



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

Planning and Zoning Department Request for Comments

Date: May 3, 2021  
From: Mary Young, Planning and Zoning Director  
RE: **Text Amend. #794 PZ-21-00243, to modify §32-18 Historic Residential Structures of the Zoning Regulations to allow new zoning incentives for use of residential buildings for office space.**

- |                                     |   |  |
|-------------------------------------|---|--|
| <input checked="" type="checkbox"/> | Building Department– Attn: Steve Smith                                    | <a href="mailto:ssmith@westportct.gov">ssmith@westportct.gov</a>             |
| <input checked="" type="checkbox"/> | Conservation Dept. – Attn: Alicia Mozian                                  | <a href="mailto:amozian@westportct.gov">amozian@westportct.gov</a>           |
| <input checked="" type="checkbox"/> | DEEP – Attn: John Gaucher   | <a href="mailto:john.gaucher@ct.gov">john.gaucher@ct.gov</a>                 |
| <input checked="" type="checkbox"/> | DPW Engineering Dept. - Attn: Keith Wilberg                               | <a href="mailto:kwilberg@westportct.gov">kwilberg@westportct.gov</a>         |
| <input checked="" type="checkbox"/> | Fire Marshal - Attn: Nathaniel Gibbons                                    | <a href="mailto:ngibbons@westportct.gov">ngibbons@westportct.gov</a>         |
| <input checked="" type="checkbox"/> | Parks & Recreation: Attn: Jennifer Fava                                   | <a href="mailto:jfava@westportct.gov">jfava@westportct.gov</a>               |
| <input checked="" type="checkbox"/> | Police Dept. - Attn: Staff Alan D’Amura                                   | <a href="mailto:adamura@westportct.gov">adamura@westportct.gov</a>           |
| <input checked="" type="checkbox"/> | RTM P&Z Committee Chair – Attn: Matt Mandell, FYI                         | <a href="mailto:matthew@westportd1.com">matthew@westportd1.com</a>           |
| <input checked="" type="checkbox"/> | Town Attorney – Attn: <input checked="" type="checkbox"/> Peter Gelderman | <a href="mailto:pgelderman@berchemmoses.com">pgelderman@berchemmoses.com</a> |
| <input checked="" type="checkbox"/> | Westport Weston Health Dept. - Attn: Mark Cooper                          | <a href="mailto:mcooper@wwhd.org">mcooper@wwhd.org</a>                       |
| <input checked="" type="checkbox"/> | Historic District Commission: Attn: Donna Douglas                         | <a href="mailto:ddouglas@westportct.gov">ddouglas@westportct.gov</a>         |
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**Proposal**

Text Amendment #794, submitted by Gloria Gouveia of Land Use Consultants, [Gloria@landuse-ct.com](mailto:Gloria@landuse-ct.com) proposes to amend §32-18 to allow for the modification of existing historic residential structures for adaptive reuse as limited office space. For principal historic structures, or any portion thereof, containing an existing office use approved by the Zoning Board of Appeals, the amendment provides for Special Permit and Site Plan approval for use as limited office space in accordance with §43 and §44.

Attached herein for your review are the application materials including:

- Explanatory Statement from Gloria Gouveia;
- Proposed Text Amendment prepared by Gloria Gouveia, dated April 2021;
- List of Potentially Eligible Properties prepared by Gloria Gouveia, revised 4/28/21;
- Application Form submitted by Gloria Gouveia.

**The public hearing is tentatively scheduled for June 10, 2021. Please return written comments to me before: May 28, 2021.**

**Thank you!**

## PROPOSED ZONING AMENDMENT -Section 32-18

*The following Section 32-18.4 Subsection c. represents the first change to the Zoning Regulations. New subsection "c" adds uses approved by the Zoning Board of Appeals in addition to those uses approved by the Planning & Zoning Commission.*

### **32-18.4 Considerations**

When considering a Special Permit/HRS application, the P&Z Commission shall consider and determine in each case whether:

- 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 or ZBA approved uses, and/or historic accessory structures, use incentives 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.
- f. The proposal will be consistent with the current Town Plan of Conservation and Development and other Westport zoning regulations.
- g. The proposal will be consistent with §44-6, Special Permit standards.

*New text adds to subsection "c" to include "principal" buildings as historic structures where limited offices approved by the Zoning Board of Appeals may be approved by the Commission.*

### **32-18.5 Commission Action**

After the required public hearing is held and findings are made, the Commission may, at its sole discretion:

- a. Allow an area or dimensional requirement (height, setback, coverage) and/or a parking or landscaping requirement (number, size or dimension) to be reduced or exceeded, provided that the number of existing parking spaces shall not be reduced.
- b. Allow Home Occupations, Level 1 and Home Occupations, Level 2, and Accessory apartments in a historic accessory structure under such conditions as set forth in §32-18.8 thereof.
- c. Allow limited office uses in one historic principal or accessory structure containing an existing special permit use or ZBA approved use under such conditions as set forth in §32-18.8 and §32-18.832-18.9 herein.

*New Section 32-18.9.4 provides standards for ZBA approved office space in a "principal" historic residence.*

#### 32-18.9.4 Limited Offices

One principal historic residence or portion thereof containing an existing office use approved by the Zoning Board of Appeals may be converted to limited office space subject to Special Permit and Site Plan Approval in accordance with §43 & §44, except as modified herein, provided that the following requirements are met:

- a. Location: The site of the existing ZBA approved use:
  - i. must have frontage on a collector or arterial street,
  - ii. must adjoin a commercial zoning district, and/or
  - iii. must be within 500 feet of a municipal (Town-owned) public parking lot.
- b. Office Uses: The allowable office uses shall be limited to those uses authorized by ZBA variance unless otherwise approved by the Planning & Zoning Commission.
- c. Floor Area: The floor area devoted to limited office uses shall not exceed the floor area approved by the ZBA unless otherwise authorized by the Commission.

### 32-18.9.5 Limited Offices

One historic accessory structure or portion thereof containing an existing special permit use may be converted to limited office space subject to Special Permit and Site Plan Approval in accordance with §43 & §44, except as modified herein; provided that the following requirements are ...

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April, 2021

AMENDMENT TO SECTION 32-18 WESTPORT ZONING REGULATIONS  
APPLICATION #794 by LAND USE CONSULTANTS

EXPLANATORY STATEMENT

This application proposes an amendment to Section 32-18 of the Westport Zoning Regulations which among other incentives, permits adaptive re-use of existing historic, residential structures. More specifically, we seek to amend this section by adding language that would provide the Planning & Zoning Commission with the authority to modify the use of historic residential properties subject to existing ZBA use variances for limited office space, subject to Special Permit and Site Plan approval.

More specifically, the objective of this endeavor is the future use of existing office space in historic residential structures permitted by variance. Granting use variances are no longer considered desirable ZBA actions, hence some owners of historic properties with variances for professional offices in residential buildings have no regulatory avenue to modify or update the use of such offices. Section 32-18, which encourages adapted reuse of historic properties in the name of preservation, provides a far more appropriate method of bringing the use of iconic properties into the 21<sup>st</sup> century, while assuring the preservation of historic residences.

Section 32-18 was famously adopted by the Planning & Zoning Commission to provide alternatives to the demolition of anachronistic historic structures. Although the majority of historic properties in Westport may be appropriately maintained, one has only to look to those historic properties that are not well cared for to be reminded of the potential future risk to historic properties that are not protected by preservation easements.

BENEFITS

A developing circumstance that by extension may pose a significant threat to existing historic properties, is the current promotion of regulatory interference, wrapped in a banner of diversity and equality in housing. If the lobbies and special interest groups have

their say, the authority of the Planning & Zoning Commission will be appropriated through new statutory amendments more intrusive than Section 8-30g.

Should this housing movement succeed, our zoning regulations and local authorities in future, could also be subject to other types of regulatory intrusion by the State, in the name of expedience. For example, under discussion by the housing lobby and others is the regionalization of municipal services through county government.

*Zoning Regulations will change, but preservation easements will prevail and provide on-going protection of historic properties.*

Another benefit to the Town is the amendment's provision of a regulatory process for other residential historic properties (See List of Eligible Properties.) with existing non-conforming office uses approved by the Zoning Board of Appeals.

Since the 1970's, ZBA use variances have been considered anathema as the majority of these variances lack a hardship that supports their approval.

The result: some owners of properties with existing ZBA sanctioned non-conforming uses have lacked any municipal vehicle for modifying or changing the use. As an example, our demonstration site has a ZBA approved non-conforming office use (medical) conditioned upon the owner residing in the building.

As the office space that was enlarged and the expanded use of the offices were permitted by ZBA use variances, absent any procedural regulation, the owner is now foreclosed from making any change or modification to the offices.

Although this might serve as a good subject for litigation, until then, the owner of 251 Main Street has no appropriate government authority to turn to modify his permitted use of the building.

*The proposed amendment will provide a manner in which to make such changes in a manner that conforms to the original checks and balances required as a foundation for fair municipal regulations.*

In accordance with public policy, non-conforming uses are to be brought into compliance with the zoning regulations as soon as possible.

As discussed, the demonstration site is entitled to the continued use of the non-conforming offices. By application of the proposed amendment and approval of a Site Plan/Special Permit application to the Planning & Zoning Commission, the non-conforming scope and size of the medical offices will be transformed into a conforming use.

*The proposed amendment will provide another appropriate vehicle by which to bring a non-conforming use into compliance.*

Although many properties in Westport may be identified as historic and recorded in the HDC's inventory of historic building and sites, sadly that recognition does not afford the protection inherent in a Historic District designation or a preservation easement.

*The proposed amendment will provide an additional incentive and encourage other property owners to engage in the process to modify and legalize non-conforming home offices and protect their properties with a preservation easement.*

## Plan of Conservation and Development – 2017

By statute and zoning regulation a necessary characteristic of a zoning amendment is that it complies with the plan of development.

The proposed amendment is supported by the POCD as exemplified by a statement in Section 10-2 of the POCD:

“Managing residential development and redevelopment and other activities on residential properties to ensure they are appropriate for the site and/or given the impacts on the neighbors.”

As may be seen from examination of the accompanying application for Site Plan & Special Permit approval, (See Application # 0000-005) the proposed modification will change little or nothing that might have a negative effect of the neighborhood.

Additionally, the POCD offers these objectives to maintain the historic character of the Town:

- ◇ “Support the preservation of historic resources.”
- ◇ Adopt zoning regulations which allow use flexibility and adaptive reuse of buildings.
- ◇ Encourage “sensitive ownership” by private property owners.

*The proposed amendment easily satisfies each of the objectives.*

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*April, 2021*



## ZONING AMENDMENT APPLICATION #794 - SECTION 32-18

### UPDATED LIST OF POTENTIALLY ELIGIBLE PROPERTIES

234 Main Street – Eugene Northrup House -- 1930

The colonial cape-style building is easily recognized from its prominent location at the apex of a triangle formed by the intersection of Myrtle Avenue and Main Street. Constructed in 1930 according to Town records, it is likely that variances may have been granted since that time, for the non-conforming use of the residentially zoned historic structure.

UPDATE:

ZBA Variance #2232 – GRANTED for real estate office use in Residence A Zone.

ZBA Variance #3735 -- GRANTED for general business office use in Residence A Zone.

245 Main Street – Thomas Rowland House – 1817

Sited in a prominent location at the intersection of Main Street, Kings Highway North and Myrtle Avenue, this historic structure has for decades served as a real estate office with an apartment on the second floor. The Zoning Board approved a variance for the residential zoned premises in 1990. [\*CORRECTION. See below.]

UPDATE:

ZBA Variance GRANTED in 1970 for 1<sup>st</sup> floor office use and 2<sup>nd</sup> floor accessory apartment.

ZBA Variance #4259 – GRANTED for sign.

ZBA Variance # 6285 – DENIED. Addition to enlarge 1<sup>st</sup> floor offices/2<sup>nd</sup> floor apartment.

251 Main Street – Lee’s House – c. 1900 DEMONSTRATION PROPERTY

Constructed at the turn of the century by the eldest son of the second generation of Lees of Richmondville and Lees Mill fame. In the early 1960’s, the Queen-Anne Revival structure was acquired by a Dr. Gluckman, a dentist, as a home and office. Multiple variances were granted over the succeeding years to expand the office area and the practice. *(See file for zoning status by P&ZC staff.)*

48 Myrtle Avenue – Samuel Wood House --1830

This Federal Style home was the residence and offices of Dr. Pommier during most of the mid-20<sup>th</sup> century. His widow remained in residence for some years thereafter. The property has changed hands three times in the past 20 years. According to the current assessor records, the historic structure is a single family residence.

UPDATE: Property NOT eligible.

ZBA Variance #2988 – DENIED for 1950 dentist office use by non-resident practitioner.

81 Myrtle Avenue -- 1925

This Colonial Revival-style dwelling was the home and office of Dr. Martin Schultz until 1997. A substantial addition was constructed at the later part of the 20<sup>th</sup> century. Now owned by Cindy and Bing Zhang, an acupuncturist who maintains a home office here.

UPDATE: Property NOT Eligible.

ZBA #6730 DENIED for sign for acupuncturists’ home office.

Status: Per HDC Inventory: s/f residence with accessory home office and accessory apartment.

## 1 Saint John Place

Initially the home and office of Dr. Reuben Solway, in 1982 the property was purchased by Dr. Michael Montanaro. In 1983, Montanaro obtained variances for his dental offices. [\* CORRECTION – see below]. The dental practice was relocated some years ago. The property is currently owned by a family member. According to assessor's records, the 1,000 square foot office remains.

UPDATE:

ZBA Variance #867 – GRANTED for waiver of residency requirement for MD's home office.

ZBA Variance #1421—GRANTED to allow home office use by any permitted home occupation.

ZBA Variance #1500 --GRANTED for conversion of accessory barn to dwelling unit.

ZBA Variance #3367—\*DENIED for home office use by three (3) non-resident professionals.

UPDATE: The following properties MAY be eligible.

## 42 Myrtle Avenue

1959 -ZBA Variance granted for 2 practitioners in a home office.

## 2 Saint John's Place

ZBA Variance granted for use by non-resident use of home occupation.

# MAP or TEXT AMENDMENT APPLICATION

WESTPORT PLANNING AND ZONING COMMISSION

OFFICE USE ONLY

Application # \_\_\_\_\_

Submission Date: \_\_\_\_\_

Receipt Date: \_\_\_\_\_

Amount Fee Paid: \_\_\_\_\_

## TEXT CHANGES APPLICATION

Complete #1- #3 Only & See Pg2 for Requirements:

- TEXT** – AMENDMENT TO ZONING REGULATIONS  
 **TEXT** – AMENDMENT TO TOWN PLAN CONSERVATION AND OF DEVELOPMENT

1. Applicant's Name: GLORIA GOUVEIA, LAND USE CONSULTANTS Daytime Tel: 203-454-8008  
Applicant's Address: 131 KINGS HWY. N. E-mail: Gloria@landuse-ct.com
2. Text Section Added or Modified: § 32-18
3. Estimated time needed for presentation: 20 MINUTES

## ZONING MAP CHANGES APPLICATION Complete # 1- #14, See Pg2&3 for Requirements:

- MAP** – AMENDMENT TO ZONING REGULATIONS  
 **MAP** – AMENDMENT TO PLAN OF CONSERVATION AND OF DEVELOPMENT

3. Property Address: \_\_\_\_\_
4. Property ID# (9 Digits - staff will provide) \_\_\_\_\_
5. Existing Zoning District/Plan Designation: \_\_\_\_\_
6. Proposed Zoning District/ Plan Designation: \_\_\_\_\_
7. Lot Area: \_\_\_\_\_
8. Property Owner: \_\_\_\_\_ Daytime Tel: \_\_\_\_\_  
Owner's Address: \_\_\_\_\_ E-mail: \_\_\_\_\_
9. Agent's Name (if different): \_\_\_\_\_ Daytime Tel: \_\_\_\_\_  
Agent's Address: \_\_\_\_\_ E-mail: \_\_\_\_\_
10. Zoning Board of Appeals Case # (if any): \_\_\_\_\_
11. A previous zone change/land use designation has  has not  been requested for this property  
If change was previously requested, indicate date (s) \_\_\_\_\_
12. A List or A Map showing each ZBA Variance Case Number for all lots within 250' of subject property.
13. This property is  is not  within 500' of an adjoining municipality.
14. Estimated time needed for presentation: \_\_\_\_\_

I hereby certify that the above information herewith is correct and all of the pertinent documentation required by the Zoning Regulations.

Gloria Gouveia  
Applicant's Signature ( If different than owner )

(SEE ATTACHED AUTHORIZATION)  
Owner's Signature ( Must be signed )

1. If the applicant is unable to obtain the signature of the property owner, a letter of authorization signed by the property owner may be submitted instead, as per §43-3.3.