



**CONSERVATION COMMISSION**  
TOWN HALL – 110 MYRTLE AVENUE  
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**WESTPORT™**

**DRAFT  
MINUTES  
WESTPORT CONSERVATION COMMISSION  
MARCH 16, 2022**

The March 16, 2022 Public Hearing of the Westport Conservation Commission was called to order at 7:00 p.m. via Zoom.

**ATTENDANCE**

**Commission Members:**

Anna Rycenga, Chair  
Paul Davis, Vice-Chair  
Tom Carey, Secretary  
Donald Bancroft  
Paul Lobdell

**Staff Members:**

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

This is to certify that these minutes and resolutions were filed with the Westport Town Clerk within 7 days of the March 16, 2022 Public Hearing of the Westport Conservation Commission pursuant to Section 1-225 of the Freedom of Information Act.

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Alicia Mozian  
Conservation Department Director

All members visited the sites in preparation for the meeting.

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

**Public Hearing: 7:00 p.m.**

1. **33 Red Coat Road:** Application #IWW/M-11464-22 by Kerem Merih to amend wetland boundary map #B14.

Kerem Merih, property owner, was present. He explained that Otto Theall was hired to flag the wetlands on the property.

Mr. Kelly reviewed the survey. He stated, soil scientist, Aleksandra Moch was hired by the Town to review Mr. Theall's flagging. She disagreed with the flagging and the two soil scientists met in the field and adjusted flags 2 through 4. This resulted in a 876 s.f. in wetland area with a net reduction in wetland area of 8,770 s.f. from the mapped wetland soils. Staff recommends adoption of the wetland line.

Ms. Rycenga gave the public an opportunity to give comments and gave two minutes for members of the public participating remotely to submit comments.

There were no public comments and the hearing was closed.

<b>Motion:</b>	<b>Carey</b>	<b>Second:</b>	<b>Davis</b>
<b>Ayes:</b>	<b>Carey, Davis, Bancroft, Lobdell, Rycenga</b>		
<b>Nayes:</b>	<b>None</b>	<b>Abstentions:</b>	<b>None</b>
		<b>Vote:</b>	<b>5:0:0</b>

**Findings**  
**Application #IWW/M 11464-22**  
**33 Red Coat Road**  
**Public Hearing: March 16, 2022**

1. **Application Request:** The applicant, Kerem Merih, is requesting to amend wetland map # B14 on Lot #036.
2. **Soil Scientist for Applicant:** Otto Theall, Soil & Wetland Science, LLC
3. **Soil Scientist for Town of Westport:** Aleksandra Moch, Soil & Wetland Scientist
4. **Plans reviewed:** "Plot Plan Prepared for Kerem Merih, 33 Red Coat Road, Westport, CT", Scale: 1" = 20', dated June 7, 2017, and last revised to February 25, 2022, prepared Leonard Surveyors, LLC
5. **Wetlands Description:**  
Soil investigation Report 33 Red Coat Road, Westport, Connecticut" - prepared by Otto Theall, Soil & Wetland Science, LLC, dated December 23, 2021, and last revised to February 19, 2022.
6. **Wetland soils** found on the property:  
**Timakwa and Natchaug Soils (17)** - This component occurs on depression landforms. The parent material consists of woody organic material over sandy and gravelly glaciofluvial deposits. The slope ranges from 0 to 2 percent and the runoff class is negligible. The depth to a restrictive feature is greater than 60 inches. The drainage class is very poorly drained. The flooding frequency for this component is rare. The ponding hazard is frequent. The minimum depth to a seasonal water table, when present, is about 4 inches.
7. **Non-wetland** soils were identified as:  
**Ninigret and Tisbury Soils (21)** - The Ninigret series consists of very deep, moderately well drained soils that are eolian deposits over sandy and gravelly glacial outwash. The Tisbury series consists of very deep, moderately well drained loamy soils formed in silty eolian deposits overlying outwash. The Ninigret and Tisbury soils are nearly level to strongly sloping soils on glaciofluvial landforms, typically in slight depressions and broad drainage ways.  
**Agawam fine sandy loam (29):** This component occurs on valley and outwash plain terrace landforms. The parent material consists of eolian deposits over glaciofluvial deposits derived from schist, granite, and gneiss. The slope ranges from 3 to 8 percent and the runoff class is low. The drainage class is well drained. The

flooding frequency for this component is none. The minimum depth to a seasonal water table, when present, is greater than 6 feet.

**Canton Charlton fine sandy loam (60):** This component occurs on upland hill landforms. The parent material consists of melt-out till derived from granite, schist, and gneiss. The drainage class is well drained

**Udorthents-Urban land complex (306):** This component occurs on urban land, cut, fill, or spoil pile landforms.

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

- a) The existing house was built in 1963 on what appears to be a filled wetland as is evidenced by the presence of udorthent soils in the area of the house and driveway. It is served by septic system.
- b) The property is 1.03 acres (44,759 sq. ft.) in size; located in Residential Zone AA.
- c) The parcel is located within the Poplar Plains Brook Watershed. The wetlands onsite are part of an isolated wetland pocket which includes a ponded area. The offsite pond (~ 0.47 acres or ~ 20,517 sq. ft. per Town GIS) is located ~ 40' to the south of the western portion of the subject property.
- d) This property **is not** located within a flood zone.
- e) The property **lies within** the Aquifer Protection Overlay Zone.
- f) Property does **not** exist within the Coastal Areas Management Zone.
- g) The Waterway Protection Line is established 15' from the wetland boundary onsite.
- h) The Tennessee Gas Pipeline crosses the rear, northwestern corner of the lot within a 30' wide easement.
- i) The flagged wetland area is **876 sq. ft.** as determined by the plan by Leonard Surveyors, last revised 2/25/22. The Town of Westport Official Wetland Map indicated wetlands *which is* ~ **9,646 sq. ft.** The proposed amendment represents a decrease of ~**8,770 sq. ft. of wetland area.**

**9. Discussion:**

The Commission finds that the applicant submitted a soils report by Otto Theall, dated December 23, 2021, that documents his investigation of the soils on the site. Wetland soils were found on the site in the rear yard. Portions of the rear yard around the house consists of a manicured lawn. Other portions of the yard consist of landscaped beds bordering forested areas with canopy trees. An offsite pond is located approximately 40' from the southwest corner of the lot. The property lies within the Poplar Plains Brook Watershed. The Poplar Plains Brook watercourse is located greater than 2,600 feet to the south of this property, and ultimately drains to the Saugatuck River, located to the south of the Merritt Parkway.

The Commission finds that the sketch map provided with the report identifies the location of the wetland boundary marked by flag numbers #1 through #5. These locations are also reflected on the "Plot Plan Prepared for Kerem Merih, 33 Red Coat Road, Westport, CT", Scale: 1" = 20', dated June 7, 2017, and last revised to February 25, 2022, prepared Leonard Surveyors, LLC.

The Commission finds that the Town of Westport retained the services of Aleksandra Moch, soil scientist, to review the proposed wetland boundary findings. Ms. Moch conducted an on-site investigation on or about February 16, 2022 and had questions regarding Mr. Theall's line. Ms. Moch met onsite with Mr. Theall on February 19, 2022. They agreed to adjust flag number #2 through #5, flag number #1 was not changed. Mr. Theall revised his soil report to reflect these changes. Ms. Moch communicated by email letter on February 21, 2022, that an agreed upon line was determined.

The Commission finds that a revised survey, dated February 25, 2022, was presented on March 4, 2022, showing the revised flagging. The soil scientists have submitted comments supporting the locations of the wetland flags and the findings of Mr. Theall's revised report. Subsequently, Ms. Moch submitted a letter, dated March 7, 2022, stating the revised survey accurately reflects the revision.

With the finding of the two concurring soils scientists, The Commission recommends adoption of the new wetland line.

**Resolution**  
**Application #IWW/M 11464-22**  
**33 Red Coat Road**  
**Public Hearing: March 16, 2022**

In accordance with Section 8.0 of the “Regulations for the Protection and Preservation of Wetlands and Watercourses of Westport”, and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #IWW/M-11464-22, by Kerem Merih, to amend wetland map # B14 on Lot #036 on the property located at 33 Red Coat Road with the following conditions:

1. Conformance to the plans titled:

“Plot Plan Prepared for Kerem Merih, 33 Red Coat Road, Westport, CT”, Scale: 1” = 20’, dated June 7, 2017, and last revised to February 25, 2022, prepared by Leonard Surveyors, LLC

**This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void.**

**Motion: Bancroft                      Second: Lobdell**  
**Ayes: Bancroft, Lobdell, Rycenga, Davis, Carey**  
**Nays: 0                      Abstentions: 0                      Votes: 5:0:0**

2. **17 Over Rock Lane:** Application #IWW,WPL/E-11469-22 by Tessa Jucaite, PE, TJ Engineering LLC, on behalf of Howard & Bathsheva Hochster for a garage reconstruction, retaining walls, drainage, and grading. Portions of the work are within the upland review area setbacks.

Tessa Jucaite, PE, was present on behalf of the property owner. The proposal is for a new garage with a second story addition and an expanded driveway with retaining wall. The existing garage will be demolished. She noted that an addition to the rear of the house outside the setback was previously approved and is under construction. The proposed raingarden would handle the runoff for both projects. The raingarden for Phase 1 was shown on the southeast side of the garage but it is not practical to install if the garage addition gets approved. So the alternate raingarden site is behind the garage and would serve both additions. Fill is needed for the garage and driveway expansion and there will be 45 to 50 c.y. of fill to make the area level. Trees will also need to be removed for the driveway expansion. They are also proposing a stepping stone path to access the backyard from the driveway. It is located in the area it is because it is the only place it can be located because of an existing deer fence. She discussed that the raingardens will be designed as a planter with an overflow to a level spreader.

Mr. Lobdell asked why is the 31” oak being removed.

Ms. Jucaite stated the oak is in the middle of the proposed driveway.

Mr. Lobdell noted the memo from Ted Gill of the Engineering Department dated March 9, 2022 that questioned the raingarden location.

Ms. Jucaite stated they have submitted an updated stormwater management report for this phase of construction but believed that the Engineering Dept. had not reviewed it yet.

Mr. Bancroft asked about the elevation of the raingardens and for an explanation of how they work.

Ms. Jucaite stated that raingarden 1 is at elevation 106.5. Raingarden 2 is at 106 with the surrounding wall at 105.5. If raingarden 1 overflows, it would direct into raingarden 2. If raingarden 2 overflows, it overflows over the surrounding wall into a level spreader.

Ms. Rycenga asked about the total cubic yards of material to be removed.

Ms. Jucaite stated there will be no material being removed from the site. There will be 45 to 50 c.y. of fill brought in for the driveway construction. They will also be connecting the contours when taking out the existing garage.

Ms. Rycenga asked about the total number of trees to be removed.

Ms. Jucaite stated they will definitely be removing the large oak. In addition, there are 3 trees that are along the property line. The property line will need to be staked to determine ownership of the trees.

Ms. Rycenga asked for clarification about the approved drainage for Phase 1 of the project.

Ms. Jucaite stated the raingarden for Phase 1 was located on the side of the existing garage but it is intended to relocate it behind the new garage to serve both additions.

Ms. Rycenga indicated she would like to see a planting plan.

Joseph Melito, of Kris Architects, stated the large oak tree is being removed because it is in the location of the proposed driveway and curves toward the proposed garage. It is assumed that as they dig, they would disturb the roots on that side of the tree.

Ms. Rycenga asked to review the construction sequence. She also questioned whether they would be blasting or jack hammering if ledge is encountered.

Mr. Melito stated there will be no blasting or jackhammering. If ledge or rock is encountered, the foundation will be fastened to the rock with a structural engineer's oversight.

Ms. Jucaite reviewed the construction sequencing on the plans.

Ms. Rycenga asked if the materials from the garage demolition will be removed directly from the site or will they be using a dumpster.

Ms. Jucaite acknowledged this is a tight site. She said they would be using a dumpster or the materials would be immediately taken off-site.

Ms. Rycenga confirmed that the existing deer fence is to remain.

Ms. Jucaite stated the deer fence is to be extended and connected to the proposed retaining wall.

Ms. Mozian asked why the wall wouldn't need to be built before the garage.

Ms. Jucaite indicated they could be done simultaneously. She added that Page 2 lists the plants for the raingarden.

Ms. Mozian noted that there are no quantities listed and that would be needed to calculate the bond and for analysis of mitigation.

Mr. Carey asked for clarification as to why the raingarden location on the side of the existing garage is not adequate.

Ms. Jucaite stated that the raingarden was located in an area of well-established pachysandra. They wanted to locate the raingardens in areas where mitigation measures can be better employed.

Mr. Carey asked for clarification of comments made by Mr. Gill regarding the elevation of the raingarden.

Ms. Jucaite stated she believes Mr. Gill's comments are directed to raingarden 2 behind the garage, which is meant to be more of a planter.

Mr. Davis asked how they would access work behind the house.

Ms. Jucaite highlighted the construction access.

Mr. Davis highlighted Mr. Gill's memo that focused on adding extra drainage that seeps out/below the wall.

Ms. Jucaite indicated she would like to discuss this with him further and have him review the full stormwater report. There has been no soil testing in this area. It could be ledge. The area could be designed with a liner. If it cannot percolate, there will be storage and then to the level spreader to direct water to where it has always gone.

Ms. Rycenga suggested that the silt fence should be located along the limit of disturbance. The construction workers need a visual representation on-site. She asked about where the propane tanks will be relocated.

Mr. Melito stated that the existing propane tanks are behind the existing garage. They have not determined the new location but the propane tanks will be moved closer to the house.

Ms. Mozian asked Mr. Kelly to show on the photos how far back the proposed garage will go on the slope and relative to the existing garage.

Mr. Lobdell read from Mr. Gill's memo raising the issue of creating steep slopes that will be greater than 25%.

Ms. Jucaite stated they are not intending to make the grades steeper or flatter. They are just connecting the grades on both sides of the existing garage once it is removed.

Mr. Lobdell noted that Mr. Gill indicates that this would have to go to ZBA.

Mr. Melito reiterated that once the garage is removed, the grades will be connected, so there will be no change or creation of steep slopes.

Ms. Mozian noted the 3 trees along the property line that are proposed to be removed and asked how they would handle the situation if they are found to be on the neighbor's property.

Ms. Jucaite stated that it is for the property owner to deal with if the trees are not on their property.

Mr. Melito stated they will need to have the property line staked by a surveyor. They will not remove the trees if they are on the neighboring property.

Ms. Mozian asked if the tree roots would be affected.

Mr. Molito stated that the footing only needs to go down 1.5 feet and could be hand dug.

Ms. Mozian asked about whether the driveway area could be made narrower.

Ms. Jucaite stated they need a 30-foot turning radius for getting out of the driveway by industry standard. They barely make this with the wall at the property line.

Mr. Melito stated if trees end up being on the neighboring property, they will hand dig the footings for protection of those trees.

Ms. Mozian asked why not construct the wall before the construction of the garage.

Ms. Jucaite indicated that they could be done simultaneously

Ms. Mozian noted the planting plan does not indicate the number of plantings.

Ms. Rycenga asked where the construction staging area would be located.

Mr. Melito indicated that it would be in a similar location as the present staging location the Commissioners witnessed during their site walk on the driveway near the existing garage.

Mr. Kelly noted the existing garage is located 9.5 feet from wetland. The proposed garage is proposed 32 feet from the wetland. The retaining wall is proposed 26 feet from the wetland. All proposed drainage should be able to achieve a 20 non-disturbance with the Engineering Dept. approval. The grading is just to connect existing grades. He noted the Commission is here to look at impact to the wetlands. The trees on the property line are outside the 20-foot upland review area and outside the Commission's jurisdiction. He noted there is a lot of ledge on the property. The raingarden is a LID component for stormwater runoff. Use of the raingardens are probably practical since the depth of the soil may not be conducive to traditional drainage.

Ms. Rycenga opened the hearing to public comments and gave 3 minutes to allow for submission of public comments.

Ms. Mozian read letter from Mr. Polayes at 15 Over Rock listing his concerns.

In response to this letter, Mr. Kelly displayed the revised plan showing that no work will be done on the wall belonging to Mr. Polayes.

Ms. Rycenga asked if Mr. Polayes had seen the revised plans.

Mr. Kelly indicated no.

Mr. Davis asked to see which trees were of concern to Mr. Polayes.

Mr. Kelly highlighted them and noted Ms. Mozian's suggestion that the property line be staked prior to start of construction but indicated that is a civil matter.

Mr. Carey stated that if the wall cannot go where it is planned, the project falls apart. If the turning radius cannot be achieved, the garage may need to be moved. He suggested that property line issue is resolved prior to Commission making a decision.

Mr. Melito stated they do know where the property line is and they have 29.7 feet from front of garage to the wall. They have not staked the boundary at this time and therefore the trees are in doubt.

Ms. Rycenga stated she believes the Commission needs more information including the Town Engineer's approval. She would like to continue.

Mr. Davis agreed. He would like to see the silt fence located and more specifics on the raingarden. They should stake the property line and get the Town Engineer's approval.

Mr. Lobdell agreed.

Motion to continue to the April 13, 2022 Public Hearing.

<b>Motion:</b>	<b>Lobdell</b>	<b>Second:</b>	<b>Carey</b>
<b>Ayes:</b>	<b>Lobdell, Carey, Bancroft, Davis, Rycenga</b>		
<b>Nayes:</b>	<b>None</b>	<b>Abstentions:</b>	<b>None</b>
		<b>Vote:</b>	<b>5:0:0</b>

3. **8 Saxon Lane:** Application #WPL-11475-22 by John Hilts on behalf of Robert Evans to replace the existing 3' x 16' ramp and 6' x 19' dock with a 3' x 16' ramp and 7' x 14' dock; retain  $\pm 88'$  of timber crib seawall; retain  $104' \pm$  of dry-set stone seawall with associated excavation, erosion control and backfilling to improve drainage; replace  $\pm 65'$  of deteriorated/failed timber crib seawall with stone masonry seawall; grade 5' wide area landward of new masonry seawall to meet existing grades and plant with salt-resistant native plantings. Work is within the WPLO area of the Saugatuck River.

Ms. Rycenga noted she did not make the field trip but did return to the site on her own.

John Hilts presented the application on behalf of the property owners. He stated the application is two-fold; codify existing structures of deck and bulkhead as the previous owner did not receive permits. The new owners were issued a violation by the CT DEEP. So, this permit addresses that plus replaces/repairs it. A smaller floating dock is proposed. It will have float stops so that the bottom of the dock rests above the river bottom. The timber wall in the southeast corner is also fairly new.

Mr. Bancroft asked how far apart the weep holes will be in the new wall.

Mr. Hilts stated there are 7 weep holes that are approximately 8 feet apart.

Mr. Lobdell noted the backyard juts out much further than neighboring properties. He asked if this a natural occurrence.

Mr. Hilts indicated this is entirely manmade. The work was done in the 1960's. It was done in conjunction perhaps with construction of I-95 and dredging. That is why part of the application to CT DEEP formally legalizes this.

Mr. Carey noted dates that the State directed for the work to be performed are coming up quickly. He asked if these dates can be extended.

Mr. Hilts stated that Kevin Zawoy of CT DEEP will allow month to month time extension provided that they are working on permitting or repairs are underway. This is a way to make sure that the necessary work is done in a timely fashion.

Ms. Mozian discussed the spartina growth. She noted the permit indicates it would need to be removed while work is being done and transplanted on the same day.

Mr. Hilts agreed. Work is scheduled around the tide cycle. However, he added they do not anticipate disturbing the spartina but have a plan in place, if necessary. The spartina, if they do have to remove it, will be hand dug, stored within the waterline and replaced at the end of the day.

Mr. Kelly noted the condition of the CT DEEP permit that indicates they work in 15 to 20 foot sections. He asked how long it would take to complete the work.

Mr. Hilts stated they have to work at low tide. Working a 15-foot section at low tide could take 2 days. However, low tide does not always coordinate with work/daylight hours. The work on replacing the wall could take 4 to 6 weeks.

Mr. Kelly asked for clarification of the difference between the docks.

Mr. Hilts stated the new dock is smaller and they are using float stops to keep the dock from resting on the bottom.

Ms. Rycenga stated when she visited the site, the owners indicated they would be laying down mulch to protect the asphalt drive. She indicated this is not necessarily good idea especially in a storm event and suggested steel plates be used instead. She asked Mr. Hilts if he will be monitoring the site during construction.

Mr. Hilts stated he or the engineer would be monitoring the construction.





**WPLO Regulatory issues:**

<p>Will the activity cause water pollution, erosion and/or environmentally related hazards to life and property?</p>	<p>No. The applicant will construct a new ramp and new floating dock with skids that allows for a 18" clearance on the underside from the river bottom. Seventy-three feet (73') of existing, failing, timber wall will be replaced with a stone masonry wall to elevation 8.0'. A construction sequence is provided. Sediment and erosion controls are required waterward of work area but not within tidal wetlands. Work to be done in 15'-20' long sections and be conducted within one low tide cycle at a time. Tidal wetlands shall be flagged in the field for identification and protection during site work conditions. All excavated materials will be managed from the upland area. Access for construction shall be from the landward portion of the property.</p>
<p>Will the activity have an adverse impact on the preservation of the natural resources and ecosystems of the waterway?</p>	<p>No. Existing tidal vegetation growth waterward of the seawall to remain intact. The DEEP Approval requires "applicant shall hand remove approximately 48 sq. ft. of tidal wetlands and temporarily stockpile the material along the shoreline until...replanted on the same workday." The project consist of repair/replacement of a failing legacy timber wall onsite. This is not a new encroachment within the WPL.</p>
<p>Will the activity have an adverse impact on ground and surface waters, aquifers, plant and aquatic life, nutrient exchange and supply, thermal energy flow, natural pollution filtration and/or decomposition?</p>	<p>No. The proposed wall is to be located within the same location of the existing wall. The newly constructed wall will be stone with masonry, set at same location with minimal size to retain the rear yard, and, does not extend further into the river than allowed.</p>
<p>Will the activity have adverse impact on habitat diversity, viability and productivity and the natural rates and processes of erosion and sedimentation?</p>	<p>Minimal impact on habitat diversity expected. Work to be done in 15'-20' long sections and be conducted within one low tide cycle at a time. Sediment and erosion controls to be installed as indicated. Work required to be completed "Not later than May 1, 2022" as stated in DEEP approvals for timber wall replacement. Dock replacement shall be completed by April 1, 2022. Existing Spartina growth will be protected by flagging its location. In water work within the vicinity of approximately 48 ft of Spartina growth will necessitate temporarily removing it during construction and then replanting the same day.</p>

**Issues applicable to all applications:**

<p>Stormwater management / Plans</p>	<p>None required by the Westport Engineering Department</p>
<p>Grading</p>	<p>N/A</p>
<p>Sedimentation and Erosion Controls</p>	<p>Installation of silt fence prior to start of work. Limit distance of work within one low tide cycle.</p>
<p>FEMA Compliance</p>	<p>N/A</p>
<p>Water Quality Management</p>	<p>N/A</p>

**GENERAL notes and Comments:**

CT DEEP Certificate of Permission #202111373 issued January 20, 2022.

The Flood and Erosion Control Board reviewed the application at their hearing on March 2, 2022. The application was approved with standard conditions.

**Conclusion:** The Commission finds that the proposed ramp, and dock do not significantly impact natural resources as they are protected by the Waterway Protection Line Ordinance if appropriate conditions are employed. The Commission finds that the proposed timber wall replacement with new stone masonry wall is necessary repair/improvement that is required based on the current site condition and deterioration of the existing timber wall. Failure to repair the wall will lead to further erosion of the landward side of the wall during extreme storm events. The new wall proposed will not encroach upon the WPL any more

than the existing condition and the resource should be adequately protected if the contractor adheres to the conditions required by the CT DEEP Certificate of Permission.

**Conservation Commission**  
**TOWN OF WESTPORT**  
**Conditions of Approval**  
**Application # WPL-11475-22**  
**Street Address: 8 Saxon Lane**  
**Assessor's: Map C06, Lot 048**  
**Date of Resolution: March 16, 2022**

**Project Description:** Applicant is proposing to replace the existing 3' x 16' ramp and 6' x 19' dock with a 3' x 16' ramp and 7' x 14' dock; retain ±88' of timber crib seawall; retain ±104' of dry-set stone seawall with associated excavation, erosion control and backfilling to improve drainage; replace ±65' of deteriorated/failed timber crib seawall with stone masonry seawall; grade 5' wide area landward of new masonry seawall to meet existing grades and plant with salt-resistant native plantings. Work is within the WPLO area of the Saugatuck River.

**Owner of Record: Robert Evans**

**Applicant: John Hilts**

In accordance with Section 30-93 of the *Waterway Protection Line Ordinance* and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #**WPL-11475-22** with the following conditions:

**STANDARD CONDITIONS OF APPROVAL**

1. It is the responsibility of the applicant to obtain any other assent, permit or license required by law or regulation of the Government of the United States, State of Connecticut, or of any political subdivision thereof.
2. If an activity also requires zoning or subdivision approval, special permit or special exception under section 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit shall commence until such approval is obtained.
3. If an approval or permit is granted by another Agency and contains conditions affecting wetlands and/or watercourses, the applicant must resubmit the application for further consideration by the Commission for a decision before work on the activity is to take place.
4. The Conservation Department shall be notified at least forty-eight (48) hours in advance of the initiation of the regulated activity for inspection of the erosion and sediment controls.
5. All activities for the prevention of erosion, such as silt fences and hay bales shall be under the direct supervision of the site contractor who shall employ the best management practices to control storm water discharges and to prevent erosion and sedimentation to otherwise prevent pollution, impairment, or destruction of wetlands or watercourses. Erosion controls are to be inspected by the applicant or agent weekly and after rains and all deficiencies must be remediated with twenty-four hours of finding them.
6. The applicant shall take all necessary steps to control storm water discharges to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and watercourse.
7. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
8. All plants proposed in regulated areas must be non-invasive and native to North America.
9. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
10. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
11. All proposed decks shall be provided with a 6" gravel bed beneath.
12. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation, or any unexpected adverse impacts, which development in the course or are caused by the work.
13. Any material, man-made or natural which is in any way disturbed and/or utilized during the work shall not be deposited in any wetlands or watercourse unless authorized by this permit.
14. A final inspection and submittal of an "as built" survey is required prior to the issuance of a Certificate of Compliance.
15. Conformance to the **March 2, 2022**, Conditions of Approval of the Flood and Erosion Control Board.





3. **Application Request:** For a proposed 2-story addition with garage on first floor and living space above; convert the existing garage into a living room and replace the existing drive with porous pavers. Portions of the work are within the upland review area and the WPLO area of Willow Brook.

4. **IWW and WPLO Regulated Areas**

This property is regulated by the Inland Wetland and Watercourse Regulations and Waterway Protection Line Ordinance. The wetlands were flagged by soil scientist Paul J. Jaehnig in 2004, and includes the Willow Brook watercourse, which flows from the northeast to southwest through the site (~90 feet in length). IWW setbacks determined for this property include a 50' upland review area for additions and a 20' non-disturbance buffer. The addition to the residence would be located within each applicable setback under these regulations.

The Waterway Protection Line Ordinance dictates that the WPL boundary be located 15' from the wetland line. Approximately 70 sq. ft. of the addition is proposed within the WPL area triggering the need for Flood & Erosion Control Board and Conservation Commission approvals.

5. **Plans reviewed:**

- a) **"Site Development Plan** Depicting 1 Carriage Lane Westport, CT Prepared for Mark & Stephanie Conte" dated February 9, 2022, prepared by Redniss & Mead, scale 1"=10', **Pages SE-1 through SE-4.**
- b) **"1 Carriage Lane** Westport, CT" dated January 28, 2022, prepared by H. C. McConnell Engineering LLC, **Page C-1.**
- c) **"1 Carriage Lane** Westport, CT" dated January 28, 2022, prepared by H. C. McConnell Engineering PLLC, scale ¼"=1'0", **Pages S-1 through S-7.**
- d) **"1 Carriage Lane** Westport, CT – **Proposed Alterations & Addition**" dated January, 2022, prepared by Press Hawthorne Design, LLC, scale ¼"=1'0", **Pages A01 through A09.**
- e) Landscape Plan: **"Conte Residence, Proposed Addition, 1 Carriage Lane Westport, CT"**, dated February 8, 2022, prepared by Blades & Goven Landscape Architects, Sheet L-1.
- f) **"Zoning/Location Survey Map of Property prepared for Mark J. Conte & Stephanie F. Conte 1 Carriage Lane Westport, CT"**, dated June 25, 2021, scale 1"=20', prepared by Walter H. Skidd, Land Surveyor LLC.
- g) **"Drainage Summary Report"** 1 Carriage Lane Westport, CT Prepared by Redniss & Mead issued on February 9, 2022.
- h) **"Wetlands Survey** 391 Main Street Westport, CT Prepared for Mark Conte", dated March 1, 2004, prepared by Paul J. Jaehnig, Wetland Soils Consultant.
- i) Letter: **"1 Carriage Lane** Westport, CT - Stonewall" dated February 3, 2022, prepared by Hong McConnell, PE to Alicia Mozian and Colin Kelly.

6. **Background Information:**

- The existing house was built in 1830 and remodeled in 2007. It is served by the town's sanitary sewer system.
- The property is 0.3993 acres (17,392 sq. ft.) in size; located in Residential Zone A.
- The parcel is located within the Willow Brook watershed, Willow Brook flows from the northeast to the southwest, nearly bisecting the property.
- This property is within a FEMA flood zone. With a B.F.E. of 17' msl found within it.
- The property is 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 wetland boundary onsite.

7. **Soils Description:**

Soil Report Summary- prepared by Paul J. Jaehnig on March 1, 2004, describes the following wetland soils occurring on the property:

**Aquents Soil (Aq):** Disturbed areas that generally have 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 groundwater table within twenty (20) inches of the soil surface, have an aquatic moisture regime and can be expected to support hydrophytic vegetation.

8. **Previous Permits issued:**

- **#WPL-371-81:** Fence on property boundary
- **#IWW/M-7331-04:** Wetland boundary map amendment
- **#IWW-WPL-7332-04:** Activities in the IWW setbacks
- **#AA-WPL/E-7344-04:** Renovations

- **#IWW-WPL-7462-04:** Add a two-car garage with bedrooms above, footbridge, and driveway relocation
- **#AA-WPL/E-8497-09:** 4' Walkway between rear garage door and kitchen
- **#AA-WPL/E-11026-20:** Fence
- **#AA-WPL/E-11224-21:** Replace existing fence with stone and fence

**9. Property Description:**

- a) **Lot Area:** 0.3993 acres (17,392 sq. ft.)
- b) **Wetlands/Watercourse:** 0.09 acres (4,002 sq. ft.)
- c) **WPLO boundary:** 15' from the edge of wetlands.
- d) **FEMA 100 year base flood elevation:** 17' msl, **Garage Floor Elevation:** 19.12' msl.
- e) **First Floor Elevation:** 22.51'
- f) **Proposed Addition Elevation:** 21.00'
- g) **Existing Building Coverage:** 14.5% (1,991 Sq. Ft.)
- h) **Proposed Building Coverage:** 18.2% (2,502 Sq. Ft.)\* (\* will require ZBA variance.)
- i) **Existing Site Coverage:** 24.7% (3,386 Sq. Ft.)
- j) **Proposed Site Coverage:** 24.0% (3,296 Sq. Ft.)

**10. 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 mis-management;
- e) maintain conservation, economic, recreational and aesthetic qualities;
- f) consider historical sites

- 11. Discussion:** The Commission finds that the proposal is a request to construct a two-story addition (~593 sq. ft.) located partially over portions of an existing driveway. The addition will be constructed as a slab-on-grade with perimeter foundation. The driveway will be reconstructed as porous pavers, with grading changes to drain towards a trench drain near Carriage Lane. The proposed addition falls within the 50' upland review area setback from wetlands and within 20' non-disturbance review area setback from wetlands and a portion lies within the WPLO.

The applicant states that work within the regulated review area setbacks includes removing three A/C units presently located within the wetlands to upland areas, construct an addition within the 50 ft. setback primarily over the existing driveway. The applicant considered alternatives to the proposal but found they were not prudent including:

- a. *...An addition to the rear (west) is not practical. Additionally, since the existing house extends within the front yard setback (Main Street) it is not practical to install the addition in that location. Given the disturbance of the existing driveway, constructing the addition on top of the driveway is the most prudent alternative.*

The applicant has provided a letter from the structural engineer summarizing the current condition of the onsite wall. This wall runs parallel with the watercourse and, there was concern with the impact construction may cause due to the work proposed in the area for the addition. The stonewall detail and foundation work are highlighted on plan: "1 Carriage Lane Westport, CT" dated January 28, 2022, prepared by H. C. McConnell Engineering PLLC, Page C-1. The Commission finds that no work is proposed to take place from the wetland side of the wall and any construction work is proposed to occur on the driveway/addition side. Additionally, the existing wall height will be extended not more than 1'0" to accommodate the grading changes with the driveway. Stones will be reused from the sections of the removed wall and the stone mason shall match the existing wall.

The applicant has stated that an existing rear deck will be removed, and they plan on retaining rear patios and legalize the location. These patios are ~737 sq. ft. in size and were installed as a way to stabilize the area. The applicant stated the lawn never was able to establish itself and the area showed signs of erosion. A landscaping buffer was installed on the house side of Willow Brook as part of the permit conditions from the 2004 addition approved by the Conservation Commission. Most of this buffer remains in place today. The Commission finds that a robust planting plan was submitted

as part of this application that creates a planted buffer on the northern side of Willow Brook. It consists of a mixture of shrubs, herbaceous plants and grasses. A detailed list of the plantings proposed have been included. The Commission finds that a performance bond shall be required to ensure plant vitality.

#### 12. 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 stormwater runoff for the addition will be directed to the proposed pervious paver driveway. The proposal paver detail includes a 19" thick stone layer to provide a storage reservoir. The existing house drains are directed to an onsite infiltration trench adjacent to the driveway. The patio areas will be directed to existing infiltration trench in the rear of the residence. The driveway will drain to the storage reservoir by infiltration or be captured by the proposed trench drain.

The existing and proposed plantings establish a vegetated buffer abutting Willow Brook. The Commission finds that the landscape buffer is a benefit in that it can be an effective treatment of filtering contaminants from stormwater sheet flow runoff between the manicured yard and watercourse.

The gravel storage reservoir beneath the porous pavers will manage the first inch of runoff for collection of the Water Quality Volume for the addition and driveway.

The Willow Brook watercourse drains to the Woods Grove Canal of the Saugatuck River located ~930' to the southwest. The water quality classification for Willow Brook (Connecticut Environmental Conditions Online, <http://www.cteco.uconn.edu/>), is Class A water. The Class A designation indicates that this is uncontaminated surface water, is uniformly good to excellent, natural quality.

#### 13. 6.3 EROSION AND SEDIMENT

- a) temporary erosion control measures shall be utilized during construction and for the stabilization period following construction;
- b) permanent erosion control measures shall be utilized using nonstructural alternatives whenever possible and structural alternatives when avoidable;
- c) existing circulation patterns, water velocity, or exposure to storm and flood conditions shall not be adversely altered;
- d) formation of deposits harmful to aquatic life and or wetlands habitat will not occur;
- e) applicable state, federal and local guidelines shall be met.

**Discussion:** The Commission finds that the applicant indicates the use of sediment controls on the "Site Development Plan" sheet SE-2. This consists of a silt fence installed 5' downhill of the existing wall, silt fence along the upland side of the wall, and along the proposed temporary stock pile. An anti-mud tracking pad is proposed in the location of the existing driveway. The "Site Development Plan" indicates that there shall be no machinery access on downhill side of retaining wall. The McConnell Engineering plans, C-1, indicates that all machinery access will be done from the driveway side of the wall to minimize disturbance adjacent to the wetland line and floodplain. The general area of disturbance, as proposed, is relatively manageable, ~1,400 sq. ft. The Commission finds that the proposed controls should be adequate to protect from erosion. The Commission finds that due to the site's tight confines with space, any excess material should be taken offsite by direct loading. Also, no building materials or excavated materials shall be stockpiled or stored waterward of the retaining wall for construction. The Commission finds that the planting work to establish the buffer shall be



done by hand and the installation shall only disturb areas that will be planted by the end of the same day.

#### **14. 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:** Vegetation along the banks of Willow Brook provides shelter and habitat for wildlife. The Commission finds that the buffer proposed by the applicant is a completion of naturalizing both side of the watercourse as it flows through this property. This is an overall benefit to the wetland habitat. The applicant has provided a list of the significant planting/buffer proposed onsite that consist of shrubs, grasses, and herbaceous plants. The vegetation within the wetlands helps shade the water and provide cover for both fish and terrestrial animals. Additionally, plantings provide the main source of organic detritus forming the basis of the food chain. The Commission finds that every effort should be made to preserve this buffer and allow it to mature. The Commission finds that a performance bond shall be submitted to ensure the plantings installation and vitality. The bond should be held for one full growing season.

#### **15. 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:** As discussed in Section 6.2, The Commission finds that the applicant proposed directing the stormwater runoff from the proposed addition and driveway to be captured in the stone reservoir beneath the porous pavers. The Engineering Department has stated the proposed plans meet all of the Town's drainage requirements.

The Commission finds that the pervious pavers, stone reservoir, and trench drain in place of the existing driveway is an improvement to the existing condition. The collection of stormwaters will allow for some type of pre-treatment of runoff compared to the existing condition. The Commission finds that the site engineer shall oversee the excavation and construction of the driveway and certify its proper installation. Additionally, since the addition and driveway utilize the pervious driveway for drainage, The Commission finds that a deed restriction shall be required that states the driveway shall remain permeable in perpetuity.

#### **16. 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 property currently does not provide public or recreational use.

#### **17. CRITERIA TO BE CONSIDERED BY THE COMMISSION**

In carrying out the purposes and policies of the IWW regulations for the Town of Westport Section 5.0 and Sections 22a-36 to 22a-45(a,) inclusive, of the Connecticut General Statutes, including

matters relating to regulating, permitting and enforcing of the provisions thereof, the Commission shall take into consideration all relevant facts and circumstances, including, but not limited to:

The environmental impact of the proposed regulated activity on wetlands or watercourses;  
The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses.  
The relationship between the **short-term** and **long-term impacts** of the proposed regulated activity on wetland or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses.

Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity **would foreclose a future ability to protect**, enhance or restore such resource and any mitigation measures which may be considered as a condition of issuing a permit for such activity

The character and degree of injury to, or interference with, safety, health or reasonable use of property which is caused or threatened by the proposed regulated activity  
Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and **future activities** associated with, or reasonably related to, the proposed regulated activity **which are made inevitable** by the proposed regulated activity, and which may have an impact on wetlands or watercourses.; and

The degree to which the proposed activity is consistent with all applicable goals and policies set forth in Section 1.3 and 1.4 of these Regulations and Section 22a-36 of the Connecticut General Statutes, as amended.

#### **18. Waterway Protection Line Ordinance**

*Section 148-9 of the Waterway Protection Line Ordinance states that the applicant shall submit information to the Conservation Commission showing that such activity will not cause water pollution, erosion and/or environmentally related hazards to life and property and will not have an adverse impact on the preservation of the natural resources and ecosystem of the waterway, including but not limited to impact on ground and surface water, aquifers, plant and aquatic life, nutrient exchange and supply, thermal energy flow, natural pollution filtration and decomposition, habitat diversity, viability and productivity and the natural rates and processes of erosion and sedimentation.*

The Waterway Protection Line boundary exists 15' from the wetland line onsite. The Flood & Erosion Control Board has approved this application on March 2, 2022, with standard conditions.

The Commission supports the applicant's effort in utilizing existing plantings within the WPLO for water quality treatment of runoff.

The Commission finds that the addition proposed within the WPLO is a reasonable request. The Commission finds that the native plantings in the existing buffer and additional plantings west of Willow Brook are enough of a positive benefit within the WPLO to offset the limited construction of the garage over the existing driveway.

**Conservation Commission**  
TOWN OF WESTPORT  
**Conditions of Approval**  
**Application # IWW, WPL-11478-22**  
**1 Carriage Lane**  
**Assessor's Map: C12 Tax Lot: 084**  
**Date of Resolution: March 16, 2022**

**Project Description:** To construct a proposed 2-story addition with garage on first floor and living space above; convert the existing garage into a living room and replace the existing drive with porous pavers. Portions of the work are within the upland review area and the WPLO area of Willow Brook.

**Owner of Record: Mark & Stephanie Conte**  
**Applicant: David Ginter, PE of Redniss & Mead, Inc**

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-11478-22** with the following conditions:

Completion of the regulated activity shall be within FOURTEEN (14) 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 NINETEEN (19) 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 2, 2022**.

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

17. Conformance to the plans entitled:
  - a) "Site Development Plan Depicting 1 Carriage Lane Westport, CT Prepared for Mark & Stephanie Conte" dated February 9, 2022, prepared by Redniss & Mead, scale 1"=10', Pages SE-1 through SE-4.
  - b) "1 Carriage Lane Westport, CT" dated January 28, 2022, prepared by H. C. McConnell Engineering LLC, Page C-1.

- c) "1 Carriage Lane Westport, CT" dated January 28, 2022, prepared by H. C. McConnell Engineering PLLC, scale 1/4"=1'0", Pages S-1 through S-7.
  - d) "1 Carriage Lane Westport, CT – Proposed Alterations & Addition" dated January, 2022, prepared by Press Hawthorne Design, LLC, scale 1/4"=1'0", Pages A01 through A09.
  - e) Landscape Plan: "Conte Residence, Proposed Addition, 1 Carriage Lane Westport, CT", dated February 8, 2022, prepared by Blades & Goven Landscape Architects, Sheet L-1.
  - f) "Zoning/Location Survey Map of Property prepared for Mark J. Conte & Stephanie F. Conte 1 Carriage Lane Westport, CT", dated June 25, 2021, scale 1"=20', prepared by Walter H. Skidd, Land Surveyor LLC.
  - g) "Drainage Summary Report" 1 Carriage Lane Westport, CT Prepared by Redniss & Mead issued on February 9, 2022.
  - h) "Wetlands Survey 391 Main Street Westport, CT Prepared for Mark Conte", dated March 1, 2004, prepared by Paul J. Jaehnig, Wetland Soils Consultant.
  - i) Letter: "1 Carriage Lane Westport, CT - Stonewall" dated February 3, 2022, prepared by Hong McConnell, PE to Alicia Mozian and Colin Kelly.
18. No building materials or excavated materials shall be stockpiled or stored waterward of the retaining wall. There shall be no machinery access waterward of the retaining wall.
  19. All planting within the wetlands and 20' from the wetland area shall be done by hand. The installation of plantings shall only disturb areas that will be planted by the end of the same day. A bond to cover the cost of plantings for the buffer shall be submitted prior to the issuance of a Zoning Permit.
  20. The site engineer shall oversee the driveway installation and certify its proper function prior to the issuance of a Conservation Certificate of Compliance.
  21. The driveway shall remain permeable in perpetuity. Said restriction shall be placed on the land records 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: Carey                      Second: Rycenga**  
**Ayes: Carey, Rycenga, Davis, Bancroft, Lobdell**  
**Nays: 0           Abstentions: 0           Vote: 5:0:0**

5. **8 Gilbert Lane:** Application #IWW-11479-22 by Anthony Zemba of LandTech on behalf of Wafaa Naggar for a proposed addition and enhancement of the existing forested wetland via invasive species control and restoration of the wet meadow. Portions of the work are within the upland review area setbacks.

Brian Carey of LandTech presented the application on behalf of the property owner. The proposal is for a 20' by 22' addition to the rear of the property. The construction is slab on grade. Drainage will be dealt with by installing 3 cul-tec units. The wetland, which is now lawn will be restored with new plantings. Also, the Mile-a-Minute stand will be removed along with a stand of bamboo.

Ms. Mozian noted the owner was questioning whether the bamboo is on her property.

Mr. B. Carey indicated there is a portion of the bamboo on the property. They will install a barrier system and deal with the portion on their property.

Mr. Kelly noted that he would recommend a bond for the wetland restoration since this is the main form of mitigation.

Mr. B. Carey stated the owner is aware this may be the case.

Mr. Kelly asked when construction would begin.



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

**8. Property Description and Facts Relative to the Application:**

- The wetland system is an isolated, pocket-wetland located within the Muddy Brook Watershed.
- The existing house was built in 1963 on a filled wetland according to the August 30, 2012 soils report by Otto Theall.. It is served by sewer system.
- The property is 1.00 acres (43,679 sq. ft.) in size; located in Zone AA.
- This property **is not** located within a FEMA-designated 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. Only landscaping work is proposed within the WPL boundary.
- The flagged wetland area is **19,550 sq. ft.** (0.45 acres) as noted by the plan by Deilus, dated August 26, 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. The onsite wetland areas were identified and updated on the Town of Westport Official Wetland Map in October 2013, subsequent to an approved wetland boundary amendment application. Most of the proposed **445 sq. ft.** addition will be within the 50' review area setback from wetlands. The Commission finds that nearly any addition to this residence would be located either in the review area setback from wetlands or fall within the Zoning Department's side-yard building setback. The proposed addition will be built as a slab-on-grade ground floor with a second and third floor above. The addition will be located **~26'** from the wetland line at its closest point. The proposed addition coverage will be 445 sq. ft. The total coverage onsite changes from **13.1% (3,670 sq. ft.)** to **14.7% (4,115 sq. ft.)**.

Drainage for the addition is proposed outside the 20' review area from wetlands and located in the side yard of the property nearest the addition. This includes the use of three (3) Cultec units to store stormwater. The Stormwater Management Report states that the runoff will be managed from the new addition for a 25-year storm event and for the water quality volume, or first inch of runoff.

The Commission finds that the application additionally proposes to include a significant planting/restoration of the flagged wetlands area onsite. The existing yard is maintained as lawn with a few canopy trees. The proposal includes installation of fifteen (15) woody native shrubs along the perimeter of the wetland line within the wetlands. Planting will be done to help establish an herbaceous wet meadow within the wetland utilizing the New England Erosion Control/Restoration Mix. The Commission finds a benefit in reducing the manicured and managed yard with the restored wetland area with plantings. The woody vegetation will act as a visual demarcation of the wetland and the additional seed mix will increase wetland functionality, increase habitat value, and restore a misused area onsite. The Commission finds that the proposed restoration is a positive offer of the owners that will concede the historic use of the yard in order to protect wetlands and enhance the wetlands for the future.

**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 which is common due to its age of construction. The current roof leaders discharge by downspouts to grade. The proposed addition will require new drainage to meet the Town's Drainage Standards to collect runoff to offset the new impervious surfaces. This drainage will be directed to 3 Cultec units onsite. The applicant includes a "Stormwater Management Report", dated February 3, 2022, 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 proposed plans include a restoration of a portion of the existing wetlands on the site that is currently maintained as lawn. The application includes landscape plantings to demarcate the wetland edge and includes a wetland restoration area (~4,350 sq. ft.) that will attempt to restore some wetland ecological function and aid in the biofiltration of sheet-flow runoff from stormwater from the residence.

The wetland line will be planted with a variety of native shrub species, 15 in total, consisting of Elderberry, Silky dogwood, Winterberry, and Arrowwood Viburnum. The areas within the wetland will be seeded with New England Erosion Control/Restoration Mix to promote the establishment of a meadow. The Commission finds that this planting will help "naturalize" the wetland area that is currently maintained as a manicured lawn. The Commission recognizes that the transformation of the wetland area would be an overall benefit. This would restore the wetland function as a biofiltration area as mentioned above. A nutrient removal or "filtering" process would take place as the water encounters the soil and the roots of the vegetation. The process accounts for the improved water quality onsite.

#### **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 at the 20' non-disturbance buffer and an anti-mud tracking pad as a construction access from the driveway. The rest of the existing driveway will be used as the construction access as shown on the submitted site plan. Additionally, an area for excess stockpiled materials is shown with silt fence protection. The Commission finds that this should protect the wetlands and adjacent watercourse during construction.

#### **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 by providing habitat, where today the site has limited value. 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. The established meadow will provide refuge, seed source, and nesting habitat for smaller animals and bird species. The applicant provided a two year maintenance plan that, when followed, shall help the meadow mature when established. This will also accelerate the success in managing any unwanted invasives from establishing in the wetlands. The Commission finds that a performance bond shall be submitted to cover the cost of the restoration plantings and proposed seed mix to ensure the plants success. The bond shall be held for one full growing season after initial planting to ensure vitality.

The applicant provided a biological evaluation within Schedule C and identifies several species of plantings and wildlife. The observer noted several winter birds during their onsite inspection of the property and notes the property provides suitable habitat for several common wildlife species adapted to suburban areas.

The application addresses the removal of several invasive species as part of the application. Mile-a-minute Vine, Oriental Bittersweet, and Bamboo were identified onsite, on the side and rear of the property, in the existing forested areas of the wetlands. The applicant has provided an Invasive Species Control Plan as part of the Schedule C submittal that addresses the procedures requires for proper invasive removal onsite. The Commission finds that this invasive control is an added benefit to the wetland areas and will aid in restoring the wetlands ecological function onsite.

### **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 445 sq. ft., which represents the area of the proposed addition. 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 sheet flow. The Town Engineering Department has found the proposed drainage plan to meet the Town drainage standards.

The Commission finds that the proposed plantings and naturalization of the maintained area within the wetland 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 southeast of the addition will reduce the amount of overland flow the wetlands would be accepting.

### **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-11479-22**  
**8 Gilbert Lane**  
**Assessor's Map: F08 Tax Lot: 021**  
**Date of Resolution: March 16, 2022**

**Project Description:** To construct a 20' x 22' three-story addition to the rear of the existing residence. The proposal includes plans for invasive plant management and wetland restoration in area currently maintained as lawn. Portions of the proposed addition are within the upland review area.

**Owner of Record:** Wafaa Naggar

**Applicant:** Anthony Zemba, 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-11479-22** with the following conditions:

Completion of the regulated activity shall be within FOURTEEN (14) 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 NINETEEN (19) 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.

### SPECIAL CONDITIONS OF APPROVAL

16. Conformance to the plans entitled:
  - a) **"Zoning Map** of Property Prepared for Wafaa Naggar 8 Gilbert Lane, Westport, CT", Scale: 1" = 20', dated August 28, 2021, prepared by Dennis Deilus Land Surveyors
  - b) **"Site Improvements** for a Proposed Building Addition; Site Plan, Planting Plan, Notes and Details, Wafaa Naggar 8 Gilbert Lane Westport, Connecticut", prepared by Landtech, dated February 8, 2022, scale 1" = 20' sheets C-1 through C-3
  - c) **Architectural Drawings:** "8 Gilbert Lane Westport, Connecticut", prepared by Douglas Kane LLC, dated June 18, 2021, scale: as noted, 32 pgs.
  - d) **"Stormwater Management Report** for 8 Gilbert Lane Westport, CT", prepared by Landtech, dated February 3, 2022,
17. Plants to be installed as noted on the "Planting Plan" prior to the issuance of Conservation Certificate of Compliance. Contact Conservation Department at start of planting.
18. A bond to cover the cost of erosion controls and plantings 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.
19. An "as-built" survey shall be submitted 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: Davis                      Second: Carey**  
**Ayes: Davis, Carey, Rycenga, Bancroft, Lobdell**  
**Nays: 0                      Abstentions: 0                      Vote: 5:0:0**

### Work Session:

#### 1. Receipt of applications

Ms. Mozian noted there were 5 applications to officially receive and one WPLO application that does not have to be received. She will have to work out the scheduling of the applications as not all will be able to go on the April 13, 2022 agenda. The 5 applications to receive are:

- **109 Morningside Dr. S** – #IWW-11489-22
- **31 Hogan Trail** – #IWW,WPL-11490-22
- **197 Bayberry Lane** – #IWW/M-11493-22
- **5 Richmondville Avenue** – #IWW,WPL-11495-22
- **Compo Road N/Lone Pine Lane** – #AA,WPL/E-11491-22

Ms. Mozian noted that Compo Road N./Lone Pine Lane is a sewer line extension application being brought by the Town DPW that she is going to place on next month's Work Session to see if the staff can handle this administratively. All applications are complete.



**12/13/21** – Inspected. Woodchip and leaf pile is at edge of wetland, about 3-4 ft. high. Appears to have diminished in height from original violation. Same three to four trees marked for cutting remain; not sure if it is the intent of the owner to proceed. Two large trees have fallen in the wetland.

**4) 20 Berndale Drive**

**11/22/21** – Received complaint about tree clearing. Inspection revealed significant tree loss, though only a portion in the wetlands setback. Tractor had also been clearing vegetation in setback. No silt fence was installed.

**12/03/21** – Spoke with property owner about the violation and explained the issues and that the department would require a silt fence and restoration plantings.

**5) 4 Blind Brook Road South**

**12/16/20** – NOV about tree removal and fill added.

**04/19/21** – Met with homeowners about planting.

**10/08/21** – Checked in with homeowners about updates. Scheduling delays occurred due to pandemic surge.

**6) 12 Bushy Ridge Road**

**10/25/21** – Trees planted, rocks placed along stream channel. Waiting until May to reinspect for Removal of Violation.

**7) 12 Cottage Lane (Also Cease and Correct)**

**11/19/21** – Received complaint about fill in the wetlands. Site inspection confirmed fill, drainage, berm, and fence.

**11/18/21** – Issued Notice of Violation.

**11/29/21** – Issued Cease and Correct Order.

**11/29/21** – Received soils report dated June 2020.

**12/03/21** – Commissioners' Field Trip.

**12/08/21** – Show Cause Hearing.

**01/28/22** – Revised plan submitted.

**02/11/22** – Response sent to LandTech requiring changes to plan.

**02/21/22** – Restoration plans approved.

**8) 1 Charcoal Hill Road**

**12/03/20** – NOV sent for major site work, house additions, new structures, septic, clearing, and grading without permits and within wetland setbacks.

**02/08/21** – Application received but incomplete.

**06/20/21** – ZBA granted a variance for setbacks.

**07/20/21** – Staff inspected site.

**08/16/21** – Received planting plan from LandTech.

**09/21/21** – More material submitted, but application still not complete, silt fence was reinstalled. Stop work order remains in effect.

**09/29/21** – Met with Mr. Benitez to go over details of plan still needed.

**10/08/21** – Approved planting plan around pond.

**10/13/21** – Drainage plan not acceptable to Engineering Department, so permit issuance still delayed.

**03/07/22** – Received call from applicant that plans may be complete. Have not yet received them.

**9) 156 Cross Highway**

**03/02/22** – Inspection revealed significant digging within likely wetland setback without silt fence or permit. No one was home.

**03/02/22** – Issued NOV for work without permit and lack of silt fence.

**03/04/22** – spoke with homeowner who explained he wished to fix a leak in a waterline to his home, as determined by water utility.

**03/07/22** – Met with homeowner. With silt fence in place, issued a quick sheet permit for work.

**10) 3 Davis Lane**

**09/12/20** – Ted Gill received As-Built, but it showed significant grade changes and a pipe. He notified applicants that situation would need to be fixed.

**11/18/20** – Gillian Carroll wrote that the Conservation Department would support recommendations by Engineering.

**07/8/2021** – Ted Gill received new As-Built and inspected. The grading changes were bad.

**07/16/2021** – Colin Kelly wrote owners and their representatives that they need to rectify situation.

**10/4/21** – Colin Kelly spoke with homeowner and anticipates resolution in the near future.

**01/4/22** – Colin Kelly spoke with homeowner again.

**01/19/22** – Working with LandTech to resolve.

**11) 13B Dogwood Lane**

**11/12/21** – Homeowner forwarded letter from surveyor stating that it would take another month to site sports court in new location.

**12/15/21** – Homeowner stated that he was removing the sports court while waiting on surveyor.

**12/21/21** – Spoke with homeowner. Sports court is removed while they determine if they will put it in a new place staked by surveyor. Plantings to be done in spring.

**12) 4 Fermily Lane**

**02/10/22** – Inspection revealed propane tank had been installed without finishing the permit. No one was home.

**02/11/22** – Issued NOV for work without permit.

**02/24/22** – Spoke with person who had hired the contractor to get permits. He will be getting the required material (Health Permit) to Conservation.

**13) 8 Indian Point Lane**

**10/19/21** – Department granted extension for compliance.

**14) 9 Lakeview Road (2 Violations Issued to Separate People, Cease and Correct Order Issued to 1)**

**12/08/21** – Received complaint about work done in the wetlands. Inspection noted significant digging of wetlands soil, digging a trench in the wetlands, and an excavator and tractor in the wetlands. Contractors were digging up a pipe and replacing it without a permit, adding a channel, and dumped significant debris in the wetlands.

**12/10/21** – Issued a Notice of Violation and \$1,000 citation to James DeVito of DeVito and Sons for conducting regulated work in the wetlands and WPLO without a permit or sediment and erosion control measures.

**01/10/22** – Issued a Notice of Violation to the homeowners.

**01/24/22** – Received phone call from Mr. DeVito with no constructive resolution. Reiterated request for a plan to be submitted.

**02/28/22** – Spoke with Catherine Havas at length about potential resolutions going forward, including the likelihood of a Cease and Correct order.

**02/01/22** – Issued Cease and Correct order to homeowners.

**02/11/22** – Show Cause Hearing held, Order revised.

**3/16/22**- No update

**15) 8 Lone Pine Lane (Also Cease and Correct)**

**01/29/20** – NOV sent for clear-cutting.

**02/03/20** – Cease and Correct Hearing. 1000 dollar fine was paid. Planting planned for the Spring 2021 Season – no notice of completion yet.

**07/06/21** – Wrote email to owner to see about updates on planting plan. No response.

**08/26/21** – Drove by to inspect and saw no changes. Cease and Correct order remains on the land records.

- 16) 107 Old Road**  
**02/11/22** – NOV issued for significant work done without a permit after being told that no more work could be done without permits. Work included patio with roof, outdoor kitchen, electrical equipment, and propane tank.  
**02/15/22** – Stop work Order issued by Building Department.
- 17) 1 Rex Lane**  
**11/22/21** – Inspection revealed significant clearing of vegetation alongside pond, dumping of dead vegetation alongside pond, and a silt curtain—or something similar—in the pond.  
**11/22/21** – Notice of Violation Issued.  
**12/07/21** – Met contractor on site to discuss restoration.  
**12/24/22** – Inspected for removal of debris, but it was still there.  
**03/08/22** – Received call from contractors hired to fix violation. Approved most, but not all of the plants they were going to install. Told them they needed more than 3.
- 18) 2 Snowflake Lane/6 Snowflake Lane**  
**4/18/19** – Sent NOV for dumping on 274 North Ave and ATV use.  
**8/19/21** – Sent email to manager of 274 North Ave for follow-up. No word received.
- 19) 28 Spicer Road (Also Cease and Correct)**  
**04/21/21** – Conservation Commission approved permit IWW-WPLE-11251-21, stating that not all walls were to be removed, otherwise it's not an addition, but a new house.  
**03/02/21** – Inspection revealed that all walls of house were removed and new ones were in the process of being built.  
**03/02/21** – Issued NOV.  
**03/11/21** – Likely date of issuing Cease and Correct.  
**03/21/21** – Planned date of Show Cause Hearing
- 20) 24 Spriteview Ave**  
**6/2/21** – Sent NOV for rain garden removal, which was a special condition of approval. Spoke with owner.  
**10/15/21** – Sent email follow-up. Owner responded stating that plantings have been washing away in floods and it might be spring before it's fixed.
- 21) 13 Sprucewood Lane (Also Cease and Correct)**  
**11/19/21** – Show Cause Hearing.  
**12/16/21** – Grass has grown on slope.  
**03/07/22** – Spoke with homeowner and emailed map showing 20 foot buffer on as-built survey.
- 22) 28 Sue Terrace**  
**09/23/21** – Noticed shed built within wetlands and WPLO as well as partially on neighbors' property. Investigated at office and determined that it was unpermitted.  
**09/27/21** – Issued NOV  
**10/05/21** – Met with owners and discussed various paths forward to move or legalize shed as well as plant replacement trees.  
**11/12/21** – Owner contacted Conservation and stated that 26 Sue terrace will grant an easement. He will finalize that and apply to the Commission.  
**12/13/21** – Owner decided to apply to move shed out of the wetland and WPLO.  
**02/10/22** – Permit issued. Violation remains until shed moved and plantings installed.
- 23) 2 Timber Lane**  
**12/27/21** – Issued NOV to CCO Habitats/Mr. Vynerib for lack of S&E controls and lack of site monitor, a condition of approval.  
**01/6/22** – Colin Kelly spoke with Mr. Vynerib about fixing the violation.  
**01/7/22** – Mr. Vynerib wrote stating that he would have a site monitor and fixed S&E controls on this date.  
**01/21/22** – Carolyn Matthews of William Kenny Associates stated that she would inspect ASAP.

**01/21/21** – First site inspection by Carolyn Matthews. Issues were noted, listing some S&E controls needed.

**01/26/21** – Second site inspection by Carolyn Matthews. Most issues were resolved.

**02/06/22** – Inspected. Appears rough grading done but that's it. Silt fence still up and gravel drive in.

**02/18/22** – Third site inspection by Carolyn Matthews. Proposed site improvements completed. Hay spread on ground.

**3/1/22** – Additional bond funds posted. Temporary CCC issued with work completion date set for June 1, 2022.

- 6. 28 Spicer Rd.** – Discussion of staff enforcement action taken March 2, 2022 for activity exceeding the scope of Permit #IWW, WPL/E-11251-21.

Ms. Mozian noted the Commission reviewed and approved this Permit for a major renovation on April 21, 2021. One of the specific conditions of approval asked for the plans to delineate the entry steps in lower level to the residence and indicate what walls would remain. During the course of construction, due to termite damage and rot, the remaining walls had to be removed because they would not be structurally sound. They were taken down to the foundation after discussions with the Building Department, LandTech and Engineering. Engineering indicated that no additional drainage would be required. They felt that because there was no expansion of the footprint occurring, the owner believed he could go ahead. It was not his intention to circumvent the Conservation Department but felt the work did not encroach the wetland area and had no impact. When Conservation staff inspected the site and noted that work exceeded the scope of the project, a Notice of Violation and Revocation of Permit was issued. Per Section 15.1 and 15.2 of the Regulations, a permit cannot be revoked without notice and allowing the applicant the opportunity to respond. The staff asked the Commission for dates and have a tentative date for a Show Cause Hearing to discuss this matter should the Commission decide tonight that permit revocation is warranted. She noted that the Commission received letters from LandTech and from the owner explaining the situation.

Ms. Rycenga stated there is no public comment except with the permission of the Chair. She asked for comments from the property owner, Mr. Kiley.

Scott Kiley noted that on all construction projects there are field changes. When his contractor found the rot, they contacted the architect, who spoke with the Building Department. Building Department indicated that to be structurally sound, they would have to rebuild in kind. He also contacted Andy Soumelidis of LandTech, who in turn contacted Engineering, who found that if they replaced the wall in kind that there would be no additional drainage requirements. It was their belief they did not specifically need to contact Conservation since they spoke with Engineering about the drainage issues and Building Department for an in-kind wall replacement that had no impact to the wetlands.

Mr. Carey acknowledges that they should have contacted Conservation. However, there are no impact to the wetlands. He does not believe there is any reason to hold a Show Cause Hearing for this issue. He thinks the Commission should allow the staff to handle the issue.

Mr. Bancroft agreed.

Mr. Lobdell agreed.

Mr. Davis agreed there was no need for a Special Meeting. He stated the owner needs to work with the staff when there are field changes.

Ms. Rycenga emphasized the need for communication. She agreed with other members that staff could resolve the issue.

Ms. Mozian noted that new construction versus renovation triggers different drainage requirements. It was staff's concern that if more drainage was required and it was uncertain where that would go, it had the potential to be placed in the regulated area. Since was not informed about any previous conversations with the Engineering Department. She also noted, in general, that applicants should be

realistic when they are describing their project so that the renovation vs new construction determination could be planned for ahead of time since it does have drainage and wetland consequences.

It was the sense of the Commission to refer the modification to staff for review and approval. The permit need not be rescinded and no fine is necessary.

**7. Other business**

- a. Ms. Mozian stated it is expected that the Commission will return to in-person meetings in May. We will be in the Auditorium and televised. Room 201 is available if other Commissions/Boards are in need of the Auditorium and can be live streamed.
- b. Ms. Mozian noted this year is the 50<sup>th</sup> anniversary of Connecticut IWW Act.
- c. Beautification Day is April 9, 2022 with many town properties to be cleaned by many civic organizations and several Town committees/boards.
- d. Ms. Mozian reminded Commission members to return their Conflict of Interest form to the Town.
- e. The Community Shred Day is May 14, 2022.

The March 16, 2022 Public Hearing of the Westport Conservation Commission adjourned at 11:11 p.m.

<b>Motion:</b>	<b>Carey</b>	<b>Second:</b>	<b>Davis</b>
<b>Ayes:</b>	<b>Carey, Davis, Bancroft, Lobdell, Rycenga</b>		
<b>Nays:</b>	<b>None</b>	<b>Abstentions:</b>	<b>None</b>
		<b>Vote:</b>	<b>5:0:0</b>