



**CONSERVATION COMMISSION**  
TOWN HALL – 110 MYRTLE AVENUE  
WESTPORT, CT 06880  
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**WESTPORT™**

**DRAFT  
MINUTES  
WESTPORT CONSERVATION COMMISSION  
DECEMBER 13, 2023**

The December 13, 2023 Public Hearing of the Westport Conservation Commission was called to order at 7:00 p.m. in the Auditorium of the Westport Town Hall.

**ATTENDANCE**

**Commission Members:**

Tom Carey, Chair  
Josh Lewi  
Rory Murphy  
Patrick Ryll  
Paul Davis, Alternate

**Staff Members:**

Colin Kelly, Conservation Director  
Andrew Hally, Conservation Analyst  
Susan Voris, Admin. Asst. III

This is to certify that these minutes and resolutions were filed with the Westport Town Clerk within 7 days of the December 13, 2023 Public Hearing of the Westport Conservation Commission pursuant to Section 1-225 of the Freedom of Information Act.

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Colin Kelly  
Conservation Director



Mr. Carey noted the test holes indicate that groundwater is quite deep. Dewatering will not be needed. The driveway will have to be permeable in perpetuity as it is a key component of the drainage. The driveway detail was not submitted and will be a condition of approval.

Mr. Hally asked if the downspouts will be directed to reservoir beneath the driveway.  
Mr. Steur indicated they will.

Mr. Hally stated a revised planting plan was submitted with native, non-invasive plantings. He suggested that a bond is appropriate and it be held for one full growing season.

Mr. Davis asked about the proposed timing for the plantings.

Mr. Stuer stated that it is their hope to install the plantings late spring.

Mr. Carey asked for public comment. There were no emails and there was no one in the audience.

Motion to close the public hearing.

<b>Motion:</b>	<b>Carey</b>	<b>Second:</b>	<b>Murphy</b>
<b>Ayes:</b>	<b>Carey, Murphy, Davis, Lewi, Ryll</b>		
<b>Nayes:</b>	<b>None</b>	<b>Abstentions:</b>	<b>None</b>
		<b>Vote:</b>	<b>5:0:0</b>

**Findings**  
**Application #WPL-11845-23**  
**9 Murvon Court**  
**Assessor's Map: D03 Tax Lot: 039**  
**Public Hearing: December 13, 2023**

1. **Application Request:** Applicant is proposing to elevate the existing single-family residence and to remove existing patio landings, platforms, and chimney, and to construct additions, stairs, landings and mechanical deck. The proposed work is occurring within the WPLO (elevation 9') area of the Saugatuck River.
2. **Plans Reviewed:**
  - a. **Improvement Location Survey**, prepared for Shaun & Meghan Stuer, 9 Murvon Court, Westport, Connecticut, prepared by Land Surveying Services LLC, date July 31, 2023, Scale: 1" = 10'.
  - b. **Improvement Location Survey**, prepared for Shaun & Meghan Stuer, 9 Murvon Court, Westport, Connecticut, prepared by Land Surveying Services LLC, date July 31, 2023 and last revised to November 1, 2023, Scale: 1" = 10'.
  - c. **Landscape Planting Plan (drawing over site plan)**, received December 12, 2023.
  - d. **Stuer Residence, Single Family Home (Architecturals)**, prepared for Shaun Stuer, 9 Murvon Court, Westport, CT 06880, dated November 2, 2023, Scale: As Noted
    - i. **Title Page** **Sheet A00**
    - ii. **Foundation Plan and Ground Level** **Sheet A02**
    - iii. **First Floor & Second Floor** **Sheet A03**
    - iv. **Attic Plan & Roof Plan** **Sheet A04**
    - v. **Front Elevation** **Sheet A05**
    - vi. **Rear Elevation** **Sheet A06**
    - vii. **Left Side Elevation** **Sheet A07**
    - viii. **Right Side Elevation** **Sheet A08**
3. **Past Permits:** None
4. **Property Description:**
  - a. **Location of 25-year flood boundary:** 9 ft. contour interval. The property is within the Waterway Protection Line Ordinance (WPLO) boundary.
  - b. **Property is situated in Flood Zones AE (el. 11')** as shown on F.I.R.M. Panel 09001C0551G Map revised to July 8, 2013
  - c. **Proposed First Floor Elevation:** 17.5 ft.
  - d. **Proposed Elevation of Mechanical Deck for AC Units:** 12.0 ft.
  - e. **Proposed Average Site Grade Elevation:** 8.5 ft.

- f. **Lot Size:** 0.124 acres (5,400 sq. ft.)
  - g. **Existing Site Coverage:** 43.8% (2,366 sq. ft.)
  - h. **Proposed Site Coverage:** 39.4% (2,126 sq. ft.)
  - i. **Existing Building Coverage:** 26.3% (1,424 sq. ft.)
  - j. **Proposed Building Coverage:** 26.1% (1,410 sq. ft.)
  - k. **Sewer :** The existing residence is serviced by municipal sewer.
  - l. **Existing Residence:** The existing residence was constructed in 1930.
  - m. **Residential Zone:** Zone A
5. **Aquifer:** Property underlain by Sherwood Island Aquifer which is a coarse-grained stratified drift aquifer. The property is NOT within the Town's wellfield protection zone.
6. **Coastal Area Management:** The subject property is located within the Coastal Area Management (CAM) zone. The coastal resource is identified as Coastal Flood Hazard Area. Coastal Flood Hazard Areas are defined as land areas inundated during coastal storm events. AE-zones are subject to still-water flooding during "100-year" flood events. Coastal Hazard Areas serve as flood storage areas. They are, by their nature, hazardous areas for structural development, especially residential type uses.
7. **Proposed Storm Water Treatment:** The applicant proposes to treat the first 1" of runoff with a pervious crushed shell driveway with a 4"-deep crushed stone reservoir underlayment. The site plans and architectural renderings do not indicate that roof leaders will be conveyed to the driveway stormwater reservoir.
8. **Discussion:**  
The WPL Ordinance requires that the Conservation Commission consider the following when reviewing an application:

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

The Commission finds that most of the property lies within the WPLO boundary (elevation 9') of Grays Creek. The property is situated ~550' east of Grays Creek and ~450' North of the Saugatuck River. The mean high-water line of the Saugatuck River is established at elevation 3.3' (NAVD88) to the south of the property. Isolated to the west of the property is Grays Creek, a tidal watercourse featuring tidal wetlands and mudflats. The portion of the Saugatuck River nearest to the subject property is the Ned Dimes Marina basin. The intertidal zone within the marina basin can be characterized as highly modified, noting the presence of a stone/concrete seawall along much of the shoreline.

Based on the existing spot elevations shown on the site plan, the topography of the site is relatively flat. The elevations indicate the site generally drains towards the northeastern and southern end of the site. Noting that the Saugatuck River is located to the south of the site, the Commission finds that potential flood waters may originate from the Saugatuck River during heavy storm events, though flooding from Grays Creek is likely to occur in more extreme events.

The application proposes to elevate the existing single-family residence to meet FEMA compliance and construct one-story and two-story residential additions, new stairs, new landings, and new mechanical decks. The existing rear patio, front steps and landings, rear landings and chimney, and mechanical platforms and pads will all be removed to accommodate the new development. The driveway surface area will be significantly reduced (~50%). The raised home will have a first-floor elevation of 17.5' and garage floor elevation of 9.0'. The proposed location of the house and pervious patio is substantively within the footprint of the existing house, but the proposed dwelling area footprint is substantively the same. The existing impervious driveway will be replaced with a pervious driveway with storm water storage beneath. Removal of the existing landings, chimney, concrete pads, and storage shed will result in a reduction of total coverage of ~130 sq.ft.

The proposed lift and proposed alterations will be completed to conform to FEMA standards with the first habitable floor (el. 17.5') established above the 100-year base flood elevation (el. 11'). The architectural renderings demonstrate that the ground level will contain parking garage areas for two cars. The rendering, "Foundation Plan and Ground Level", demonstrates there are ten (10) flood vents throughout the ground level which complies with FEMA requirements. During the Flood and Erosion Control Board meeting held on December 6, 2023, the application was approved by the Board with no special conditions.

The new driveway will be constructed as pervious with a crushed shell surface and a 4" crushed stone stormwater reservoir beneath. This will serve as the primary stormwater storage to account for the new coverage.

**Water Quality Considerations:**

The potential for the proposed project to have an adverse impact on the preservation of natural resources and the ecosystem of the adjacent waterways should focus on stormwater quality impacts and percentage of impervious area. The proposed site coverage is ~36%, which is within the 10-25% cover that is expected to impact water quality. Coverage calculations are provided on the site plan. The 2023 Connecticut Stormwater Manual provides research that water quality experiences degradation when coverage in a watershed exceeds 10%. As the Saugatuck River Watershed is densely developed, the coverage exceeds the percentage in which water quality can be assumed to be impacted.

The site plan demonstrates that groundwater was not encountered at test pits advanced to 64" and 84" below grade on the adjacent property at 8 Murvon Court. The Commission does not anticipate that groundwater will be encountered for during the installation of the foundation footing. The Commission finds that a dewatering plan for excavation activities was not provided on the site plan. Given ground water was not encountered in test pits on the adjacent property, the Commission concludes that a dewatering plan for this project is not necessary.

The proposed plan does not require extensive grading or excavation and does not necessitate the utilization of soil or debris stockpiling. The applicant has stated that all debris will be removed in dumpsters or by direct loading of trucks to be brought offsite. The Commission finds that the project will employ the use of a single row of perimeter silt fence.

Stormwater calculations are not provided with the Conservation application. The Engineering department and the Flood and Erosion Control board approve of the method to collect the stormwater runoff from the 25-year storm event and will be able to store the first inch of runoff from the impervious areas of the site. The driveway provides storage to treat the first inch of runoff from the impervious areas proposed onsite, which is considered the Water Quality Volume (WQV). The Commission considers the proposed pervious driveway surface as a benefit, and the storage within the crushed stone reservoir should enhance the stormwater quality across the site from the existing conditions. The Commission finds that the design engineer shall witness and certify all site drainage and submit said certification to the Conservation Department prior to the issuance of a Conservation Certificate of Compliance. The Commission requires a deed restriction to be filed on the land record stating that the proposed driveway will remain pervious in perpetuity.

**Natural Habitat Considerations:**

The Commission references a preliminary review of the State of Connecticut DEEP Natural Diversity Database (NDDDB) for potential presence of state-listed species on or adjacent to the subject property using the EZfile online tool. The review provided no results of potential habitat for state listed species. At present, the Commission does not require further consultation to evaluate impacts to listed species.

Sediment release from loose soil is one of the most significant potential impacts from the proposed project activities. Sediment releases during storm or flood events can result in temporary and long-term impacts to water quality. Impacted water quality may negatively affect the shellfish and aquatic vegetative community of the Saugatuck River and tidal wetland.

The Commission finds that much of the total extent of the proposed development is occurring with the footprints of the existing development. Soil disturbance will be limited to the removal of the existing features, the reconfiguration of the driveway, and the installation of the foundation footing. Potential adverse impacts from soil disturbance will be mitigated by the installation of the perimeter silt fence. Given that the project is ~450 from the Saugatuck River, the Commission finds there is minimal potential for adverse impacts of sediment release into the aquatic habitat.

The Commission finds the landscape planting plan demonstrates that the planting will consist of native trees, shrubs, and perennial herbaceous plants. The plan indicates that the planting will be used as screening around the front, sides and rear of the property. The proposed planting will consist of 56 plants consisting of common lilac, Montauk daisy, limelight hydrangea, yuki snowflake deutzia, arborvitae, and bigleaf hydrangea, most of which are non-native ornamental plants. The Commission requires the applicant to revise the landscape planting plan to include only North American and salt-tolerant vegetation. The Commission finds an extensive native planting as a benefit to the natural habitat within the WPL. Stormwater and flood water biofiltration will benefit the intertidal benthic community and fish community of the Saugatuck River. The plantings will provide cover and forage to resident and migrating bird species. The plants will be beneficial to pollinators, as well. The reestablishment of lawn where impervious patio used to be will restore the ground surface that is more beneficial to facilitating absorption and infiltration of floodwater and stormwater. The Commission finds that the plantings will greatly increase the biodiversity of the plant community in the local ecosystem and may have the potential to populate other areas around the Saugatuck River mouth through seed spread. The Commission requires a performance bond for the planting to be held for one growing season to ensure vitality of the plants.

Overall, the Commission finds raising of the house above base flood elevation, adding an areas of stormwater retention where there was previously none, reducing total coverage, and establishing dense vegetative buffers in areas of lawn as vast improvements to the natural habitat.

**Conservation Commission**  
**TOWN OF WESTPORT**  
**Conditions of Approval**  
**Application #WPL-11845-23**  
**9 Murvon Court**  
**Assessor's Map: D03 Tax Lot: 039**  
**Public Hearing: December 13, 2023**

**Project Description:** To elevate the existing single-family residence and to remove existing patio landings, platforms, and chimney, and to construct additions, stairs, landings and mechanical deck. The proposed work is occurring within the WPLO (elevation 9') area of the Saugatuck River.

**Owner of Record:** Shaun & Meghan Stuer

**Applicant:** Shaun Stuer

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-11845-23 with the following conditions:

**STANDARD CONDITIONS OF APPROVAL**

1. It is the responsibility of the applicant to obtain any other assent, permit or license required by law or regulation of the Government of the United States, State of Connecticut, or of any political subdivision thereof.
2. If an activity also requires zoning or subdivision approval, special permit or special exception under section 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit shall commence until such approval is obtained.
3. If an approval or permit is granted by another Agency and contains conditions affecting wetlands and/or watercourses, the applicant must resubmit the application for further consideration by the Commission for a decision before work on the activity is to take place.

4. The Conservation Department shall be notified at least **forty-eight (48) hours** in advance of the initiation of the regulated activity for inspection of the erosion and sediment controls.
5. All activities for the prevention of erosion, such as silt fences and hay bales shall be under the direct supervision of the site contractor who shall employ the best management practices to control storm water discharges and to prevent erosion and sedimentation to otherwise prevent pollution, impairment, or destruction of wetlands or watercourses. Erosion controls are to be inspected by the applicant or agent weekly and after rains and all deficiencies must be remediated with twenty-four hours of finding them.
6. The applicant shall take all necessary steps to control storm water discharges to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and watercourse.
7. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association.
8. All plants proposed in regulated areas must be non-invasive and native to North America.
9. Trees to remain are to be protected with tree protection fencing prior to construction commencement.
10. The bottom of all storm water retention structures shall be placed no less than 1 foot above seasonal high groundwater elevation.
11. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts, which development in the course or are caused by the work.
12. Any material, man-made or natural which is in any way disturbed and/or utilized during the work shall not be deposited in any wetlands or watercourse unless authorized by this permit.
13. Any on-site dumpster shall be covered at the end of each workday to prevent debris/litter from inadvertently entering surrounding wetlands and/or watercourses.
14. A final inspection and submittal of an "as built" survey is required prior to the issuance of a Certificate of Compliance.
15. Conformance to the conditions of the Flood and Erosion Control Board of **December 6, 2023**.

#### **SPECIAL CONDITIONS OF APPROVAL**

16. Conformance to the plans entitled:
  - a. **Improvement Location Survey**, prepared for Shaun & Meghan Stuer, 9 Murvon Court, Westport, Connecticut, prepared by Land Surveying Services LLC, date July 31, 2023, Scale: 1" = 10'.
  - b. **Improvement Location Survey**, prepared for Shaun & Meghan Stuer, 9 Murvon Court, Westport, Connecticut, prepared by Land Surveying Services LLC, date July 31, 2023 and last revised to November 1, 2023, Scale: 1" = 10'.
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17. Conformance to Flood & Erosion Control Board **December 6, 2023** conditions of approval.
18. A revised site plan shall be submitted to depict the silt fence and a driveway cross section detail, subject to the approval of Conservation Staff, prior to the issuance of a Zoning Permit.
19. The driveway shall remain permeable in perpetuity with said restriction placed on the land records prior to issuance of a Conservation Certificate of Compliance.
20. The design engineer shall witness and certify the construction of all permeable surfaces proposed for this project (driveway) and submit said certification to the Conservation Department prior to the issuance of a Conservation Certificate of Compliance.
21. The applicant shall submit a performance bond for the planting plan to be held one full growing season to ensure vitality of the plants. The bond shall be paid 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: Lewi                      Second: Carey**  
**Ayes: Davis, Carey, Ryll, Murphy, Lewi**  
**Nays: 0                      Abstentions: 0                      Vote: 5:0:0**

The applicant for **7 Sea Spray** was not present. The Commission chose to close the Public Hearing and open the Work Session with the option to reopen the Public Hearing to give the applicant an opportunity to arrive.

**Motion:                      Carey                                      Second:                      Lewi**  
**Ayes:                      Carey, Lewi, Davis, Murphy, Ryll**  
**Nays:                      None                                      Abstentions:                      None                                      Vote:                      5:0:0**

**Work Session:**

**1. Receipt of applications**

Mr. Kelly noted there was one application to formally receive:

**85 Compo Road North:** Application #IWW,WPL-11858-23 to construct a new single family residence, driveway, drainage and associated site improvements.

Mr. Kelly noted that the submission deadline for the January 17, 2024 hearing is December 14, 2023.

Motion to receive 85 Compo Road North.

**Motion:                      Ryll                                      Second:                      Murphy**  
**Ayes:                      Ryll, Murphy, Carey, Davis, Lewi**  
**Nays:                      None                                      Abstentions:                      None                                      Vote:                      5:0:0**

**2. Approval of November 15, 2023 minutes.**

The November 15, 2023 minutes were approved as submitted.

**Motion:                      Carey                                      Second:                      Davis**  
**Ayes:                      Carey, Davis, Lewi, Murphy, Ryll**  
**Nays:                      None                                      Abstentions:                      None                                      Vote:                      5:0:0**

**3. Compliance Report**

Mr. Kelly indicated there is nothing of note to report. This is an update to the Compliance report that Mr. Hartshorne gives the Commission every month.

The Commission had the Show Cause hearing on 27A Sturges Commons on Monday, December 11, 2023. Staff sent out the revised order and letter to the owner and applicant on December 13, 2023 by e-mail, certified mail and regular mail. He stated it is moving forward.

**4. 63 Cross Highway:** Request for bond release being held for plantings as required by Permit #IWW,WPL/E-11540-22.

Mr. Kelly stated Mr. Hartshorn visited the site and plants are in good condition. Staff recommends release of the bond.



