MINUTES
WESTPORT CONSERVATION COMMISSION
MAY 21, 2014

The May 21, 2014 of the Westport Conservation Commission was called to order at 7:00 p.m. in Room 201/201A of the Westport Town Hall.

ATTENDANCE

Commission Members:

Pat Shea, Esq., Acting Chair
Anna Rycenga, Secretary
Robert Corroon
Paul Davis
Ralph Field, Alternate
John Washburn

Staff Members:

Alicia Mozian, Conservation Department Director
Lynne Krynicki, Conservation Analyst

This is to certify that these minutes and resolutions were filed with the Westport Town Clerk within 7 days of the May 21, 2014 Public Hearing of the Westport Conservation Commission pursuant to Section 1-225 of the Freedom of Information Act.

_____
Alicia Mozian
Conservation Department Director

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.

Work Session I: **7:00 p.m., Room 201/201A**

1. Receipt of Applications

Ms. Mozian stated there was one application to be received.

10 Pond Edge Road: Application #IWW,WPL-9789-14 by Richard Benson of RB Benson & Co. for demolition of an existing house, build a new single family residence with new foundation essentially over the same footprint and expand over old driveway. Portions of the work are with the upland review area setback and the WPLO area of the Sherwood Mill Pond.

Motion to receive 10 Pond Edge Road and open on the June 18, 2014 public hearing agenda.

Motion: Shea Second: Rycenga
Ayes: Shea, Rycenga, Corroon, Davis, Field, Washburn
Nayes: None Abstentions: None Vote: 5:0:0

2. Report by Colin Kelly, Conservation Compliance Officer on the status of existing enforcement activity.

Ms. Mozian reviewed a report from Colin Kelly, Conservation Compliance Officer, about the status of existing enforcement activity. The report included that there were 4 violations issued, 4 violations removed and 17 complaints since January 15, 2014.

3. 40 Harbor Road: Request for bond release held for plantings as required by Permit #WPL-8976-11.

Ms. Mozian reviewed a request for bond release held for raingarden plantings as required by Permit #WPL-8976-11. She stated staff has inspected the plantings and they are thriving after a full growing season.

Motion to release the $2,645.95 bond held for plantings.

Motion: Shea Second: Washburn
Ayes: Shea, Washburn, Davis, Field, Rycenga
Nayes: None Abstentions: None Vote: 5:0:0

Mr. Corroon arrived at 7:15 p.m.

4. 74 Bulkley Avenue North: Request for bond release held for plantings as required by Permit #IWW,WPL/E-8833-11.

a. Ms. Mozian reviewed a bond release request for the wetland buffer plantings held as required by Permit #IWW,WPL-8833-11. She stated staff has inspected the plantings and they are thriving after a full growing season.

Motion to release the $3,457.83 bond held for plantings.

Motion: Shea Second: Rycenga
Ayes: Shea, Rycenga, Corroon, Davis, Field, Washburn
Nayes: None Abstentions: None Vote: 6:0:0

b. Ms. Mozian presented a second bond release request in the amount of $2,614.51. This was posted to cover the cost of replacement trees.

Motion to release the bond held for plantings.

Motion: Shea Second: Davis
Ayes: Shea, Davis, Corroon, Field, Rycenga, Washburn
Nayes: None Abstentions: None Vote: 6:0:0

5. 117 Harbor Road: Request for bond release held for planting as required by Permit #WPL-8859-11.

Ms. Krynicki reviewed a request for bond release for plantings held as required by Permit #WPL-8859-11. She stated staff has inspected the plantings and they are thriving after a full growing season.

Motion to release the $4,211 bond held for plantings.

Motion: Shea Second: Rycenga
Ayes: Shea, Rycenga, Corroon, Davis, Field, Washburn
Nayes: None Abstentions: None Vote: 6:0:0

6. 2 Harbor Hill Rd.: Request for bond release held for plantings required in response to a violation of conditions of Permit AA, WPL/E-9225-12. Request for issuance of an administrative approval for replacement and relocation of existing fence with a stonewall/fence within the WPLO.

Ms. Krynicki reviewed a request for bond release held for plantings as required in response to a violation. She stated the plantings have been inspected by staff and have been thriving for a full growing season.

Motion to release the $6,312.57 bond held for plantings.

Motion: Shea Second: Rycenga
Ayes: Shea, Rycenga, Corroon, Davis, Field, Washburn
Nayes: None Abstentions: None Vote: 6:0:0

Ms. Krynicki reviewed a request for staff to issue a WPLO exemption for the replacement and relocation of an existing fence with a stonewall and fence within the WPLO along Compo Road South. She stated the Town Engineer has reviewed the proposal and agrees that it can be given a WPLO exemption. The wall must be outside the town right-of-way.

Mr. Davis noted that the water drains into the area from both directions. Therefore, the wall should be built in sections or include openings to allow the free flow of water.

Motion to allow staff to issue a WPLO exemption for the relocation and replacement of a fence with a stonewall and fence.

Motion: Shea Second: Rycenga
Ayes: Shea, Rycenga, Corroon, Davis, Field, Washburn
Nayes: None Abstentions: None Vote: 6:0:0

7. 144 Newtown Turnpike: Revised request for issuance of an administrative approval to rebuild a detached garage in the 30-foot upland review area.

Ms. Krynicki reviewed a revised request for staff to issue an administrative approval to rebuild a detached garage in the 30-foot upland review area. The Commission had previously approved the staff to issue an administrative approval to rebuild the garage within the 30-foot upland review area with conditions that included the rear shed had to be removed. The owner would like instead to

square off the building, which would make it 17 feet from the wetland. The wetland was flagged by a soil scientist and revealed that the wetland is larger than is shown on the Town's wetland map. She stated there is no feasible and prudent alternative to the garage location. She stated the staff is supportive of the request but with remaining conditions placed by the Commission.

Motion to deny the request for administrative approval to rebuild a detached garage in the 30-foot upland review area. The applicant may file an application for a public hearing.

Motion: Rycenga Second: Corroon
Ayes: Rycenga, Corroon, Davis, Field, Shea, Washburn
Nayes: None Abstentions: None Vote: 6:0:0

8. **31 Stony Brook Road:** Request by owner to allow construction of a shed within the 30-foot upland review area.

Ms. Mozian reviewed a request for an administrative approval for the construction of a shed within the 30-foot upland review area. The temporary shed is required for site remediation work. Staff would authorize the work given the emergency situation; however, once the work is complete, which could take years, the owner would like to then have the shed remain in that location for storage purposes. Staff supports the proposal as the site will already be disturbed so much. She indicated that gravel will be required around the drip edge for drainage. The property is on sewer.

Motion to allow staff to issue an administrative approval for the construction of a shed within the 30-foot upland review area.

Motion: Shea Second: Rycenga
Ayes: Shea, Rycenga, Corroon, Davis, Field, Washburn
Nayes: None Abstentions: None Vote: 6:0:0

Motion to close Work Session I and move into the Public Hearing.

Motion:

<u>Public Hearing:</u> 7:30 p.m., Room 201/201A.

1. **45 Owenoke Park:** Application #WPL-9762-14 by Barr Associates, LLC on behalf of Surfside Partners LLC for a new house, pool, shed and patio with modified driveway and new site drainage. Work is within the WPLO area of Gray's Creek.

Mel Barr presented the application on behalf of the property owners. There is an existing house and garage on site with no drainage. They propose to replace the house and garage with a new house, driveway, pool and drainage. The house will be FEMA compliant. The current driveway will be reduced by 700 s.f. but will be impermeable. The existing patio is impermeable. They are proposing this to remain and only the new patio will be permeable. He stated that in response to the staff report, additional biofiltration is possible and he supported the recommendation for a planting buffer along the road.

Ms. Krynicki stated that stormwater flow is toward the front of the property or Gray's Creek. They are proposing grasses because they take up nitrogen. A pool is also proposed. Staff is asking for a vegetative buffer between the pool and the tidal area; therefore the buffer along the road will also serve this purpose. She also suggested a bioretention area in the front of the house for driveway runoff.

Mr. Barr stated there is a natural depression in the front yard that will work on the east side but may not work on the west side of the property. They will have to look into it.

Ms. Krynicki noted the driveway is proposed to be asphalt and that biofiltration is needed for water quality.

Mr. Barr stated the size of the existing asphalt driveway is being reduced. An asphalt driveway is easier to maintain. He added that he feels confident in providing biofiltration on the eastern side of the property but is not sure with the western. He needs to talk with the engineer to work on that. He asked that they be allowed to work with staff on the revised plans to incorporate biofiltration.

Ms. Krynicki asked about the fuel source.

John Fifield, AIA, stated there is currently an oil tank in the basement. The proposed will be a ground source heat pump and an inground propane tank.

Mr. Davis asked if the patio next to the seawall could be picked up and replaced with a cobble strip that aligns the rest of the seawall.

Mr. Barr stated it could not as there are pipes underneath it. He added that the Flood and Erosion Control Board approved the proposal with additional sediment and erosion controls in the front.

With no comment from the public, the hearing was closed.

Motion: Shea Second: Rycenga
Ayes: Shea, Rycenga, Corroon, Davis, Field, Washburn
Nayes: None Abstentions: None Vote: 6:0:0

Findings
45 Owenoke Park
#WPL 9762-14

1. **Application Request:** The Applicant is requesting to remove an existing dwelling (approx. 2663 square feet footprint area), and a detached garage and construct a new dwelling with a proposed footprint of 4624 square feet to include an attached garage, an in ground swimming pool and patio and relocated drive.

   The entire site lies within the WPLO. The 100 year floodplains of both - Zone VE 14.0' and AE El. 13.0' are on the property. The property is served by municipal water and sewer.

   The entire parcel lies within the WPLO boundary.

   The existing roadway encroaches 788 s.f. on to the lot and is counted as coverage. If the roadway encroachment is subtracted from the proposed lot coverage, then the proposed lot coverage will be less then the allowable 25% lot coverage.

   Total lot area is 32,675 sq. ft or .75 acres.
2. Plans reviewed:
   a) *Map of Property;* Prepared for Andrew and Carol Boas, 45 Owenoke Park, Westport, Connecticut, Scale: 1"=20'-0", dated January 8, 2014, prepared by Dennis A. Deilus- Land Surveyors.
   b) Architectural design drawings, Boas Residence, (9 sheets); dated April 10, 2014; and prepared by Fifield, Pieker, Elman Architects, PC.
   c) *Site Plan, Details & Notes*, prepared for Andrew and Carol Boas, 45 Owenoke Park, Westport, CT, Scale: 1"= 20', dated April 2, 2014, prepared by Chappa and Paolini.
   d) Drainage Computations prepared by Chappa *and* Paolini; dated April 2, 2014.
3. **Facts Relative to this application:**
   a) **Permits and Applications:** WPL/E 7259-04 Enclose a covered patio

b) **Inland Wetlands and Watercourses:** No inland wetlands or watercourses are located at the site.
c) **Physical and Chemical Properties of the Soil:** The on-site soils are identified as Hinckley gravelly sandy loam. At a depth of 10" and greater, the permeability is very rapid. Permeability is the rate at which water can pass through a soil horizon.
    a. This soil type is unstable, thus limiting excavations. Quickly establishing plant cover, mulching and using siltation basins can help to control erosion.
d) **Aquifer Protection Zone:** The property is not located within the Aquifer Protection Zone, but is located within the aquifer recharge area defined as fine-grained stratified drift.
e) **Coastal Area Management Zone:** The project is located within the Coastal Area Management Zone. The coastal resources are "Coastal Flood Hazard Area", "Tidal Wetlands", "Nearshore Waters", and "Shellfish Areas".
f) **Sewage Disposal:** The property is serviced by a public sanitary sewer.

4. 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.

Discussion:

The subject property is located on the south side of Owenoke Park. The southern boundary of the property is Long Island Sound but within the channel of the Saugatuck River. A seawall identifies the southern boundary of the parcel. The original structure was constructed in 1920.

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 primarily is limited to construction of the residence to comply with FEMA plus 1' of free board, nutrient loading and storm water quality impacts from the generated runoff.

Adjacent to the property and immediately north of the existing travel way of Owenoke Park is Grey's Creek (a tidal watercourse and wetland) and a flanking tidal wetland area. Based on the topographical aspects of this parcel, storm water runoff from the proposed project will flow in a northerly direction towards this tidal wetland area and Grey's Creek.

The site soils have formed primarily in glacial meltwater sediments of sand and gravel and have extremely rapid permeability. This combined with a very shallow subsoil contribute to a limited potential for pollution renovation.

The majority of the storm water runoff will be naturally directed in a northerly direction. The Commission finds it would prove most beneficial to direct the focus of attention to nutrient removal and renovation at the northern property boundary.

The Commission finds a vegetated border is to be planted along the northerly property line. This has a three fold purpose of 1: slowing runoff velocity, 2: reducing runoff volume, and 3: nutrient uptake.

High levels of nutrients in surface waters promote the rapid growth of algae in rivers, lakes and estuaries. The presence of large quantities of algae reduces the amount of light which penetrates beneath the water surface potentially causing the death of aquatic plants which are essential to fish communities for breeding habitat, cover and as a food source. When the algae begin to decompose, dissolved oxygen which is critical for the survival of aquatic fauna is depleted from the water.

Buffer zones have the potential to stop this destructive cycle from occurring by preventing the primary nutrients (nitrogen and phosphorus) causing the algal growth from ever entering surface waters. The

two main mechanism of nitrogen retention by buffer zones is vegetative uptake and bacterial denitrification.

Nutrient removal is well documented during the summer months, however, dormant or dead plants provide less uptake of water and nutrients during the winter months and conditions are less favorable to denitrification. Nitrogen is of most concern for this project as this is the limiting nutrient in a salt water environment.

Although vegetation has a limited role in nutrient uptake in the winter, an above ground vegetative biomass can contribute carbon to the soil microbiological community that is primarily responsible for nitrate renovation from the soil in the non-growing season. The greater the surface biomass, the greater the available carbon source. (Haycock and Pinay 1993).

Taking these factors into consideration, the Commission finds a planting buffer of herbaceous native grasses (mowed only several times per year) in conjunction with a shallow swale will contribute to retention of flows from the smaller more frequent storm events and allow for infiltration and nutrient removal to occur.

The Commission finds the perimeter silt fence proposed for use during construction should provide adequate protection if it is properly maintained. The Flood and Erosion Control Board at their hearing dated May 7, 2014 required additional protection along the front property line.

Subsurface infiltration structures are proposed to mitigate potential stormwater quality impacts. According to the submitted runoff computations, these structures have been sized to capture and infiltrate one inch of runoff. The one-inch sizing criteria is appropriate and in accordance with the Connecticut Stormwater Quality Manual (2004).

The Commission finds the distribution of roof and driveway runoff initially be to surface swales for optimum nutrient removal as the discharge to a biologically active zone in the soil is required for nutrient renovation and the existing and naturally occurring soils on site have a limited ability for nutrient removal. A yard drain in the swale will connect to the galleries to accommodate the flows from larger storm events.

It is recommended that the chemicals for the proposed in-ground swimming pool be stored above the 100 year flood elevation.

Standard Conditions of Approval for <u>swimming pools</u> proposed near wetlands and watercourses are as follows:

a) The pool is to be serviced by a diatomaceous earth, sand/cartridge or some other kind of re-circulating, closed filter system.
b) Pool chemicals should be stored in an enclosed container in an enclosed area preferably above the 100 year flood elevation.
c) When pools are proposed in an area that abuts a waterway or wetland, a vegetated buffer is to be maintained between the pool and the waterway or wetland.
d) Alternative use of chlorine for sanitation should be sought from the pool company. These include: salt chlorine generators, ozonators, ionizers, or mineral purifiers.
e) Pools should be covered over the winter or when they will not be in use for extended periods of time (three (3) or more months).
f) When discharging pool water at the end of the season for winterization, no direct discharge to a watercourse or wetland is allowed; a 50ft separating distance with some kind of energy dissipation at end of hose is required.
g) The pool water to be discharged shall have a pH between 6.5 and 8.5. The chlorine level shall be less than 0.1 mg/l and not cause foaming or discoloration of the receiving waters.

The applicant has indicated all new patio surfaces will be pervious. This is the preferred construction method to retain and infiltrate storm water on site. The applicant will provide a construction detail for

this site improvements to the Conservation Department for review prior to the issuance of a zoning permit.

Pool design plans have not been submitted with this application and will be required to submit for review and approval prior to the issuance of a zoning permit.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # WPL 9762-14
Street Address: 45 Owenoke Park
Assessor's: Map C03 Lot 009
Date of Resolution: May 21, 2014

Project Description: Demolition of existing residence and construction of a new house, pool, shed and patio with modified driveway and new site drainage. Work is within the WPLO area of Gray"s Creek.

Owner of Record: Surfside Partners LLC
Applicant: Barr Associates, 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 9762-14** with the following conditions:

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. A final inspection and submittal of an "as built" survey is required prior to the issuance of a Certificate of Compliance.
14. Conformance to the Flood and Erosion Control Board Approval of May 7, 2014.

SPECIAL CONDITIONS OF APPROVAL

15. Conformance to the plans entitled:
a) *Map of Property;* Prepared for Andrew and Carol Boas, 45 Owenoke Park, Westport, Connecticut, Scale: 1"=20'-0", dated January 8, 2014, prepared by Dennis A. Deilus- Land Surveyors.
b) Architectural design drawings, Boas Residence, (9 sheets); dated April 10, 2014, and prepared by Fifield, Pieker, Elman Architects, PC.
c) *Site Plan, Details & Notes*, prepared for Andrew and Carol Boas, 45 Owenoke Park, Westport, CT, Scale: 1"= 20', dated April 2, 2014, prepared by Chappa and Paolini.
d) Drainage Computations prepared by Chappa *and* Paolini; dated April 2, 2014.
16. Revision to the plans to show the addition of a 5' wide swale and vegetated buffer on the northerly property line accommodating the revised driveway location boundaries. In addition, a rain garden shall be designed in the area of the proposed storm water infiltrators with a high level overflow connection to the proposed subsurface infiltration structures. Said plans shall be submitted to the Conservation Department for review and approval prior to the issuance of a Zoning permit.
17. All new patios shall be pervious in perpetuity with said restriction placed on the Land Records prior to the issuance of a Conservation Certificate of Compliance.
18. Permeable construction details for the patios to be submitted for review and approval to the Conservation Department prior to the issuance of a Zoning permit.
19. A bond to cover the sediment and erosion controls, the plantings for the rain garden and northern perimeter property edge buffer shall be submitted to the Conservation Department. The bond for the plantings shall be held for one full growing season following completion of the planting plan.
20. Design plans for the pool shall be submitted to the Conservation Department for review and approval prior to the issuance of a Zoning permit. Standard conditions for pools in environmentally sensitive areas shall be applied.

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: Rycenga **Second:** Field
Ayes: Davis, Washburn, Rycenga, Corroon, Shea, Field
Nayes: 0 **Abstentions:** 0 **Votes:** 6:0:0

2. 333 & 335 Post Road West: Application #IWW,WPL-9763-14 by Barr Associates, LLC on behalf of 333 Post Rd. W., LLC for the demolition of 3 buildings on 335 Post Road West, the merger of two lots, construction of surface parking on 335 Post Road West with drainage and landscaping improvements and associated site improvements. Portions of the work are within the upland review area and the WPLO area of an unnamed wetland.

Ms. Mozian listed items to be noted for the record including:

- There is one intervener, Dr. Stollpher at 42 Kings Highway North;
- The previous interverners, Richard and Caroline Rothseid rescinded their pleading;
- The Findings and Resolution from the Flood and Erosion Control Board's Special Meeting of May 14, 2014, which was approved with conditions;
- Latest report from Beth Evans, outside expert/consultant to the town (Ms. Mozian noted there were three reports/letters in all);

- Latest revised plans from the applicant's Engineer dated May 1, 2014;
- Conservation Department approval from 1977 showing the proposed office building at 333 Post Road West and the approved detention basin behind it. This has since evolved into a regulated wetland area.;
- Wetland boundaries at 333 & 335 Post Road West were flagged by the applicant and verified by an independent soil scientist retained by the Town; and
- Dick Harris' review of George Logan's water sampling results. Mr. Harris is the Director of HarborWatch at Earthplace and has an EPA-certified lab.

Ms. Shea asked if there was dispute between the parties involved as to the location of the wetlands.

Ms. Mozian stated there was not.

Mr. Field asked if it was common to have water quality of the wetland analyzed.

Ms. Mozian stated no. However, since the intervener's expert brought up the issue, she was getting an outside expert to review his findings and putting the results into context.

Ms. Rycenga disclosed for the record that as professional staff with the Town of Oxford, she has worked with Manny Silva, PE, of Rose and Tiso and George Logan, soil scientist, of REMA Ecological Services. She stated that she did not feel this presented a conflict of interest or felt there was a need to disqualify and recuse herself from this hearing.

Mel Barr presented the application on behalf of the property owners. He noted the legal notice accurately depicts the project. The property at 335 is a developed commercial property that his client wishes to convert to parking for the existing building at 333 Post Road West. The proposal is to convert the building on 333 Post Road West from office to medical office complex. There is virtually no drainage on the site at this time. Currently the drainage from the roof runoff sheetflows into a drainage ditch to the west of the site or the parking lot sheetflows into a leak off that discharges directly into the wetland. Site is not connected to the sewer though it is available but is in fact connected to two septic systems that have been in existence since 1977. The proposal is to provide a new drainage system comprised of catchbasins and infiltrators with a bioswale prior to discharge to the wetland. The existing drainage ditch will be cleaned out and replanted. The septic systems will be removed and abandoned. The parking area on the site will be reduced by 860 s.f. and pulled back from the wetland edge. They believe that the project will be a substantial improvement from what currently exists on the site right now as it will improve water quality and reduce the rate of runoff to downstream properties. He submitted a copy of the 1977 Planning & Zoning findings and resolution that approved the office building. The Flood and Erosion Control Board approved the current application with conditions. There were three conditions that were imposed, which included:

- Gutter flow analysis;
- Modify galleries to install a weir; and
- Stormwater Management Plan.

He noted that Beth Evans, the town's consultant asked for two test pits to determine depth to groundwater. One was done last month and the other was submitted into the record at the location of the proposed bioswale location.

Matt Popp, LA, WS & SS, of Environmental Land Solutions presented plans and photos showing the direct leak off of the parking lot at 335 into the wetland untreated. There are no rare or endangered species but typical urban/suburban species. Mr. Popp explained the proximity of the parking lot and buildings on 335 Post Road West to the wetlands versus the new proposal. He described the treatment train for water quality. They are proposing plantings between the parking lot and the wetlands along with invasive plant removal. He referred to Ms. Evans' report of May 19, 2014and supports her conclusion and highlighted the staff's conclusion. He concurred.

Mr. Davis asked about connecting to the sewer.

Mr. Barr stated the building at 333 Post Road West is connected to sewer. The property at 335 Post Road West is not. The parking lot does not require sewer connection and the septic systems on the property are going to be abandoned. He noted there are 15 reports on this project between all the experts. He stated the applicant agrees to the proposed conditions as suggested in the staff report.

Mr. Corroon asked if there is an underground oil storage tank at 333 Post Road West.

Mr. Barr stated he did not know but if there is, it will be removed on 335 Post Road West along with the septic systems.

Steve Nevas, atty. representing Dr. Storfer, presented the intervener's case. He stated that his opinion is the wetland area is much larger than is shown on the plans. The site plan includes the property at 325 Post Road West. It is his understanding that the applicant is trying to acquire that property and will merge it with 333 Post Road West to add additional parking. He asked the Commission to deem the application incomplete because it does not include the property at 325 Post Road West. The application violates the 30-foot parking lot setback and the 75-foot setback for commercial projects. The project will perpetuate the pollution to the wetlands and the flooding on neighboring properties. He pointed out the applicant submitted plans to the Flood Board at the last minute to which they were not given time to respond. He feels those plans are significantly different from what was originally submitted. The plans affect the drainage on 333 Post Road West, which originally was to be diverted to 335 Post Road West for treatment but now will not be treated. The fact that they have not dealt for the runoff from the building at 333 Post Road West, they believe makes the application incomplete. The applicant is adding 44 parking spaces at 335 Post Road West. This will lead to more harmful pollutants getting to the wetland. He believes more stormwater will be discharged into his client's property untreated. The applicant states that they will be reducing the stormwater runoff by 56% but they are asking how that will happen. He stated there is doubt that the plan will work. Soil tests indicate it will not work. Saturation is evident and the wetland will act as detention not absorption. He acknowledges that some of the water coming onto his client's property comes from other properties, such as 375 Post Road West, 361 Post Road West and Terra Nova. He encouraged the Commission to look at the project along with the cumulative impact it will have on the neighborhood. He urged the Commission to deny and confine the parking to the area that can be accommodated by on-site retention at 333-335 Post Road West.

George Logan, principle with REMA Ecological Services, PW, SS and wildlife biologist, spoke.

Ms. Mozian asked for his resume.

Mr. Logan referenced his report. He visited the site prior to April 28, 2014 along with the wetland downgradient of the subject property. There is evidence of previous beaver activity, which has been abated. He stated he would like to concentrate on water quality. Urban runoff has an impact to wetland and changes in chemistry. His analysis reveals things could be improved more than is proposed with this project. The CT DEEP2004 Stormwater Quality Manual needs to be met but it has not. The primary source of pollution on parking lots is the vehicles. Under proposed conditions, there will be an increased number of cars, and the number of trips will increase. He believes the primary treatment system as defined in the manual is absent and submitted excerpts from the manual. He admitted that the proposal is better than existing conditions. The soil concentrator is good but usually only takes care of 50% of total suspended solids but it does not treat the solubles. Underground galleries will be in fill because the parking lot will be raised. New test pit data indicates that the lot was most likely filled in the past. They want to be able to infiltrate stormwater but it will leave the infiltrator and get to the bioswale without treatment.

With regard to the water quality testing that he did, Mr. Logan highlighted conductivity of 656 which is quite high. Conductivity in non-polluted water, depending on the bedrock, is going to be less than 150, less than 100. Conductivity will measure the electrical conductance. He felt that his testing indicated a moderate impairment to the wetland. He wants to make sure the proposal does not

decrease water quality. He suggested that vaults, rather than galleries, be installed and water stored and metered out into the bioswale for processing. He questioned under his scenario whether the bioswale is properly sized where the bioswale becomes the primary treatment. With the test pits submitted, the best case scenario is that there is only one foot for biofiltration. They would be able to do this but would need some more fill to raise 335 Post Road West.

Ms. Mozian asked Mr. Logan if he reviewed his idea with the Flood Board and what were their comments.

Mr. Logan stated he was not present at the Flood Board hearing.

Mr. Corroon asked if it was not a net improvement given the septic systems were going to be removed.

Mr. Logan stated it will be an improvement because there will be less nitrogen but noted the buildings have not been used for a while.

Mr. Corroon asked Mr. Logan if his plan would maintain the existing flow of runoff into the wetland.

Mr. Logan stated it would for the water quality but indicated that it is an engineering question for the water quantity.

Mr. Field asked if the applicant has seen Mr. Logan's report and prepared a response.

Mr. Logan stated there was a response to engineering and water quantity but not to water quality. They did respond partially by doing the test pits recommended by Beth Evans.

Mr. Field asked for an example where Mr. Logan's proposal has worked.

Mr. Logan indicated Lowe's in Cromwell. He added bioretention area can also treat heavy metals.

Mr. Washburn noted Mr. Logan's comment that the parking on the property is currently less intense but under the proposal the intensity of use will increase the pollutant load.

Mr. Logan agreed.

Mr. Corroon asked how old the buildings were on Kings Highway South that are getting flooded.

Mr. Nevas stated his client's property was rebuilt 12 years ago from the ground up. He added that the volume of water is a problem. The existing groundwater conditions are very high. He stated he wants the volume to be managed on-site.

Ms. Rycenga asked if the intervener's expert calculated the stormwater volume.

Mr. Nevas stated they were going to recalculate the stormwater volume but the Flood Board closed the hearing and would not reopen it when asked.

Ms. Shea asked why the other intervener withdrew.

Mr. Nevas stated he was unable to divulge that information.

Ms. Rycenga noted snow removal and that it was not addressed in the presentation.

Mr. Logan agreed that snow removal and its treatment is an important part of the stormwater treatment plan.

Ms. Rycenga asked whether the proposal would meet the 80% removal of total suspended solids as recommended in the Stormwater Quality Manual.

Mr. Logan stated it is likely that it could with the biofiltration. He referenced Chapter 11 S12.1 of the Stormwater Quality Manual Treatment.

Mr. Field asked if the cost of his proposal would significantly raise the cost of the project.

Mr. Logan stated the cost will increase but not sure by how much.

Mr. Corroon asked if the houses on Kings Highway South were built on wetlands.

Mr. Nevas stated no but acknowledged that there are wetlands on the site.

In response to Mr. Corroon's question as to whether the houses were built on filled wetlands, Mr. Logan, he could not answer that question.

Ms. Krynicki stated one property is about 14 feet from the Town wetland line and another is 30 feet away from the wetland.

Mr. Corroon noted the increase of use and asked whether the use of salt or calcium chloride would be better treatment of the parking lot.

Mr. Logan stated that he was unsure but calcium chloride appears to be a better solution.

Mr. Washburn noted comments on water quantity and flooding to downstream neighbors. He stated that much of the discussion was on water quantity rather than water quality. He questioned whether this was the first application in which the neighbors could look for relief though the flooding will not get any worse.

Ms. Mozian stated this would not be the first application as she has been involved in the Terra Nova project as well as the John's Best redevelopment where significant water quality and quantity components were required.

Mr. Logan stated that the problem with urbanization is water capacity of the wetlands.

Ms. Rycenga asked if there is an physical impact to the wetland.

Mr. Logan stated he believes there is the potential for physical impact to the wetland based on this plan because of the intensified use, increased pollution load and system that does not meet standards. When asked for a professional opinion he then clarified that by saying yes.

John Fallon, atty., representing the applicant reviewed the 22a-19 Intervention filing. The proposal must reasonably likely pollute, etc. The intervener must prove the project is reasonably likely to pollute, impair or destroy by the preponderance of the evidence. The testimony by the Intervener is not conclusive. It is speculation only. The Commission needs to look at whether the application complies with the regulations. He spoke to water quantity versus water quality. The Flood Board's decision of May 14, 2014 notes that the calculations find a 59.5% reduction in runoff from the site. While the applicant empathizes with the intervener's problem with regard to flooding, it emanates from many properties. Whatever impacts from 335 Post Road West have had will be addressed by them retaining more water on their site. The staff report says the swirl concentrator will improve water quality along with introduction of biofiltration. He stated they have no plans for 325 Post Road West. If it is developed by this applicant, the proposal will have to come to the Commission. The Commission cannot speculate on future use.

Manny Silva, civil engineer, PE, for the applicant presented the drainage improvements. They are controlling runoff and reducing the peak runoff. They are reducing the volume to the wetland. They did follow chapters 7 and 11 of the Stormwater Manual. The swirl separator does collect TSS (total suspended solids). The stormwater maintenance is on the plans and is the secondary treatment. Infiltration galleries can be used as a first line of defense if there is a secondary treatment ahead of it. The test pits done at the site of the gallery shows there is no groundwater in that area with a silty loam. Groundwater at 16 feet they reached the water table but found a vein of the wetland draining into the 16 foot groundwater table in the area of the bioswale. The galleries are above the static groundwater table. They are two feet deep. The water will be clean when it hits the water table . Then, following chapter 7 of the stormwater manual and the Flood Board condition of adding the weir. They will be controlling 1536 c.f. of runoff, which is well above the 1098 c.f. that they are required to control. Weir then leak out into the wetland. Flow will be leaving the site at 1.03 c.f./second compared to 2.5 c.f./second today. That is a 59% reduction. An everyday storm will see no discharge from the site. Perc tests show 1" every 10 minutes. The project is designed for the 25-year storm event. The runoff that comes out of the system will be treated by a bioswale and will be treated for heavy metals, salts, etc. that will come off the pavement.

Ms. Shea asked about Chapter 11 of the Stormwater Manual that Mr. Logan referred to.

Mr. Silva stated the use of the swirl concentrator to remove particles allows the use of the infiltrators as a primary treatment system. He stated the Commission needs to look at Chapter 7 not Chapter 11, where they speak about water quality. They are not touching the drainage system that was reviewed and approved at 333 Post Road West. With regard to snow storage, the same holds true with snow as rain. The swirl separator and bioswale will treat snow. The swirl concentrator is the first line of defense that will impair the infiltration galleries. Infiltration is a bonus. With regard to the memo that Mr. Logan thought was a typo, the elevation is 64 feet. The May 19, 2014 test pit was done at elevation 69 and nothing was found at elevation 64. This is a good site for infiltration. He stated he feels it will be impossible that the runoff will be increased to the wetland, if for the only reason being the impervious surface is being reduced.

Mr. Popp stated that Mr. Logan proposed that there was no primary treatment for this project but then noted the bioswale is the primary treatment. The swirl separator is a treatment. He referred to his letter of May 2, 2014. Referencing Chapter 11, underground galleries can be the primary treatment. This project is removing two septic systems within 15 feet of the wetland along with removing the direct discharge from the parking lot to the wetland. In his opinion, this will improve water quality. They propose invasive plant removal. In his opinion, there will be no physical impact to the wetland and feels there will be a beneficial impact to the wetland through water quality and wildlife habitat.

Mr. Davis asked where the medical waste would be deposited.

Mr. Popp stated he was not sure, but likely somewhere inside the building. He also noted that snow plowing is being dumped onto the edge of the parking lot into the lawn strip adjacent to the wetland.

Mr. Fallon stated the conclusion is that a preponderance of the evidence is that there is no evidence to deny the project and the project does not have a significant impact.

Mr. Corroon asked how many new parking spaces are being created.

Ms. Mozian asked what the total coverage requirement for this zone is.

Mr. Barr stated there is no total coverage requirement in a commercial zone. It is only influenced by the required landscaping.

Mr. Corroon stated there are 20 new parking spaces proposed..

Beth Evans, consultant to the Town, stated she visited the site when there were still snow piles in the corners of the parking lots. The applicant made changes to the plan in response to her report. It is her opinion that this project is a retrofit. She stated her opinion as a wetland scientist and water quality specialist that what is proposed will improve conditions within the wetland. The 2004 Stormwater Manual is a good document but is 10 years old and is being updated. Runoff will go to the catchbasin that will include a sump. Stormwater maintenance is included on the plans. Runoff goes from the catchbasins to the swirl separator, then to the infiltration galleries. The runoff will be renovated to the extent the soil is able. The maintenance plan is very important to the success of the stormwater management system and should be carried out by a project property owner. Invasive plants are to be removed and replanted with native species. The applicant is proposing two-year monitoring, she would suggest three years. She noted she asked for more detail on the bioswale as this is the final polishing for water quality treatment. It was her opinion that the project will improve stormwater quality.

Ms. Shea noted there would be improvement but asked Mr. Logan stated it could be better.

Ms. Evans stated that doing better with this project would require utilizing more of the client's property but she reiterated that what is being proposed is substantial and substantive.

Ms. Krynicki asked Ms. Evans to comment on the studies Mr. Logan referred to on the removal of dissolved constituents.

Ms. Evans stated that depends on where the studies were done and the comparison of apples to apples. 16 feet of soil is a lot of opportunity for renovation. Speaking to salt, she stated that no matter which kind it is hard to be removed from the pollutant train. She reminded the Commission that other properties are contributing to this wetland.

Mr. Logan stated solubles, like salt will show up somewhere. He added that Chapter 7 of the Stormwater Manual has to do with the sizing while Chapter 6 talks about the choice of types. He stated that water quality volume will not be addressed.

Mr. Nevas stated they are not speculating about urban runoff. They are not speculating about the intensification of use. Otto Theall stated in his soils report that he feels the wetland detention basin behind 333 Post Road West is not functioning as a detention basin. That is not speculation. He stated Ms. Evans indicated that infiltration by the galleries is debatable.

Ms. Rycenga noted there is no engineer to refute the applicant's engineer.

Mr. Nevas stated they have an engineer but he wasn't given the opportunity to review or comment as they were given notice of the changes to the drainage on 333 Post Road West during the Flood Board hearing.

Ms. Shea asked if the engineer needs to be brought back.

Mr. Fallon stated the Intervener's engineer said he concurred with the applicant's at the Flood Board. He noted that Artel Engineering did submit a report.

Ms. Shea asked how the plans materially changed.

Mr. Nevas stated a berm was proposed to keep the water on 333 Post Road West to keep the water in the rear of the building. That was the first they heard of at the Flood Board meeting. He stated he would be okay with letting the Commission know by Friday, May 23, 2014 at 4:30 p.m. if an additional engineering report would be needed.

The Commission agreed to that.

Mr. Fallon noted there is a net increase of 20 parking spaces.

Linda Mandell, property owner, stated there would be no medical waste deposited outside.

Ms. Mozian stated there is a renoticing requirement under the WPLO regulations for the neighbors.

Motion to continue the hearing to June 18, 2014.

Motion: Shea Second: Rycenga
Ayes: Shea, Rycenga, Corroon, Davis, Field, Washburn
Nayes: None Abstentions: None Vote: 6:0:0

3. **1135 Post Road East:** Application #IWW,WPL-9761-14 by David Ginter of Redniss & Mead on behalf of Coastal Construction Group for the razing of one existing structure and partial razing of another and the construction of a two-story commercial building, surface parking, drive, walks in southern portion of the property. The existing landscaping uses in the northern portion of the site are to remain. Portions of the site are within the upland review area setback and the WPLO area of Muddy Brook.

   This application was postponed to the June 18, 2014 public hearing.

Motion to close the Public Hearing and move in Work Session II.

Motion: Shea Second: Rycenga
Ayes: Shea, Rycenga, Corroon, Davis, Field, Washburn
Nayes: None Abstentions: None Vote: 6:0:0

Work Session II:

1. Approval of April 16, 2014 meeting minutes.

The April 16, 2014 meeting minutes were approved as submitted.

Motion: Shea Second: Rycenga
Ayes: Shea, Rycenga, Corroon, Davis, Field, Washburn
Nayes: None Abstentions: None Vote: 6:0:0

2. Update on Town Plan Implementation Committee

Ms. Mozian stated Mr. Porter and she attended the meeting. They will provide the Commission with progress report on where we are in meeting the goals set forth in the Town Plan.

3. Other business.
a. DEEP Training

Ms. Mozian noted the DEEP training sessions that are available. She asked members to let her know if they were interested in attending. Ms. Shea and Ms. Rycenga indicated they would be attending DEEP training session II.

The meeting was adjourned at 11:20 p.m.

Motion: Shea Second: Rycenga
Ayes: Shea, Rycenga, Corroon, Davis, Field, Washburn
Nayes: None Abstentions: None Vote: 6:0:0