



CONSERVATION COMMISSION
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WESTPORT™

**DRAFT
MINUTES
WESTPORT CONSERVATION COMMISSION
APRIL 21, 2021**

The April 21, 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
Tom Carey, Secretary, Acting Vice-Chair
Donald Bancroft, Acting Secretary
Stephen Cowherd, Esq.
Paul Lobdell
Robert Corroon

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 April 21, 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.

Ms. Mozian stated there was one addition to Work Session I

- **111 Harbor Road:** Request for bond release being held for plantings as required as a condition of Permit #WPL-10621-18.

Motion to amend the agenda as noted.

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

All members visited the sites in preparation for the meeting except Ms. Rycenga did not visit 170, 172, 174, 176 Post Road West and 38 Kings Highway North as she would not be sitting on this application.

Public Hearing: 6:30 p.m.

1. **11 Birchwood Lane:** Application #IWW,WPL-11206-21 by Robert Pryor of LandTech on behalf of Jason Stiber for a proposed pool, deck, patio, fences, mechanicals, and stormwater management system. A portion of the work is within an unnamed tributary of the Saugatuck River.

Ms. Mozian highlighted the additional information requested at the March 17, 2021 meeting.

Rob Pryor, PE presented the application on behalf of the property owner. He noted they have addressed the concerns of the Commission including:

- The pool depth was reduced to a 7-foot maximum instead of the previously proposed 8-foot depth.
- The plantings of the wetland buffer along the stream and within the wetland area that was lawn has been augmented.
- The pool coping with autocover has been added to the plan.
- The pool fencing was added. It will be stockade fencing for privacy on the sides of the property and split-rail fencing in the wetland.
- They have relocated the dewatering area to the front yard.
- The location of WPLO boundary was corrected on the updated plan.

Mr. Lobdell asked about the practicality of a 7-foot deep pool.

Ms. Mozian asked for clarification of the drainage from the automatic pool cover.

Mr. Pryor explained it will be discharged into the permeable reservoir beneath the patio.

Ms. Mozian noted the location of the split-rail fence in the wetland, most of which is lawn area with grasses previously planted.

Mr. Kelly recapped that the applicant addressed the issues asked of him. He did recommend a site monitor and a bond for plantings.

Ms. Rycenga gave 3 minutes to allow for submission of public comment.

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

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

Findings
Application #IWW/M 11124-20
11 Birchwood Lane
Public Hearing: December 16, 2020

1. **Application Request:** The applicant, Robert Pryor P.E., L.S. of Landtech is requesting to amend wetland map # B07 on Lot #053. The parcel is owned by Jason Stiber.
2. **Soil Scientist for Applicant:** Christopher P. Allan, Landtech
3. **Soil Scientist for Town of Westport:** Aleksandra Moch, Soil & Wetland Scientist
4. **Plans reviewed:**
"Wetland Line Revision Map Prepared for Jason Stiber 11 Birchwood Lane, Westport, CT", Scale: 1" = 10', dated October 16, 2020, prepared by Landtech

"Zoning/Location Survey Map of Property Prepared for Jason A. Stiber & Cecilia Zhang-Stiber 11 Birchwood Lane Westport, Connecticut", Scale 1" = 20', Dated November 30, 2007 last revised August 17, 2020, prepared by Walter Skidd, Land Surveyor LLC.
5. **Wetlands Description:**
Inland Wetland & Watercourse Delineation 11 Birchwood Lane Westport, Connecticut - prepared by Christopher P. Allan, Soil & Wetland Scientist, Landtech, dated July 20, 2020, and sketch map.

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.

Aquents (Aq): This soil type generally has less than two (2) feet of fill over naturally occurring poorly or very poorly drained soils, or are located where the naturally occurring wetland soils are no longer identifiable, or the original soil materials have been excavated to the ground water table within twenty (20) inches of the soil surface, have an aquatic moisture regime and can be expected to support hydrophytic vegetation.

Non-wetland soils were identified as:

Paxton and Montauk fine sandy loam (84): This series is Well drained loamy soils formed in lodgement till. The soils are very deep to bedrock and moderately deep to densic contact (hardpan). They are nearly level to steep soils to moderately steep soils on hills, drumlins, till plains, and ground moraines Many areas are cleared and used for cultivated crops, hay, or pasture. Scattered areas are used for community development. Some areas are wooded.

6. **Property Description and Facts Relative to the Map Amendment Application:**
 - The existing house was built in 1963.
 - The property is 0.50 acres (21,783 sq. ft.) in size.
 - The parcel is located within the Saugatuck River watershed. An intermittent watercourse flows through the northern portion of the property (the rear) from the northwest to the southeast.
 - 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.
 - The flagged wetland area is **10,005 sq. ft.** as determined by the Landtech plan, dated October 16, 2020. The Town of Westport wetland area is **~10,602 sq. ft.** The proposed amendment represents a **reduction of ~597 sq. ft. of wetland area.**
7. **Discussion:**
The Commission finds that the applicant submitted a soils report by Chris Allan, dated July 20, 2020, that documents his investigation of the soils on the site. Wetlands soils were found in the northern

section of the site. The wetlands consist of a mixture of lawn and landscape plantings located south of the onsite intermittent watercourse and, a “naturally wooded” area located north of the watercourse. The sketch map identifies the location of the wetland soil types, marked by flag numbers #1-#5. These locations are also reflected on the “Zoning/Location Survey” prepared by Walter Skidd.

The Town of Westport retained the services of Aleksandra Moch, Soil & Wetland Scientist, to review the proposed wetland boundary findings. Ms. Moch conducted an on-site investigation on November 14 and 25, 2020 and dug over 30 soil borings. Her letter, dated November 30, 2020 supports the findings of Mr. Allan, and states *“The soil in the back of the residence was found highly disturbed and showing mix results when probed. After a through site evaluation, it was determined the wetland boundary established by Chris Allen, Soils Scientist, and William Kenny, Soil Scientist, is correct.”*

The Commission finds that the Town’s wetland boundary map be amended to reflect the boundaries as flagged and concurred to by the soil scientists as shown on the “Zoning/Location Survey Map of Property Prepared for Jason A. Stiber & Cecilia Zhang-Stiber” prepared by Walter Skidd, Land Surveyor LLC.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application #IWW, WPL 11206-21
11 Birchwood Lane
Assessor’s Map: B07 Tax Lot: 053
Date of Resolution: April 21, 2021

Project Description: Applicant is requesting a proposed pool, a deck with stairs down to an enlarged patio, fences, pool mechanicals and a stormwater management system. A portion of the work is within an unnamed tributary of the Saugatuck River.

Owner of Record: Jason Stiber
Applicant: Robert Pryor, Landtech

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-11206-21** 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 **March 3, 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) **"Proposed Site Improvements for a New Pool, Site Plan**, Prepared for Jason Stiber, 11 Birchwood Lane, Westport, Connecticut", Sheet C-1 and C-2, Scale: 1"= 10', dated August 26, 2020 and last revised to March 31, 2021, prepared by Landtech
 - b) Letter "11 Birchwood Lane, Application #IWW, WPL-11206-21, Responses to 3/18 Comments" from Landtech to Conservation Commission, Dated March 31, 2021
 - c) **"Zoning/Location Survey Map of Property** Prepared for Jason A. Stiber & Cecilia Zhang-Stiber 11 Birchwood Lane Westport, Connecticut", Scale 1" = 20', dated November 30, 2007 last revised August 17, 2020, prepared by Walter H. Skidd Land Surveyor LLC
 - d) **"Stormwater Management Report** for 11 Birchwood Lane Westport, Connecticut", dated January 22, 2021 and last revised to February 25, 2021, prepared by Landtech
 - e) **"Groundwater Conductivity Report** for 11 Birchwood Lane Westport, Connecticut", dated January 22, 2021, prepared by Landtech
19. Pool construction is confined to the dates of June 15th and October 15th.
20. Submission of Health Department approval prior to issuance of a Zoning Permit.

21. 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. All proposed plantings shall be installed prior to the issuance of a Conservation Certificate of Compliance.
22. Erosion controls shall be installed prior to construction commencement just outside the limit of disturbance as shown on the site plan. The pool mechanicals shall be placed in the location as shown on the plans unless another location is authorized by staff.
23. The two pipes directly discharging into the watercourse shall be removed prior to pool forms being poured.
24. A site monitor shall provide weekly sediment and erosion reports to ensure the sediment and erosion controls are effective through construction until the site is stabilized.
25. The site monitor shall oversee pool excavation and dewatering and provide weekly reports to ensure sediment and discharge from the dewatering activities do not affect the wetlands.
26. 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.
27. The proposed plantings within the wetland area shall be done by hand. Mulching within this area should be done with organic leaf mulch. These plants 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: Lobdell Second: Bancroft
Ayes: Lobdell, Bancroft, Rycenga, Carey, Davis
Nays: 0 Abstentions: 0 Vote: 5:0:0

Mr. Corroon joined the meeting at 7:14 p.m.

2. **228 Saugatuck Avenue:** Application #IWW,WPL-1129-21 by William Kenny Associates on behalf of Braemax Holding LLC to dredge a pond, install an aerator and native plantings. Work is within the wetlands, the upland review area and the WPLO area of Indian River.

Bill Kenny, professional wetland scientist, soil scientist and LA with William Kenny Associates presented the application on behalf of the property owner. He noted that sedimentation in the last 5 years has accelerated. Phragmites has grown in the last 15 years acting to trap sediment. They are proposing herbaceous plants along the sides. The dredging will be done hydraulically. This vacuums the sediment into dewatering bags. The water will be conveyed back into the pond via the catchbasin. Water in the sediment bags slowly weeps out and then is hauled off site to a legal location. The trees along the perimeter of the pond will be maintained though some of the lower branches will need to be pruned. The catchbasin at the outlet near the sidewalk will have to be cleaned out. He noted a neighbor asked that they shift the location of the aerator pump mechanicals. He agreed.

Ms. Rycenga asked about the short-term and long-term impacts.

Mr. Kenny stated there are short-term impacts, but they are reduced compared to clamshell dredging or pumping water out of the pond. Aquatic animals tend to move out of the way and do not get sucked up. The long-term impact is beneficial in the increase productivity of the pond.

Ms. Rycenga asked about the length of the dredging project.

Mr. Kenny stated it would be about 6 weeks.

Mr. Corroon asked about the timing of the project.

Mr. Kenny stated he is not sure, but they should avoid spring through August to avoid the breeding season. August through winter is the best timing.

Ms. Mozian asked Mr. Kenny to highlight the sediment sampling results.

Mr. Kenny stated that they took two samples, one at the inlet and one at to the outlet. The levels at the inlet show Pb, As and PAH. The levels at the outlet show As and PAH. Therefore, sediment must go to a registered disposal site. He added that additional testing will be done.

Ms. Mozian endorsed the project and indicated that it will be a net benefit.

Mr. Kelly stated he would like a bathymetric as-built to show the final depth of the pond. He also recommended a site monitor and a bond for the plantings.

Mr. Kenny agreed.

Mr. Lobdell noted that the catchbasin drains directly into the pond. He asked if there is something that can be done to upgrade the drainage to meet today's standards.

Mr. Kenny stated he is not able to offer that.

Ms. Mozian suggested simple management efforts such as annual parking lot sweeping and catchbasin cleaning could be done as was suggested by one of the neighbors.

Mr. Kenny agreed that was doable.

Ms. Rygenga suggested that Mr. Kenny put together management recommendations for the property owner to follow.

Mr. Hartshorne mentioned that dredging in the winter might not necessarily be good as mammals such as turtles and salamanders hibernate in the mud.

Mr. Kenny suggested narrowing the timeframe from September to November.

Mr. Hartshorne indicated he would research further.

Ms. Rycenga gave three minutes to allow for submission of public comment.

Mr. Kelly read an e-mail from Scott Singer of 230 Saugatuck Avenue Unit 20 dated April 21, 2021 about relocating the aerator control panel further away from his unit. It was noted that the applicant has agreed.

Mr. Kenny corrected Mr. Singer's e-mail about moving the control panel from west to the east.

Scott Singer agreed it is west to east.

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

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

Findings
Application #IWW, WPL 11229-21
228 Saugatuck Avenue
Public Hearing: April 21, 2021
Assessor's Map: B05 Tax Lot: 014

1. Receipt Date: March 17, 2021

2. Application Classification: Plenary

3. Application Request: Applicant is requesting a pond dredging and other enhancement activities related to the pond and adjacent wetlands and buffer, including installation of an aerator and wetland plantings. The work is within a ponded area of Indian River.

4. IWW and WPLO Regulated Areas:

IWW setbacks determined for this property include a 20' non-disturbance buffer for the proposed grading, drainage, and/or other alteration from wetland boundaries. The Waterway Protection Line Ordinance dictates that the WPLO boundary be located 15' from the 25-year floodplain, 15' from the wetland boundary, or 15' from the top of bank, whichever is more conservative. For this project, the location of the WPLO will be 15' from elevation 9.0'.

5. Plans Reviewed:

- 1) **"Pond Maintenance Dredging Plan** Prepared for Leifer Properties 228 Saugatuck Avenue Westport, Connecticut", Scale: As Noted, dated February 25, 2021, prepared by William Kenny Associates LLC, Scale: As noted.
- 2) **"Pond Wetland Assessment** 228 Saugatuck Avenue, Westport, Connecticut", Dated February 25, 2021 by William Kenny Associates LLC
- 3) "Response to Residents' Questions for 228 Saugatuck Ave- Pond Dredging Questions", Dated March 15, 2021 by William Kenny Associates LLC
- 4) "Alta/ASCM Land Title **Survey** for Braemax Holdings, LLC 228 Saugatuck Avenue, Westport, Connecticut", Dated March 31, 2006, prepared by William F. Orsine & Associates, Scale: 1" = 40'

6. Previous permits on file:

- IWW-202-80 and IWW-203-80 for maintenance and dredging of the Indian River and construction of condo complex and office bldg.
- IWW-243-80 for two new culverts
- 1985 court stipulated settlement approves the condo complex and office bldg
- IWW/M-5787-98-Amendment to Map B5
- AA-WPL/E-7398-04-Installation of a statue base 6'x3-1/2' with footing
- AA-WPL/E-9280-12-Generator

7. Background Information:

- 1) The Flood & Erosion Control Board (F&ECB) issued their approval with conditions on April 7, 2021.
- 2) The property is on sewer.
- 3) The existing property was developed as a commercial office building in 1987 after a court stipulated settlement.
- 4) The property is 5.20 acres (226,643 sq. ft.) in size.
- 5) The parcel is located within the Indian River watershed. The watercourse discharges in the Saugatuck River. Wetlands on the property are classified as inland but are tidally influenced during periods of extreme high tides via the Saugatuck River. The Indian River flows from under the Metro-North Railroad tracks on the northwestern corner of the property through western portion of the site where it turns from the south, around the neighboring development, to the northeastern side of the side of the site, where it discharges near Saugatuck Avenue.
- 6) This site, excluding the building, is located within the 100-year flood zone, with a Base Flood Elevation of 13.0'.
- 7) The property is not within the Aquifer Protection Overlay Zone.
- 8) Property does exist within the Coastal Areas Management Zone.
- 9) William Kenny Associates LLC conducted an on-site investigation of the pond on October 18, 2018 to determine spot elevations and conduct soil sampling for determination of toxic sediment. It is estimated that up to 3,000 cubic yards of material will be removed.

8. 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 property is 5.20 acres (226,643 sq. ft.) in size, and almost half of that area consists of wetlands, 106,690 sq. ft., as determined by the 2006 survey. The pond that is subject to this application is ~0.5 acres in size and is part of the Indian River. The applicant states in the "Pond and Wetland Assessment":

- a) *The pond is part of a larger wetland and watercourse system which extends and flows south to north. The pond receives discharge from the south from Indian River, which extends and flows north to south through primarily residential properties northwest of the property. Water exits the pond to the north, flowing through culverts beneath the entrance drive to the property, where it continues flowing off site to the north into a stream which directly discharges to an inlet of the Long Island Sound.*

The applicant goes on to describe the current condition of the pond. An onsite inspection of the pond found an average depth of ~2.8' of muck/sediments, with some areas having noted depths of muck 6-7' deep. The pond shows emergent vegetation (primarily *Phragmites australis*) throughout and limited areas of open water. The "Assessment" notes other species of invasive plants found throughout. Up until a few years ago, Purple Loosestrife was the predominate invasive plant species.

This application proposes to hydraulically dredge the sediment and muck from the ponded area. The Commission finds that conducting the dredge will have temporary impacts and that the applicant shall have measures in place to mitigate disruption, and, that the "anticipated wetland and watercourse functions will be improved."

The material, muck, and sediment, to be removed from the pond is proposed to be taken offsite. Samples of the pond sediments were submitted to an analytical lab for testing and found concentrations of metals and hydrocarbons that are above the reporting limits for the Connecticut Remediation Standards for Residential Direct Exposure Criteria. The applicant and owner will be required to manage the dredging spoils appropriately and under the supervision of the CT DEEP or a Licensed Environmental Professional to coordinate proper disposal.

9. 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 this pond is a part of the Indian Brook watershed. The applicant submitted the "Pond and Wetland Assessment" that provides details of the ~0.5 acre pond and references the ~2.2 acre wetland onsite. The "Assessment" provides details on the impacts and mitigation of the project on the wetland system and pond.

The Commission finds that the "Assessment" states: *"The wetland and watercourse system is a moderate-quality system offering ground water recharge, water quality treatment and surface water detention to a moderate or high degree. The value of the pond; however, has decreased due to the accumulation of sediment overtime and presence of extensive invasive vegetation."* The Commission finds that the proposed work would be a temporary disturbance during the dredging activity, but the removal of invasive vegetation and sediment should improve the overall health of the pond for habitat but also function. The "Assessment" goes on to state: *"The dredging will remove the sediment, organic material and nutrients that have accumulated at the bottom of the system, creating eutrophic conditions and shallow water depths."* Additionally, the removal of this material will increase depth and habitat value.

The Commission finds that the applicant should take reasonable care of the accessway to the pond and discharge location of the filtered water return to the pond. These activities will be within a relatively small area and should be monitored for any excessive erosion or disturbance of soils that may become suspended into the water column. More sediment and erosion controls could be required based on how the site conditions are at time of dredging. The Commission finds that a site monitor shall be retained and that he/she address these issues in an effort to protect water quality during dredging activities. Furthermore, The Commission finds that an on-site pre-construction meeting shall be held with the contractor, site monitor and Town staff prior to work commencement.

The Commission finds that the contractor shall cease all dredging activity onsite in the case of a suspected significant storm with a precipitation prediction in excess of 1.5 inches or if a National Weather Service Flood Watch or Warning is issued. Precautions should be undertaken by the contractor to stabilize the site and prepare to manage the influx of stormwater so they will minimize offsite impacts.

Furthermore, The Commission finds that the removal of the contaminated sediment from the pond is an overall benefit to the ecosystem of the pond and Indian River as a whole.

10. 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 a temporary construction fence will be installed around the dewatering area along with a haybale perimeter. A plastic sheet will be placed on the ground with its edges placed above the haybale border to create a staged area to collect the dredging pump effluent. Geotextile fabric dewatering bags will placed within this area and be used to contain the dredged spoils but will allow for the excess waters to drain. The pondwater, now filtered, will be recirculated to the pond through the onsite drainage system and discharged back to the pond. Access to the pond to conduct in water work will be limited to the area shown on the plan. The active dredging area will also be surrounded by an in-water siltation boom to control suspended materials. Maintenance of all these control measures will be required to ensure material is not released offsite or compromised. The Commission finds that a site monitor shall be employed to oversee the work and provide weekly reports of the progress. This will help to ensure the sediment & erosion and dewatering controls are effective.

The Commission further finds that the applicant should prepare a management plan to address sediment from entering the pond from parking lot and road runoff as a means of addressing long-term build up of sediment into the pond.

11. 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 applicant identified and proposes to remove a significant stand of *Phragmites australis* found within the pond. Prior to the inundation of phragmites, Purple Loosestrife had taken over the pond. Both of these species are listed on the Connecticut Invasive Plant List. The applicant

proposes the installation of a variety of five native plantings. These native plants were selected for their habitat use in aquatic, marsh, and wetland areas and should prove to be successful. A total of 2,700 individual plants are proposed to be installed. The plantings will enhance the existing natural habitat by providing shelter and a forage base for wildlife. The Commission finds that a performance bond shall be submitted to ensure the plants installation and vitality when the dredging is completed.

Dredging the brook will enhance fish habitat in the pond. Currently the pond has limited space for fish habitat due to the amount of vegetation encountered throughout. The removal of the invasive vegetation and the increase of overall depth will provide more area for larger finfish in the pond and overall improve the habitat for amphibians and bird life. The applicant proposes to conduct the work in the late summer, fall or winter months to avoid the breeding season of any wildlife that may be found associated with the pond. The Commission finds that this time-frame be shortened to August-October to further protect animals during winter hibernation.

12. 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: *The Commission finds that the applicant proposes to conduct hydraulic dredging utilizing a floating dredge that vacuums the sediment from the base of the pond and discharges the dredging effluent through conventional geotextile bags to be filtered. The sediment removal process occurs in the staged stockpile/dewatering area of the existing parking lot of the building. The dewatering bags are extremely large in size taking up a good portion of the office building parking lot. The filtered water will be returned to the pond within an area protected by a turbidity curtain. Only existing water will be used, and the rate of existing flow will be metered through the use of sandbags at the outlet of the pond to increase the water elevation during dredging. This elevation increase will only be temporary and maintained only during the dredging process.*

The Commission finds that the proposed activities will not significantly impact discharge and runoff within Indian River provided the erosion controls and dewatering area is properly used and maintained during dredging. The Commission finds that the precautions should be undertaken by the contractor to be prepared to stabilize the site in the case of a severe storm event or National Weather Service Flood Watch or Warning. The contractor should be prepared to manage the influx of stormwater to minimize offsite impacts.

The FECB approved the application at its April 7, 2021 meeting. It was determined that the proposal will not impact the waterway insofar as drainage, flooding and erosion and sediment control issues are considered.

13. 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 but will restore the scenic beauty of the pond.

14. 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 elevation 9.0. The Flood & Erosion Control Board approved the application on April 7, 2021 with standard conditions; the requirement that an on-site pre-construction meeting be held prior to work commencement with staff and contractor; and submittal of a Proposed Dewatering Basin Detail, to be reviewed and approved by the Engineering Department.

The Commission finds that the proposed activities in this application will ultimately enhance and improve water quality, through filtration, improved water flow and nutrient exchange. Proposed dredging will improve fish habitat and enhance wildlife habitat with native plantings as the Waterway Protection Line Ordinance dictates. Removal of contaminated sediment will improve the water quality of the waterway ecosystem as a whole. Therefore, it is the finding of the Commission that this application does not significantly impact the existing watercourse as it is regulated by the Waterway Protection Line Ordinance.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application #IWW, WPL 11229-21
228 Saugatuck Avenue
Assessor's Map: B05 Tax Lot: 014
Date of Resolution: April 21, 2021

Project Description: Applicant is requesting a pond dredging and other enhancement activities related to the pond and adjacent wetlands and buffer. The work is within a ponded area of Indian River.

Owner of Record: Braemax Holding LLC
Applicant: William Kenny Associates

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-11229-21** 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 **April 7, 2021**.

SPECIAL CONDITIONS OF APPROVAL

17. Conformance to the plans entitled:
 - a. "Pond Maintenance Dredging Plan Prepared for Leifer Properties 228 Saugatuck Avenue Westport, Connecticut", Scale: As Noted, dated February 25, 2021, prepared by William Kenny Associates LLC, Scale: As noted.
 - b. "Pond Wetland Assessment 228 Saugatuck Avenue, Westport, Connecticut", Dated February 25, 2021 by William Kenny Associates LLC
 - c. "Response to Residents' Questions for 228 Saugatuck Ave- Pond Dredging Questions", Dated March 15, 2021 by William Kenny Associates LLC
 - d. "Alta/ASCM Land Title Survey for Braemax Holdings, LLC 228 Saugatuck Avenue, Westport, Connecticut", Dated March 31, 2006, prepared by William F. Orsine & Associates, Scale: 1" = 40'
18. A bond to cover the cost of sediment and erosion controls and plantings shall be submitted prior to commencement of site work and shall be held for one full year following time of installation.
19. A site monitor shall be retained by the owner to provide weekly sediment and erosion reports to ensure the sediment and erosion controls are effective through construction until the site is stabilized. The site monitor shall also oversee planting installation activities for restoration and provide a report when completed.
20. Erosion controls shall be installed prior to construction commencement just outside the limit of disturbance as shown on the site plan.
21. An on-site pre-construction meeting shall be held with Town Engineering and Conservation Department staff, the site monitor and dredging contractor prior to work commencement.
22. Submit an as-built bathymetry survey of the pond showing the final depths upon completion of dredging.
23. All planting within the wetland area shall be done by hand.
24. Dredging activity shall be limited to the period between August through October. This will avoid interfering with breeding, nesting and hibernating seasons.
25. The contractor shall cease all dredging activity onsite in the case of a suspected significant storm with a precipitation prediction in excess of 1.5 inches or if a National Weather Service Flood Watch or Warning is issued. Precautions should be undertaken by the contractor to stabilize the site and prepare to manage influx of stormwater so they will minimize offsite impacts.

26. All excavated dredged spoils shall be disposed of in a legal, pre-approved location authorized for acceptance of contaminated sediment. Proof of said authorization shall be submitted prior to issuance of Certificate of Compliance.
27. A stormwater maintenance plan for routine parking lot and road sweeping and inspection and cleaning of catchbasins shall be prepared and submitted for review by the Conservation Department.
28. The aerator control plan shall be moved in an easterly direction so as to be further away from resident dwellings.

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, Bancroft, Cowherd, Corroon
Nays: 0 Abstentions: 0 Vote: 6:0:0

3. **28 Spicer Road:** Application #IWW,WPL/E-11251-21 by Andy Soumelidis of LandTech on behalf of Franklin Investors CT LLC for proposed additions, renovations, deck, driveway, and site improvements. Portions of the work are within the upland review area.

Andy Soumelidis, PE of LandTech presented the application on behalf of the property owner. The wetland line was flagged and approved by a previous map amendment application. The existing Town wetland maps shows no wetlands. A sewer easement also exists in the rear of the property, but the sewer and water line are in the front of the house. The wetland on the property is currently lawn. There will be an extensive renovation of the existing structure, which is in disrepair. The proposed garage will be slab on grade over the existing driveway. A 360 s.f. addition in the rear of the house will be build on a crawlspace. There will be a 150 s.f. driveway expansion just to get access to the 2 car garage. The new deck will be supported by pilings. Mr. Soumelidis highlighted the sediment and erosion controls but noted there will not be a lot of excavation expected as there will be a slab on grade and a crawl space construction. They are proposing a wetland restoration which includes boulders placed 10 feet on center along the wetland line. Shrubs and trees will be planted. The existing trees are to remain. Lawn will be planted with Northeast seed mix. The hope is that the area will remain in a natural state. The new meadow will be mowed twice a year.

Mr. Carey asked where the mechanicals for the house are located.

Mr. Soumelidis stated that access to the basement is through the garage.

Mr. Carey asked if there is a sump pump.

Mr. Soumelidis stated there is no sump pump existing. They are proposing slab on grade or a crawlspace, so no footing drains are proposed.

Mr. Bancroft noted that the groundwater appears to be at grade in the driveway area.

Mr. Soumelidis stated that is why they are proposing a permeable driveway with a liner.

Mr. Carey asked if this is new construction or renovation.

Mr. Soumelidis stated they will be tearing off the roof and building up. A structural engineer has verified that the existing foundation can support the 1.5 story addition.

Mr. Carey asked about the fuel source.

Mr. Soumelidis stated he believes it will be propane as natural gas is not available.

Ms. Rycenga asked where the staging area is. She noted concern with intrusion into the wetland during construction.

Mr. Soumelidis noted the dumpster and parking could be next to the proposed stockpile area.

Mr. Corroon asked if there is an underground oil tank.

Mr. Soumelidis stated they are not aware of one. It was not disclosed at time of purchase.

Ms. Rycenga stated the propane tank should be located on the plans.

Mr. Lobdell asked about the drainage flow on the site. He asked about footing drains.

Mr. Soumelidis stated there are no footing drains currently and no evidence of water in the basement. If it is found that they are needed, they would be routed to the drainage system in front of the house.

Mr. Bancroft noted the poor condition of the driveway as seen during the site walk.

Mr. Soumelidis agreed and noted that asphalt is not planned. The driveway will be crushed stone or pavers. He added they did explore coming off Spicer Road, but that option would result in further disturbance.

Ms. Mozian asked if the wetland could be designated as a conservation easement.

Mr. Soumelidis noted it is a designated wetland area.

Ms. Mozian asked about replacing the boulders with a split rail fence.

Scott Kiley, property owner, indicated he would prefer the boulders to the split rail fence. The fence would divide his yard and prevent access. Also, the sewer easement prevent intrusion to a large area.

Mr. Kelly noted there is a three year monitoring proposed so that will allow time for the vegetation to mature.

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

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

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

Findings
Application # IWW, WPL/E-11251-21
28 Spicer Road
Public Hearing: April 21, 2021
Assessor's Map: E09 Tax Lot: 024

- 1. Receipt Date:** **March 17, 2021**
- 2. Application Classification:** **Plenary**
- 3. Application Request:** The application is to renovate the existing house and add a story and a half above, plus two, additions and a deck with steps to grade, driveway expansion and new drainage. Portions of the work are within the upland review area.
- 4. IWW and WPLO Regulated Areas:**
IWW setbacks determined for this property include a 50' review area setback from wetland for the proposed additions, a 30' review area setback from wetland for the driveway addition and deck addition, and a 20' review area setback for other alterations from wetland boundaries including the deck and driveway expansion. The Waterway Protection Line Ordinance dictates that the WPLO boundary be located 15' from the wetland boundary.

5. Plans reviewed:

- 1) "**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) "**Proposed Improvements** to a Single Family Residence Site Plan, Scott Kiley 28 Spicer Road Westport, Connecticut", prepared by Landtech, dated March 16, 2021, scale 1" = 10' sheets C-1 and C-2
- 3) **Architectural Drawings** "Proposed 28 Spicer Road Westport", prepared by Colangelo Associates Architects, LLC, dated December 21, 2020, scale: as noted, (6 pgs.)
- 4) "**Stormwater Management Report** for 28 Spicer Road Westport, Connecticut", prepared by Landtech, dated March 16, 2021,

6. Previous Permits on file:

#IWW/M 11219-21: Amended wetland map E09

7. Wetlands Description:

The soils report which amended wetland map E09 approved by the Commission on March 17, 2021 included the Soil Report Summary- prepared by Christopher P. Allan, October 21, 2020 describes the following wetland soils occurring 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 has 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.

8. Property Description and Facts Relative to the Application:

- 1) The wetland system is part of the Sherwood Mill Pond watershed. The existing house was built in 1951. It is served by sewer system. A sewer easement is found along the western property line.
- 2) The property is 0.50 acres (21,879 sq. ft.) in size; located in Zone A.
- 3) The parcel is located within the Pussy Willow Brook watershed. A watercourse flows from west to east through the southern portion of the property.
- 4) This property **is not** located within a FEMA-designated flood zone.
- 5) The property **is not** within the Aquifer Protection Overlay Zone.
- 6) Property does **not** exist within the Coastal Areas Management Zone.
- 7) The Waterway Protection Line is established 15' from the flagged wetland line. No work is proposed within the WPL boundary.
- 8) The flagged wetland area is **6,690 sq. ft.** as determined by the plan by Deilus, dated January 21, 2021.

9. Conformance to Section 6.1 General Standards of the Inland Wetlands and Watercourses Regulations

- 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 nearly half of the existing house lies within the 50' IWW upland review area. The residence was built prior to the existence of the IWW regulations and the onsite wetland areas were not indicated on the Town of Westport Official Wetland Map. The recent

wetland map amendment shows the current existence of an intermittent watercourse and wetland soils, some of which are maintained as lawn.

The two proposed additions will be located within the review area setback. Where the addition of the new garage, with family room above, will be located over the previous drive area. And the proposed addition of the kitchen and bedroom expansion is located partially in the area of the existing rear deck. A new deck is proposed over existing manicured yard and wall. The deck is shown to be ~8.5' from the flagged wetland at its closest point. The garage addition is shown to be ~17.6' from the flagged wetland at its closest point. The kitchen/bedroom addition are shown to be ~20.7' from the flagged wetland line. The Commission finds that the architectural plans must be amended to clearly define the walls to be removed and those to remain.

Drainage for the residence is proposed outside the 20' IWW upland review area and located in the front yard of the property. This includes the use of four Cultec units to store stormwater. The Stormwater Management Report states that the runoff will be managed from the new additions for a 25-year storm event and for the water quality volume, or first inch of runoff.

The proposed garage addition will cover ~510 sq. ft., the proposed addition for the kitchen/bedroom will cover approximately ~366 sq. ft. of land, and the new deck is ~183 sq. ft. The existing deck that will be removed is ~157 sq. ft. The total coverage onsite changes from 15.1% (2,497 sq. ft.) to 21.0% (3,467 sq. ft.), a difference of +970 sq. ft.

The Commission finds that the proposed additions to the residence are within the review area setbacks for the wetlands onsite. The Commission finds that the applicant provided significant planting/restoration of the wetland system onsite. The Commission finds a benefit in reducing the manicured and managed yard with the restored wetland area with plantings. This will bring back wetland functionality, increase habitat value, and restore a misused area onsite. The Commission finds that this proposal is a balance for the owner's need/want to improve the residence and the Conservation Commission's mission to protect wetlands. Specifically, the deck proposed at ~8.5' from the wetland line may be an appropriate compromise so the residents may access the outdoor space and also allow function to be restored to the wetlands that have been mismanaged for some time.

10. Conformance to Section 6.2 Water Quality of the Inland Wetlands and Watercourses Regulations

- 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 current house has no formal drainage structures due to its age of construction. The renovation will require new drainage to meet the Towns Drainage Standards to collect runoff to offset the new impervious surfaces. The applicant includes a "Stormwater Management Report", dated March 16, 2021 prepared by Landtech that states, "...stormwater discharge from the site will comply with the applicable rules and regulations of the Town of Westport." The Westport Engineering Department stated the drainage design meets the Town drainage standards.

The Commission finds that the proposed plans include a 6' wide planting bed at the wetland boundary to consist of ornamental landscape plantings and boulders to demarcate the wetland edge and act as a biofiltration buffer. The wetland areas beyond the proposed buffer are proposed to be seeded with a wetland seed mix and intermittently planted with a variety of native shrub species, 19 in total. The Commission finds that this planting will help "naturalize" the existing wetland area that is currently

maintained as a manicured lawn. The Commission finds that the transformation of the wetland area would be an overall benefit. This would effectively restore the wetland function as a biofiltration area for treatment of sheetflow stormwater runoff from the yard and the driveway. A nutrient removal or "filtering" process would take place as the water comes in contact with the soil and the roots of the vegetation. The process accounts for the improved water quality and a way to protect the downstream receiving watercourse from potential pollution sources.

11. Conformance to Section 6.3 Erosion and Sediment of the Inland Wetlands and Watercourses Regulations

- 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: Sediment and erosion controls are provided on the plan and consist of a double row of silt fencing and an anti-mud tracking pad as a construction access from the shared driveway. Additionally, an area for excess stockpiled materials is shown with silt fence protection. The Commission finds that this will protect the wetlands and adjacent watercourse during construction.

The existing driveway will be used as the construction access/tracking pad as shown on the submitted site plan. The Commission finds that the contractor will most likely need to maintain the driveway daily with sweeping to ensure no sediment moves offsite and control areas when construction activities require additional parking onsite. The Commission further finds that the plans should be revised to include the location of a staging area and the proposed propane tanks.

12. Conformance to Section 6.4 Natural Habitat Standards of the Inland Wetland and Watercourses Regulations

- 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 existing wetland area currently maintained as a manicured lawn is proposed to be seeded the with a wetland seed mix and intermittently planted with a variety of native shrub species. The Commission finds that this planting will be an effective wetland restoration/mitigation and a benefit to the wetlands and property as a whole by providing habitat, where today the site has limited value.

The six ft. wide landscape bed with boulder and ornamental plantings along the wetland boundary will also act as a deterrent for mowing of the wetland as is currently taking place. The Commission finds that a detailed list of the ornamentals shall be submitted for review and approval in order to confirm that native plant species will be used.

The Commission finds that the plan includes a maintenance schedule of "*All seeded areas shall be mowed no more than twice per year.*" This will allow for the native wetland seed mix to grow and mature, whereby attracting insects and birds to forage and reside. The seasonal mowing will allow for control of woody vegetation or invasive species and will spur new growth. The Commission finds that the applicant allows for a three year monitoring period to ensure its success. The Commission finds that a performance bond shall be submitted to cover the cost of wetland plantings and a three year monitoring period, to ensure the success of the wetland restoration/mitigation. This will

effectively “naturalize” the existing portion of the wetland area that is currently maintained as a manicured lawn. The Commission finds that the flagged wetland area includes an area of the sewer easement, and, will remain in its current state.

The Commission finds that this transition of the wetland area as an overall benefit. It will bring a restoration of the wetland function as a biofiltration area for treatment of sheet flow stormwater runoff from the yard and driveway. A nutrient removal or “filtering” process takes place as the water comes in contact with the soil and the roots of the vegetation. The process accounts for the improved water quality and a way to protect the downstream receiving watercourse from potential pollution sources.

13. Conformance to Section 6.5 Discharge and Runoff of the Inland Wetland and Watercourses Regulations

- 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: The “Stormwater Management Report” by Landtech states “...*stormwater discharge from the site will comply with the applicable rules and regulations of the Town of Westport.*” The project proposes to install Cultec subsurface drainage galleries to capture stormwater from 1,401 sq. ft., which represents a portion of the existing house and portion of the proposed additions. They are sized to manage the first inch of stormwater runoff and the runoff for the 25-year storm. The current site has no formal drainage system established on site and stormwater flows overland towards the wetlands as sheetflow. The Town Engineering Department has found the proposed drainage plan to meet the Town drainage standards.

The Commission finds that the proposed plantings/naturalization within the wetland area and the proposed drainage system, together as a whole, should benefit the wetlands onsite. The plantings will aid in restoring wetland function by managing stormwater runoff and, the collection of stormwater drainage to the front of the residence will reduce the amount of overland flow the wetlands would be accepting.

The Commission further finds that a detail of the driveway reconstruction must be submitted to confirm pervious installation.

14. Conformance to Section 6.6 Recreational and Public Uses of the Inland Wetland and Watercourses Regulations

- 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 application will not have a significant impact on recreational and public uses.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # IWW, WPL/E 11251-21
28 Spicer Road
Assessor’s Map: E09 Tax Lot: 024
Date of Resolution: April 21, 2021

Project Description: To renovate the existing house and add a story and a half above, plus two, additions and a deck with steps to grade, driveway expansion and new drainage. Portions of the work are within the upland review area.

Owner of Record: Franklin Investors CT LLC

Applicant: Andy Soumelidis, Landtech

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/E 11229-21** with the following conditions:

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. 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.
15. **A final inspection and submittal of an "as built" survey is required prior to the issuance of a Certificate of Compliance.**

SPECIAL CONDITIONS OF APPROVAL

16. Conformance to the plans entitled:

- a) "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
- b) "Proposed Improvements to a Single Family Residence Site Plan, Scott Kiley 28 Spicer Road Westport, Connecticut", prepared by Landtech, dated March 16, 2021, scale 1" = 10' sheets C-1 and C-2
- c) Architectural Drawings "Proposed 28 Spicer Road Westport", prepared by Colangelo Associates Architects, LLC, dated December 21, 2020, scale: as noted, (6 pgs.)

- d) “Stormwater Management Report for 28 Spicer Road Westport, Connecticut”, prepared by Landtech, dated March 16, 2021,
17. Install erosion controls as shown on site plan, prior to construction commencement. The Contractor shall perform daily driveway sweeping to ensure no sediment moves offsite and, shall control areas when construction activities require additional parking onsite.
 18. A detailed list of the proposed plants shall be submitted for review and approval to Conservation Department Staff to confirm that native plant species will be used. Plants to be installed, as noted on the Wetland Buffer Restoration, must be installed prior to the issuance of Conservation Certificate of Compliance. Contact Conservation Department staff at start of planting.
 19. A bond to cover the cost of erosion controls, plantings and three (3) years of monitoring shall be submitted prior to the issuance of a Zoning Permit. The portion of the bond covering the plantings shall be held for one full growing season.
 20. The site plan shall be revised to show the location of the staging area and propane tank prior to issuance of a zoning permit.
 21. The architectural plans shall be submitted prior to issuance of a zoning permit to indicate the location of the staircase in the cellar and to clarify which exterior walls are remaining and which will be removed.
 22. A detail of the driveway to confirm it will be constructed as permeable shall be submitted prior to issuance of a zoning permit.

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: Carey
Ayes: Bancroft, Carey, Rycenga, Lobdell, Cowherd, Corroon
Nayes: 0 Abstentions: 0 Vote: 6:0:0

4. **170, 172, 174, 176 Post Road West & 38 Kings Highway North:** Application #IWW,WPL/E-11221-21 by Andy Soumelidis of LandTech on behalf of 176 PRW LLC to construct a new Maplewood Senior Living Facility, the addition and relocation of 3 historic buildings, and to construct a new asphalt parking lot and driveway. Portions of the work are within the upland review area of Stony Brook.

Ms. Rycenga indicated that she had a conflict as her sister is the Senior Vice President with Maplewood Senior Living and she would be recusing herself from hearing this application. She turned the meeting over to Mr. Carey and left the meeting.

Motion to open the Public Hearing.

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

Andy Soumelidis, PE presented the application on behalf of the contract purchaser, Maplewood Senior Living. This will take 5 parcels and combine them into one. He oriented the Commission to the parcels in question. 176 Post Road West is 1.5 acres and is the focus for the Commission since this is where Stony Brook exists. The property is served by sewer and public water. Its current use is Carvana. Previous uses include a Saab dealership and Tina Daggone cars. Water sheetflows southwest to Stony Brook, which is confined within a well lined channel untreated. There is about a 20-foot grade change from Kings Highway North to Post Road West. 170 and 176 Post Road West will be demolished. 172 and 174 Post Road West will be relocated as single family residences. 38

Nayes: None Abstentions: None Vote: 5:0:0

Work Session:

1. Receipt of Applications

Ms. Mozian noted that staff has received 4 applications since the last hearing though only two need to be officially received pursuant to the IWW Regulations. These applications are:

- **6 Meadowbrook Lane:** Application #IWW,WPL-11252-21 by Andy Soumelidis of LandTech on behalf of Ronny Ceballo for the proposed renovation to a single family residence, new pool, pool house, septic, and associated site improvements. Portions of the work are within the upland review area and the WPLO area of Muddy Brook.
- **2 Timber Lane:** Application #IWW,WPL-11275-21 by Dean Martin, PE on behalf of CCO Habitats LLC to construct a new single family residence, construct a new deck and a new non-code compliant septic system. Portions of the work are within the upland and the WPLO area of an unnamed tributary of Dead Man's Brook.

Motion to receive the above applications.

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

2. Approval of March 17, 2021 meeting minutes.

The March 17, 2021 meeting minutes were approved as submitted.

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

3. Review of Compliance Report

Ms. Mozian highlighted the April Compliance Report:

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.

4/19/21 – A Mozian met with owner on site to discuss replanting.

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

4/16/21 – 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 led 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.

4/16/21 - Meeting with architect next week on site.

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.
- **3/26/21**- permit issued for fence and legalization of new septic. Violation removed.

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.

Continue to receive numerous complaints of dumping and clearing but also receive an equal amount of people seeking permits for tree cutting, fencing, planting, invasive removal.

- 4. 5 Cob Dr.:** Review of request for staff-level permit to extend existing culvert pipe and install new headwall and reduce and stabilize slope next to driveway in order to address eroding slope condition.

Mr. Kelly noted this proposal is something that Gillian Carroll began working with the property owner on. It took some time to get the plans drawn and submitted. The proposal is to extend the drainage culvert pipe 8 feet, install a new headwall and stabilize the slope along the driveway to address the eroding slope conditions and safety concerns. Mr. Kelly shared photos of the existing slope and the erosion near the driveway. The proposed new grade would be shallower and hopefully prevent the erosion of this embankment.

Motion to allow staff to issue a staff level permit for the proposed work.

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

- 111 Harbor Road:** Request for bond release being held for plantings as required as a condition of Permit #WPL-10621-18.

Ms. Mozian reviewed a request for bond release being held for plantings as required for work on a new single family residence. The plantings have been in for a full growing season and are thriving. She recommended release of the bond.

Motion to release the bond.

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

- Other Business – **None**

The April 21, 2021 Public Hearing of the Westport Conservation Commission adjourned at 9:56 p.m.

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