



**Town of Westport**  
Planning and Zoning Commission  
Town Hall, 110 Myrtle Avenue  
Westport, CT 06880  
Tel: 203-341-1030 [pandz@westportct.gov](mailto:pandz@westportct.gov)  
[www.westportct.gov](http://www.westportct.gov)

July 25, 2022

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

## **Planning and Zoning Commission Minutes**

**July 25, 2022**

**Meeting Started: 7:05P.M.**

**P&Z Commission Members and Alternates in attendance:** M. Cammeyer serving as Acting Chair, J. Olefson, serving as Acting Secretary, P. Lebowitz, P. Zucaro, and Alternates J. Bolton and M. Falk

**Absent:** D. Dobin, N. Cohn, A. Tesler

**P&Z Staff:** Mary Young and Michelle Perillie (*for Work Session on ADU Interpretation*)

### **I WORK SESSION**

*(The following items will be discussed and voted on as time permits. The public may observe the work session, but not participate)*

- **Old Business**

**Request for Interpretation from Westport Resident (Continued from 7/11/22 work session):** How to Measure Building Height for an Accessory Dwelling Unit (ADU) (*No action deadline*)

**Action:** Unanimous decision made by the P&Z Commission benefitting the resident (Rob Haroun) allowing him to obtain a ZCC. Commission members observed the interpretation offered by the resident was NOT what was intended, but gave the resident the benefit of the doubt there was no malicious intent; only a different perspective. Commission members gave direction to P&Z Staff to put future applicant's on notice of the regulations intent, and to draft a text amendment to avoid more unintended consequences. **Voting Members: Paul Lebowitz, Michael Cammeyer, Jon Olefson, Marcia Falk, and Jon Bolton.**

## II PUBLIC HEARING

1. **25 Kings Highway South** (*Continued from 7/11/22 hearing and to be further continued to 9/12/22 with no testimony received on 7/25/22*): Special Permit/Site Plan Appl. #PZ-22-00373 submitted by Andy Soumelidis, LANDTECH, for property owned by The Birchwood Country Club Inc. for excavation and fill activities associated with constructing four pickle ball courts new drainage and new landscaping, for property located in the Residence AAA District, PID#B07044000. (*Must close by 10/22/22 with 65-day extension*)

**Sitting on 7/11/22: D. Dobin, P. Lebowitz, M. Cammeyer, N. Cohn, J. Olefson, A. Tesler, P. Zucaro**

**Action: No testimony received; continued to 9/12/22**

2. **5 Minute Man Hill:** (*This application will be opened with no testimony to be received and continued to 9/12/22*) Special Permit/Site Plan Appl. #PZ-22-00328 submitted by Brian Nesteriak, B&B Engineering, for property owned by Peter Baiocco for excavation and fill activities associated with new house construction, for property located in the Residence AA District, PID#D04021000. (*Must open by 9/23/22 w/65-day extension*)

**Action: Item read into record with no testimony received and continued to 9/12/22 meeting.**

3. **2 Rodgers Way:** Special Permit/Site Plan Appl. #PZ-22-00384 submitted by Bryan Nesteriak, for property owned by Rostislav & Amy Leykind, for excavation and fill activities associated with regrading around an Accessory Dwelling Unit (ADU) for property located in the Residence AAA District, PID#F14088000. (*Must open by 8/17/22*)

**Action: Public hearing opened. Testimony received, and public hearing closed.**

**Vote: Granted, 5-0, see resolution.**

4. **15 Wakeman Place:** Special Permit/Site Plan Appl. #PZ-22-00455 submitted by McChord Engineering Associates Inc., for property owned by Jonathan and Margot Simmons, for excavation and fill activities associated with new residential additions, driveway, pool, and drainage system, for property located in the Residence A District, PID#C06074000. (*Must open by 9/14/22*)

**Action: Public hearing opened, testimony received, and public hearing closed.**

**Vote: Granted, 5-0, see resolution.**

5. **191 Post Road West:** Special Permit/Site Plan Appl. #PZ-22-00184 submitted by Rick Redniss, for property owned by 191 POST PROPERTY OWNER LLC for approval of a Parking Management Plan to support a Change of Use to medical office and for site improvements including a new entrance canopy, building façade modifications, and parking lot modifications, for property located in the General Business District, PID#C08041000. *(Must open by 7/29/22 w/65-day extension)*

**Action: Public hearing opened, testimony received, and public hearing closed.**

**Vote: 3-2 (In favor: Olefson, Cammeyer, Falk; Not voting in favor: Zucaro, Bolton)**

## II WORK SESSION

- **New Business**

**No new business.**

*Ended 9:00pm*

*Respectfully submitted by D. Dewitt-Smith July 29, 2022*



**Town of Westport**

**Planning and Zoning Commission**

Town Hall, 110 Myrtle Avenue

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

www.westportct.gov

Hearing: July 25, 2022

Decision: July 25, 2022

**July 26, 2022**

Bryan Nesteriak  
B&B Engineering, LLC  
15 Research Drive, Suite 3  
Woodbridge, CT 06525

**RE: 2 Rodgers Way, Special Permit/Site Plan, Appl. #PZ-22-00384**

Dear Mr. Nesteriak:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on July 25, 2022, it was moved by Mr. Olefson and seconded by M. Cammeyer to adopt the following resolution:

**RESOLUTION #PZ-22-00384**

WHEREAS, THE PLANNING AND ZONING COMMISSION met on July 25, 2022, and made the following findings:

**FINDINGS**

Property Description/Background

1. 2 Rodgers Way is a 2.228-acre (97,088.1 SF) parcel which is conforming for the Res AAA zoning district in which it is located, where a minimum lot area of two (2) acres (87,120 F) is required. The property is a corner lot and has frontage on both Bayberry Lane and Rodgers Way and is serviced by a private subsurface sewage disposal (septic) system.
2. The property is not within the Coastal Area Management boundary or the 100-year flood zone. The property contains 2,785 SF of wetlands and 1,660.6 SF of steep slopes of 25% or greater. According to the Improvement Location Survey prepared by Accurate Land Surveying, LLC, dated 11/8/2021, the property slopes down from approximately EL 204' in the northeast corner having the highest EL 210' in the middle of the property sloping down to EL 200' in the southwest corner.

## Proposal

3. The applicant is requesting Special Permit and Site Plan approval to authorize non-exempt excavation and fill activities at 2 Rodgers Way pursuant to §32-8, Excavation and Filling of Land, listed in the Westport Zoning Regulations. The proposed work is shown on the applicant's Site Plan, last revised on June 3, 2022. The project includes backyard regrading to construct an accessory dwelling unit with an attached porch, walkway, and outdoor shower, which is not exempt per §32-8.1.2. The proposal includes a new underground detention system, septic tank, septic pump chamber, primary leaching systems, 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.
4. 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.
5. 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.
6. 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 4,494.8 cubic yards is allowed; a total of 345 cubic yards is proposed (182 CY fill; 163 CY cut).
7. §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 (2.7) feet.
8. 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 6/3/22 site plan shows final grading and indicates that the disturbed soil surfaces shall be permanently stabilized at the end of construction.

## Department Comments

9. **The Engineering Department submitted comments dated 7/19/22. Based on a review of the applicant's site plan dated 6/3/22, the Engineering Department states that the proposed grading depicted on the plan substantially complies with the Town of Westport Zoning Regulations, Sec. 32-8:**

Excavation and Filling of Land and is relatively minor and represents the bare minimum that would be required to construct the proposed ADU. Every other aspect of the proposed activity is subject to an administrative approval. The Engineering Department also recommends that the Commission consider including an exemption for grading associated with accessory structures from requiring a separate Excavation and Fill Permit.

10. The Conservation Department submitted comments dated 7/5/22 which indicate, "The property contains wetlands in the far northeast section of the property." On 6/1/22 the Conservation Department staff reviewed and approved the proposal for an accessory Dwelling Unit, patio, septic, and drainage system because there was no regulated activity proposed within the regulated area.
11. The Aspetuck Health Department submitted an approved application for a new house dated 5/19/22.
12. The Building Department submitted comments dated 7/11/22 stating that retaining walls over 3 feet will require a building permit.

#### Public Hearing

13. The public hearing for this application was opened with testimony received at the July 25, 2022, public hearing.
14. During the Work Session the Commission recommended staff follow up with the applicant to determine whether their playset may be legalized per CGS Sec. 8-13a or should be relocated or removed.
15. The public hearing was 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.

#### Conclusions

16. 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 2 Rodgers Way: Special Permit/Site Plan Appl. #PZ-22-00384 submitted by Bryan Nesteriak, B&B Engineering, LLC, for property owned by Rostislav & Amy Leykind, for excavation and fill activities to regrade for the construction of an Accessory Dwelling Unit, for property located in the Residence AAA District, PID#F14088000 be **GRANTED** subject to the following modifications:

#### Modifications

1. Conformance to Engineering Department comments, dated July 19, 2022.

2. Conformance to Conservation Department comments, dated July 5, 2022.
3. Conformance to Aspetuck Health District approval, dated May 19, 2022.
4. Conformance to Building Department comments, dated July 11, 2022.
5. Conformance to Excavation and Fill Narrative prepared by BYB Engineering, dated May 19, 2022.
6. Conformance to Existing-Conditions Improvement Location Survey prepared by Accurate Land Surveying, LLC, dated November 8, 2021.
7. Conformance to Proposed Site Development Plan (Sheet 1 of 2) and Construction Notes and Details (Sheet 2 of 2) prepared by B&B Engineering, last revised June 3, 2022.
8. 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.
9. 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.
10. 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 an amended Conservation Department Permit citing the updated June 3, 2022, Site Plan by B&B Engineering.
  - C. Determine if the playset in the setbacks can be legalized per CGS Sec. 8-13a. or will need to be removed or relocated out of the setbacks.
  - D. Submit proof of filing the resolution on the Land Records.
11. The replacement and/or repair of a stone wall greater than three (3) feet in height shall require the issuance of a building permit.
12. All new utilities shall be placed underground.
13. All disturbed and regraded areas shall be planted with a suitable ground cover in accordance with §32-8.4.
14. 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.
15. 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.
16. All work approved pursuant to this Special Permit/Site Plan shall be completed within five (5) years of date of approval, by July 25, 2027.

17. 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	-5-	{Olefson, Cammeyer, Zucaro, Bolton, Falk}
NAYS	-0-	
ABSTENTIONS	-0-	

Very truly yours,

Michael Cammeyer

Acting Chairman, Planning & Zoning Commission

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





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Hearing: July 25, 2022

Decision: July 25, 2022

July 26, 2022

Thomas Nelson  
McChord Engineering Assoc., Inc.  
1 Grumman Hill Road  
Wilton, CT 06897

**RE: 15 Wakeman Place, Special Permit/Site Plan, Appl. #PZ-22-00455**

Dear Mr. Nelson:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on July 25, 2022, it was moved by Mr. Olefson and seconded by Mr. Bolton to adopt the following resolution:

**RESOLUTION #PZ-22-00455**

WHEREAS, THE PLANNING AND ZONING COMMISSION met on July 25, 2022 and made the following findings:

Property Description/Background

17. 15 Wakeman Place is a 0.55-acre parcel which is conforming for the Res A zoning district in which it is located, where a minimum lot area of half (0.50) acre (21,780 SF) is required. The property is a corner lot having frontage on the curve of Wakeman Place and is proposed to be serviced by Town Sewer.
18. The property is within Coastal Area Management (CAM) Boundary but more than 200 feet away from the Mean High-Water Line (MHWL) and outside the WPLO and 100-year flood zone therefore exempt from needing a CAM Site Plan Review. There does not appear to be any wetlands or steep slopes located on site. According to the Foundation Plan prepared by Leonard Surveyors, LLC, last revised October 2, 2021, the property slopes down from approximately EL 38' in the southeast corner, down to EL 30' in the front yard depression and increases to EL 34' in the east corner.

Proposal

19. The applicant is requesting Special Permit and Site Plan approval to authorize non-exempt excavation and fill activities at 15 Wakeman Place pursuant to §32-8, Excavation and Filling of Land, listed in the Westport Zoning Regulations. The proposed work is shown on the applicant's Site Development Plan and Excavation and Fill Permit Limits Plan, both last revised on 6/27/22. The project includes regrading more than 25 feet from the proposed additions to soften the existing depression, formed by the removal of a retaining wall, for a smooth transition from the proposed basement walkout, which is not exempt per §32-8.1.2.
20. The ongoing construction consists of a two-story addition, new garage, and screened porch, as well as driveway modifications, 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, all of which is permitted under Zoning Permit #ZN-21-00266 issued on June 10, 2021.
21. 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.
22. 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.
23. 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 1,111 cubic yards is allowed; a total of 957 cubic yards is proposed (100 CY fill; 857 CY cut).
24. §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 three (3) feet.
25. 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 June 27, 2022, Excavation and Fill Permit Limits Plan show final grading and indicates that the disturbed soil surfaces shall be permanently stabilized

at the end of construction.

### Department Comments

26. The Engineering Department submitted comments dated July 19, 2022. The storm water drainage system depicted on the plans complies with Town of Westport Standards. The proposed grading as depicted on the plans substantially complies with the Town of Westport Zoning Regulation, Sec. 32-8: Excavation and Filling of Land. The project substantially complies with S&E Control requirements. The application is substantially complete and requires no further submissions.
27. The Conservation Department submitted comments dated July 12, 2022. The property contains no mapped wetlands, watercourses, or floodplain areas. Therefore, the Conservation Department/Commission holds no jurisdiction.

### Public Hearing

28. The public hearing for this application was opened with testimony received at the July 25, 2022 public hearing.
29. The public hearing was 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.

### Conclusions

30. 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 15 Wakeman Place: Special Permit/Site Plan Appl. #PZ-22-00455 submitted by Thomas Nelson, McChord Engineering Associates, Inc., for property owned by Jonathan & Margot Simmons, for excavation and fill activities to regrade outside the 25-foot limitations, for property located in the Residence A District, PID#C06074000 be **GRANTED** subject to the following modifications on file in the Planning and Zoning Office:

### Modifications

18. Conformance to Engineering Department comments, dated July 19, 2022.
19. Conformance to Conservation Department comments, dated July 12, 2022.
20. Conformance to Excavation and Fill Narrative prepared by McChord Engineering Associates, Inc., dated June 22, 2022.

21. Conformance to Site Development Plan (Sheet SE1) and Excavation and Fill Permit Limits Plan (Sheet SE2) prepared by McChord Engineering Associates, Inc., dated November 8, 2021, last revised June 27, 2022.
22. 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.
23. 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.
24. 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. Submit proof of filing the resolution on the Land Records.
25. The replacement and/or repair of a stone wall greater than three (3) feet in height shall require the issuance of a building permit.
26. All new utilities shall be placed underground.
27. All disturbed and regraded areas shall be planted with a suitable ground cover in accordance with §32-8.4.
28. 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.
29. 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.
30. All work approved pursuant to this Special Permit/Site Plan shall be completed within five (5) years of date of approval, by July 25, 2027.
31. This is a conditional approval. Each 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 to 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	-5-	{Cammeyer, Olefson, Zucaro, Bolton, Falk}
NAYS	-0-	
ABSTENTIONS	-0-	

Very truly yours,

Michael Cammeyer

Acting Chairman, Planning & Zoning Commission

cc: Ted Gill, DPW Engineering Department  
Anna Rycenga, Chairwoman, Conservation Commission



## Town of Westport

### Planning and Zoning Commission

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Hearing: July 25, 2022

Decision: July 25, 2022

July 26, 2022

Richard Redniss  
Redniss and Mead  
22 First Street  
Stamford, CT 06905

### **RE: 191 Post Road West, Special Permit/Site Plan Appl. #PZ-22-00184**

Dear Mr. Redniss:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on July 25, 2022, it was moved by Mr. Olefson and seconded by Mr. Cammeyer to adopt the following resolution:

#### **RESOLUTION #PZ-22-00184**

WHEREAS, THE PLANNING AND ZONING COMMISSION met on July 25, 2022, and made the following findings which are listed in the P&Z staff reports dated 7/20/22 and 7/22/22.

#### **FINDINGS**

##### Property Description/Background

1. 191 Post Road West is a 1.48-acre (64,418 SF) lot with frontage on Post Road West (US Route 1), connected to the public sewer, and improved with a 30,347 SF commercial building built in 1980 and currently approved for Office use.
2. The lot is wholly within the General Business District (GBD). 191 Post Road West sits predominantly behind 199 Post Road West (Schulhof Animal Hospital) and has a 25-foot access easement to use the 199 Post Road West driveway. The shared driveway is located opposite the intersection of Post Road West and Kings Highway North.
3. The office building and property are legally non-conforming to current General

Business District standards but were conforming to the applicable Business District standards in effect at the time the building was approved in 1979, pursuant to Res. #79-297.

- The existing Building Height is 36.9 feet whereas only 25 feet is currently permitted, (a maximum Building Height of 40 feet was allowed at the time).
  - The existing 0.48 Floor Area Ratio (FAR) exceeds the currently allowable 0.25, (there was NO floor area requirement for the Business District in 1979);
  - The existing building is non-conforming to setbacks. The building is set back approximately 15 feet from the rear property line that is also the residential zoning district boundary line, whereas a 30' setback is currently required to the Res A;
  - The existing parking field is partially within the 30-foot residential zoning district boundary line that would be required today but was not in effect in 1979.
4. The Boundary and Topographic Survey, submitted by the applicant and prepared by Langan dated 3/2/22 available demonstrates 121 standard size parking spaces and 2 loading spaces remain on site (123 spaces). The Zoning Analysis prepared by Redniss and Mead dated 3/16/22 identifies the 123 parking spaces are comprised of 89 surface spaces, with the remaining 34 spaces located in the parking garage.

### Proposal

5. As part of a two-step process, the applicant is seeking Special Permit/Site Plan approval for a Change of Use from Office to Medical for ALL floor area (30,347 SF) in the existing building and approval of a Parking Management Plan (PMP) and implementation of demand management strategies that include 21 valet parking spaces.
6. The first step involved the applicant drafting and the Planning and Zoning Commission approving Text Amendment #804 in January 2022, that:
- A. Modified §5-2 Definitions by adding a definition for “Parking Management Plan;”
  - B. Modified §24-6.1 Coverage Exemptions in the General Business District (GBD) to provide Building Coverage relief for canopies up to 500 SF in size in the GBD;
  - C. Added a new section §28-6.1 Coverage Exemptions in the Business Preservation District (BPD) to provide Building Coverage and setback relief for canopies up to 500 SF in size in the BPD;
  - D. Renumbered §34-4 Reduction of Parking Requirements by Special Permit, and adding new §34-4.2 to authorize use of a Parking Management Plan by Special Permit for existing office building sites that meet all of the following criteria:

- i. Are at least 25,000 SF in size;
  - ii. Have a minimum of 100 parking spaces on site; and
  - iii. Are wholly located in the GBD along the Post Road.
7. A three (3) space Reduction of Parking is also requested. Additionally, the applicant proposes to add one (1) new surface parking space, plus two (2) new grass-paver spaces.
8. Proposed building activities include a new entryway canopy, façade improvements and interior renovations. Site work includes parking lot restriping to enhance ADA building access, and potentially adding bike racks inside the garage.
9. The applicant volunteered, and the Town Engineer accepted on behalf of the Town of Westport, a \$50,000 contribution towards a new Bus Shelter at 199 Post Road West, in lieu of determining how much the applicant owed for the value added to both 191 and 199 Post Road West making improvements to the sidewalk along the street frontage on Post Road West and enhancing the driveway apron.

#### Department Comments

10. The Town Attorney in comments dated 6/22/22 confirmed:
- “Any financial support from the applicant to the Town of Westport to establish a future Bus Shelter is legal so long as the applicant is not relying upon the Bus Shelter to provide any parking relief as part of the Parking Management Plan (PMP).”*
11. Planning and Zoning staff in a memo dated 7/20/22 analyzed parking, and stated
- “The current parking demand is 121 spaces to support Office use. The proposed demand is 152 spaces to support Medical Use. The application if approved incorporating the Parking Operations with the Reduction of Parking, will support Medical use of 100% of the building. The 152 parking spaces demand will be met by the 3-space Reduction of Parking, combined with 149 physical spaces on site (21 valet spaces, 1 new space, and 2 new grass paver spaces. **Sufficient parking will be provided for the Change of Use.”***
12. Planning and Zoning staff additionally described traffic analyses completed reporting:
- “The applicant submitted expert testimony in the form of reports prepared by Carlito Holt, P.E. and PTOE, partner at DTS Provident Design Engineering including correspondence dated 3/11/22, 4/27/22 5/13/22 and 7/14/22 The conclusion reached by Mr. Holt identify: The proposed project will not result in any significant incremental*



*traffic impacts to the studied intersection, surrounding roadway network, or the Kings Highway School."*

The applicant's traffic engineer did not make any recommendations for mitigation.

13. Police Dept. staff, following their review of the applicant's traffic analysis, concluded in their comments dated 4/12/22:

*"The Police Department has reviewed the attached documentation for 191 Post Road West, Application #PZ-22-00184. I do not see a significant increase in traffic compared to prior or current usage. We have no other comments as this time."*

14. The Fire Marshal in comments dated 6/22/22 concluded:

*"This Office has no objections to the special permit or site plans at 191 Post Rd West."*

15. The Architectural Review Board recommend approval of the project at their 3/22/22 meeting.

### Public Hearing

16. The public hearing for this application was opened with testimony received at the July 25, 2022, public hearing.
17. The public hearing was 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.

**NOW THEREFORE, BE IT RESOLVED** that **191 Post Road West:** Special Permit/Site Plan Appl. #PZ-22-00184 submitted by Rick Redniss, for property owned by 191 POST PROPERTY OWNER LLC for approval of a Parking Management Plan to support a Change of Use to medical office and for site improvements including a new entrance canopy, building façade modifications, and parking lot modifications, for property located in the General Business District, PID#C08041000 is **GRANTED** subject to the following modifications:

### Modifications

1. Conformance to Proposed Site Plan, prepared by Redniss and Mead, dated 3/15/22.
2. Existing and Proposed Building Plans, prepared by CPG Architects, dated 3/2/22
3. Conformance to the Parking Management Plan – Medical Office, prepared by Redniss and Mead, dated 3/18/22 to be further revised to conform to the following zoning standard:

*"The PMP shall include a schedule for reporting to the Commission and staff the onsite parking utilization, beginning any time before the site's total calculated parking*

*demand per §34-4 can exceed its self-parking capacity and continuing at least annually thereafter. Reports shall be prepared by a licensed engineer, certified planning professional, or similar professional, and the Commission shall have the ability for its own consultant to review the report. PMPs shall also identify the mechanism(s) for resolving parking issues that may arise, which may be unique to each site."*

4. Conformance to plans recommended for approval by the Architectural Review Board.
5. Conformance to 191 Post Road West Zoning Analysis Chart, prepared by Redniss and Mead, dated 3/16/22.
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 Zoning Permit, the applicant shall submit the following:
  - A. Proof of filing the resolution on the Land Records.
  - B. Proof of filing the Parking Management Plan (PMP) on the land records once revised pursuant to Condition #3 above.
  - C. Final Signoff from DPW Engineering confirming no drainage structures needed.
  - D. A bond pursuant to §43-12, if applicable, to ensure (A) the timely and adequate completion of any site improvements that will be conveyed to or controlled by the municipality and (B) the implementation of any erosion and sediment controls required during construction activities.
9. The replacement and/or repair of a stone wall greater than three (3) 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, or within 30 days from a request from the Town of Westport, the applicant shall:
  - A. Make a \$50,000 contribution to the Town of Westport to help facilitate the construction of a Bus Shelter and reconstruction of the sidewalk and driveway apron at 199 Post Road West, as offered by the applicant; and
  - B. Submit a final as-built survey.
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 25, 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 to the maximum allowed by statute; and/or 4) enforcement action through a judicial proceeding.

**Reasons:**

The application as modified 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	-3-	{Olefson, Cammeyer, Falk}
NAYS	-2-	{ Zucaro, Bolton}
ABSTENTIONS	-0-	

Very truly yours,

Michael Cammeyer

Acting Chairman, Planning & Zoning Commission

- cc: Ted Gill, DPW Engineering Department
- Anna Rycenga, Conservation Commission Chair
- Mark Cooper, Aspetuck Health District Director
- Carlito Holt, P.E. and PTOE, partner at DTS Provident Design Engineering
- Paul Friia, Tax Assessor
- Anna Rycenga, Conservation Commission Chair