



**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)

October 7, 2021

***SPECIAL NOTICE ABOUT PROCEDURES FOR THIS ELECTRONIC MEETING:***

*Pursuant to Sections 147-153 of the Governor's Public Act 21-2, there will be no physical location for this meeting. This meeting will be held electronically and live streamed on [www.westportct.gov](http://www.westportct.gov). This meeting will also be shown on Optimum Government Access Channel 79 and Frontier Channel 6020. Public comments may be received PRIOR to the Public Hearing and should be sent to [PandZ@westportct.gov](mailto:PandZ@westportct.gov) by 12:00pm the day of the hearing. Meeting materials are available at [www.westportct.gov](http://www.westportct.gov), on the Planning and Zoning Department web page under "P&Z Pending Applications & Recent Approvals".*

**Instructions to Attend ZOOM Meeting:**

**Phone:** + 1 646 876 9923 US (New York)

**Meeting ID:** 884 9472 6147

**Passcode:** 113146

**ZOOM Link:** <https://us02web.zoom.us/j/88494726147?pwd=QkxYMDIHCUNzc2VHZk5OeVlwcXJBdz09>

**AGENDA**

**PLANNING & ZONING COMMISSION**

**THURSDAY, October 14, 2021,**

**START TIME: 6:00 PM**

**I WORK SESSION**

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

- a. Approval of Draft Meeting Minutes- 9/2/21 & 9/30/21**

**II PUBLIC HEARING**

- 1. Text Amendment #802:** *(This item will not be reviewed. A new Legal Notice will be published when ready for a public hearing.)* Appl. #PZ-21-00715 submitted by the Planning and Zoning Commission to add §35-2.8, Access to Fire Department Apparatus, to the Zoning Regulations requiring all landscaping shall comply with the access and obstruction requirements listed in the Connecticut State Fire Prevention Code; and to modify §35-4, Landscaping of Developed Sites, to restore discretion to the Planning and Zoning Commission to require any Site Plan and/or Special Permit application to comply with the landscaping requirements in §35, to the maximum extent possible without creating any new non-conforming conditions. A copy of the proposed text amendment is available on-line at [www.westportct.gov](http://www.westportct.gov) is on file in the Westport Town Clerk's Office and is on file in the Westport Planning and Zoning Office.

2. **Text Amendment #800:** Appl. #PZ-21-00600 submitted by the Attorney Eric Bernheim to add a new definition for “Non-Residential Balcony” in §5-2 of the Zoning Regulations, that identifies it will be exempt from Setback and Coverage requirements if all proposed criteria is met; to modify existing definitions in §5-2 to provide the necessary cross-references for the proposed Setback and Coverage relief for “Non-Residential Balconies” including modifying the definitions for “Building;” “Building Area and/or Footprint;” “Coverage, Building;” “Coverage, Total; and “Structure;” to modify §6-2.1.9 to exempt “Non-Residential Balconies” as defined from requiring a variance if/when added to a non-conforming building; to modify §24A-6.2, Coverage Exemptions, to distinguish the proposal from existing standards for residential balconies on buildings in the General Business District/Saugatuck (GBD/S); to modify §31-4, Projections in Setbacks, to add “Non-Residential Balconies” to the list of improvements that may project into setbacks; to modify §43-5.2 to allow all non-residential coastal activities to be reviewed by the Planning and Zoning Commission without the requirement for a public hearing, and to add new language in §43-5.2 authorizing the Commission to hold a public hearing on a case by case basis for Coastal Site Plans when they deem necessary.

A copy of the proposed text amendment is available on-line at [www.westportct.gov](http://www.westportct.gov) is on file in the Westport Town Clerk’s Office and is on file in the Westport Planning and Zoning Office (*must open by 11/6/21*).

**Applicant Presentation Time: 15-20 minutes.**

3. **45 Compo Road South:** Appl. #PZ-21-00721 submitted by Cheryl Manley for property owned by Cheryl Manley for Excavation and Fill activities associated with creating cellar access to new Accessory Apartment and regrading of lawn area, for property located in the Residence A zone, PID# D09050000 (*must open by 11/13/21*).

**Applicant Presentation Time: 30 minutes.**

### 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, unless otherwise permitted by the Commission)*

#### **New Business:**

- a. **50 Compo Mill Cove: Resolution #PZ-21-00851:** Continued review of request submitted by LANDTECH on behalf of Pasquale Malpeso to modify Condition #13 of Resolution # PZ-21-00851 to modify completion date and receive status report from the applicant (*action needed by 10/14/21*)
- b. **Discussion on Draft Text Amendment:** Draft text amendment to require finished side of fence be facing toward neighbor or street.

#### **Old Business:**

*\*No old business\**

A copy of the Legal Notice/ Agenda for the Planning & Zoning Commission hearing on October 14, 2021, is available on-line at [www.westportct.gov](http://www.westportct.gov) on the Planning and Zoning Department web page under "Planning & Zoning Department".

It is the policy of the Town of Westport that all Town-sponsored public meetings and events are accessible to people with disabilities. If you need assistance in participating in a meeting or event due to a disability as defined under the Americans with Disabilities Act, please contact Westport's ADA Coordinator at 203-341-1043 or [eflug@westportct.gov](mailto:eflug@westportct.gov) at least three (3) business days prior to the scheduled meeting or event to request an accommodation.

Dated at Westport, Connecticut on this 7<sup>th</sup> day of October 2021, Danielle Dobin, Chairman, Planning and Zoning Commission.

**Text Amendment #800/#PZ-21-00600, Submitted by Attorney Eric Bernheim**Submitted: 8/2/21Received: 9/2/21Revised: 9/2/21, 9/27/21, and 9/30/21Public Hearing Scheduled For: 10/14/21

Adopted: \_\_\_\_\_

Effective date: \_\_\_\_\_

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Deleted language is [~~struck out and in brackets~~]; New language is underlined.

*FROM CHAPTER 5, Definitions**§5-2 Specific Terms***Non-Residential Balcony:**

A platform enclosed by a wall or balustrade, but without a roof, on the outside of a Building located adjacent to the Saugatuck River in a commercial zone, with access from a door located on a floor above the first story, with building area no larger than 500 square feet and protrudes no further than ten (10) feet from the Building and its drainage must be tied into the Building's storm management system with sufficient capacity to support the Non-Residential Balcony runoff.

**Building:**

A structure having a roof supported by columns or walls along whose outside face can be traced an unbroken line for the complete circumference of the building which is affixed to a lot or lots for the housing or enclosure of persons animals or chattels and shall include each of the independent units into which it is divided by common walls. A building which is connected to a principal building by a carport or garage, or by a porch, breezeway or passageway with a common wall of less than 8 feet in length, shall be deemed to be an accessory building.

Any structure, such as a deck or porch, attached to a building shall be deemed to be part of the building, except a Non-Residential Balcony shall not be considered a part of the Building for coverage and setback purposes.

A building which is connected to a principal building by a fully enclosed above ground passageway with a common wall of 8 feet or more in length, and having a finished floor, walls and ceiling shall be deemed to be part of the principal building.

**Building Area and/or Footprint**

The maximum horizontal cross section area enclosed by and including the outside walls of all buildings and structures on a lot. The projection of entry platforms or steps; cantilevered roofs, eaves, cornices; chimneys; window sills or sun shades and similar incidental architectural projections shall not be included within the building area or footprint, provided that such architectural projections shall not extend more than three (3) feet from the building wall or face or more than a distance equal to 20% of the minimum required setback, whichever is less. A Non-Residential Balcony shall not be included within the building area or footprint.

**Coverage, Building:**

The percentage of a development site in a Non Residence Zoning District, or a lot in a Residence Zoning District, occupied or intended to be occupied by all buildings and structures. Building coverage shall include the building area. No more than 20% of the land covered by waterbodies, water courses, wetlands, and land of severe topography having slopes of twenty five percent (25%) or greater shall be included in the lot area used for computing the maximum allowable building coverage. A Non-Residential Balcony shall not be included within the Building Coverage.

**Coverage, Total:**

The percentage of a development site in a Non Residence Zoning District, or a lot in a Residence Zoning District, occupied or intended to be occupied by all buildings, structures, parking areas, driveways, swimming pools, tennis courts and similar improvements. Patios and terraces, as defined herein, shall be excluded except if the terrace or patio is 3 feet or more above the adjacent grade at any point, such as with a retaining wall. A Non-Residential Balcony shall be excluded from Total Coverage. Parking on unpaved surfaces provided by places of worship, in excess of the minimum number of parking spaces required by §34-5 of these regulations, shall be excluded. Total coverage shall include one-hundred percent (100%) of the building area and parking areas, driveways, swimming pools, and similar improvements, but only fifty-percent (50%) of a tennis court. No more than 20% of the land covered by water bodies, watercourses, wetlands, and land of severe topography having slopes of twenty five percent (25%) or greater shall be included in the lot area used for computing the maximum allowable total coverage. Calculations shall be made on forms approved by the Planning and Zoning Commission.

**Structure:**

Anything constructed or erected which requires location on the ground and or/ attachment to or placement on something having a location on the ground. Except as otherwise indicated, "Structures" as used in these regulations shall be deemed to include buildings, parapets, turrets, ground-mounted and roof top mechanical units, swimming pools, tennis courts, towers, paddle or platform tennis courts, balconies, open entries, porches, decks, signs, permanent awnings, ground mounted antennas, ground mounted solar panels, satellite dishes, flagpoles and fences or walls more than eight (8) feet in height and a gas or liquid storage tank that is principally above ground. (See [§32-7.4](#) for rooftop dishes)

Any structure, such as a deck or porch, attached to a building shall be deemed to be part of the building, except for a Non-Residential Balcony.

Ground-mounted mechanical units, such as air conditioning compressors, shall not be deemed structures for purposes of coverage, for permitted uses, (as distinct from special permit uses) in residence districts. Patios or terraces shall not be deemed structures for purposes of coverage but shall adhere to all required setbacks. If the patio/terrace is 3 feet or more above adjacent grade at any point, such as with a retaining wall, it will be included in total coverage. (See patio or terrace definition). Handicapped ramps, platform lifts necessary for ADA compliance and temporary signs as specified in §33-5 are not considered structures. Access stairs required by a public utility and no larger than 50 square feet are not considered structures. Bus Shelters are not considered

structures for purposes of coverage and setbacks.(795, 07/01/2021) A Non-Residential Balcony shall not be considered a structure for purposes of coverage and setbacks.

An arbor or pergola is considered a structure if it has any type of roof or covering or a deck or patio floor or is over 8 feet in height.

*FROM CHAPTER 6, Non-Conforming Building and Lots*

**§6-2.1.9**

The construction of Non-Residential Balconies projecting into the setbacks or in excess of coverage are not considered an expansion, extension, or alteration.

*FROM CHAPTER 24A, General Business District/Saugatuck (GBD/S)*

**§24A-6.2 Coverage Exemptions**

The Planning and Zoning Commission may exempt up to an additional minimal amount of coverage associated with open porches, decks, or balconies on residential Buildings and other similar open structural projections from building coverage; provided that such open structural projection will benefit public access, safety or convenience or will further the intent to preserve and/or enhance the historic character and appearance of the area, and at the discretion of the Commission at the time of Special Permit approval on sites that include at least 20% affordable housing.

*FROM CHAPTER 31, Regulations Applying to All Districts*

**§31-4: Projections into Setbacks**

The space in any setback shall be open and unobstructed, except for the projection of entry platforms or steps; cantilevered roofs, eaves, cornices; chimneys; window sills or sun shades and similar incidental architectural projections, provided that such architectural projections shall not extend more than three (3) feet into the required setback, or more than a distance equal to twenty percent (20%) of the minimum required setback, whichever is less. The projections shall be measured from the building wall or face. The projection of Non-Residential Balconies shall also be exempted.

*FROM CHAPTER 43, Special Permit and/or Site Plan Review Procedures*

**§43-5.2 Site Plan Review and Hearings**

Site Plan approval by the Planning & Zoning Commission shall be required for construction, addition or alteration of a non-residential building involving more than five hundred (500) square feet of building coverage or containing more than five hundred (500) sq. ft. of gross interior floor space, or any of the uses or activities listed below:

1. A Change of Use pursuant to §5-2.
2. [~~Non-residential activities pursuant to §31-10.6 of these regulations and any~~] Shoreline Flood and Erosion Control Structure as defined in CGS §22a-109 located within the Coastal Boundary as described in CGS §22a-94.(779, 03/04/2021)
3. Truck trailer storage for more than 7 days pursuant to §32-8.1.

4. Excavation and fill activities that are not exempt pursuant to §32-8.1.
5. Outdoor Special Events, pursuant to §32-23, that:
  - a. Exceed ten (10) days in duration and are located in a non-residential district.
  - b. Exceed two (2) days in duration and/or extend beyond 10:00pm on Fridays and Saturdays and are located in a residential district.
  - c. Exceed seven (7) days in duration and/or extend beyond 10:00pm on Fridays and Saturdays and are located on a privately-owned property in a residential district containing a Special Permit Use.

The P&Z Commission, at its discretion, may hold a public hearing on an application for Site Plan or Coastal Site Plan review.

The P&Z Director may waive P&Z Commission review of small-scale projects, (except those located in §36, Village District Overlay Zone which require review by the Joint Committee and Site Plan review by the Planning and Zoning Commission), but may require the approval of the Architectural Review Board and will require a zoning permit. Small-scale projects include:

- i. Minor Site Plan modifications such as parking lot alterations or expansions, landscape modifications and utility modifications;
- ii. Exterior façade changes to commercial buildings;
- iii. Small building additions with fewer than five hundred (500) sq. ft. of building coverage or containing fewer than five hundred (500) sq. ft. of gross interior floor space.
- iv. Exterior staircases mandated by the Fire Marshal.
- v. Handicap ramp and elevators mandated by the Building Official for public safety.