



**Town of Westport**  
Planning and Zoning Commission  
Town Hall, 110 Myrtle Avenue  
Westport, CT 06880  
Tel: 203-341-1030 Fax: 203-454-6145  
[www.westportct.gov](http://www.westportct.gov)

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

## **Planning and Zoning Commission Minutes**

September 3 ,2020

Meeting Started: 7:10 P.M.

In attendance: Danielle Dobin, Chip Stephens, Gregory Rutstein,  
Michael Cammeyer, Catherine Walsh, Paul Lebowitz, Jon Olfeson and  
Al Gratrix Jr.  
(Mr. Stephens and Mr. Gratrix left the meeting before the public  
hearing began)

P&Z Staff: Mary Young, P&Z Director.

### **I WORK SESSION**

- Approval of Minutes- 7/9/20, 7/16/20, 7/20/20, 7/23/20- All Unanimously Approved

### **II PUBLIC HEARING**

1. **153 Easton Road:** Special Permit/Site Plan Appl. #PZ-20-00470 submitted by Bill Achilles for property owned by Rachel Steel Cohn located in Residence AAA district, PID# E18040000, to authorize a second dwelling unit in an Accessory Structure (Barn/Garage), and to authorize an air conditioning unit location in the setback area, requesting zoning incentives pursuant to Sec. 32-18, Historic Residential Structures.  
**Action: Action: Testimony received, and meeting closed.**  
**Granted, Vote: 6-0-0, See attached resolution.**
2. **69 Kings Highway North:** Special Permit/Site Plan Appl. #PZ-20-00524 submitted by Jeff Boley for property owned by Jeff Boley located in the Residence AA district, PID # C09022000, to permit replacement of a garage in a larger configuration, requesting Setback, Building Height (number of stories), and use incentives pursuant to Sec. 32-18, Historic Residential Structure, to use a portion of the Accessory Structure as a Home Office.  
**Action: Action: Testimony received, and meeting closed.**  
**Granted, Vote: 6-0-0, See attached resolution.**

3. **1 Bluff Point:** Coastal Site Plan Appl. #PZ-20-00423 submitted by Bill Achilles for property owned by Cedar Point Yacht Club Inc. located in the Residence A district, PID# C02 008000 to modify exterior of the clubhouse building for the Cedar Point Yacht Club.

**Action: Action: Testimony received, and meeting closed.**

**Approved, Vote: 6-0-0, See attached resolution.**

*Meeting Ended 8:20pm*

*Respectfully submitted by S. McNally, September 10, 2020*



**Town of Westport**  
**Planning and Zoning Commission**  
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Tel: 203-341-1030 Fax: 203-454-6145  
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Hearing: Sept. 3, 2020

Decision: Sept. 3, 2020

September 4, 2020

William A. Achilles, Jr.  
Achilles Architects  
498 Anson Street  
Bridgeport, CT 06606

**RE: 153 Easton Road, Special Permit/Site Plan Appl. #PZ-20-00470**

Dear Mr. Achilles:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on September 3, 2020 it was moved by Mr. Cammeyer and seconded by Mr. Rutstein to adopt the following resolution.

**RESOLUTION #PZ-20-00470**

WHEREAS, the Planning and Zoning Commission met on September 3, 2020 and made the following findings:

**Property Description**

1. 153 Easton Road is a 2+-acre lot located in the Residence AAA (2-acre) district. The site is irregularly shaped, contains steep slopes and wetlands, with the rear of the property in the Aspetuck River floodway. Mature trees, landscaping, and the river create a serene setting punctuated by a post-modern home constructed in the 1970's, and a detached barn/garage that was formerly part of a larger estate that contains a second dwelling unit.
2. A Historic Resources Inventory (HRI) sheet was created by Westport's Historic Preservation Specialist Daryn Reyman-Lock in 2020 for both the single-family home and detached garage/barn structures. These sheets qualified the structures to utilize §32-18, Historic Residential Structures.

## Proposal

3. The applicant is seeking to obtain use and setback “incentives” pursuant to §32-18 to:
  - A. Maintain the use of the Historic Accessory Structure as a garage with a 2<sup>nd</sup> dwelling unit (apartment); and
  - B. Maintain the AC unit location in the setback located 22’-4” from the property line (instead of 50’) that is serving the 2<sup>nd</sup> dwelling unit.
4. The applicant in his 8/5/20 narrative describes the existing 937 SF apartment is located on two levels of the 1.5-story, 1,474 SF garage/barn. The first floor consists of a 537 SF, 3-car garage and the remaining 200 SF used as the entry, kitchen, and stairway to the apartment. The 737 SF, second floor consists of a living room, 1-bedroom, and bathroom. There are no changes proposed to the interior or the exterior of the barn/garage.
5. The applicant is also seeking an interpretation from the Commission that the Preservation Easement be limited to the Historic Accessory Structure (barn/garage). No specific information was provided for this request.

## Planning and Zoning Department Comments

6. The Planning and Zoning staff comments dated 8/25/20 provides background describing the request to the Commission to authorize the 2<sup>nd</sup> dwelling unit. The staff report notes:

*“It appears the barn/garage structure has been used as an accessory apartment since the mid-20<sup>th</sup> century and has an approved separate septic system. The documentation required pursuant to §11-2.4.13(a) are not available proving the apartment existed prior to 1959 by submitting tax cards showing same and/or affidavits from persons who were present to witness the apartment in existence prior to 10/1/59; therefore the applicant is seeking relief from the Planning and Zoning Commission pursuant to §32-18 that enables the Commission to approve use of a detached structure for a 2<sup>nd</sup> dwelling unit.”*
7. The P&Z staff comments dated 8/25/20 also provides some background for consideration related to the setback relief to maintain the AC unit. The comments note:

*“The evidence required pursuant to CGS §8-13a to document the existence of the AC unit location in the setback area adjacent to the Historic Accessory Structure (barn/garage) was not provided so the applicant is seeking relief from the Planning and Zoning Commission pursuant to §32-18 regulation that enables the Commission to approve setback encroachments.”*
8. The P&Z staff comments dated 8/25/20 identifies the Planning and Zoning Commission is authorized to interpret §32-18.6 to limit the Preservation Easement to the Historic Accessory Structure as requested by the applicant if so inclined. The comments note:

*"§32-18.6 requires any approval for a Historic Residential Structure shall be accompanied by a Perpetual Preservation Easement to "preserve the structural and historic integrity of the historic structure or historic accessory structure." The Planning and Zoning Commission in 2009 proposed the Preservation Easement shall be interpreted to encompass all buildings located on site, not just the historic structure or historic accessory structure. It is presumed this easement requirement was interpreted broadly so as to ensure the historic structure or historic accessory structure remains compatible with its setting. This interpretation was included in Text Amendment #603 proposed by the Commission in 2009, but the amendment was subsequently withdrawn by the Commission; therefore, this interpretation is not listed as a "requirement" in the Zoning Regulations."*

9. Lastly the P&Z staff comments dated 8/25/20 recommends consideration for deed-restricting the 2<sup>nd</sup> dwelling as an affordable unit pursuant to §32-18.9 as there is a need for affordable housing in Westport. The comments note:

*"§32-18.8 allows the property owner to rent the 2<sup>nd</sup> dwelling unit without the standard limitations imposed upon property owners with Accessory Apartments in their homes who must rent the unit to persons who are over age 62, or persons receiving social security disability benefits, or persons who meet the affordable income guidelines..."*

*"The Commission should engage the applicant in a discussion about deed restricting the 2<sup>nd</sup> dwelling unit as this would be consistent with the 2017 Plan of Conservation and Development that recommends addressing affordable housing in ways that are appropriate for the community rather than dictated by private developers."*

### **Other Department Comments**

10. The Building Officials provided comments dated 8/20/20 confirming the 2<sup>nd</sup> dwelling unit complies with all code requirements.
11. The Westport Weston Health District submitted comments dated 8/20/20 confirming the septic system is adequate to support the 2<sup>nd</sup> dwelling unit.

### **Findings by the Planning and Zoning Commission**

12. Neil Cohn appeared at the public hearing, who is married to the property owner, and who serves as an Alternate on the Planning and Zoning Commission. He appeared at the hearing in his capacity as a private citizen. At the hearing, Mr. Coen persuaded the Commission there is no need to deed restrict the 2<sup>nd</sup> dwelling unit as an Affordable Dwelling Unit due to its small size as it will likely be rented at a below-market-rate price negating the need to impose an onerous 40-year deed restriction on the property.
13. The Planning and Zoning Commission finds the application is consistent with the standards in §32-18.4 that state:
  - A. *"The preservation of the historic structure or historic accessory structure is in the public interest and will promote the general health and welfare of the residents of the Town."*

- B. The proposal will permit the preservation and exterior historic integrity of the historic structure or historic accessory structure.*
  - C. The historic structure or historic accessory structure will require height, setback, coverage parking, landscaping and/or lot area and shape incentives, provided that the number of existing parking spaces shall not be reduced, and, in the case of historic structures containing existing special permit uses and/or historic accessory structures, use incentives to allow for its preservation, retention of its historic scale and/or its location on the property.*
  - D. The proposal will be contextually consistent with the architectural design, scale and massing of the subject structure as well as with its immediate surroundings. Scale is the primary consideration in determining whether a historic structure or historic accessory structure is compatible with its setting.*
  - E. The proposal will not adversely affect public safety.”*
14. The Commission further finds the unique history of the property enables a finding the preservation easement required pursuant to §32-18.6 may be limited to the Historic Accessory Structure only, as requested by the applicant.
15. This finding is consistent with previous findings made in prior decisions to preserve sensitive resources on other properties including but not limited to historic stone walls, and mature trees that have been protected by the Commission by requiring a conservation easement in perpetuity to preserve these resources.
16. This finding should not be construed to mean the Commission has offered an interpretation of how to administer §32-18.6, as the Commission going forward will review each Special Permit request submitted pursuant to §32-18 on its own merits and render a decision based upon the conditions associated with any future applications.
17. The Planning and Zoning Commission finds the application meets the intent and purpose of §32-18, as allowing the requested incentives (Use and Setback relief) will encourage the retention of the existing Historic Accessory Structure.

### **Public Participation**

18. Public Hearing review of the application by the Planning and Zoning Commission was held remotely using electronic means due to the Coronavirus Pandemic, as Town Hall was closed. The public hearing was broadcast live on public access television and live on-line on the Town’s website.
19. Accommodations were made to receive comments from the public in “real time,” at the public hearing as well as accommodations were made to receive comments via email prior to the public hearings.
20. All application materials and videos of the public hearing were posted on the Town’s website consistent with the Governor’s Executive Orders to maintain transparency to the public while simultaneously maintaining appropriate social distancing.

**NOW THEREFORE, BE IT RESOLVED 153 Easton Road:** Special Permit/Site Plan Appl. #PZ-20-00470 submitted by Bill Achilles for property owned by Rachel Steel Cohn located in Residence AAA district, PID# E18040000, to authorize a second dwelling unit in an Accessory Structure (Barn/Garage), and to authorize an air conditioning unit location in the setback area, requesting zoning incentives pursuant to §32-18, Historic Residential Structures is **GRANTED** subject to the modifications listed below:

**Modifications**

1. Conformance to "Zoning Map of Property" at 153 Easton Road, prepared by Dennis Deilus, dated 1/2/18, received 7/15/20.
2. Conformance to "Barn Plan & Elevations" prepared by Achilles Architects, (2 sheets) dated 7/13/20, received 7/15/20.
3. Conformance to AC Unit Location Sketch of 153 Easton Road, prepared by William Achilles, dated 8/26/20, received 8/27/20.
4. A Zoning Permit shall be obtained to implement this approval. Prior to the issuance of a Zoning Permit, the applicant shall submit the following to the Planning and Zoning Department:
  - A. A draft Preservation Easement document for review and approval by the Town Attorney's Office along with a map showing the easement area, prior to recording these documents on the land records; and
  - B. Proof of recording the Preservation Easement document on the land records.
  - C. Proof of recording this Resolution on the Land Records.
5. All work approved pursuant to this Special Permit/Site Plan shall be completed within 5 years of date of approval, by September 3, 2025.
6. All new utilities shall be placed underground.
7. Trees shall not be removed from Town property.
8. The construction, replacement and/or repair of any stone wall or retaining wall greater than 4' in height shall obtain a building permit.
9. All plantings shown on an approved Site Plan shall be maintained in a healthy growing condition and all fences and walls shall be maintained in good physical condition throughout the duration of the use. Plants, fences or walls not so maintained shall be replaced with new materials no later than the beginning of the next immediately following growing season.
10. Demolition of or removal of any part of the building may not exceed what has been shown on the plans approved by the Planning and Zoning Commission. 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 of 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 Planning and Zoning Commission.

11. 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

1. The application as modified has been found to be in conformance with all applicable zoning regulations as well as the Site Plan and Special Permit standards listed in §44-5 and §44-6.
2. The application has been found to be consistent with the *2017 Plan of Conservation and Development* that identifies preservation of historic structures helps maintain and enhance community character in Westport (Pg. 25).
3. Approval of the project will permit continued preservation of the exterior integrity of the Historic Accessory Structure.

## VOTE:

AYES	-6-	{Dobin, Rutstein, Lebowitz, Cammeyer, Olefson, Walsh}
NAYS	-0-	
ABSTENTIONS	-0-	

Very truly yours,

A handwritten signature in black ink, appearing to read 'Danielle Dobin', with a stylized flourish at the end.

Danielle Dobin, Chairman  
Planning & Zoning Commission

cc: William Harris, Historic District Commission Chairman  
Eileen Flug, Assistant Town Attorney  
Mark Cooper, Westport Weston Health District Director  
Paul Friia, Tax Assessor  
Rachel Cohn, property owner



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Hearing: Sept. 3, 2020

Decision: Sept. 3, 2020

September 4, 2020

Jeffrey Boley  
69 Kings Highway North  
Westport, CT 06880

**RE: 69 Kings Highway North, Special Permit/Site Plan Appl. #PZ-20-00524**

Dear Mr. Boley:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on September 3, 2020 it was moved by Ms. Dobin and seconded by Mr. Cammeyer to adopt the following resolution.

**RESOLUTION #PZ-20-00524**

WHEREAS, the Planning and Zoning Commission met on September 3, 2020 and made the following findings:

**Property Description/Background**

1. 69 Kings Highway North is a 0.2995-acre lot located in the Residence AA (half-acre) zoning district. The lot is non-conforming to the minimum lot size requirements
2. The property is improved with a single-family home and detached garage that are pre-existing non-conforming to the setback requirements in the Residence AA zone for the undersized lot (15' front; 10' side and 25' rear). The property is connected to the public sewer.
3. The lot is located in the Kings Highway North Local Historic District where changes to the exterior of any building or structure or construction of new buildings that are visible from the street are subject to review and issuance of a Certificate of Appropriateness from the Historic District Commission.
4. The Building Official in November 2019 documented damage to the garage resulting from a tree falling on top of it and advised the property owner to remove the garage and rebuild it.

5. Rather than restoring the garage as it was, as is allowed as of right when "Acts of God" occur, the property owner investigated replacing the garage with a slightly larger version.
6. The applicant met with the Town's Historic Preservation Specialist Daryn Reyman-Lock who qualified the garage to be a Historic Accessory Structure enabling application to be made to the Planning and Zoning Commission seeking zoning incentives pursuant to §32-18, Historic Residential Structures.
7. As the site is located in a local historic district a Certificate of Appropriateness (CA) was required for new construction prior to seeking relief from the Planning and Zoning Commission pursuant to §32-18. The property owner obtained a CA from the Historic District Commission (HDC) who unanimously approved the project at their 7/14/20 meeting.

### **Proposal**

8. The applicant is seeking setback, height (number of stories), and use zoning "incentives" to replace the garage with a slightly larger one pursuant to §32-18. The project requires the following zoning relief:
  - A. Setbacks; to allow for a 6.5' side setback instead of the required 10' setback;
  - B. Building Height; to allow for a 1.5 story instead of a 1-story tall garage; and
  - C. Use; to allow for a portion of the garage (405 SF) to be used as a Home Office.
9. The applicant is also seeking an interpretation from the Commission that the Preservation Easement be limited to the Historic Accessory Structure (garage). Correspondence dated 9/1/20 from the property owner offered as his rationale that the property is already subject to Historic District Commission review for future exterior changes due to its location in a local historic district negating the need to mandate further review through means of a Preservation Easement. Additionally, the property owner cited there are potential financial impacts on the future marketability of the property which he wishes to avoid.

### **Planning and Zoning Department Comments**

10. The Planning and Zoning staff comments dated 8/26/20 offered the applicant's request to use of a portion of the garage for a Home Office may not be required, but may be allowed as of right, based upon changes to the regulations made in 2010 subsequent to the adoption of §32-18 in 2008; but staff advised the applicant to include the request to "cover all bases." The comments note:

*"The Commission adopted Amendment #611 in 2010 that replaced the Home Occupation regulations with the Home Based Business regulations that included a hierarchy of intensity and corresponding approval process requirements for a Home Office, Home Occupation Level 1, and Home Occupation Level 2. This amendment included expanding opportunities for all property owners to utilize their Accessory Structures for a Home Based Business. Adoption of this amendment negated the need for relief to be sought per §32-18 for use of a Historic Accessory Structure as a Home Based Business; however since the §32-18 regulations were not amended in 2010 as part of Amendment #611, staff advised the applicant to make the request as part of his project while seeking other zoning incentives pursuant to §32-18."*

11. The P&Z staff comments dated 8/26/20 also identify the Planning and Zoning Commission is authorized to interpret §32-18.6 to limit the Preservation Easement to the Historic Accessory Structure as requested by the applicant if so inclined. The comments note:

*"§32-18.6 requires any approval for a Historic Residential Structure shall be accompanied by a Perpetual Preservation Easement to 'preserve the structural and historic integrity of the historic structure or historic accessory structure.' The Planning and Zoning Commission in 2009 proposed the Preservation Easement shall be interpreted to encompass all buildings located on site, not just the historic structure or historic accessory structure. It is presumed this easement requirement was interpreted broadly so as to ensure the historic structure or historic accessory structure remains compatible with its setting. This interpretation was included in Text Amendment #603 proposed by the Commission in 2009, but the amendment was subsequently withdrawn by the Commission; therefore this interpretation is not listed as a 'requirement' in the Zoning Regulations."*

### **Other Department Comments**

12. The Department of Public Works Engineering Division submitted comments dated 8/3/20 identifying they have no objection to approval of the application and will be requiring all drainage requirements to be addressed by the property owner when he seeks a zoning permit.
13. The Conservation Department submitted comments dated 7/28/20 confirming the site contains no wetlands and therefore there is no Conservation jurisdiction.

### **Findings by the Planning and Zoning Commission**

14. The Planning and Zoning Commission finds the application is consistent with the standards in §32-18.4 that state:
  - A. *"The preservation of the historic structure or historic accessory structure is in the public interest and will promote the general health and welfare of the residents of the Town.*
  - B. *The proposal will permit the preservation and exterior historic integrity of the historic structure or historic accessory structure.*

- C. The historic structure or historic accessory structure will require height, setback, coverage parking, landscaping and/or lot area and shape incentives, provided that the number of existing parking spaces shall not be reduced, and, in the case of historic structures containing existing special permit uses and/or historic accessory structures, use incentives to allow for its preservation, retention of its historic scale and/or its location on the property.*
  - D. The proposal will be contextually consistent with the architectural design, scale and massing of the subject structure as well as with its immediate surroundings. Scale is the primary consideration in determining whether a historic structure or historic accessory structure is compatible with its setting.*
  - E. The proposal will not adversely affect public safety.”*
15. The Commission further finds the applicant’s rationale in his correspondence dated 9/1/20 enables a finding the preservation easement required pursuant to §32-18.6 may be limited to the Historic Accessory Structure only, as requested by the applicant.
  16. This finding is consistent with previous findings made in prior decisions to preserve sensitive resources on other properties including but not limited to historic stone walls, and mature trees that have been protected by the Commission by requiring a conservation easement in perpetuity to preserve these resources.
  17. This finding should not be construed to mean the Commission has offered an interpretation of how to administer §32-18.6, as the Commission going forward will review each Special Permit request submitted pursuant to §32-18 on its own merits and render a decision based upon the conditions associated with any future applications.
  18. The Planning and Zoning Commission finds the application meets the intent and purpose of §32-18, as allowing the requested incentives (Use, Setback, and Height relief) will encourage the retention of the existing Historic Accessory Structure).

### **Public Participation**

- 19. Public Hearing review of the application by the Planning and Zoning Commission was held remotely using electronic means due to the Coronavirus Pandemic, as Town Hall was closed. The public hearing was broadcast live on public access television and live on-line on the Town’s website.*
- 20. Accommodations were made to receive comments from the public in “real time,” at the public hearing as well as accommodations were made to receive comments via email prior to the public hearings.*
- 21. All application materials and videos of the public hearing were posted on the Town’s website consistent with the Governor’s Executive Orders to maintain transparency to the public while simultaneously maintaining appropriate social distancing.*

**NOW THEREFORE, BE IT RESOLVED 69 Kings Highway North:** Special Permit/Site Plan Appl. #PZ-20-00524 submitted by Jeff Boley for property owned by Jeff Boley located in the Residence AA district, PID # C09022000, to permit replacement of a garage in a larger configuration, requesting Setback, Building Height (number of stories), and use incentives pursuant to Sec. 32-18, Historic Residential Structure, to use a portion of the Accessory Structure as a Home Office is **GRANTED** subject to the modifications listed below:

**Modifications**

1. Conformance to "Zoning Location/Survey", prepared by Walter Skidd, dated 4/23/2020, revised 7/13/20, received 8/13/20.
2. Conformance to Proposed garage plans (7 Sheets), prepared by Deirdre O'Farrelly, revised to 7/30/20, received 8/13/20.
3. A Zoning Permit shall be obtained to implement this approval. Prior to the issuance of a Zoning Permit, the applicant shall submit the following to the Planning and Zoning Department:
  - A. Final approval from the Department of Public Works Engineering Division per their comments dated 8/3/20;
  - B. A draft Preservation Easement document for review and approval by the Town Attorney's Office along with a map showing the easement area, prior to recording these documents on the land records;
  - C. Proof of recording the Preservation Easement documents on the land records; and
  - D. Proof of recording this Resolution on the Land Records.
4. All work approved pursuant to this Special Permit/Site Plan shall be completed within 5 years of date of approval, by September 3, 2025.
5. All new utilities shall be placed underground.
6. Trees shall not be removed from Town property.
7. The construction, replacement and/or repair of any stone wall or retaining wall greater than 4' in height shall obtain a building permit.
8. All plantings shown on an approved Site Plan shall be maintained in a healthy growing condition and all fences and walls shall be maintained in good physical condition throughout the duration of the use. Plants, fences or walls not so maintained shall be replaced with new materials no later than the beginning of the next immediately following growing season.
9. Demolition of or removal of any part of the building may not exceed what has been shown on the plans approved by the Planning and Zoning Commission. 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 of 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 Planning and Zoning Commission.

10. 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 to the maximum allowed by statute; and/or 4) enforcement action through a judicial proceeding.

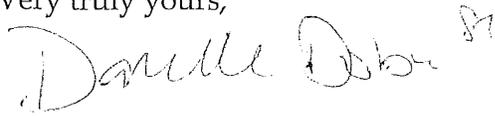
### REASONS

1. The application as modified has been found to be in conformance with all applicable zoning regulations as well as the Site Plan and Special Permit standards listed in §44-5 and §44-6.
2. The application has been found to be consistent with the *2017 Plan of Conservation and Development* that identifies preservation of historic structures helps maintain and enhance community character in Westport (Pg. 25).
3. Approval of the project will permit continued preservation of the exterior integrity of the Historic Accessory Structure.

### VOTE:

AYES	-6-	{Dobin, Rutstein, Lebowitz, Cammeyer, Olefson, Walsh}
NAYS	-0-	
ABSTENTIONS	-0-	

Very truly yours,

A handwritten signature in cursive script that reads "Danielle Dobin" followed by a small mark that appears to be a stylized "87".

Danielle Dobin, Chairman  
Planning & Zoning Commission

cc: William Harris, Historic District Commission Chairman  
Eileen Flug, Assistant Town Attorney  
Paul Friia, Tax Assessor



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Hearing: September 3, 2020  
Decision: September 3, 2020

September 4, 2020

William Achilles  
Achilles Architects  
498 Anson Street  
Bridgeport, CT 06606

**RE: 1 Bluff Point Road, Coastal Site Plan Appl. #PZ-20-00423**

Dear Mr. Achilles:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on September 3, 2020, it was moved by Mrs. Walsh and seconded by Mr. Rutstein to adopt the following resolution:

**RESOLUTION #PZ-20-00423**

WHEREAS, THE PLANNING AND ZONING COMMISSION met on September 3, 2020 and made the following findings:

Background

1. The lot is a conforming 6.4 acre lot owned by Cedar Point Yacht Club and is located within the Res. A district. The survey shows that the property is highest in the center at El. 8.7' and slopes down to El. 3.1' along the Mean High Water Line.
2. 1 Bluff Point Road is located within the Coastal Area Management (CAM) boundary, WPLO and is located within the 100-year flood zone which is designated as AE El. 13' and VE El. 14' on Panel #09001C0551G. The yacht club is wholly located in the AE El. 13' flood zone. The property is connected to sanitary sewer.
3. There is developed with a clubhouse, open pavilion, play area, two accessory storage structures and parking lot on the site. A Special Permit was granted in 1966 for yacht club use including the clubhouse and attendant facilities.

Proposal

4. The applicant is seeking to remove the existing doors, walls and windows on a portion of the 2<sup>nd</sup> floor (west side) and install a countertop with stackable window system. The work proposed is under the existing 2<sup>nd</sup> floor balcony overhang and will not change the footprint or floor area of the building.

Associated Approvals

5. The Conservation Department approved the application on February 27, 2020.
6. The ARB Chairman determined their review was not required for this project.
7. Testimony was received at the September 3, 2020 public hearing.

**NOW THEREFORE, BE IT RESOLVED that 1 Bluff Point:** Coastal Site Plan Appl. #PZ-20-00423 submitted by Bill Achilles for property owned by Cedar Point Yacht Club Inc. located in the Residence A district, PID# C02 008000 to modify exterior of the clubhouse building for the Cedar Point Yacht Club, be **APPROVED** subject to the following modifications:

1. Conformance to Existing Conditions Survey, prepared by Neal K. Jain, dated 3/9/20.
2. Conformance to the Building Plans, prepared by Achilles Architects, dated 5/12/20 (3 Sheets)
3. Prior to the issuance of a new Zoning Permit for this work, the applicant shall submit and obtain the following:
  - A. Provide documentation that the proposal will not be a Substantial Improvement.
4. Prior to the issuance of the Zoning Certificate of Compliance, the applicant shall submit a Certified "As-Built" survey stamped by a registered Engineer.
5. 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.
6. All work approved pursuant to this Site Plan shall be completed within 5 years of date of approval, by September 3, 2025.
7. 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 conditioned above conforms to all applicable zoning regulations.

**VOTE:**

AYES	-6-	{Dobin, Rutstein, Cammeyer Lebowitz, Olefson, Walsh}
NAYS	-0-	
ABSTENTIONS	-0-	

Very truly yours,



Danielle Dobin  
Chairman, Planning & Zoning Commission

Cc: P. Friaa, Tax Assessor



**Town of Westport**  
Planning and Zoning Commission  
Town Hall, 110 Myrtle Avenue  
Westport, CT 06880  
Tel: 203-341-1030 Fax: 203-454-6145  
[www.westportct.gov](http://www.westportct.gov)

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

## **Planning and Zoning Commission Minutes**

September 10, 2020

Meeting Started: 7:00 P.M.

In attendance: Danielle Dobin, Chip Stephens, Gregory Rutstein,  
Michael Cammeyer, Catherine Walsh, Paul Lebowitz, Jon Olfeson and  
Alfred Gratrix Jr.

P&Z Staff: Mary Young, P&Z Director.  
Ira Bloom, Town Attorney.  
Peter Gelderman, Town Attorney.

### **I PUBLIC MEETING**

1. Commission to potentially vote to go into Executive Session  
Action: Unanimous support to go into Executive Session.

### **II EXECUTIVE SESSION**

*The executive session will be held by a separate electronic meeting that will not be open to the public.*

1. Discuss pending litigation: Cross Street LLC v. Westport Planning and Zoning Commission.  
Action: Discussed.
2. Discuss pending litigation: Garden Homes Management, Corp. Et Al. v. Westport Planning and Zoning Commission.  
Action: Discussed.

Meeting Ended 8:20pm

Respectfully submitted by S. McNally, September 14, 2020



**Town of Westport**  
Planning and Zoning Commission  
Town Hall, 110 Myrtle Avenue  
Westport, CT 06880  
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[www.westportct.gov](http://www.westportct.gov)

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

## **Planning and Zoning Commission Minutes**

September 24, 2020

Meeting Started: 7:00 P.M.

**In attendance:** Danielle Dobin, Chip Stephens,  
Michael Cammeyer, Catherine Walsh, Paul Lebowitz, Neil Cohn and  
Alfred Gratrix Jr.

**P&Z Staff:** Mary Young, P&Z Director

### **I PUBLIC MEETING**

1. **Bayberry Lane Bridge Replacement:** §8-24 Request by the First Selectman for a report from the Planning and Zoning Commission on a referral from the Westport Public Works Department regarding the removal of the existing bridge (Bridge No. 04969) over the Aspetuck River, and to replace it with a new bridge in approximate place and kind.

**Action:** Testimony received, and meeting closed.

**Positive Report, Vote:** 7-0-0, *See attached report.*

2. **Calvary Road Bridge Replacement:** §8-24 Request by the First Selectman for a report from the Planning and Zoning Commission on a referral from the Westport Public Works Department regarding the removal of the existing bridge (Bridge No. 04964) over the West Branch Saugatuck River, and to replace it with a new bridge in approximate place and kind.

**Action:** Testimony received, and meeting closed.

**Positive Report, Vote:** 7-0-0, *See attached report.*

### **II PUBLIC HEARING**

1. **312 Bayberry Lane:** *(This application will be opened and continued to 10/8/20 hearing, no testimony will be received at the 9/24/20 hearing)* Special Permit/ Site Plan Appl# PZ-20-00487 submitted by Robert Pryor for property owned by David Herling for excavation and fill activities associated with driveway expansion and regrading of the lawn, located in the Residence AAA zone, PID#E18025001.

**Action:** No testimony received; item was continued.

2. **Text Amendment #781:** Appl: PZ-20-00355 submitted by Rick Redniss, of Redniss and Mead, to modify the definition for Special Needs Individuals in §5-2, Specific Terms; to modify §11-2.3, Special Permit Uses Subject to Special Conditions to add reference to proposed §11-2.3.18, Special Needs Housing; to modify §13-2.1, Special Permit Uses Subject to Special Conditions in the Residence A District, to remove §13-2.1.2, Special Needs Housing; and to modify §32-27.1, Location, to expand where Special Needs Housing may be located to include any Town-owned property in any zoning district. A copy of the proposed text amendment is available on-line at [www.westportct.gov](http://www.westportct.gov) is on file in the Town Clerk's Office, is on file in the Planning and Zoning Office, and is attached to this notice.

**Action: Testimony received; applicant withdrew the application.**

3. **222 Wilton Road:** Special Permit/ Site Plan Appl# PZ-20-00468 submitted by Andy Soumelidis for property owned by FBCH Holdings LLC for an after the fact approval for excavation and fill activities associated with proposed septic improvements, located in the Residence AA zone, PID# C12012002 .

**Action: Testimony received, and meeting closed.**

**Granted, Vote: 6-1 (Stephens) -0, See attached resolution.**

### III WORK SESSION

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

#### **New Business:**

- Update from the Affordable Housing Subcommittee.- **Discussed**

#### **Old Business:**

*Meeting Ended 9:00pm*

*Respectfully submitted by S. McNally, September 28,2020*



**Town of Westport**  
Planning and Zoning Commission  
Town Hall, 110 Myrtle Avenue  
Westport, CT 06880  
Tel: 203-341-1030 Fax: 203-454-6145

Public Meeting: September 24, 2020  
Decision: September 24, 2020

September 28, 2020

Honorable James Marpe, First Selectman  
110 Myrtle Avenue  
Westport, CT 06880

**RE: §8-24 Municipal Improvement Request to replace the Bayberry Lane Extension  
Bridge over the Aspetuck River, PZ #20-00574**

Dear First Selectman Marpe:

In response to your request for a report from the Planning and Zoning Commission pursuant to CGS §8-24, Municipal Improvement, in conjunction with a project to replace the Bayberry Lane Ext. Bridge known as CT DOT Bridge No. 04969, in approximate place and kind, the Planning and Zoning Commission offers the following findings and recommendations:

**Findings**

1. The Bayberry Lane Extension Bridge requires replacement due to it being hydraulically inadequate and de-rated by ConnDOT pursuant to their 2017 Bridge Inspection Report.
2. Approximately 624 vehicles per day travel on the Bayberry Lane. Ext. Bridge.
3. The project materials describe:
  - A. The existing single span bridge will be replaced with a clear-span superstructure founded on new abutments, 100-feet of roadway reconstruction, new guardrail system, and scour protection;
  - B. The bridge will be widened from approximately 24.3' to 30.5'; and
  - C. The project will begin in Spring 2021 with appropriate precautions to be employed to avoid impacting the stream bed and associated fisheries area. Some utility relocation will take place on the east side of the bridge prior to the bridge work.

4. The Town Engineer provide more specificity at the public meeting regarding the widening of the bridge as follows:

	Existing	Proposed	Change
Span	19.4	45.0	25.6
Width	24.3	30.5	6.2

5. The project is estimated to cost approximately \$1,999,460 according to the Town Engineer. 80% of the project will be funded by the federal government and the remaining 20% or approximately \$399,892 by the Town of Westport.
6. The Bayberry Lane Extension Bridge is located over the Aspetuck River. Potential adverse impacts to fish and wildlife resulting from the bridge replacement were considered by the Department of Energy and Environmental Protection that approved the project with conditions to mitigate potential environmental impacts.
7. The Conservation Commission reviewed and approved the project at their 9/23/20 meeting. One of the special conditions of their approval required a site monitor be retained for the duration of the project’s construction and completion.
8. The Flood and Erosion Control Board reviewed and approved the project at their 9/2/20 meeting.
9. One month prior to the Planning and Zoning Commission’s Public Meeting, the following project materials were posted on the Town’s website to provide public transparency:
  - A. §8-24 Request Letter and Completed Municipal Improvement application form dated 8/20/20;
  - B. Notice Notification Map and List of neighboring property owners (located within 250’ of subject properties), and Notice Letter to neighboring property owners;
  - C. Project Narrative from the Department of Public Works dated 8/20/20;
  - D. Copy of application submitted to the Westport Conservation Commission, dated 8/10/20;
  - E. Hydraulic Design Report prepared by EcoDesign, LLC dated 8/24/20; and
  - F. Construction Detour Plan, prepared by AI Engineers, dated 6/4/20.
10. Notices were sent to property owners within a 250’ radius of the project in envelopes marked “Urgent Notice Letter,” in advance of the Planning and Zoning Commission’s Public Meeting notifying residents of the meeting, how to submit comments for the Commission’s consideration, and how to learn more about the project.
11. Additionally, a public meeting notice was published on the Town’s website 10-days prior to the public meeting.
12. No public comments were received.

13. A remote Public Meeting of the Planning and Zoning Commission was held on September 24, 2020 due to COVID-19. The meeting was live streamed on the Town's website and shown live on Optimum Government Access Channel 79 and Frontier Channel 6020.

**THEREFORE BE IT RESOLVED** it was moved by Mr. Stephens and seconded by Mr. Gratix to issue a **POSITIVE REPORT** for **Bayberry Lane Bridge Replacement: §8-24 Request** by the First Selectman for a report from the Planning and Zoning Commission on a referral from the Westport Public Works Department regarding the removal of the existing bridge (Bridge No. 04969) over the Aspetuck River, and to replace it with a new bridge in approximate place and kind.

### Reasons

1. The *2017 Plan of Conservation and Development (POCD)* recognizes the need to address vehicular and transportation issues and the Bayberry Lane Bridge replacement project is found to be consistent with the POCD that recommends maintaining a safe roadway system (pg. 103-104).
2. The new bridge will improve roadway flooding conditions by making the low point of Bayberry Lane Extension passable during a 10-year storm event versus the existing 5-year storm event according to the hydraulic design report.

### Recommendations

1. The Planning and Zoning Commission strongly recommends further study be done immediately for all planned bridge replacement projects to understand the cumulative effect of the improvements and increased volume of water that will flow downstream and its' potential impact town wide generally, and potential impacts to downstream property owners specifically.
2. The Commission also recommends the Department of Public Works (DPW) conduct extensive public outreach to alert motorists in advance of construction and route detours. Such outreach should extend to residents, the Board of Education, and large businesses whose employees might utilize the bridge for their commute.
3. The Commission additionally recommends DPW consider staggering this bridge project with the Cavalry Road Bridge project rather than doing them simultaneously to help mitigate potential adverse traffic impacts to residents.
4. The Commission further recommends reconsideration of the submitted construction detour plan to help alleviate potential traffic congestion such as using North Avenue and Easton Road.
5. Any outstanding approvals from the RTM, Board of Finance, and/or Board of Selectman should be obtained before commencing work.

**VOTE:**

AYES	-7-	{Dobin, Stephens, Cammeyer, Lebowitz, Walsh, Gratrix, Cohn}
NAYS	-0-	
ABSTENTIONS	-0-	

Sincerely,



Danielle Dobin, Chair  
Planning and Zoning Commission

cc: Peter Ratkiewich, Public Works Director  
Keith Wilberg, Town Engineer  
Alicia Mozian, Conservation Director  
Gary Conrad, Finance Director  
Brian Stern, BOF Chairman  
Velma Heller, RTM Moderator  
Matt Mandell, Chairman, RTM P&Z Committee  
Ira Bloom, Town Attorney  
Eileen Flug, Assistant Town Attorney



**Town of Westport**  
Planning and Zoning Commission  
Town Hall, 110 Myrtle Avenue  
Westport, CT 06880  
Tel: 203-341-1030 Fax: 203-454-6145

Public Meeting: September 24, 2020  
Decision: September 24, 2020

September 28, 2020

Honorable James Marpe, First Selectman  
110 Myrtle Avenue  
Westport, CT 06880

**RE: §8-24 Municipal Improvement Request to replace the Cavalry Road Bridge  
over the West Branch of the Saugatuck River, PZ #20-00575**

Dear First Selectman Marpe:

In response to your request for a report from the Planning and Zoning Commission pursuant to CGS §8-24, Municipal Improvement, in conjunction with a project to replace the Cavalry Road bridge known as CT DOT Bridge No. 04964, in approximate place and kind, the Planning and Zoning Commission offers the following findings and recommendations:

### **Findings**

1. The Cavalry Road Bridge requires replacement due to signs of structural deficiencies with cracks in the superstructure, leaks and evidence of scour.
2. The Cavalry Road Bridge is on the Westport-Weston Town line which runs down the center line of the road/bridge. The Town of Westport and Town of Weston are working in cooperation to replace the Bridge and share costs.
3. Approximately 622 vehicles per day travel on the Cavalry Road Bridge.
4. The project materials describe:
  - A. The bridge is a two-span structure and will be replaced with a single span;
  - B. The total width of the bridge will be widened slightly from approximately 25.5' to 28' to accommodate two 10-foot lanes and 2-foot shoulders; and
  - C. The project will begin in Spring 2021 with appropriate precautions to be employed to avoid impacting the stream bed and associated fisheries area. Some utility relocation will take place on the east side of the bridge prior to the bridge work.

5. The Town Engineer provide more specificity at the public meeting regarding the widening of the bridge as follows:

	Existing	Proposed	Change
Span	60+/-	72.0	12.0
Width	25.5	28.0	2.5

6. The project is estimated to cost approximately \$2,539,000 according to the Town Engineer. 80 percent will be funded by the federal government and the remaining 20 percent (or about \$507,800) will be split between Westport and Weston. State Statute §13a-101 stipulates maintenance expenses on shared town bridges shall be split based on a formula of total revenue collected by the towns in the past three fiscal years. Westport will be responsible for about 74 percent of the cost (approximately \$376,000), while Weston will pay approximately 26 percent. The ratio will be recalculated every year the project is in effect, based on state statute and revenue provided to each town.
7. The Cavalry Road Bridge is located over the West Branch of the Saugatuck River. Potential adverse impacts to fish and wildlife resulting from the bridge replacement were considered by the Department of Energy and Environmental Protection and both the Westport and Weston Conservation Commissions who both approved the project with conditions to mitigate potential environmental impacts.
8. The Westport Conservation Commission reviewed and approved the project at their 9/9/20 meeting. One of the special conditions of their approval required a site monitor be retained for the duration of the project's construction and completion.
9. The Weston Conservation Commission approved the project at their 2/27/20 meeting.
10. The Flood and Erosion Control Board reviewed and approved the project at their 9/2/20 meeting.
11. One month prior to the Planning and Zoning Commission's Public Meeting the following project materials were posted on the Town's website to enhance transparency:
- A. §8-24 Request Letter and Completed Municipal Improvement Application form dated 8/20/20;
  - B. Notice Notification Map and List of neighboring property owners (located within 250' of subject properties), and Notice Letter;
  - C. Project Narrative from the Department of Public Works dated 8/20/20;
  - D. Copy of application submitted to the Westport Conservation Commission, dated 8/10/20;
  - E. Hydraulic Design Report was prepared for the Town of Weston by EcoDesign, LLC dated 4/27/20; and
  - F. Construction Detour Plan, prepared by Wengell, McDonnell, and Costello, dated 11/13/19.

12. Notices were sent to property owners within a 250' radius of the project in envelopes marked "*Urgent Notice Letter*," in advance of the Planning and Zoning Commission's Public Meeting notifying residents of the meeting, how to submit comments for the Commission's consideration, and how to learn more about the project.
13. Additionally, a public meeting notice was published on the Town's website 10-days prior to the public meeting.
14. No public comments were received.
15. A remote Public Meeting of the Planning and Zoning Commission was held on September 24, 2020 due to COVID-19. The meeting was live streamed on the Town's website and shown live on Optimum Government Access Channel 79 and Frontier Channel 6020.

**THEREFORE BE IT RESOLVED** it was moved by Mr. Lebowitz and seconded by Mr. Stephens to issue a **POSITIVE REPORT** for **Calvary Road Bridge Replacement: §8-24** Request by the First Selectman for a report from the Planning and Zoning Commission on a referral from the Westport Public Works Department regarding the removal of the existing bridge (Bridge No. 04964) over the West Branch Saugatuck River, and to replace it with a new bridge in approximate place and kind.

### **Reasons**

1. The *2017 Plan of Conservation and Development (POCD)* recognizes the need to address vehicular and transportation issues and the Calvary Road Bridge replacement project is found to be consistent with the POCD that recommends maintaining a safe roadway system (pg. 103-104).
2. The new bridge will improve roadway flooding conditions by making the low point of Cavalry Road passable during a 25-year storm event versus the 10-year storm event according to the hydraulic design report.

### **Recommendations**

1. The Planning and Zoning Commission strongly recommends further study be done immediately for all planned bridge replacement projects to understand the cumulative effect of the improvements and increased volume of water that will flow downstream and its' potential impact town wide generally, and potential impacts to downstream property owners specifically, in both the short term and long term.
2. Waterflow monitoring shall continue where a monitor is currently located below the Bridgewater corporate campus as agreed to by the Town Engineer.

3. The Commission also recommends the Department of Public Works (DPW) conduct extensive public outreach to alert motorists in advance of construction and route detours. Such outreach should extend to residents, the Board of Education, and large businesses whose employees might utilize the bridge for their commute.
4. The Commission additionally recommends DPW consider staggering this bridge project with the Bayberry Lane Bridge project rather than doing them simultaneously to help mitigate potential adverse traffic impacts to residents.
5. Any outstanding approvals from the RTM, Board of Finance, and/or Board of Selectman should be obtained before commencing work.

**VOTE:**

AYES	-7-	{Dobin, Stephens, Cammeyer, Lebowitz, Walsh, Gratrix, Cohn}
NAYS	-0-	
ABSTENTIONS	-0-	

Sincerely,



Danielle Dobin, Chair  
Planning and Zoning Commission

cc: Peter Ratkiewich, Public Works Director  
Keith Wilberg, Town Engineer  
Alicia Mozian, Conservation Director  
Gary Conrad, Finance Director  
Brian Stern, BOF Chairman  
Velma Heller, RTM Moderator  
Matt Mandell, Chairman, RTM P&Z Committee  
Ira Bloom, Town Attorney  
Eileen Flug, Assistant Town Attorney



**Town of Westport**  
**Planning and Zoning Commission**  
Town Hall, 110 Myrtle Avenue  
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Tel: 203-341-1030 Fax: 203-454-6145  
www.westportct.gov

Hearing: September 24, 2020  
Decision: September 24, 2020

September 25, 2020

Andy Soumelidis  
LANDTECH  
518 Riverside Avenue  
Westport, CT 06880

**RE: 222 Wilton Road, Special Permit/Excavation and Fill Appl. #PZ-20-00468**

Dear Mr. Soumelidis:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on September 24, 2020, it was moved by Mr. Lebowitz and seconded by Mr. Cohn to adopt the following resolution:

**RESOLUTION #PZ-20-00468**

WHEREAS, THE PLANNING AND ZONING COMMISSION met on September 24, 2020 and made the following findings:

Property Description

1. The site, located in the Residence AA zone, is serviced by septic system and public water. The gross lot area is 1.12 acres, or 48,679 SF, which is conforming in the Residence AA zone, where a minimum lot area of 43,560 square feet is required.
2. 222 Wilton Road is located outside the Coastal Area Management (CAM) boundary and outside the 100-year flood zone. There are 7,500 SF of steep slopes but no wetlands on site.
3. The survey shows the property ranges in grade from approximately EL 142' on the north portion of the property and slopes down to EL 130' around the house and slopes further in the southwest corner of the property to EL 100'.

Background

4. On 7/21/20, the Zoning Board of Appeals granted variances (ZBA-20-00243) of §32-8.2.3, Maximum Fill Exceeded with fill height exceeding a ratio of 0.20 relative to the distance from the property line; §32-8.3.2, Standard for fill with grading within 5'

of the property line and with man-made slope exceeding a 20% grade; and §12-4, Setbacks for porch within setback, to retain the existing fill along the property line. A condition of approval included compliance to recommendations listed in the Conservation Commission Resolution dated 04/15/2020 Application #IWW, WPL/E-10978-20 and Engineering Department Memorandum by Edward Gill, dated 04/08/2020.

5. Zoning Permit #40939 was issued for new 3-story house with cellar and attic in 2016. ZCC not yet issued due to need for authorization of setback encroachment and grading to be authorized by this application. The grading shown on the Proposed Site Plan has been completed and the applicant is awaiting receipt of an As Built Grading Plan. The Applicant describes in his letter dated 9/17/20 (attached) the As Built survey has not yet been completed as the site work is not finished

### Proposal

6. The applicant is requesting after the fact Special Permit approval for excavation and fill activities, in the rear yard and on the east side of the house near the septic system, outside the exempt area per §32-8.1.12 (a). The work has already been completed. The proposal includes 1,800 CY of earthwork, including 300 CY of excavation and 1,500 CY of fill. The purpose of the regrading is to create a more level area in rear yard. The average depth of the cut/ fill is 3 feet.

7. The applicant has retained the services of a Professional Engineer James Quill to determine the stability of the slope created on the south side of the property. In a field inspection conducted on 06/04/2020, Mr. Quill determined that the slope is stable and does not pose a probability of a failure and is attached.

8. §32-8.4 requires a restoration plan showing final grading and landscaping. As the work has already been completed, the applicant has submitted photos of the regraded area already planted with grass.

### Department Comments

9. The Westport-Weston Health District approved the grading on 3/12/20.

10. The Conservation Commission approved the grading at their 4/15/20 hearing with the following special conditions:

- A. Any drainage piping within the 100 ft. upland review area shall be removed or abandoned in place. Abandoned pipes shall be cut and capped with concrete and inspected by the Engineering Department;
- B. The split-rail fence shown on the plans shall be installed prior to issuance of a Conservation Certificate of Compliance; and
- C. The slope adjacent to the rear or southern property line shall be fully stabilized as described on the April 8, 2020 Land Tech plan

11. The Engineering Department submitted comments dated 6/27/20 indicating the plan is substantially correct and requires no further revisions.
12. Testimony was received at the September 24, 2020 public hearing.

**NOW THEREFORE, BE IT RESOLVED that 222 Wilton Road:** Special Permit/ Site Plan Appl# PZ-20-00468 submitted by Andy Soumelidis for property owned by FBCH Holdings LLC for an after the fact approval for excavation and fill activities associated with proposed septic improvements, located in the Residence AA zone, PID# C12012002, be **GRANTED** subject to the following modifications:

1. Conformance to ZBA Resolution ZBA-20-00243, dated 7/22/20.
2. Conformance to Conservation Resolution, dated 4/15/20.
3. Conformance to Engineering Department comments, dated 7/28/20 and 4/8/20.
4. Conformance to Applicant's Narrative, dated 7/17/20.
5. Conformance to Letter from James Quill, Atlantic Consulting and Engineering, LLC, dated 6/4/20.
6. Conformance to Excavation and Fill Exemption Plan, prepared by LANDTECH, dated 5/11/20, revised 9/16/20.
7. Conformance to Site Plan, prepared by LANDTECH, dated 2/5/20.
8. Prior to the issuance of a new Zoning Permit for this work, the applicant shall submit and obtain the following:
  - A. Obtain final sign-off from Engineering Department; and
  - B. Proof of filing the resolution of approval on the Land Records.
9. Prior to the issuance of the Zoning Certificate of Compliance, the applicant shall submit a Certified "As-Built" survey stamped by a registered Engineer.
10. 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.
11. All work approved pursuant to this Site Plan shall be completed within 5 years of date of approval, by September 24, 2025.
12. 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:**

1. The application as conditioned has been found to be in conformance with all applicable zoning regulations with the necessary variance granted, 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	-6-	{Dobin, Lebowitz, Cammeyer, Walsh, Gratrix, Cohn}
NAYS	-0-	
ABSTENTIONS	-0-	

Very truly yours,



Danielle Dobin  
 Chairman, Planning & Zoning Commission

cc: Amrik Matharu, DPW Engineering  
 P. Romano, LANDTECH