



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

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

## Planning and Zoning Commission Minutes

**September 23, 2024**

**Remote Meeting**

**Meeting Started: 7:00P.M.**

**P&Z Members in Attendance:** Paul Lebowitz, Michael Calise, Amy Wistreich, John Bolton

**P&Z Alternates in Attendance:** Bre Injeski

**P&Z Members Absent:** Neil Cohn, Michael Cammeyer, Patrizia Zucaro

**Town Staff in Attendance:** Mary Young, P&Z Director

### I PUBLIC HEARING

(The following will be discussed and voted on as time permits. The public may observe and participate at the public hearing.)

- 1. 79 Riverside Ave:** Coastal Site Plan Appl. #PZ-24-00314 submitted by Lucien Vita, Vita Design Group, for property owner Tiny House 79 LLC to construct a new single-family dwelling, outside of the flood zone with associated site improvements on property located in the Residence A district, PID#C09123000.  
**Action:** Testimony received. Continued to 10/07/24
- 2. 8 Beltas Farm Ln:** Special Permit/Site Plan Appl. #PZ-24-00417 submitted by Eric Bernheim, Esq., FLB Law, for property owner Evan & Lorian Perkins, requesting approval for, non-exempt, excavation and fill activities pursuant to §32-8, Excavation and Filling of Land listed in the Westport Zoning Regulations on property located in the Residence AAA district, PID#G13060000.  
**Action:** Testimony received. Hearing closed. Application Approved.  
**Vote:** In favor: (5-0-0) *P. Lebowitz, M. Calise, A. Wistreich, J. Bolton, B. Injeski*  
*See Resolution Attached.*
- 3. 27 Buena Vista Dr:** Special Permit/Site Plan Appl. #PZ-24-00480 submitted by submitted by Curt Lowenstein of LANDTECH for property owned by Gregory Zola and Mark Leondires for excavation and fill activities associated with construction of a new pool, patio and associated grading/retaining walls, on property located in the Residence AA district, PID#D04069000.  
**Action:** Testimony received. Hearing closed. Application Approved.  
**Vote:** In favor: (5-0-0) *P. Lebowitz, M. Calise, A. Wistreich, J. Bolton, B. Injeski*  
*See Resolution Attached.*

## II WORK SESSION

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

### Old Business:

1. **Text Amendment #845:** #PZ-24-00465 submitted on behalf of the Planning and Zoning Commission to modify Sec. 5-2, the definition of Front Setback. A copy of the text amendment is available on-line at [www.westportct.gov](http://www.westportct.gov) on the Planning & Zoning Office web page under "P&Z Pending Applications & Recent Approvals." A copy may also be viewed at Town Hall, 110 Myrtle Ave., in the Town Clerk's Office and Planning & Zoning Office.

**Action: No decision rendered. Postponed to 10/7/24.**

2. Request from P&Z staff for interpretation on administering the Accessory Dwelling Unit (ADU) standards.

**Action: No decision rendered. Postponed to 10/7/24**

*Ended 8:52pm*

*Respectfully submitted by K. Velky September 26, 2024*



## Town of Westport Planning & Zoning Commission

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Meeting: September 23, 2024  
Decision: September 23, 2024

September 25, 2024

Eric D. Bernheim, Esq.  
FLB Law, PLLC  
315 Post Road West  
Westport, CT 06880

**RE: 8 Beltas Farm Lane, Special Permit/Site Plan Appl. #PZ-24-00417 for Excavation & Fill**

Dear Attorney Bernheim:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on September 23, 2024, it was moved by Mr. Lebowitz and seconded by Ms. Wistreich to adopt the following resolution:

### RESOLUTION #PZ-24-00417

WHEREAS THE PLANNING AND ZONING COMMISSION met on September 23, 2024, and made the following findings:

### FINDINGS

#### Property Description/Background

1. 8 Beltas Farm Lane is a 1.80-acre lot located in the Res AAA (2.0-acre) zoning district. The property is located East side of Bayberry Lane situated between the intersections of Baldwin Place, and Cross Highway. Portions of the property are within the Waterway Protection Line Ordinance (WPLO) jurisdiction. The property is serviced by a private sewage disposal system (septic) and has public water.
2. The 1.80-acre lot was created from a 9-lot Open Space Subdivision approved by the P&Z Commission on March 25, 2021, later modified on June 13, 2022. The subject property is Plot #3 on WLR Map #10511.
3. On June 10, 2024, A Zoning Permit was obtained for a new single-family residence. To date, only two (2) Zoning Permits (#6 & #8) have been issued within the 9-lot Open Space Subdivision.

Proposal

4. The applicant is requesting approval to modify the permitted grading on the original Open Space Subdivision #PZ-20-00973 and the issued Zoning Permit #ZN-24-00213. They also seek to grade beyond the 25-foot exemption limit at the rear of the property to accommodate the construction of an inground swimming pool, which will replace a previously approved lower patio.
5. Excavation and Fill activities are permitted. Certain activities are exempt from Excavation and Fill Permit review when associated with other proposed activities as listed in §32-8.1. The regrading activities performed herein are not covered by the exemptions listed in §32-8.1. All Excavation and Fill activities, even those exempt from review, must conform to the standards listed in §32-8.3.
6. The regrading may not exceed a five (5) horizontal to one (1) vertical (20%) slope unless approved by the Town Engineer per §32-8.3.2. In addition, the regulations state that there shall not be any grading or slope changes within five (5) feet of any lot line. The proposed work does not result in any manmade slopes more than 20%, nor does it include grading within five (5) feet of the property line.
7. Excessive excavation or fill is not permitted. Excessive excavation or fill is defined as an amount greater than that required to raise a parcel ten (10) feet above or below the existing natural grades over an area equal to 50% of the allowable Total Coverage in the respective zones per §32-8.2.1. The proposed activity will not represent excessive fill. A total of 756 cy is proposed (15 cy cut, 741 cy fill) as 3,639 cubic yards of cut/fill is allowed.
8. §32-8.2.3 states that no portion of any lot shall be filled or excavated to a height or depth greater than ten (10) feet above or below the existing grade. The proposal complies with this regulation as the maximum height change is approximately 2.5 feet.
9. A Restoration Plan is required per §32-8.4 showing the final grading and landscaping and indicating how the site will be restored after the excavation and fill activities have been completed. As described in the engineer's project narrative, the project site will be fine graded, with smooth contours to leave no pits or depressions, the property will be cleared of all debris and temporary structures at the time request for a Certificate of Occupancy, and all imported fills shall be clean free of any organics and unsuitable materials.

#### Department Comments

10. The Conservation Department issued permit #IWW-WPL/E-11898-24, which was approved on April 10, 2024. Andrew Hally, Conservation Analyst, submitted comments dated August 8, 2024, supporting the application.
11. Comments from Edward Gill, PE, dated 6/27/24 state the grading, drainage, and sediment and erosion control all substantially comply with the Town of Westport Zoning Regulations.
12. The Aspetuck Health District issued permit #HLTH-2024-00053, which was approved on March 1, 2024. Mark Cooper, Director of Health, submitted comments dated July 30, 2024, supporting the application.

## Public Hearing

13. A public hearing was held, and testimony was received on September 23, 2024.
14. The public hearing was held remotely consistent with State Statutes. The hearing was broadcast live on public access television, was live streamed on the Town's website, and anyone could join the meeting and offer testimony by accessing the meeting link published on the agenda one week prior to the meeting.
15. The Planning and Zoning Commission finds this application complies with the standards found in §32-8, Excavation and Filling of Land, and the general standards applicable to Special Permits and Site Plans, set forth in §44-6 and §44-5.

NOW THEREFORE, BE IT RESOLVED that **8 Beltas Farm Lane**, Special Permit/Site Plan Appl. #PZ-24-00417 submitted by Eric D. Bernheim, Esq., FLB Law, PLLC, for property owned by Evan S. & Lorian L. Perkins, to permit non-exempt excavation and fill, for a property located in the Residence AAA district, PID #G13060000 is **GRANTED** subject to the following modifications:

## Modifications

1. Conformance to the Project Narrative prepared by Dymar.
2. Conformance Proposed Subsurface Sewage Disposal System-Plot Plan prepared by Dymar revised 8/12/24.
3. Conformance to the Perkins Residence prepared by CHASE architectural design, llc. revised 7/8/24.
4. Conformance to the Town Engineer's comments dated 7/31/24.
5. Conformance to the Conservation Permit #IWW-WPL/E-11898-24 approved on 4/10/24.
6. Conformance to the Conservation Department comments dated 8/8/24.
7. Conformance to the Aspetuck Health District Permit ##HLTH-2024-00053 approved on 3/1/24.
8. Conformance to the Aspetuck Health District comments dated 7/30/24.
9. Trees and shrubs on Town property or in the Town right of way shall not be removed, pruned, injured, or defaced without the consent of the Town's Tree Warden.
10. Prior to the commencement of any construction, site work, tree removal or demolition, the soil and erosion controls shall be installed and inspected by Staff.
11. Prior to the issuance of a Zoning Permit for this work, the applicant shall submit and obtain the following:
  - A. Proof of filing the Resolution on the Land Records.
  - B. Obtain approval from the Engineering Department.
  - C. Obtain final approval from the Conservation Department
12. The replacement and/or repair of a stone wall greater than four (4) feet in height shall require

the issuance of a building permit.

- 13. All new utilities shall be placed underground.
- 14. Prior to the issuance of the Zoning Certificate of Compliance, the applicant shall submit a Certified "As-Built" survey stamped by a registered Engineer or Surveyor.
- 15. This application is granted upon the condition that all construction and site improvements shall be in strict accordance with the plans and other documents submitted and any statements or representations made by the applicant or agent on the record. Any deviation from such documents or representations shall require further review and approval from the Commission.
- 16. All work approved pursuant to this Site Plan shall be completed within 5 years of date of approval, by September 23, 2029.
- 17. This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void. The applicant may refile another application for review.

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

**REASONS:**

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

**VOTE:**

AYES	-5-	Lebowitz; Calise; Wistreich; Bolton; Injeski
NAYS	-0-	
ABSTENTIONS	-0-	

Very truly yours,

Paul Lebowitz  
Chairman, Planning & Zoning Commission

cc: Edward Gill, Town Engineer  
Colin Kelly, Conservation Director  
Mark Cooper, Director of Health



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Planning & Zoning Commission**

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Meeting: September 23, 2024  
Decision: September 23, 2024

September 24, 2024

Curt Lowenstein  
LANDTECH  
518 Riverside Avenue  
Westport, CT 06880

**RE: 27 Buena Vista Drive, Special Permit/Site Plan Appl. #PZ-24-00480 for Excavation & Fill**

Dear Mr. Lowenstein:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on September 23, 2024, it was moved by Ms. Wistreich and seconded by Mr. Lebowitz to adopt the following resolution:

**RESOLUTION #PZ-24-00480**

WHEREAS, THE PLANNING AND ZONING COMMISSION met on September 23, 2024 and made the following findings:

**FINDINGS**

Property Description/Background

16. 27 Buena Vista Drive is a non-conforming 0.407-acre lot located in the Res AA (1.0-acre) zoning district. The property is located south of Buena Vista Drive. The property is located within the CAM boundary but is exempt from requiring Coastal Site Plan review. The property is outside the jurisdiction of the WPLO. The property is not in a floodplain. The property is serviced by a public sanitary sewer and has public water.
17. A Zoning Permit for the construction of the new house pursuant to #ZN-23-00517 was issued on October 20, 2023.

Proposal

18. The applicant, Curt Lowenstein, is requesting Special Permit and Site Plan approval for non-exempt, excavation and fill activities at 27 Buena Vista Drive pursuant to §32-8, Excavation and Filling of Land listed in the Westport Zoning Regulations.
19. Excavation and Fill activities are permitted. Certain activities are exempt from Excavation and Fill Permit review when associated with other proposed activities as listed in §32-8.1.

The regrading activities performed herein are not covered by the exemptions listed in §32-8.1. All Excavation and Fill activities, even those exempt from review, must conform to the standards listed in §32-8.3.

20. The regrading may not exceed a five (5) horizontal to one (1) vertical (20%) slope unless approved by the Town Engineer per §32-8.3.2. In addition, the regulations state that there shall not be any grading or slope changes within five (5) feet of any lot line. The work does not result in any manmade slopes more than 20%, nor does it include grading within five (5) feet of the property line.
21. Excessive excavation or fill is not permitted. Excessive excavation or fill is defined as an amount greater than that required to raise a parcel ten (10) feet above or below the existing natural grades over an area equal to 50% of the allowable Total Coverage in the respective zones per §32-8.2.1. A total of 820 cubic yards was permitted; a total of 340 cy is proposed (30 cy cut, 310 cy fill).
22. §32-8.2.3 states that no portion of any lot shall be filled or excavated to a height or depth greater than ten (10) feet above or below the existing grade. The plan complies with this regulation as the maximum height change is proposed to be approximately 0.5 feet.
23. A Restoration Plan is required per §32-8.4 showing the final grading and landscaping and indicating how the site will be restored after the excavation and fill activities have been completed. As described on Sheet C-2.0 of the Site Plan, prepared by LANDTECH, dated 8/30/23, revised 7/18/24, "*Land disturbance will be kept to a minimum; restabilization will be scheduled as soon as possible.*"

#### Department Comments

24. Comments from Colin Kelly, Conservation Director, dated 9/5/24 state the Conservation Department holds no jurisdiction over this property; however, they recommend that the silt fencing continue to be properly maintained and functional throughout the construction of the pool until the site is fully stabilized with finalized landscaping.
25. Comments from Ted Gill, Engineering Department, dated 9/5/24 state the grading, drainage, and sediment and erosion control all substantially comply with the Town of Westport Zoning Regulations. Mr. Gill expressed concern with the material to be installed for both driveways that lie within the Town Right-of-Way, which must remain asphalt.

#### Public Hearing

26. A public hearing was held and testimony was received on September 23, 2024.
27. The public hearing was held remotely consistent with State Statutes. The hearing was broadcast live on public access television, was live streamed on the Town's website, and anyone could join the meeting and offer testimony by accessing the meeting link published on the agenda one week prior to the meeting.
28. The Planning and Zoning Commission finds this application complies with the standards found in §32-8, Excavation and Filling of Land, and the general standards applicable to Special Permits and Site Plans, set forth in §44-6 and §44-5.



29. During the public hearing, a Commission member expressed concern that Ted Gill's 9/5/24 comment regarding the driveway material be addressed and the applicant agreed to address this by submitting a plan revision prior to the issuance of the Zoning Permit.

NOW THEREFORE, BE IT RESOLVED that **27 Buena Vista Dr:** Special Permit/Site Plan Appl. #PZ-24-00480 submitted by submitted by Curt Lowenstein of LANDTECH for property owned by Gregory Zola and Mark Leondires for excavation and fill activities associated with construction of a new pool, patio and associated grading/retaining walls, on property located in the Residence AA district, PID#D04069000 is **GRANTED** subject to the following modifications:

Modifications

18. Conformance to the Statement of Use and Project Narrative, prepared by LANDTECH, dated 8/19/24.
19. Conformance to the Site Development Plan, prepared by LANDTECH, dated 8/30/23, to be revised 7/18/24 to address Ted Gill's 9/5/24 comments regarding the driveway materials within the right-of-way as agreed to by the applicant.
20. Conformance to Illustrative Plan Showing Exempted Grading, prepared by LANDTECH, dated 8/16/24
21. Conformance to the Town Engineering comments prepared by Ted Gill dated 9/5/24.
22. Trees and shrubs on Town property or in the Town right of way shall not be removed, pruned, injured, or defaced without the consent of the Town's Tree Warden.
23. Prior to the commencement of any construction, site work, tree removal or demolition, the soil and erosion controls shall be installed and inspected by Staff.
24. Prior to the issuance of a Zoning Permit for this work, the applicant shall submit and obtain the following:
  - A. Proof of filing the Resolution on the Land Records.
  - B. Submission of a Revised Site Plan per Modification #2 above.
  - C. Obtain approval from the Engineering Department.
25. The replacement and/or repair of a stone wall greater than four (4) feet in height shall require the issuance of a building permit.
26. All new utilities shall be placed underground.
27. Prior to the issuance of the Zoning Certificate of Compliance, the applicant shall submit a Certified "As-Built" survey stamped by a registered Engineer or Surveyor.
28. This application is granted upon the condition that all construction and site improvements shall be in strict accordance with the plans and other documents submitted and any statements or representations made by the applicant or agent on the record. Any deviation from such documents or representations shall require further review and approval from the Commission.
29. All work approved pursuant to this Site Plan shall be completed within 5 years of date of approval, by September 23, 2029.

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

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

**REASONS:**

The application is found to be in conformance with all applicable zoning regulations.

**VOTE:**

AYES	-5-	{Lebowitz, Calise, Wistreich, Bolton, Injeski}
NAYS	-0-	
ABSTENTIONS	-0-	

Very truly yours,

Paul Lebowitz  
Chairman, Planning & Zoning Commission

cc: Edward Gill, Town Engineer  
Colin Kelly, Conservation Director