



Town of Westport
Planning and Zoning Commission
Town Hall, 110 Myrtle Avenue
Westport, CT 06880
Tel: 203-341-1030 pandz@westportct.gov
www.westportct.gov

July 12, 2022

The following meeting of the Planning & Zoning Commission was held remotely using Zoom Technology:

Planning and Zoning Commission Minutes

July 11, 2022

Meeting Started: 7:00P.M.

P&Z Commission Members and Alternates in attendance:

D. Dobin, P. Lebowitz, M. Cammeyer, N. Cohn, J. Olefson, A. Tesler, J. Olefson, P. Zucaro

P&Z Staff: Mary Young, P&Z Director Michelle Perillie, Deputy P&Z Director

II WORK SESSION

- 1. Action Minutes Review: 6/13/22, 6/27/22 Unanimous Approval**
- 2. Request to Release Planting Plan Bond: 18 Surf Rd., Res. #19-029**
Action: Item opened, Testimony Received, Item was Closed.
Vote: Unanimous Approval (6-0)
- 3. Request for Interpretation from Westport Resident: How to Measure Building Height for an Accessory Dwelling Unit (ADU)**
Action: The commission requested more information.
- 4. Request for Interpretation from Westport Resident: Should/How should in-ground trampolines be regulated by zoning?**
Action: Setbacks should be adhered to in setbacks, not counted in coverage, drainage should be addressed on case-by-case basis.

II PUBLIC HEARING

- 1. Text Amendment #818:** Appl. #PZ-22-00323 submitted by Rick Redniss to modify §6-6 to add redevelopment standards for Split Zoned Properties; modify §24-2.2, to add motels, hotels, motor inns, and tourist courts to list of Special Permit uses in the GBD; to add a parking standard for hotels in §34-5. A copy of the text amendment is available on-line at www.westportct.gov is on file in the Town Clerk's Office and is on file in the Planning and Zoning Office.
Action: Item opened, No Testimony Received, Item was continued to 9/12/22 meeting.

2. **1595 Post Road East:** Special Permit/Site Plan Appl. #PZ-22-00325 submitted by Rick Redniss, for property owned by WI Associates to redevelop the 117-room Westport Inn Hotel into approx. 85 Hotel Rooms with an onsite restaurant, bar area, event/meeting space, fitness center, pool, and site improvements, at property located in the General Business District/Residence A Zone, PID#H09120000.

Action: Item opened, No Testimony Received, Item was continued to the 9/12/22 meeting.

3. **1 Berkeley Hill:** Special Permit/Site Plan Appl. #PZ-22-00193 submitted by Brian Carey, LANDTECH, for property owned by Paul and Maria Tortorella, for excavation and fill activities to regrade yard, for property located in the Residence AAA District, PID#E16017000.

Action: Item opened, Testimony Received, Item was Closed.

Vote: Granted Unanimously – (7-0) (see resolution)

4. **25 Kings Highway South:** Special Permit/Site Plan Appl. #PZ-22-00373 submitted by Andy Soumelidis, LANDTECH, for property owned by The Birchwood Country Club Inc. To construct 4 pickle ball courts on site, for property located in the Residence AA/A District, PID#B07044000.

Action: Item opened, Testimony Received, Item was continued to the 7/25/22 meeting.

5. **Text Amendment #817 (Continued from 6/27/22 meeting with no testimony received):** Appl. #PZ-22-00303 Submitted by Rick Redniss to add new Sec. 6-7, Renovation of Existing Nursing Home or Skilled Nursing Facility, to create standards for expansion and redevelopment of existing nursing homes and skilled nursing facilities into a medical facility specializing in the care of Alzheimer's, Dementia, and/or other memory impairments. A copy of the proposed text amendment is available on-line at www.westportct.gov is on file in the Town Clerk's Office and is on file in the Planning and Zoning Office.

Action: Item was further continued to the 7/25/22 meeting.

III WORK SESSION

- **Unanimous decision to cancel 7/18/22 work session.**



Town of Westport
Planning and Zoning
Commission Town Hall,
110 Myrtle Avenue
Westport, CT 06880

Tel: 203-341-1030 Fax: 203-454-6145

www.westportct.gov

Hearing: July 11, 2022

Decision: July 11, 2022

July 12, 2022

Brian Carey
LANDTECH
518 Riverside Avenue
Westport, CT 06880

RE: 1 Berkeley Road, Special Permit/Site Plan, Appl. #PZ-22-00193

Dear Mr. Romano:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on July 11, 2022, it was moved by Ms. Dobin and seconded by Mr. Cohn to adopt the following resolution:

RESOLUTION #PZ-22-00193

WHEREAS, THE PLANNING AND ZONING COMMISSION met on July 11, 2022, and made the following findings:

FINDINGS

Property Description/Background

1. 1 Berkeley Hill is a 0.973-acre (42,392 SF) parcel which is non-conforming for the Res. AAA zone in which it is located, where a minimum lot area of two (2) acres (87,120 SF) is required. The lot is on the northeast corner of Berkeley Hill and Berkeley Road.
2. The property is serviced by a private drinking water well and has a private subsurface sewage disposal (septic) system.
3. The property is not within the Coastal Area Management boundary or the 100-year flood zone.

4. The property does not contain any wetlands but does contain 4,223 square feet of steep slopes of 25% or greater.
5. According to the existing-conditions plot plan prepared by Dennis Deilus Surveyors, last revised 12/15/21, the property slopes down from approximately EL 121' in the northeast corner of the property down to EL 94' at the southwest corner of the lot.
6. In response to a complaint regarding regrading on the property without permits, a Notice of Violation was issued on 9/30/21. The owner was authorized by staff to stabilize the lot for winter with grass seed and hay and indicated they would submit an Excavation and Fill application plan showing compliance.

Proposal

7. The applicant is requesting Special Permit and Site Plan approval to authorize non-exempt excavation and fill activities at 1 Berkeley Hill pursuant to §32-8, Excavation and Filling of Land listed in the Westport Zoning Regulations.
8. The proposed work is shown on the applicant's Site Plan, last revised on June 28, 2022.
9. The project includes backyard regrading to create a more level yard which is not exempt per §32-8.1.2. A retaining wall less than three feet tall is proposed to facilitate the regrading.
10. The proposal includes a new subsurface drainage system and temporary (construction-phase) sediment and erosion control (S&E) plans, including silt fencing around the disturbed area and a temporary soil stockpile area surrounded by silt fencing.
11. The proposed work takes place within the Aquifer Protection Overlay Zone (APOZ), but no activities regulated in the APOZ as listed in §38 are proposed.
12. Excavation and Fill activities are permitted. Certain activities are exempt from Excavation and Fill Permit review when associated with other proposed activities as listed in §32-8.1. The regrading activities proposed herein are not covered by the exemptions listed in §32-8.1. All Excavation and Fill activities, even those exempt from review, must conform to the standards listed in §32-8.3.
13. The regrading may not exceed a five (5) horizontal to one (1) vertical (20%) slope unless approved by the Town Engineer per §32-8.3.2. In addition, the regulations state that there shall not be any grading or slope changes within five (5) feet of any lot line. The proposed work does not result in any manmade slopes more than 20%, nor does it include grading within five (5) feet of the property line.
14. Excessive excavation or fill is not permitted. Excessive excavation or fill is defined as an amount greater than that required to raise a parcel ten (10) feet above or

below the existing natural grades over an area equal to 50% of the allowable Total Coverage in the respective zones per §32-8.2.1. The proposed activity will not represent excessive fill. A total of 1,963 cubic yards is allowed; a total of 920 cubic yards is proposed (25 CY fill; 895 CY cut).

15. §32-8.2.3 states that no portion of any lot shall be filled or excavated to a height or depth greater than ten (10) feet above or below the existing grade. The proposal complies with this regulation as the maximum height change is approximately one and a half (1.5) feet.
16. A Restoration Plan is required per §32-8.4 showing the final grading and landscaping and indicating how the site will be restored after the excavation and fill activities have been completed. The applicant's 6/28/22 site plan shows final grading and indicates that the disturbed soil surfaces shall be permanently stabilized at the end of construction.

Department Comments

17. **The Engineering Department submitted comments dated 6/27/22 based on a review of the applicant's site plate dated 5/24/22. The Engineering Department comments recommended that the Commission should require the applicant to reduce the additional steep slopes east of the house or obtain a variance to maintain them. The Applicant submitted a revised Site Plan dated 6/28/22 to address this concern and supplemental Engineering comments dated 6/29/22 determined that that the application is substantially complete and requires no further submissions at this time. The grading and S&E plans were confirmed to comply with Town standards.**
18. On 6/29/22, the Aspetuck Health District (AHD) reviewed and approved the latest site plan dated 6/28/22.

Public Hearing

19. The public hearing for this application was opened with testimony received at the July 11, 2022 public hearing.
20. The public hearings were held remotely using electronic means due to the COVID-19. The public hearings were broadcast live on public access television, live on-line on the Town's website, and interested parties were provided the opportunity to join the meeting and offer "live" testimony, consistent with executive orders issued by the Governor.
21. The Planning and Zoning Commission finds this application complies with the standards found in §32-8, Excavation and Filling of Land, and the general standards applicable to Special Permits and Site Plans, set forth in §44-6 and §44-5.

NOW THEREFORE, BE IT RESOLVED that **1 Berkeley Hill**: Special Permit/Site Plan Appl. #PZ-22-00193 submitted by Brian Carey, LANDTECH, for property owned by

Paul & Maria Tortorella, for excavation and fill activities to regrade yard, for property located in the Residence AAA District, PID#E16017000 be **GRANTED** subject to the following modifications:

Modifications

1. Conformance to Engineering Department comments, dated June 27, 2022 and 6/28/22.
2. Conformance to Aspetuck Health District approval, dated June 29, 2022.
3. Conformance to Excavation and Fill Statement of Use and Narrative prepared by LANDTECH, dated March 22, 2022.
4. Conformance to Existing-Conditions Plot Plan prepared by Dennis Deilus, dated 6/10/20, updated 12/15/21.
5. Conformance to Site Plan (Sheet C-1) and Notes and Details (Sheet C-2) prepared by LANDTECH, last revised June 28, 2022.
6. Trees and shrubs on Town property or in the Town right of way shall not be removed, pruned, injured, or defaced without consent of the Town's Tree Warden.
7. Prior to the commencement of any construction, site work, tree removal, or demolition, the soil and erosion controls shall be installed and inspected by Staff.
8. Prior to the issuance of a new Zoning Permit for this work, the applicant shall submit and obtain the following:
 - A. Obtain final sign-off from the Engineering Department.
 - B. Obtain final sign-off from the Aspetuck Health District for the retaining wall.
 - C. Submit proof of filing the resolution on the Land Records.
9. The replacement and/or repair of a stone wall greater than four (4) feet in height shall require the issuance of a building permit.
10. All new utilities shall be placed underground.
11. All disturbed and regraded areas shall be planted with a suitable ground cover in accordance with §32-8.4.
12. Prior to the issuance of the Zoning Certificate of Compliance, the applicant shall submit and obtain a certified "As-Built" survey stamped by a registered Engineer or Surveyor.
13. This application is granted upon the condition that all construction and site improvements shall be in strict accordance with the plans and other documents submitted and any statements or representations made by the applicant or agent

on the record. Any deviation from such documents or representations shall require further review and approval from the Commission.

14. All work approved pursuant to this Special Permit/Site Plan shall be completed within five (5) years of date of approval, by July 11, 2027.
15. 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.

ENFORCEMENT Failure to comply with any standard or condition contained in this Resolution, shall be considered a zoning violation pursuant to §45-2 of the Westport Zoning Regulations. The failure to undertake corrective action within ten (10) days of being notified of such violation may result in the following remedies: 1) issuance of a notice of violation; 2) issuance of a cease and desist order; 3) issuance of a municipal citation with daily fines of up the maximum allowed by statute; and/or 4) enforcement action through a judicial proceeding.

Reasons:

The application as conditioned has been found to be in conformance with all applicable zoning regulations, with the *2017 Plan of Conservation and Development*, and the Site Plan and Special Permit standards listed in §44-5 and §44-6.

VOTE:

AYES	-7-	{Dobin, Cammeyer, Lebowitz, Olefson, Cohn, Tesler, Zucaro,}
NAYS	-0-	
ABSTENTIONS	-0-	

Very truly yours,

Danielle Dobin

Chairman, Planning & Zoning Commission

- cc: Ted Gill, DPW Engineering Department
 Anna Rycenga, Conservation Commission Chair
 Mark Cooper, Aspetuck Health District Director