

MEMBERS PRESENT:

Sarah Schlechter, Chair, Holly Charlesworth, Mary Francois (7:50 p.m.), Kirby Brendsel, Abigail Squance, Jim Smith

Also Present: Tom Failla, Conservation Planner, Tracy Kulikowski, Land Use Director, Ira Bloom, Town Attorney

Ms. Schlechter called the meeting to order at 7:35PM

RECEIPT OF APPLICATION

67 Good Hill, Carpenter, Additions [22-08]

MOTION FOR RECEIPT

Mr. Brendsel made a motion to accept the application. Mr. Smith seconded. All in favor motion carried (5-0).

Francois (7:50 pm)

Discussion/Decision Lords Highway East, Town of Weston, Dog Park Modification [22-05] Ms. Kulikowski read the Staff Draft Conservation Commission Motion for Application 22-05 into the record for the Commission.

**CONSERVATION COMMISSION MOTION OF APPROVAL OF MODIFICATION OF WESTON
DOG PARK PERMIT 18-01 [22-05]**

Jim Smith made a motion, seconded by Mary Francois, to approve the application from the Town of Weston for the Modification of Permit 18-01 for the Weston Dog Park, located on the Town-owned property known as the Moore Property, as shown on the plans prepared by McChord Engineering Associates, Inc. dated 5/26/21, last revised 3/23/22, consisting of 3 sheets - Overall Site Plan (Sheet SE1), Plan and Profile (Sheet PP1) and Construction Notes and Details, (Sheet DT1), subject to the Commission's Standard Conditions A-G.

I. **FACTUAL FINDINGS:**

1. The Commission originally approved the Weston Dog Park on May 3, 2018 and issued wetlands permit 18-01 for the project. That 2018 approval was upheld by the Connecticut Superior Court on August 26, 2020 and the Connecticut Appellate Court denied the petition for certification to appeal on November 20, 2020. The Commission approved the 2018 application with the finding that the dog park presented no adverse impacts to the wetlands, and the Commission further found that “[t]he Commission has reviewed all of the items presented by the Intervenors and we feel that they have not shown that there would be significant impact to the wetlands.” (See Connecticut Superior Court Memorandum of Decision RE: Appeal from Decision of Weston Conservation Commission, CV 18 6036841-S, August 26, 2020, p.9.)

2. The 2018 Permit from the Conservation Commission is still valid and the Town could construct that dog park. However, it was reported to the Commission the Town proposed to modify the approved plan for financial reasons and, therefore, sought approval of a modification of the 2018 Permit. The

modified plan (“Modification”) for the Weston Dog Park, the subject of the current application, reduces the scope of the proposed activity and significantly reduces the construction costs.

3. On March 24, 2022, the Commission received the application for the Modification of Permit 18-01 and found that a public hearing regarding the application was in the public interest. Public Hearings were held on April 21, 2022, April 27, 2022 and May 10, 2022. A site walk was conducted on April 9, 2022.

4. At the public hearings on the Modification, the Town’s consulting engineer Harry M. Rocheville, Jr. P.E., McChord Engineering Associates, Inc. presented the plans and summarized the plan changes from the approved 2018 plan. As detailed in his January 18, 2022 letter to Jonathan Luiz, Weston Town Administrator, the changes are: a) The length of the driveway was decreased from approximately 1,285 feet in length to approximately 453 feet. The alignment was modified to follow the existing wood road to decrease the amount of proposed earthwork and tree removal for the driveway and parking construction. That same existing wood road provides pedestrian access from the driveway and parking area to the dog park. b) The number of parking spaces was decreased from 39 to 20. c) The location of the proposed dog park is unchanged from the 2018 approved plan but the size of the proposed dog park area was decreased from 3.6 to 2.8 acres. d) The location of a proposed planting plan to mitigate any driveway/parking disturbance of the property is shown on the new plans.

5. The new stormwater management system was designed to reflect the proposed modifications to the driveway and parking area. Driveway runoff will be captured by a rip rap swale, conveyed to an underground detention system, with an overflow mechanism that directly connects to a catch basin in Lords Highway East. The Stormwater Management Report, prepared by McChord Engineering Associates, Inc., dated January 18, 2022 shows that there will be a decrease in peak rate and volume of runoff for a 50-year storm as a result of the proposed stormwater management measures.

6. A group of residents, represented by Attorney Stephen Nevas filed a petition under General Statutes Section 22a-19 to intervene in the proceeding. The Commission finds that the petition was in proper form and that the Intervenor alleged sufficient facts to be granted Intervenor status.

7. Mr. Rocheville responded to rigorous questioning from the Intervenor’s Attorney and addressed the issues raised during the public hearings point-by-point in his May 9, 2022 Letter to the Commission. His letter concludes:

In summary, the modifications proposed have less of an impact than the previously approved plan. It was concluded that the previously approved plan had zero impact to the inland wetlands on-site., meaning that these modifications have less-than-zero impact. This office can confidently state that the modified dog park and driveway plan is consistent with the previous approvals and will have no adverse impact to the inland wetlands, downstream drainage systems or adjacent neighbors. (Rocheville, May 9, 2022 Letter to Conservation Commission, p. 4)

8. The Commission reviewed all of the materials presented by the Intervenor in their petition and in the reports submitted by their experts. The Commission concludes that they have not shown that the Weston Dog Park project is reasonably likely to unreasonably pollute Town wetlands or watercourses.

The issues raised by the Intervenors were the same or similar to those considered by the Commission in 2018 and addressed in the Connecticut Superior Court's August 26, 2020 decision. Additionally, the Commission finds that the testimony and evidence offered by Mr. Rocheville was more credible than the testimony offered by the Intervenors and their experts.

9. All of the proposed activity occurs outside of the Regulated Area. (Rocheville, May 9 Letter, p.1, p.3 and attached photos.) The issue of dog feces and dog urine has been and remains settled with letters provided by Mark Cooper, Director of Health, Westport Weston Health District (now the Aspetuck Health District) for the 2018 approval and addressed by the Connecticut Superior Court. The Court concluded that [t]here was little persuasive evidence that dog urine or feces would be a problem or have an adverse impact of those wetlands." (See Rocheville, May 9 Letter, p.2 and Connecticut Superior Court Memorandum of Decision RE: Appeal from Decision of Weston Conservation Commission, CV 18 6036841-S, August 26, 2020, p. 5-6.) The slopes within the proposed dog park area are not excessive and they will not be altered as part of the project. (See Rocheville, May 9 Letter, pg. 2). The issue of soil testing in the area of the drainage system was addressed for the approved 2018 plan and with the Modification. The 2018 Wengel, McDonnell and Costello, Inc. (WMC) designed and approved detention system was separated from the restrictive soil level. McChord Engineering stated that the "currently proposed detention system is further separated from the restrictive layer than previously approved." (Rocheville, May 9 Letter, p.2)

10. Flooding of adjacent properties is an existing condition that will not be exacerbated by the proposed activity. Additionally, it is not in the purview of the Commission. Nevertheless, stormwater runoff was addressed the 2018 plan and in the current plans. The Connecticut Superior Court specifically quoted the WMC report that concluded "[i]t is our opinion that any increases in peak flows during the 50 yr. storm event are negligible and will not result in adverse impacts to the wetlands or areas downgradient east of Davis Hill Road." (See Connecticut Superior Court Memorandum of Decision RE: Appeal from Decision of Weston Conservation Commission, CV 18 6036841-S, August 26, 2020, p. 7.) McChord Engineering reviewed the WMC Reports, conducted its own Stormwater Management Report and concluded that "the proposed runoff from the dog park area will have no adverse impacts to the inland wetlands or any downstream drainage systems." (Rocheville, May 9 Letter, p. 2). After summarizing the storm water management for the modified plan, McChord Engineering also concluded that "[t]herefore the runoff from the site will be better managed and may improve the existing conditions." (Rocheville, May 9 Letter, p.3.)

II. COLLECTIVE REASONS FOR APPROVAL

1. In 2018, the Commission determined that the dog park project will not have *any* impacts on the wetlands or watercourses. The Connecticut Superior Court upheld that decision. The proposed Modification results in a smaller area of disturbance outside of the upland review area and will have even less of an impact than the 2018 approved plans.

2. The proposed activity will not unreasonably pollute the air, waters, or other natural resources of the State of Connecticut.

3. None of the proposed activity occurs within a regulated area, including within a wetland, watercourse and upland review area.

4. Since the proposed activity will not adversely affect wetlands no feasible and prudent alternatives needed to be considered.
5. The proposed activity will not cause an adverse impact to a wetland or watercourse.

Based on the findings as set forth herein and the collective statement of reasons articulated above the application from the Town of Weston for the Modification of Permit 18-01 for the Weston Dog Park, located on the Town-owned property known as the Moore Property, as shown on the plans prepared by McChord Engineering Associates, Inc. dated 5/26/21, last revised 3/23/22, consisting of 3 sheets - Overall Site Plan (Sheet SE1), Plan and Profile (Sheet PP1) and Construction Notes and Details, (Sheet DT1) is hereby approved subject to the Commission's Standard Condition A-G.

DISCUSSION/DECISION: 25 WHITE BIRCH, HOEPPNER/KOLODIN, POOL [22-03]Hilary Kole, Property Owner explained that at the last meeting the Commission requested some additional information and to try to move the pool location away from the wetlands. Ms. Kole noted the new pool equipment location on updated plans as well as more details on the retaining wall and erosion control.

MOTION FOR APPROVAL

Mr. Brendsel made a motion to approve the plan as updated for 25 White Birch Road Weston, CT with a revision date of May 4th 2022 prepared by advanced survey land surveying, sheet 1 of 1 with standard conditions A-G and Mr. Smith seconded. All in favor motion carried (6-0).

(Ms. Charlesworth left the meeting at 8:05 pm)

DISCUSSION/DECISION: 120 GEORGETOWN, BLINDER, SITE DEVELOPMENT [22-04] Attorney Glenn Major, on behalf of property owners, showed the Commission modified plans from originally proposed plans presented at the previous meeting. He noted the distance from the nearest structure to wetlands boundary has significantly increased as well as the relocation of the stockpile and the parking area. He further pointed out the location of drainage systems and six foot retaining wall. Discussion ensued.

MOTION FOR APPROVAL

Mr. Brendsel made a motion to approve the septic system and development plan as well as the planting plan for 120 Georgetown Road, Weston CT with a revision date of May 4, 2022 prepared by CT Consulting Engineers LLC subject to conditions A-G and Mr. Smith seconded. All in favor, the motion carried (5-0).

DISCUSSION/DECISION: 18 GREY FOX, BAKER/CHEN, SITE DEVELOPMENT [22-06] Wayne with Fairfield County Engineering representing owners, explained the proposal is to construct a 4500 square foot single family residence on a single vacant lot. The proposed retention system will reduce the net runoff from the property for a 50 year rainfall event by collecting runoff from driveway and directing to culvert chambers. He noted some fill for driveway and septic system will be needed. Ms. Schlecter confirmed with the property owners that a small part of the driveway and the septic is within the 100 foot setback. Discussion ensued.

MOTION FOR APPROVAL

Mr. Smith made a motion to approve the application for site development for Lowell Baker at 18 Grey Fox Lane Weston, CT prepared by Fairfield County Engineering with a revised date of May 11, 2022 subject to conditions A-G and Mr. Brendsel seconded. All in favor, the motion carried (5-0).

DISCUSSION/DECISION: 24 HILLCREST, REDLITZ, POOL, SPA, PATIO [22-07] Avind Baur, Project Engineer from Kousidis Engineering introduced himself on behalf of the property owner. Mr. Baur showed a site development plan to install a 16x35 inground pool and spa with an attached patio, driveway expansion and deck. Mr. Baur stated that the closest point to the wetlands is 76 feet from the pool, 67 from the spa and 60 feet from the patio. He indicated the location of the retaining wall and the double silt fence with hay bales around the construction area. Kevin Huelster, architect, introduced himself and showed photos of the proposed patio. He indicated a 6 inch crushed stone bed beneath the patio with three inches of open storage on a pedestal system. Discussion Ensued.

MOTION FOR APPROVAL

Mr. Smith made a motion to accept the site development plan for 24 Hill Crest Lane for Redlitz, prepared by Kousidis Engineering, revised May, 13 2022 subject to conditions A-G and Ms. Schlechter seconded. All in favor, motion carried (5-0).

MOTION TO ADJOURN

Mr. Brendsel made a motion to adjourn and Mr. Smith seconded. All in favor, the meeting adjourned at 9:27 p.m.

Respectfully submitted,

Marina Zegarelli,
Recording Secretary