

**MINUTES
WESTPORT CONSERVATION COMMISSION
APRIL 15, 2015**

The April 15, 2015 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:

W. Fergus Porter, Chair
Pat Shea, Esq., Vice-Chair
Paul Davis
John Washburn
Donald Bancroft, Alternate

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 April 15, 2015 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.

Ms. Mozian noted that she had two items to add to the agenda:

1. **Approval of the April 13, 2015 field trip minutes; and**
2. **38 Marion Road: Request for Administrative Approval for a house addition.**

Motion to change the agenda to include the approval of the April 13, 2015 field trip minutes and 38 Marion Road.

Motion:	Shea	Second:	Davis
Ayes:	Shea, Davis, Bancroft, Porter, Washburn		
Nays:	None	Abstentions:	None
		Vote:	5:0:0

Work Session I: 7:00 pm, Room 201/201A

1. **Welcome new Alternate Member, Donald Bancroft**
2. **Receipt of Applications**

Ms. Mozian stated there were no applications to receive.

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

Ms. Mozian stated there is no enforcement activity to report. The sediment and erosion control officer is back on the job after the winter recess.

Mr. Porter asked that Mr. Kelly be available for the May 20, 2015 meeting.

4. **Approval of March 18, 2015 meeting minutes.**

The March 18, 2015 meeting minutes were approved as submitted.

Motion:	Shea	Second:	Davis
Ayes:	Shea, Davis, Bancroft, Porter, Washburn		
Nays:	None	Abstentions:	None
		Vote:	5:0:0

5. **Continued discussion of proposed changes to fee schedule.**

Ms. Mozian noted the proposed fee changes have been submitted to the RTM for a First Reading in May. She expects adoption in June.

6. **Other Business**

- a. **Approval of the April 13, 2015 field trip minutes.**

The approval of the April 13, 2015 field trip minutes were tabled to the May 20, 2015.

- b. **38 Marion Road: Request for an Administrative Approval for a house addition.**

Ms. Mozian reviewed a request for issuance of an Administrative Approval for conversion and expansion of an 18' X 15' screened porch and build an 18' X 26' addition in its place. Work is within the 50-foot upland review area. The Commission inspected at its field trip on April 13, 2015. The addition would be 28 feet from the wetland. The wetland was flagged. Staff supports an Administrative Approval but needs the details about drainage and whether the addition is on a

crawlspace or would have a basement. She recommended a wetland restoration to the area which is now lawn.

Mr. Washburn stated that if they are not expanding beyond what was shown, he supports an Administrative Approval with the conditions provided.

Motion to allow staff to issue an Administrative Approval with conditions.

Motion:	Washburn	Second:	Shea
Ayes:	Washburn, Shea, Bancroft, Davis, Porter		
Nayes:	None	Abstentions:	None
		Vote:	5:0:0

Motion to close Work Session I and open the Public Hearing.

Motion:	Shea	Second:	Davis
Ayes:	Shea, Davis, Bancroft, Porter, Washburn		
Nayes:	None	Abstentions:	None
		Vote:	5:0:0

Public Hearing: 7:15 pm, Room 201/201A

1. **21 Crescent Road:** Application #IWW/M-9976-15 by Philip Teuscher to amend wetland boundary map #E9.

Philip Teuscher, property owner, presented the application and explained he hired a soil scientist to flag the wetland to determine the accurate boundary in preparation for sale of the property.

Ms. Krynicki presented staff comments. Bill Kenny was the soil scientist for Mr. Teuscher and Tom Pietras was the soil scientist representing the Town. They agreed on the wetland boundary. However, watercourses and culverts were not shown on the original survey. The survey was amended and resubmitted.

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

Motion:	Shea	Second:	Washburn
Ayes:	Shea, Washburn, Bancroft, Davis, Porter		
Nayes:	None	Abstentions:	None
		Vote:	5:0:0

Findings
Application #IWW/M 9976-15
21 Crescent Road

1. **Application Request:** The applicant is requesting to amend wetland map #E-9
2. **No Previous Permits on file for this property.**
3. **Soil Scientist for Applicant:** William Kenny of William Kenny Associates LLC
4. **Soil Scientist for Town of Westport:** Tom Pietras of Pietras Environmental Group LLC
5. **Plan reviewed:** "Improvement Location Survey Prepared for Philip Tiescher, 21 Crescent Road, Westport, CT", Scale: 1"=20', dated September 26, 2014, prepared by Land Surveying Services, LLC
6. **Wetlands Description**
Soil report Summary- prepared by William Kenny of September 9, 2014 describes the following wetland soil occurring on the property:

Aquents (1): This soil is found on slopes of 0 to 3 percent in disturbed areas that generally have less than two (2) feet of fill over naturally occurring poorly or very poorly drained soils, or are located where the naturally occurring wetland soils are no longer identifiable, or the original soil materials have been excavated to the ground water table within twenty (20) inches of the soil surface, have an aquatic moisture regime and can be expected to support hydrophytic vegetation.

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

- The property is developed with a four bedroom single family residence serviced by public sewer and water. House was built in 1854.
- The Westport Wetlands Inventory, prepared by Flaherty Giavara Associates, P.C., dated June 1983 describes the off-site wetland as a “permanent streamside, floodplain with a wooded swamp.
- The USGS Survey Quadrangle map for Westport, Connecticut indicates the wetland systems are isolated and not hydrologically connected to a permanent watercourse.
- Landscape position of this parcel is a toe slope. Land surface shape is linear/linear.
- The FEMA maps indicate that the property is located within Zone AE (EI. 110).
- Property does not exist within the Aquifer Protection Overlay Zone nor the groundwater recharge area.
- Property does not exist within the Coastal Areas Management Zone.

The Town of Westport retained the services of Tom Pietras of Pietras Environmental LLC to review the wetland boundary as proposed by William Kenny of William Kenny Associates. The Conservation Department received a report dated April 9, 2015 in which Mr. Pietras states he agrees with the wetland boundary as proposed by Mr. Kenny. The Commission finds the changes on the site plan that were requested by Mr. Pietras to clarify the existing on-site conditions have been added to the site plan. They are as follows:

1. Locate the existing culverts
2. Check to see if culvert on east side of garage is on the parcel
3. Disconnect wetland Flag 20 to Flag 23.

RESOLUTION
Application #IWW/M-9976-15
21 Crescent Road

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-9976-15 by Philip Tuescher to amend the wetland boundary on Map #E 9 on the property located 21 Crescent Road with the following conditions:

1. Conformance to the plan entitled: “Improvement Location Survey Prepared for Philip Tuescher, 21 Crescent Road, Westport, CT”, Scale: 1”=20’, dated September 26, 2014, prepared by Land Surveying Services, LLC and as revised and received by the Conservation Department on April 15, 2015.
2. An electronic file of the above referenced plan in a format acceptable to The Town Engineer must be submitted to the Conservation Department before permits for any further activity will be authorized.
3. 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: Shea

Second: Davis

Ayes: Shea, Washburn, Porter, Davis, Bancroft

Nays: 0

Abstentions: 0

Vote: 5:0:0

2. **18 Great Marsh Road:** Application #WPL-9965-15 by Andy Frank on behalf of the Saugatuck Harbor Yacht Club to replace wall with new stone retaining wall. Work is within the WPLO area of the Saugatuck River.

Scott Kilcoyne presented the application on behalf of the applicant and property owners. He explained that the pool is above-ground and is surrounded by a retaining wall. The proposal is to build a new 3.5-foot retaining wall and in between would be filled and planted. The wall will be about a 1.5-foot lower than the existing pool wall. The work also includes a handicapped ramp.

Ms. Krynicki noted that work to the pool house cabana is not a part of this application and will need separate approvals.

Ms. Mozian noted the Flood Board approved the application on March 4, 2015.

Ms. Krynicki noted that the additional plantings will act as biofiltration for the pool patio discharge.

Mr. Kilcoyne stated the weep holes in the existing wall will remain plus new weep holes will be put in the new wall.

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

Motion:	Shea	Second:	Washburn
Ayes:	Shea, Washburn, Bancroft, Davis, Porter		
Nays:	None	Abstentions:	None
			Vote: 5:0:0

Findings
18 Great Marsh Road
#WPL 9965-15

1. **Receipt Date:** N/A
2. **Application Classification:** N/A
3. **Application Request:** Applicant is proposing to replace an existing and deteriorating stone wall surrounding an existing pool and patio area with a new stone retaining wall and a planting bed. Work is within the WPLO setback and the 25 year floodplain of the Saugatuck River.
4. **Plans Reviewed:**
 - a. "Plot Plan Prepared for Lot 12, Saugatuck Yacht Club, 18 Marsh Road, Westport Connecticut", Scale: 1"=20', date December 8, 2009, revised to February 11, 2015
5. **WPLO - Waterway Protection Line** is located 15' from 9' contour on this property. Approximately 225' of the westerly side of the proposed retaining wall is within the WPLO jurisdiction and approximately 80' of the easterly side of the wall is not within the WPLO jurisdiction.
6. **Property Description**
 - a. The 100 year floodplain occurs on the property as indicated by FEMA. The property occurs within an AE 13 flood zone.
 - b. The subject property exists within the Coastal Areas Management Zone, specifically identified as "coastal hazard area."
 - c. Property occurs within the groundwater recharge area and is underlain by an aquifer. Said aquifer is characterized as a fine grain stratified drift. The property however, is not located within the Aquifer Protection Overlay Zone.
 - d. The twenty five year floodplain occurs at elevation 9' on this property.
7. **Coastal Management Zone**

The Coastal Resources Map for the Town characterizes this property as "nearshore waters". According to the DEP CAM Manual dated 2000 these resources are described as follows:

Coastal waters are defined by the DEP as " those waters of Long Island Sound and its harbors, embayments, tidal rivers, streams and creeks, which contain a salinity concentration of at least five hundred parts per million under the low flow stream conditions as established by the Commissioner [CGS section 22a-93(5)]. Coastal waters can be separated into nearshore waters, offshore waters and estuarine embayments. **Near shore waters** are those waters and their substrates lying between mean high water and a depth approximated by the ten meter contour (CGS section 22a-93 (7)(K))."

The applicant proposes to build a new retaining wall surrounding the pool and patio area that will contain plantings. The wall will be for decorative purposes and the plantings for aesthetics. Approximately 225' of wall lies within the Waterway Protection Line Ordinance boundary and approximately 80' lies outside the WPLO boundary.

The wall will be constructed with a footing approximately 42" below the existing grade and will extend a maximum of 3.5' above grade. Crushed stone wrapped with filter fabric is to be placed against the face of the wall with a 4" perforated pipe for drainage proposed to drain to daylight. 12" of soil will be placed on top of the filter wrapped crushed stone for planting purposes.

Stone veneer along the face of the wall is proposed for aesthetics. The wall will be a maximum of 18" wide with a 2' wide planting area.

This design assures that drainage of any water entering the planting bed will be filtered by the plant material and eventually drain out.

There is no regrading proposed with this project.

Consistency with Waterway Protection Line Ordinance & Staff Recommendations

Waterway Protection Line Ordinance

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

The Commission finds that the design of the retaining walls ensures flood waters will not be impounded and will be subjected to water quality through infiltration in a planting bed.

Proposed work is to repair replace the existing structure and/or plantings.

The Commission finds that provided erosion and sediment controls are properly installed and maintained, the activity as proposed will not adversely impact the preservation of the natural resources and ecosystems of the waterway as protected by the Waterway Protection Line Ordinance.

The Flood & Erosion Control Board (F&ECB) reviewed and approved this application on March 4, 2015 with conditions.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # WPL 9965-15
Street Address: 18 Great Marsh Road
Assessor's: Map A 03 Lot 21
Date of Resolution: April 15, 2015

Project Description: To replace an existing railroad tie border with a new 30" high stone wall to be utilized as a planter bed. A handicap entrance ramp to be installed in the northeast corner. A portion of the work is within the boundary of the Waterway Protection Line Ordinance and the 25 year floodplain of the Saugatuck River.

Owner of Record: Saugatuck Harbor Yacht Club

Applicant: Andy Frank

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 9965-15** 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 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.
5. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
6. All plants proposed in regulated areas must be non-invasive and native to North America.
7. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
8. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts which develop.
9. Conformance to the conditions of the Flood and Erosion Control Board of March 4, 2015.

SPECIAL CONDITIONS OF APPROVAL

10. Conformance to the following:
 - a. "Plot Plan Prepared for Lot 12, Saugatuck Yacht Club, 18 Marsh Road, Westport Connecticut", Scale: 1"=20', date December 8, 2009, revised to February 11, 2015
11. A landscape schedule that consists of native plantings for the stone planter shall be submitted to the Conservation Department for review and approval prior to the issuance of a Zoning permit.
12. Submission of a performance bond estimate in the amount of the cost of plants and the erosion controls to be submitted to the Conservation Department prior to the issuance of a zoning permit.

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: Washburn

Second: Shea

Ayes: Washburn, Shea, Porter, Davis, Bancroft

Nays: 0

Abstentions: 0

Vote: 5:0:0

3. **3 Davis Lane:** Application #IWW,WPL/E-9973-15 by Megan Robertson on behalf of Michisan LLC to demolish the existing and construct a new single family residence and associated site improvements. Work is within the upland review area setbacks.

Mel Barr presented the application on behalf of the property owner. He noted the house was already demolished. There is a new house proposed 13 feet further away from the wetland than the existing house was. The new septic is beyond the 50-foot setback. He reviewed the staff report and agreed with recommendations for more sediment and erosion controls and augmented buffer plantings. He disagreed with the recommendation to have a deck instead of the proposed patio. He stated having a deck would put it over the 15% building coverage for Zoning. The building coverage is proposed at 14.9%. The house and roof are going into a gallery system.

Ms. Krynicki stated the existing grade of the lot will be significantly altered. The rate and volume of water that feeds the adjacent wetland will be reduced. Staff recommends a deck instead of a patio in order to retain more water on-site. The Commission and staff are looking at environmental issues and Mr. Barr is expressing a Zoning issue.

Ms. Shea asked how hard it would be to get a variance for the deck as it is the Commission's charge to look for feasible and prudent alternatives that would reduce or avoid impact to a wetland.

Mr. Barr stated he was not going to ask for one because he did not need one. A deck in this instance would be on-grade with 6 inches of stone underneath it versus a flagstone patio with 6 inches of sand with space between them.

Ms. Mozian asked what the driveway surface was going to be.

Mr. Barr stated that it is proposed to be impermeable but is uncertain as to what it will be. All the runoff from the roof and driveway will go into a gallery system.

Ms. Mozian expressed the staff's concerns with the application.

Mr. Davis noted that a sewer line connection may be available for this property.

Staff confirmed but the timing of the sewer installation in this neighborhood may not coincide with the construction of the house.

Mr. Barr stated footing drains are proposed in the front and sides of the house but not in the back. The footing drains are not shown on the plans.

Ms. Mozian stated the plans should be revised to show the location of all footing drains and the Engineering Department should re-review the plans to include the footing drains and confirm the gallery is designed appropriately.

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

Motion:	Shea	Second:	Washburn
Ayes:	Shea, Washburn, Bancroft, Davis, Porter		
Nays:	None	Abstentions:	None
		Vote:	5:0:0

Ms. Mozian expressed staff's concern of patio's being proposed instead of decks only to circumvent the Zoning regulations. Often times, patios are surrounded by small 2 to 3 foot retaining walls and are not as permeable as a deck. This concern may not be applicable to the relatively small, 200 +/- s.f. patio for this site but in general, we are seeing very large patios that are really terraces and can be upwards of 1,000 s.f or more.

Findings
Application #IWW/WPL/E 9973-15
3 Davis Lane

1. **Application Request:** The application is for the demolition of a three bedroom existing single family residence and the construction of a new, six bedroom single family residence and associated site improvements. Portions of the work are within the IWW upland review area setbacks. The project lies outside the Waterway Protection Line Ordinance boundary and is eligible for an exemption. The existing house has already been torn down and the vegetation removed.
2. **Permits Issued for this Property:**
No permits are on file for this property.
3. **Plan and supplemental material reviewed:**
 - a. "Site Preparation Plans for a Proposed 5 Bedroom Residence, MLR Properties, 3 Davis Lane, Westport, CT", Scale: 1"= 20', dated March 2, 2015, prepared by Richard Bennett & Associates, LLC
 - b. Architectural plans prepared for MLR Properties, 3 Davis Lane, Westport, CT (6 sheets) prepared by Fine Home Design LLC

4. Soils Description

Soil Report Summary- prepared by Otto Theall of Soil & Wetland Science, LLC dated July 25, 2014 describes the following wetland soil occurring on the property:

Ridgebury, Leicester and Whitman soils, extremely stony (3):

This mapping unit consists of poorly drained soils. These soils are very stony to extremely stony on the surface and throughout the soils profile. The stones and boulders may cover from 3 to 15 percent or more of the soil surface. These soils have either a perched water table or a groundwater table at or near the surface from fall to spring and after heavy rains or long periods of rainfall in summer. The predominant soil in this mapping unit is the Ridgebury, which has a dark gray to black surface soil and a gray mottled subsoil. The topsoil ranges from silt loam to fine sandy loam and the subsoil texture is a fine sandy loam and is moderately permeable. The underlying substratum is a gray to grayish brown dense compact till consisting of fine sandy loam. It has a slow to very slow permeability. The dense compact substratum ranges from 20 to 30 inches below the surface. These soils normally occur in till deposits and drumlins. The Leicester soils are more common in areas of bedrock and near outwash deposits. The Leicester soils have a dark gray to black fine sandy loam surface soil and mottled gray fine sandy loam ranging to sandy loam and is also moderately permeable to depths of 40 inches and more. Any compact substratum is below 40 inches.

The non-wetland soils are described as Udorthents-Urban land complex and Sutton-Urban land complex sandy loam.

Udorthents-Urban land complex (306):

This soil unit consists of areas that have been altered by cutting or filling. The areas are commonly rectangular and mostly range from 5 to 100 acres. Slopes are mainly 0 to 25 percent. The materials in these areas are mostly loamy, and in the filled areas it is more than 20 inches thick. Some of the filled areas are on floodplains, in tidal marshes, and on areas of poorly drained and very poorly drained soils. Included in this unit in mapping are small areas containing material such as logs, tree stumps, concrete and industrial waste. A few areas have exposed bedrock. Included areas make up about 30 percent of this map unit. The properties and characteristics of this unit are variable and the unit requires on-site soil investigation and evaluation for most uses.

Sutton-Urban land complex (250):

This soil unit consists of gently sloping, moderately well drained soil found in slight depressions and on the sides of hills and ridges. This Sutton soil has seasonal high water table at a depth of about 20 inches from late fall until mid-spring. The permeability of the soil is moderate or moderately rapid. Runoff is medium, and available water capacity is moderate. Many areas of this soil type are used for community development, with limitations caused by the high water table. Included with this soil in mapping are small areas of well drained Charlton and Paxton soils, moderately well drained Woodbridge soils and poorly drained Leicester and Ridgebury soils. Quickly establishing plant cover, mulching, and using siltation basins and diversions help to control erosion and sedimentation during construction. The seasonal high water table limits community development and makes special design and installation of onsite septic systems necessary.

5. Property Description and Facts Relative to the Application:

- a. The 100 year floodplain does not occur on the property.
- b. Property is not located within the Aquifer Protection Zone or the Aquifer Recharge Zone.
- c. Property does not exist within the Coastal Areas Management Zone.
- d. The property is serviced by an on-site septic system and a municipal water supply.
- e. The wetlands includes a narrow area of wetland vegetation on the southerly property line with a larger area of manicured lawn on the adjacent lot which also has been identified as containing wetland soils. Historic information provided by neighbors and applicant indicates that there was a pond on 5 Davis Lane that has been filled.

- f. Site specific landscape is a backslope with a surface shape identified for this parcel as linear/linear. Overall slope gradient of the parcel is 11%.
- g. Landscape position of this parcel is a summit.
- h. The wetland system is located on the western boundary of the Sasco Brook Watershed.
- i. All proposed activity is located outside the Waterway Protection Line Ordinance boundary.

6. Conformance to Section 6.1 General Standards of the Inland Wetlands and Watercourses Regulations

- a) disturbance and pollution are minimized;
- b) minimize height, width, length of structures are limited to the minimum; dimension to accomplish the intended function;
- c) loss of fish, other beneficial organisms, wildlife and vegetation are prevented;
- d) potable fresh water supplies are protected from dangers of drought, overdraft, pollution, misuse and mismanagement;
- e) maintain conservation, economic, recreational and aesthetic qualities;
- f) consider historical sites

The existing residence has been removed and the new residence is proposed to be located 12' to the north from the existing house as well as 12' further from the wetlands.

Proposed grading in the regulated area will be less than 12" and will occur outside the 20' non-disturbance area.

Overall grading of this parcel is more concerning. A four foot cut and a four foot retaining wall is proposed in the northerly corner of the parcel to accommodate the architectural design of the residence.

The Commission finds this has the potential to change the volume and velocity of surface water runoff on this parcel. Proper drainage should be proposed on the north side of the retaining wall. A memorandum from Keith Wilberg of the Engineering Department dated March 17, 2015 confirms this as he states that "while there was no detail for the proposed retaining wall in the rear yard, the wall shall have the appropriate drainage installed as part of its construction, drainage that will comply with the Town of Westport Engineering Department and Building Department requirements."

The septic system is located in the area of the proposed grade cut, however, the new septic system is located outside the 50' upland review area and greater than 6' higher in elevation than the elevation of the flagged wetlands. Test holes excavated in the proposed system area show the soils to be comprised of an inclusion of very permeable sand to a depth of 10 feet and should not be impacted by the grade cut.

A row of 24 native shrub plantings are proposed to enhance the existing plantings on site and to provide an additional buffer. The Commission finds the plantings be increased, placed and spaced so as to blend to the perimeter of the existing on site vegetation.

The proposed residence is within the 50' IWW upland review area setback. All other improvements meet the IWW upland review areas.

All activity is proposed within an existing maintained lawn area and partially over an existing developed area with several mature trees. The Commission finds the vegetation removal will take place outside the IWW upland review area setback.

The Commission finds the drainage calculations should be examined to assure the capacity is sufficient to handle footing drain discharge as well as roof runoff. The plan shall be revised to indicate location of proposed footing drain location and discharge.

The proposed construction is over the existing footprint and north of the existing residence. Proposed lot coverage following development will be 22.3% which is still below the allowable percentage of cover of 25% by Zoning.

The property is serviced by municipal utilities.

Conformance to Section 6.2 Water Quality of the Inland Wetlands and Watercourses Regulations

- a) flushing rates, freshwater sources, existing basin characteristics and channel contours will not be adversely altered;
- b) water stagnation will neither be contributed nor caused;
- c) water pollution will not affect fauna, flora, physical or chemical nature of a regulated area, or the propagation and habitats of fish and wildlife, will not result;
- d) pollution of groundwater or a significant aquifer will not result (*groundwater recharge area or Aquifer Protection Overlay Zone*);
- e) all applicable state and local health codes shall be met;
- f) water quality will be maintained or improved in accordance with the standards set by federal, state, and local authority including section 25-54(e) of the Connecticut General Statutes;
- g) prevents pollution of surface water

The Westport Weston Department approved this application on March 31, 2015 for a six bedroom house because of the potential for a 6th bedroom in the basement.

The Commission finds that a municipal sewer line will be installed on Old Road and this applicant will be pursuing a lateral to be installed at the perimeter of this parcel where it meets Old Road.

The runoff from the roof leaders for the residence and the proposed impervious driveway are to be handled with subsurface infiltrators.

Landscape position of this property is a backslope. The proposed residence is situated on the backslope landscape position and stormwater runoff not specifically directed to the subsurfaces appurtenances will sheet flow toward the wetland and below. The Commission finds that supplemental plantings be added to include the 20ft non-disturbance buffer which would include the existing lawn area to help retain stormwater flow and promote infiltration. A nutrient removal or "filtering" process takes place as the water comes in contact with the soil and the roots of the vegetation. The process accounts for the improved water quality and a way to protect the downstream receiving wetland from the pollution source afforded now from the maintained lawn.

A patio is proposed at the rear of the residence. As coverage is approaching the maximum as allowed by Zoning and patios are not included in coverage, the Commission finds the patio be proposed to be pervious with a construction detail provided to the Conservation Department for review and approval prior to the issuance of a zoning permit and a restriction placed on the land records to assure it remains permeable in perpetuity.

Conformance to Section 6.3 Erosion and Sediment of the Inland Wetlands and Watercourses Regulations

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

The location of the silt fence is also the limit of disturbance for construction and for vehicular access. Sediment introduction to the wetlands needs to be eliminated and as a backslope landscape position has the greatest potential for erosion and the extent of the excavation is in close proximity to the wetland area, the Commission finds that haybales be installed in tandem with the silt fence. Additional silt fence/haybale installation should be installed south of the proposed septic system as well for protection from sediment transport during installation.

A retaining wall is proposed to eliminate grading within 5' of the property line as required by Zoning. The wall is located outside the 30' upland review area, however, the Commission finds erosion and sediment controls for this installation should be included as well as a proposed top of wall elevation.

With the amount of excavation proposed, a stock pile area should be identified on the site plan and appropriate erosion and sediment controls should be provided.

The Commission finds as the property is moderately sloping, a properly installed and properly maintained silt fence should include a second line of defense such as haybales to ensure there will be adequate protection.

Conformance to Section 6.4 Natural Habitat Standards of the Inland Wetland and Watercourses Regulations

- a) critical habitats areas,
- b) the existing biological productivity of any Wetland and Watercourse shall be maintained or improved;
- c) breeding, nesting and or feeding habitats of wildlife will not be significantly altered;
- d) movements and lifestyles of fish and wildlife (plant and aquatic life /will not be significantly affected;
- e) periods of seasonal fish runs and bird migrations shall not be impeded;
- f) conservation or open space easements will be deeded whenever appropriate to protect these natural habitats

This proposal is not anticipated to have an adverse impact on the existing natural habitat. The additional plantings along the wetland in the lawn area will provide the potential for additional habitat area normally found in a neighborhood environment.

Conformance to Section 6.5 Discharge and Runoff of the Inland Wetland and Watercourses Regulations

- a) the potential for flood damage on adjacent or adjoining properties will not be increased;
- b) the velocity or volume of flood waters both into and out of Wetlands and Watercourses will not be adversely altered;
- c) the capacity of any wetland or watercourse to transmit or absorb flood waters will not be significantly reduced;
- d) flooding upstream or downstream of the location site will not be significantly increased;
- e) the activity is acceptable to the Flood & Erosion Control Board and or the Town Engineer of the municipality of Westport

Keith Wilberg, Deputy Town Engineer, has reviewed the Storm Water Management proposal and finds it acceptable. A report was issued to the Conservation Department on March 17, 2015 which states the application complies with Town of Westport Engineering Department requirements with respect to storm water drainage and site grading. Staff requested and received an amendment dated March 31, 2015 for the review of the retaining wall drainage that should be installed on the north side of the wall.

Conformance to Section 6.6 Recreational and Public Uses of the Inland Wetland and Watercourses Regulations

- a) access to and use of public recreational and open space facilities, both existing and planned, will not be prevented;
- b) navigable channels and or small craft navigation will not be obstructed;
- c) open space, recreational or other easements will be deeded whenever appropriate to protect these existing or potential recreational or public uses;
- d) wetlands and watercourses held in public trust will not be adversely affected.

The Commission finds the current application will not have a significant impact on recreational and public uses.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # IWW, WPL/E 9973-15
Street Address: 3 Davis Lane
Assessor's: Map H 09 Lot 102
Date of Resolution: April 15, 2015

Project Description: Construction of a new single family residence, septic system, driveway and associated site improvements. Portions of the work are within IWW upland review area setbacks.

Owner of Record: Michisan LLC

Applicant: Michisan LLC

In accordance with Section 6 of the *Regulations for the Protection and Preservation of Wetlands and Watercourses of Westport* and Section 30-93 of the *Waterway Protection Line Ordinance* and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE WITH CONDITIONS** Application #IWW,WPL/E 9973-15 with the following conditions:

1. Completion of the regulated activity shall be within FIVE (5) years following the date of approval. Any application to renew a permit shall be granted upon request of the permit holder unless the Commission finds there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than TEN (10) years.
2. Permits are not transferable without the prior written consent of the Conservation Commission.
3. 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.
4. 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.
5. 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.
6. 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.
7. 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.
8. 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.
9. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
10. All plants proposed in regulated areas must be non-invasive and native to North America.
11. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
12. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
13. 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.
14. 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.

15. A final inspection and submittal of an "as built" survey is required prior to the issuance of a Certificate of Compliance.

SPECIAL CONDITIONS OF APPROVAL

16. Conformance to the plans entitled:
 - a. "Site Preparation Plans for a Proposed 5 Bedroom Residence, MLR Properties, 3 Davis Lane, Westport, CT", Scale: 1"= 20', dated March 2, 2015, prepared by Richard Bennett & Associates, LLC
 - b. Architectural plans prepared for MLR Properties, 3 Davis Lane, Westport, CT (6 sheets) prepared by Fine Home Design LLC
17. The applicant shall provide a construction detail for a permeable patio to the Conservation or a proposed deck with 6" gravel beneath as well as a cross section detail of the proposed retaining wall. Said revisions shall be submitted to the Conservation Department for review and approval prior to the issuance of a zoning permit.
18. The planting plan shall be revised so that proposed plantings are blended, spaced and increased as necessary to coincide with the 20' non-disturbance area and the existing shrub line and wetland line. Said plan shall be submitted to the Conservation Department for review and approval prior to the issuance of a zoning permit.
19. Revisions to the site plan shall include retaining wall drainage on the north side of the retaining wall, identification of a proposed stock pile area with proper erosion and sediment controls and proposed top of retaining wall elevation. Said revisions shall be submitted to the Conservation Department for review and approval prior to the issuance of a Zoning permit.
20. Revision to the site plan to show haybales placed in tandem with silt fence for the construction activity and for the septic installation area with an additional line of silt fence on the southerly side of the proposed planting area. Said plan revisions shall be submitted to the Conservation Department prior to the issuance of a Zoning permit.
21. A deed restriction for the permeable patio shall be placed on the land records prior to the issuance of a Conservation Certificate of Compliance.
22. Drainage and site plan shall be revised to include footing drain discharge location and calculations to indicate the current drainage galleries have sufficient capacity to accept the footing drain discharge. Said plan and calculations shall be submitted to the Engineering department for review and approval prior to the issuance of a zoning permit.

This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void. The applicant may refile another application for review.

This approval may be revoked or suspended if the applicant exceeds the conditions or limitations of this approval, or has secured this application through inaccurate information.

Motion: Davis

Second: Shea

Ayes: Davis, Shea, Washburn, Porter, Bancroft

Nayes: 0

Abstentions: 0

Vote: 5:0:0

4. **79 Newtown Turnpike:** Continuation of Application #IWW,WPL/E-9964-15 by Mel Barr on behalf of Chabad Lubavitch of Westport for the proposed expansion and additions of the existing place of worship for a larger sanctuary, more classrooms and a residence with improved parking, septic, drainage and site amenities. The existing detached residence is to be removed. Portions of the work are within the 75 ft. upland review area.

Mel Barr presented the application on behalf of the property owners. This is the location of the former Three Bears restaurant. It is currently approved as a synagogue. There is an existing cottage on site. There are 72 parking spaces on the ground. The proposal is to remove the cottage and expand the sanctuary and the classrooms and reduce the number of curb cuts to one. They need 103 parking

spaces for the proposed project. They will retain the raingarden and bio-swale from a previous approval. The WPLO impact is the parking lot and wet swale. The prior approval from the Conservation Commission included grass pavers; however, recent test pits done where the grass pavers were proposed had 12 inches of asphalt beneath it. Therefore, the grass pavers are not practical anymore. They are now proposing a wet swale instead.

Manny Silva, PE, presented an overview of the drainage design. He stated that for a portion of the parking lot and roof runoff drainage, they will be adding a drainage gallery. Test pits in this area closer to Newtown Turnpike show this location to be good for infiltration. Overflow will go into bioswale. The far side of the existing parking lot near the wetland would have a wet swale, which would renovate the hydrocarbons from the parking lot. The bottom of the wet swale will be at the elevation of the wetland. The sides will be grass. The outlet of the swale consists of gravel level-spreader that flows to the wetland. He reviewed the sediment and erosion control plans. They will be raising the grade approximately 2 feet to get the parking out of the water. There will be 2,600 s.f. of wetland disturbance to install the wet swale. There is a Downstream Defender proposed, which is a Vortex unit or an oil/water separator.

Mr. Barr stated the parking lot area is increasing due to the design of the building and the parking lot layout.

Mr. Silva noted that runoff from 24 parking spaces will be going to the wet swale, which will renovate the hydrocarbons. Two thirds of the parking and the roof runoff will be going into the subsurface galleries with the overflow going to the wet swale. The back 1/3 of the parking lot goes directly into the wet swale.

Mr. Barr stated the number of parking spaces is being driven by the sanctuary not the classrooms.

Mr. Silva stated the 2 feet of fill will be gravel with asphalt on top.

Mr. Bancroft asked what would be the impact from road salt to the wet swale.

Mr. Silva stated the wet swale will still function. The salt will be dissolved. The wet swale will still function during the winter.

Mr. Davis stated they should not be putting snow into the wet swale area.

Mr. Barr stated they could put up some form of guard rail.

Mr. Barr reviewed the staff report. He stated the buffer strip adjacent to the pond is 20 feet wide but is proposed to be grass seed. Staff report recommends that it be different plantings and they have no objections. Staff asked for improvements to the sediment and erosion controls measures.

Mr. Silva submitted a letter stating the septic is oversized and was inspected by Health. He indicated they are just awaiting Health Department's approval. The septic system will be located across the street on the property belonging to the nursery school.

Ms. Mozian stated that the 2013 approval had included installing urban sponges to absorb hydrocarbons in the catchbasins but now they have been replaced with oil and grit separators or Vortech systems. She asked for calculations for the wet swale. The property is partially in the Aquifer Protection Overlay Zone, so any lead paint, asbestos, or oil tank from removal of the cottage are concerns. Phase I report needs to be submitted.

Bob Storm, Architect, explained the changes to the building. The roof of the existing building will remain. Three walls will be removed and part of the existing kitchen will remain.

Ms. Krynicki noted there is a 75-foot upland review area for this type of proposal. She asked why they proposed going closer to the wetland rather than expand toward the parking lot.

Mr. Storm stated it worked better functionally. He indicated that they did not consider the wetlands and added that they needed the parking area and drop off space.

Ms. Krynicki stated the site layout is being driven by Zoning regulations rather than environmental concerns.

Mr. Storm stated they had to anticipate for the congregation's program when designing the building's interior space.

Ms. Krynicki asked how often the patio area and outdoor space would be used.

Mr. Storm indicated that it would not be used regularly.

Ms. Mozian stated that there will be 2,600 s.f. of disturbance to install the wet swale, which is a significant impact to the wetland. She asked if they considered feasible and prudent alternatives to eliminate this impact.

Mr. Silva stated the alternative is the previous approval, which gave them the same amount of essentially the same amount parking spaces. The main differences would be they would be grass pavers.

Ms. Krynicki stated the disturbance is proposed within the biological wetland. We should be looking to restore or renovate the wetland and avoid using the wetland. Parking would be asked to be placed someplace else. She would not feel comfortable giving an opinion without an environmental assessment of the impact of the intensification of the parking lot. She asked if the Applicant asked for a variance from parking for this proposal.

Mr. Porter stated that there is a statement that this parking will not be at capacity most of the time. He questioned whether it could be better served to have the 70 parking spaces and have the remaining bused from the exit 41 commuter lot. It seems worthwhile approaching Zoning on this possibility.

Mr. Silva stated the current situation is contaminating the wetland. They are proposing to use a small portion of the large wetland area to better the situation. It will improve the water quality into the Aquifer Protection Overlay Zone and wetland.

Ms. Krynicki stated she is not opposed to the use of the wet swale for the improvement of water quality. However, she does oppose the use of a biological wetland for parking.

The hearing was continued to the May 20, 2015 Public Hearing for more information including:

- Health Department approval;
- Phase I report;
- Vortechincs or Oil/Grit separator detail;
- Calculation for wet swale;
- 20-foot non-disturbance buffer landscape changes;
- Guard rail or barricade detail; and
- Environmental assessment of impact of the intensification of the parking lot.

Mr. Barr agreed to a 28 day extension to continue the hearing to the May 20, 2015 Public Hearing.

With no comment from the public, the hearing was continued for further information.

RESOLUTION
Application #IWW, WPL/E -9964-15
79 Newtown Turnpike

In accordance with Section 3.22(e), 5.1(b) and (d), 6.0, 10.0 and 12.0 of the “Regulations for the Protection and Preservation of Wetlands and Watercourses of Westport” and Section 30-93 of the “Waterway Protection Line Ordinance” and on the basis of the evidence of record, the Conservation Commission resolves to Continue Application #IWW, WPL/E 9964-15 by Barr Associates on behalf of Chabad Lubavitch of Westport for the proposed expansion and additions of the existing place of worship for a larger sanctuary, more classrooms and a residence with improved parking, septic, drainage and site amenities with the existing detached residence is to be removed. Portions of the work are within the 75’ upland review area, the wetlands and the WPLO.

The Continuation of this hearing is for the following reasons:

1. Other feasible and prudent alternatives need to be explored to reduce wetland disturbance which include provisions for water quality and water volume from the stormwater discharge and to prevent further loss of wetland vegetation.
2. To allow time for an Environmental Assessment presentation and report to be submitted into the hearing record.
3. To allow time for submission of the approval from the Westport Weston Health Department.
4. Submission of the Phase I testing results
5. Detail of the Downstream Defender as the oil/grit separator
6. Revision to the landscape plan for the 20 foot non-disturbance buffer plantings around the pond
7. Parking lot barrier description
8. Calculation for the wet swale volume capacity

Motion: Shea

Second: Davis

Ayes: Shea, Davis, Washburn, Porter, Bancroft

Nays: 0

Abstentions: 0

Vote: 5:0:0

Work Session II:

1. Other business.

There was no other business

The April 15, 2015 Public Hearing of the Westport Conservation Commission adjourned at 10:05 p.m.

Motion:

Porter

Second:

Washburn

Ayes:

Porter, Washburn, Bancroft, Davis, Shea

Nays:

None

Abstentions: None

Vote: 5:0:0