



CONSERVATION DEPARTMENT
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WESTPORT™

**MINUTES
WESTPORT CONSERVATION COMMISSION
SPECIAL MEETING NOTICE
November 19, 2021**

Members Present: Paul Davis, Acting Chair; Tom Carey, Secretary; Don Bancroft; Paul Lobdell

Staff Present: Alicia Mozian, Conservation Director; Colin Kelly, Conservation Analyst; Nathan Hartshorne, Conservation Compliance Officer

Property Owners: Michael & Allison Dwork

Applicant: Michael Iacone, Signature Pools

Show Cause Hearing: November 19th, 2021, 10:00 A.M.

13 Sprucewood Lane. (Lot: 34 Map: H11): In accordance with section 15.4 of the "Regulations for the Protection and Preservation of Wetlands and Watercourses of the Town of Westport," a Show Cause Hearing of the Westport Conservation Commission was held in response to a Cease & Correct Order issued to the property owners for exceeding the scope of permit #AA,WPL/E-11289-21 and for filling within a regulated area, thereby in violation of Sections 4.2.1, 7.1 and 7.3 of the Regulations.

Nathan Hartshorne read the Cease & Correct Order into the record and reviewed the Chronology of events leading up to the violation. The house was built in 2006. The owners purchased the house in June 2020. The pool permit was issued in April 2021. The Sediment & Erosion Control Inspector went out in September 2021 and saw there were no sediment and erosion controls up and work had started. Mr. Hartshorne stated he went out and confirmed this finding. He also noted that what was being built was not what was approved. He indicated the approved plan showed a proposed retaining wall around the pool that met the 30-foot setback. He stated he was told that the wall was too cost prohibitive, so the owners opted to regrade instead, and this led to the violation and significantly altered the grade. Fill was deposited into the 20-foot non-disturbance area and the wetland itself. Trees were also cut within the 20-foot non-disturbance area and wetland. A fine was issued and paid. He stated that Mike Iacone of Signature Pools stated he would submit a plan to resolve the issue, but no plan was received after 8 weeks of requesting one. Pictures were presented showing erosion, cut trees and the silt fencing in disrepair.

Mr. Hartshorne also noted that there are two separate wetland lines and referred to a map entitled "Wetlands line Overlay Schematic" prepared for Allison Dwork prepared by Kousidis Engineering, dated November 17, 2021 the black line with triangles recently staked for the pool application. The blue line on the plan was vetted by 2 soil scientists through a map amendment application in 2006. However, regardless of which line is used, the pool and retaining wall meet the setbacks, but the regrading occurring on the site is within the 20-foot setback regardless of which line is used.

Mr. Davis asked who did the approved flagging.

Ms. Mozian stated Chris Allan for the applicant and Tom Pietras for the Town in the map amendment (the blue line). Aleksandra Moch did the flagging for the pool permit.

Mike Iacone of Signature Pools stated he agreed with the timeline as described by Mr. Hartshorne. They believed the wall was too costly and felt that grading would be a viable alternative. He acknowledged they were not timely in their response. They were awaiting amended plans from the surveyor and engineers to shoot new grades and prepare plans.

Mr. Davis asked about the trees that were removed.

Mr. Iacone stated it is their intent to replace the trees.

Mr. Hartshorne indicated he has had discussions with the applicants and owners about replacing the trees.

Michael Dwork, property owner, stated that after they purchased the house, they had two lightning strikes, one in the front yard. Also, the previous owner had installed a zip line that had killed the trees. Also, a playscape that was there had tree branches fall on it, so they needed two emergency crews to come out. He added that regarding the regrading, after Signature Pools was alerted to that concern, they came in and removed much of the fill to re-establish the grade. That is why they are waiting for Leonard Surveyors to come out to verify the new grade.

Mr. Iacone stated regarding the pool fence, they are modifying a fence that was already there.

Mr. Davis asked if it was a deer fence and was it modified or replaced.

Mr. Iacone stated it was primarily replaced with new poles and raised to meet code.

Mr. Davis clarified that if the pool was not installed, they still would have looked to remove the trees.

Mr. Dwork stated yes as the trees would still have posed a danger.

Mr. Davis noted this was not in the original pool application.

Mr. Kelly showed photos of the property prior to pool construction and the location of the fence.

Mr. Carey asked about the timeline for getting the survey.

Mr. Iacone stated that it would most likely be within the week and then they would give the survey to the engineer to address the grades.

Mr. Carey asked who contacted Ms. Moch regarding the map amendment.

Mr. Iacone stated Signature Pools did as is their normal process. He recognized there is not much room to work with given the established setback distances so they wanted the wetland boundary staked before they started construction. Aleksandra Moch investigated April 21, 2019. The permit was issued April 22, 2021.

Mr. Kelly gave the permit using Ms. Moch's line.

Mr. Carey asked what solutions are contemplated.

Mr. Iacone stated they would adjust the grade to bring them into compliance. They would replant the area with a sufficient number and type of plantings.

Mr. Carey asked if there would be a pool deck.

Mr. Iacone stated there already is one.

Mr. Lobdell asked about drainage.

Mr. Iacone stated the Engineering Dept. did not require any new drainage except a drywell.

Mr. Davis confirmed that the new survey will reflect the current grades.

Mr. Iacone stated yes. He stated that if they are not acceptable, they will go back and refine it again until any fill is gone from the 20-foot non-disturbance area and the wetland.

Mr. Davis asked that when the grading is established, will a lawn be established.

Mr. Iacone stated yes.

Mr. Davis asked about plantings.

Ms. Mozian stated the Commission can direct the applicant to install trees and shrubs within the 20-foot non-disturbance buffer and the wetland.

Mr. Carey suggested to revise the Cease and Correct Order to empower the staff to review:

- Adjusted grades so that fill is outside the 20-foot non-disturbance buffer and wetland; and
- Review and installation of a robust planting plan with native species with the 20-foot non-disturbance buffer and wetland.

The applicant and owner were advised that planting the slope is also helpful to address soil erosion.

Mr. Hartshorne asked for clarification of a robust planting plan.

Mr. Carey stated shrubs or trees with a root structure, not a seed mix, with a substantial diameter breast height (dbh).

Mr. Bancroft asked if the chain-link fence is in the same location as the original one.

Mr. Iacone stated yes.

Mr. Bancroft expressed concern with the steepness of the slope that is present. He asked about the sediment and erosion controls and indicated he would like to see the area seeded and hayed.

Mr. Iacone stated the silt fence has been reinstalled.

Mr. Bancroft noted his inspection revealed the silt fence was not properly installed. There should also be haybales backing the silt fence.

Mr. Hartshorne stated staff can work with them to correct the silt fence. He discussed the existing fence location.

Mr. Davis asked if the fence was in the regulated area.

Mr. Hartshorne stated yes. He asked if the Commission wanted the plantings on both sides of the fence.

Motion to adopt wetland boundary established by Aleksandra Moch.

Motion: Carey Second: Lobdell
Ayes: Carey, Lobdell, Bancroft, Davis
Nays: None Abstentions: None Vote: 4:0:0

Motion to Revise the Cease & Correct Order including:

- Submission of a survey showing the existing grades;
- Submission of a revised Site Plan;
- Submission of a Planting Plan showing a well planted 20-foot non-disturbance buffer and wetlands;
- Allow the fence to remain as is;
- Silt fence to be reinstalled correctly and backed with haybales; and
- Slope to be stabilized immediately with hay.

Motion: Carey Second: Davis
Ayes: Carey, Davis, Bancroft, Lobdell
Nays: None Abstentions: None Vote: 4:0:0

The November 19, 2021 Show Cause Hearing of the Westport Conservation Commission adjourned at 11:30 a.m.

Motion: Carey Second: Lobdell
Ayes: Carey, Lobdell, Bancroft, Davis
Nays: None Abstentions: None Vote: 4:0:0