5 feet to the wetland at its closest point.

Mr. Lobdell clarified that Mr. Allan believes that there would be no impact to the wetland because the wetland is already disturbed.

Mr. Allan agreed.

Mr. Carey asked if there is any wetland enhancement planned.

Mr. Pryor stated not at this time.

Mr. Carey stated it is his opinion that more native plantings should be added. It would further define the wetland and improve water quality.

Ms. Rycenga believes the proximity of the project is too close to the wetland and would like to see alternatives suggested. They could reduce the size of the pool and patio. She noted the pool depth at the deep end is 8 feet and 3.5 to 4 feet at the shallow end.

Mr. Pryor stated they cannot push the pool to the south because of the Zoning setback.

Mr. Allan added that he does not feel there would be a material benefit to moving the pool or reducing the size.

Mr. Bancroft noted that reducing the pool width by two feet was not going to significantly change the impact to the wetlands as the setback would still only be 8.5 feet nor would moving the pool. The wetland line is not an exact line. He noted that the WPLO line on the site plan is wrong.

Mr. Davis indicated he is not concerned with the distance to the wetland because he feels that removing the direct discharge to the wetlands is a benefit as well as the grade is relatively level.

Mr. Lobdell noted the changes are an improvement and there is not a lot that can be done on this lot. His primary concern is the impact to the watercourse. He questioned if the Commission can allow the pool where the pool is proposed but improve the buffer.

Mr. Carey agreed but added that enhancing the buffer to distinguish the disturbed to the undisturbed is most important.

Mr. Kelly noted Section 11.2 of the Regulations which says wetlands need to be restored, enhanced or created in that order.

Ms. Mozian asked about the coverage exceedance.

Mr. Pryor noted a coverage variance is still required. However, ZBA has already approved up to 31.14% coverage for a circular driveway.

Ms. Mozian noted two variances recently issued for pools by ZBA; one for a 10' x 20' and the other 13' x 25'. She noted that making the pool smaller provides less disturbance during excavation. Also, an 8-foot deep pool will require a large amount of pumping to get the excavation 1-foot below grade. It will have to be done during the driest part of the year. If not, the dewatering plans show the water will be sent to the wetland, which would otherwise be saturated in wetter parts of the year. She added the applicant cannot argue about giving up yard area because the owners chose to sacrifice usable yard for a pool.

Mr. Kelly followed up referencing the Groundwater Conductivity report.

Mr. Pryor indicated the owners would be willing to reduce the depth of the pool to 7 feet. He stated any shallower would not meet the purpose of the pool. He also asked that the time frame be extended from mid-June to October because they couldn't get a pool contractor this year otherwise. He noted water will filter into the manicured lawn first and then discharge cleaner water into the stream.

Mr. Kelly asked about moving the dewatering area to the proposed drainage area in the front of the residence. That drainage system could be installed first and the dewatering discharge could be directed there.

Mr. Allan stated the soils there are Paxton soils, which are dense, hard pan. Once below 2 feet, there is very low transmissivity that restricts the flow of water.

Mr. Lobdell noted there are different types of pools and asked if these alternative designs have been explored.

Mr. Pryor noted it is possible. He indicated that vinyl would not be good in this case as maintenance needs to be done. He indicated that he had no objections to pumping the water to the front yard for dewatering.

Ms. Rycenga asked if there would be an emergency overflow.

Mr. Pryor stated no.

Mr. Bancroft agreed that extending the construction timeframe to October would be okay because rainfall through September is no different than June rainfall as noted by USGS rainfall data for the past 30 years.

Mr. Kelly highlighted there is a grade change proposed as part of the project about 1 foot from the wetlands. He confirmed that the underground propane tank will be anchored.

Mr. Pryor stated yes, it will be anchored due to high groundwater conditions.

Mr. Kelly noted that the lawn being maintained at the western edge of the stream is being eroded. This could be controlled by eliminating the lawn and installing plantings with a deeper root zone.

Mr. Stiber noted he added a 50 s.f. addition to the house in 2018. That is when the buffer plantings were installed. He agreed that more plantings along the streambank is supported.

Mrs. Stiber stated that this pool size is needed for their large family of 4 children.

Mr. Lobdell indicated he understands the Stiber's desire for a decent size pool for their family but it is closer to the wetland than he feels comfortable with. He would like to see an alternative that is what the owner needs versus what they want.

Ms. Rycenga noted that the revised plans that the Commission received does include the pool fence. However, she would like to see the details of the buffer plantings, the 7-foot deep pool, and anchoring of the propane tank.

Mr. Davis asked about the fence location.

Mr. Kelly showed the fence location onscreen. He noted we need the fence detail to ensure it allows the free flow of water .

Mr. Pryor indicated it would comply with the Building Code requirements being 4 feet in height and no more than 2 inches off the ground. The fence on the wetland side would be more open but the side would be more solid for privacy.

Ms. Rycenga asked for Commission members for their thought about continuing the hearing for more information.

Mr. Lobdell stated he was in favor of a continuation.

Mr. Carey indicated he was against a continuation.

Ms. Rycenga stated she was in favor of a continuation in order to receive information on the pool fencing, the pool depth, the propane anchoring and the details of the enhanced buffer.

Mr. Davis stated the Commission should receive those details but he is okay with conditioning those items.

Mr. Bancroft noted that reducing the pool size will not make a difference but he does support making the pool shallower.

Ms. Mozian asked if anyone wanted to make changes to the patio.

Mr. Bancroft stated no because it is permeable.

Mr. Cowherd stated that if the concerns can be managed by conditions reviewable by the staff, then he would be okay with voting now.

Mr. Pryor thanked everyone for their time. He acknowledged this is a difficult site given its location to the wetlands. They agreed to reduce the pool depth to 7 feet and will change the pool coping to accommodate the autocover. He noted that Mr. Allan stated there will be no impact to the wetland or the groundwater. He added that should new planting be required that the Commission be unambiguous in its requirement.

Mr. Allan stated the most valuable resource is the brook. They should augment the riparian buffer between the existing plants and the brook and maybe add a few more feet.

Mr. Carey changed his mind and believes the Commission should continue the hearing to get a plan showing more plantings for more restoration of the wetland lawn area in addition to augmenting the planted area next to the watercourse.

Motion to continue to April 21, 2021.

Motion:	Lobdell	Second:	Rycenga
Ayes:	Lobdell, Rycenga, Carey, Cowherd		
Nayes:	Bancroft, Davis	Abstentions:	None
		Vote:	4:2:0

The March 17, 2021 Public Hearing of the Westport Conservation Commission adjourned at 10:19 p.m.

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