



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

The November 16, 2022 Public Hearing of the Westport Conservation Commission was called to order at 7:00 p.m. in the Auditorium of the Westport Town Hall.

ATTENDANCE

Commission Members:

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

Staff Members:

Colin Kelly, Conservation Director
Andrew Hally, 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 November 16, 2022 Public Hearing of the Westport Conservation Commission pursuant to Section 1-225 of the Freedom of Information Act.

Colin Kelly
Conservation Director

Changes or Additions to the Agenda: None

All members of the Commission visited the sites in preparation for the hearing.

Public Hearing: 7:00 p.m.

1. **9 Green Acre Lane:** Application #IWW/M-11632-22 by B&B Engineering on behalf of Jessica & Jonathan Manela to amend wetland boundary map #D07.

Bryan Nesteriak, PE presented the application on behalf of the property owners. He discussed the land swap with the Aspetuck Land Trust, which resulted in a larger wetlands areas but took the walking trail for the land trust's property off his client's property. Aleksandra Moch flagged the property for the owners. He noted that the flagging is very close to what is shown on the Town's GIS system.

Mr. Kelly stated Mary Jaehnig reviewed Ms. Moch's wetland flagging for the Town on October 31, 2022. Her letter of November 6, 2022 indicates that she substantially agrees with the line flagged by Ms. Moch. He indicated that staff recommends adoption of the flagged wetland line.

There were no questions from the Commission.

Ms. Rycenga asked for public comment and there was none.

Motion to close the Public Hearing.

Motion:	Carey	Second:	Lewy
Ayes:	Carey, Lewy, Bancroft, Davis, Rycenga		
Nays:	None	Abstentions:	None
		Vote:	5:0:0

Findings

**Application #IWW/M 11632-22
9 Green Acre Lane
Assessor's Map: D07 Tax Lot: 059
Public Hearing: November 16, 2022**

1. **Application Request:** The applicant, Bryan Nesteriak, B+B Engineering, LLC, on behalf of Jessica & Jonathan Manela, is requesting to amend wetland map # D07 on Lot #059.
2. **Soil Scientist for Applicant:** Aleksandra Moch, Soil & Wetland Scientist
3. **Soil Scientist for Town of Westport:** Mary Jaehnig, Pfizer-Jaehnig Soils, LLC
4. **Plans reviewed:**

"Plot Plan, prepared for Jessica & Jonathon Manela, 9 Green Acre Lane, Westport, Connecticut", prepared by Leonard Surveyors, LLC, dated March 3, 2021, and last revised to August 1, 2022, scale 1" = 40'.

5. **Wetlands Description:**

"Wetland Delineation, 9 Green Acre Lane, Westport, Connecticut" - prepared by Aleksandra Moch, Soil & Wetland Scientist, dated May 20, 2019.

6. **Wetland soils** found on the property:

Leicester fine sandy loam (4): This soil occurs on upland drainageways and depression landforms. The parent material consists of melt-out till derived from granite, schist, and gneiss. The drainage class is poorly drained. This Leicester soil has a seasonal high water table at a depth of about 6 inches from fall until late spring. Most areas of this soil are wooded. The seasonal high water table limits this soil for community development; sites for on-site septic systems commonly need extensive filling and require special design and installation. Where suitable outlets are available, footing drains help prevent wet basements. Even when drained, the soil remains wet for several days after heavy rains. Wetness makes this soil poorly suited for trees. The shallow rooting depth to the seasonal high water table causes the uprooting of many trees during windy periods.

7. **Non-wetland** soils were identified as:
Hollis-Chatfield-Rock outcrop complex (75C) - This component occurs on upland hill and ridge landforms. The parent material consists of melt-out till derived from schist, granite, and gneiss. The slope ranges from 3 to 15 percent and the runoff class is low. The depth to a restrictive feature is 10 to 20 inches to bedrock or 20 to 40 inches to bedrock. The drainage class is somewhat excessively drained to well drained. The USDA NRCS Web Soil Survey list this soil type as somewhat limited for houses due to the depth of bedrock.
8. **Past Permits:**
 - a. **AA-WPL/E-7559-06** Addition and Alterations within the existing footprint
 - b. **AA-WPL/E-10980-20** Emergency Septic Repair
9. **Property Description and Facts Relative to the Map Amendment Application:**
 - a. The existing house was built in 1982 and remodeled in 2005. It is served by septic system.
 - b. The property is 1.001 acres (43,605 sq. ft.) in size; located in Residential Zone AA.
 - c. The parcel is located within the Pussy Willow Brook Watershed. Pussy Willow Brook watercourse is located offsite, ~1,000' to the east. The wetlands onsite are associated with an unnamed tributary to the Brook.
 - d. This property **is not** located within a flood zone.
 - e. The property **is not 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. It is shown on the survey.
 - h. The flagged wetland area is **11,303 sq. ft.** as determined by the plan by Leonard Surveyors, March 3, 2021, and last revised to August 1, 2022. The Town of Westport G.I.S. Map indicates wetlands measuring **~12,696 sq. ft.** The proposed amendment represents a decrease of **~1,393 sq. ft. of wetland area.**

10. Discussion:

The applicant submitted soils reports by Aleksandra Moch, dated May 20, 2019. This documents Ms. Moch's investigation of the soils on the site. Wetland soils were found on the site identified as Leicester fine sandy loam (4). Ms. Moch states *"The area flagged in the field consists of a narrow wetland/watercourse corridor which runs along the eastern property line. The Area is wooded and bisected by a perennial stream which flows from a neighboring pond located to the north."*

The sketch maps provided with the report from May 20, 2019, identifies the location of the wetland boundary. These locations are reflected as WF#1 through WF#10 and WF#11 through WF#16 as shown on the "Plot Plan, prepared for Jessica & Jonathon Manela, 9 Green Acre Lane, Westport, Connecticut", prepared by Leonard Surveyors, LLC, dated March 3, 2021, and last revised to August 1, 2022, scale 1" = 40'

The Town of Westport retained the services of Mary Jaehnig, Pfizer-Jaehnig Soils, LLC. to review the proposed wetland boundary findings. Ms. Jaehnig conducted an on-site investigation on October 31, 2022. Ms. Jaehnig submitted a letter, dated November 6, 2022, stating the general agreement with Ms. Moch's report.

The Commission finds that the new wetland line shall be adopted, based on the findings of the two concurring soils scientists.

Resolution
Application #IWW/M 11632-22
9 Green Acre Lane
Assessor's Map: D07 Tax Lot: 059
Public Hearing: November 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-11632-22**, by Bryan Nesteriak, B+B Engineering, LLC, on behalf of Jessica & Jonathan Manela, to amend wetland map #D07 on Lot #059 on the property located at 9 Green Acre Lane with the following conditions:

1. Conformance to the plans titled:

"Plot Plan, prepared for Jessica & Jonathon Manela, 9 Green Acre Lane, Westport, Connecticut", prepared by Leonard Surveyors, LLC, dated March 3, 2021, and last revised to August 1, 2022, scale 1" = 40'.

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: Carey
Ayes: Bancroft, Carey, Rycenga, Davis, Lewi
Nays: 0 Abstentions: 0 Votes: 5:0:0

2. **105 Harbor Road:** Application #WPL-11630-22 by Cindy Tyminski, Moon Gardens LLC on behalf of William Henry & Katharine Diana Weber to construct a new single family residence, with an elevated covered patio, pervious driveway, drainage structures, and associated site improvements. Work is within the WPLO area of the Saugatuck River.

Cindy Tyminski presented the application for a new FEMA compliant single family residence on behalf of the property owners. She reviewed a PowerPoint presentation, which oriented the Commission to the property. The property is located near shellfish resources and in the CAM zone. The existing residence is not FEMA compliant and has no drainage. The lot size is 8,300 s.f. The proposed residence will be FEMA compliant with grassed paver patios and 2 detention galleries. They are proposing to remove all the pea gravel on the site. The driveway, walkways and patios will be permeable. They are proposing a landscape buffer. The mechanicals will be FEMA compliant and will be located on the roof. The dock was reviewed and approved in 2013 and is to remain. They have been to ZBA for approvals but will need a modification as the plans have changes for the front stairs. They have Flood and Erosion Control Board approval. They will need CAM Site Plan approval.

The Commission and Ms. Tyminski discussed the groundwater level and drainage. They discussed the elevator and the mechanicals. It was clarified that the staging area would be located at the front of the property in the driveway area. Demolition materials would likely have to be removed daily due to the size of the property. Ms. Tyminski agreed to submit a construction sequence.

Mr. Kelly noted that the detention basins are only 12-inches deep. He does not believe there is any issue with hitting groundwater unless they were put below elevation 5.3. He noted that this property is over 25% coverage, which is the standard at which water quality becomes impaired. The application includes a pervious driveway and walkway, which will allow the water to percolate into the soil. These low impact development features should remain on the land records in perpetuity. He also requested that the plantings be covered by a planting bond for a full growing season.

Ms. Rycenga suggested that a foundation as-built survey was warranted in this case. Other members of the Commission agreed.

Members of the Commission noted that the silt fence around the stockpile area must be maintained and potentially backed by haybales.

Ms. Rycenga asked for public comment and there were none.

Ms. Tyminski agreed to the added conditions discussed at the hearing including a planting bond, a construction sequence be submitted and submission of an as-built survey.

permeable driveway. The proposed rear of the residence does not include a patio but does include raised grassed areas retained by 24" tall landscape walls.

The "Drainage Computations" report by Chappa Site Consulting states that the system will collect the stormwater runoff from the 25-year storm event and will be able to store the first inch of runoff from the impervious areas of the site. The proposed drainage size exceeds the volume of water necessary to accommodate the Water Quality Volume (WQV). In addition, the applicant proposes a permeable driveway which will have its own reservoir for stormwater

7. Previous Permits issued:

- WPL 9016-12: New gangway and floating dock from existing pier.

- 8.** The Flood and Erosion Control Board reviewed and approved this application on November 2, 2022. The drainage proposal is acceptable to the Engineering Department.

9. Discussion:

The WPL Ordinance requires that the Conservation Commission consider the following when reviewing an application:

" An 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 ecosystems 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 Commission finds that the entire property lies within the WPLO boundary. The application proposes to construct a new residence to be FEMA compliant with a pervious walkway and driveway. The proposed residence and driveway will be located in the same general location as the existing features.

The tidal wetlands onsite were reviewed by Aleksandra Moch, Soil & Wetland Scientist on February 12, 2022, and field located by Walter Skidd. The tidal wetland area lies to the east of the concrete pier projecting into the Saugatuck River, as indicated on the plans.

The Commission finds that the house will be built to conform to FEMA standards with the first habitable floor (el.15.0') constructed above the 100-year base flood elevation (el. 13'). Grade level of the proposed residence includes a garage and a crawl space with flood vents. The garage is proposed at elevation 8.5', and the survey shows the surrounding existing average grade as 8.0'. Flood vents are proposed to meet FEMA requirements and should be verified by the Engineering Department or Planning & Zoning Department.

A new foundation is proposed with two elevated areas to access the front and rear entries to the residence. The Commissions find that the applicant shall provide a foundation as-built survey to the Conservation prior to continuing with house construction. A pervious walkway leading from the driveway to the front entry surrounded by a ~24" tall landscaping wall. The rear entry will have a similar 24" tall landscaping wall with a raised lawn area and no formal walkway shown. The site grading is adjusted for these features and shows the average grade around the house to change, from 8.1' to 9.2'. The "Site Plan" states the proposed fill amount is 350 cubic yards. Due to the relative small size of the property, the Commission requests a construction sequence plan be submitted to Conservation Staff for review.

In addition, an elevator is proposed to service the residence. The Commission finds that the elevator shall have all essential mechanicals placed above the flood zone to meet FEMA requirements. The Commission does not anticipate encountering groundwater and does not think dewatering for the relatively small excavation will be a problem.

The site will connect to existing gas service in Harbor Road. Water, sewer, and electricity/utility will be installed below grade. An existing masonry wall will remain along the southern boundary. The

existing wall and fence along the property lines will remain as is. The sea wall and concrete pier are proposed to remain as is.

The Commission finds that the potential for the proposed project to have an adverse impact on the preservation of natural resources and the ecosystem of the adjacent waterways should focus on stormwater quality impacts and percentage of impervious area. Proposed site coverage is to be **38.41%** which is above the 10-25% cover that will impact water quality. It should be noted that total coverage onsite is proposed to be decreased by **10.61%** or **858.5 sq. ft.** The 2004 Connecticut Stormwater Manual provides research that water quality experiences degradation when coverage in a watershed exceeds 10%. As the Saugatuck River Watershed/Saugatuck Shores is densely developed, the coverage exceeds the percentage in which water quality can be assumed to be impacted.

The Commission finds that the applicant provides a dense landscape planting along the rear of the site, near the seawall, to create a vegetation buffer. This buffer provides limited water quality treatment for sheet flow runoff from stormwater. It will also separate the portions of the manicured yard from the tidal resource (i.e., the river). These plants consist of native non-invasive shrubs, perennials, and grasses. Other portions of the yard are proposed with plantings to function more for aesthetic purposes along the foundation. The Weeping Beech tree in the front yard is proposed for removal. Two (2) Serviceberry trees, 10-12', are proposed along the front property line. The Commission finds that the applicant shall submit a performance bond prior to the issuance of a Zoning Permit, to cover the cost of proposed buffer plantings and replacement trees.

The Commission finds that the stormwater runoff associated with the residence are directed by roof leaders to two separate storage areas consisting of 12" concrete storm water galleries to function as the underground detention systems. In addition, the driveway will be constructed as pervious and contain its own storage reservoir beneath the gravel layer. The rest of the site topography of the site is relatively flat with no concentrated stormwater runoff areas noted. Sediment and erosion controls are shown on the plan surrounding the proposed work area. Construction access will be through the existing driveway and a material stockpile is proposed in the southeastern corner of the site. The applicant provided drainage to treat the first inch of runoff from the impervious areas proposed onsite, which is considered the Water Quality Volume (WQV). A permeable driveway has been proposed with this application. A "Typical Gravel Driveway" detail is included on the "Site Plan." The existing rear patio behind the residence is proposed to be removed and replace with raised lawn areas which, by their nature will be a permeable design. The Commission finds that this design along with the permeable driveway are considered a Best Management Practice (BMP) when dealing with impervious coverage onsite. This design would allow for an opportunity to reduce the amount of stormwater runoff from as much impervious surfaces as practical onsite. The Commission finds that the design engineer shall witness and certify the construction of the permeable driveway and walkway; and submit said certification to the Conservation Department prior to the issuance of a Conservation Certificate of Compliance. The Commission finds that the proposed driveway and any walkways shall be constructed as permeable and remain so in perpetuity. This would ensure that the benefit provided by the permeable areas and driveway remain in the future.

**Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application #WPL-11630-22
105 Harbor Road
Assessor's Map: B02 Tax Lot: 140
Public Hearing: November 16, 2022**

Project Description: To construct a new single-family residence, with an elevated covered patio, pervious driveway, drainage structures, and associated site improvements. Work is within the WPLO area of the Saugatuck River.

Owner of Record: William & Katharine Weber
Applicant: Cindy Tyminski of Moon Gardens, LLC.

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-11630-22** 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. 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.
12. 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.
13. Any on-site dumpster shall be covered at the end of each workday to prevent debris/litter from inadvertently entering surrounding wetlands and/or watercourses.
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 conditions of the Flood and Erosion Control Board of **November 2, 2022**.

SPECIAL CONDITIONS OF APPROVAL

16. Conformance to the plans entitled:
 - a) **"Zoning/Location Survey**, Map of Property, prepared for William Henry Weber & Katharine Diana Weber, 105 Harbor Road, Westport, Connecticut", prepared by Walter H Skidd, Land Surveyor, LLC, Dated: February 12, 2022, Scale 1" = 20'.
 - b) **"Site Plan, Details & Notes**, William & Katharine Weber 105 Harbor Road, Westport, CT", prepared by Chappa Site Consulting, LLC, dated July 11, 2022, and last revised to November 1, 2022, Scale: as noted.
 - c) **"Conservation & CAM Landscape Plan**, for Katherine & William Weber 105 Harbor Road, Westport, CT", prepared by Moon Gardens Designs Consulting, LLC, dated October 10, 2022, and last revised to November 1, 2022, Scale: 1"=10'.
 - d) **Architecturals** – "New Single Family Home, Weber Residence, 105 Harbor Road, Westport, CT 06880", prepared by Tanner White Architects, dated October 12, 2022, Scale: As Noted, 13 pages (T-1 through A-304).

Motion: Rycenga Second: Davis
Ayes: Rycenga, Davis, Bancroft, Carey, Lewy
Nays: None Abstentions: None Vote: 5:0:0

4. Approval of October 19, 2022 minutes.

The October 19, 2022 minutes were approved as submitted.

Motion: Lewy Second: Carey
Ayes: Lewy, Carey, Bancroft, Davis, Rycenga
Nays: None Abstentions: None Vote: 5:0:0

5. Update on Leaf Blower Ordinance

Mr. Kelly reported there are no updates on the leaf blower ordinance. The ordinance is not scheduled on the RTM's December meeting, so January is the next possible date for discussion.

6. Other business

- a. Update on Flood Board's community discussions on flooding conditions.

Mr. Kelly discussed the Flood Board meeting to discuss stream improvements and flooding issues. There was a meeting on November 10, 2022 regarding Indian River. Next meetings include:

<i>Date</i>	<i>Topic</i>	<i>Room</i>
11-17-2022	Silver Brook & Willow Brook	201
12-01-2022	Muddy Brook	Auditorium
12-15-2022	Pussy Willow Brook	Auditorium
01-12-2023	Sasco Creek & New Creek	Auditorium
01-19-2023	Dead Man's Brook	Auditorium
01-26-2023	Stony Brook & Poplar Plains Brook	Auditorium

These meetings are to be educational and provide an opportunity for public input.

The November 16, 2022 Public Hearing of the Westport Conservation Commission adjourned at 7:57 p.m.

Motion: Carey Second: Davis
Ayes: Carey, Davis, Bancroft, Lewy, Rycenga
Nays: None Abstentions: None Vote: 5:0:0