



**Town of Westport**  
**Planning and Zoning Commission**  
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To be published in the Norwalk Hour on Thursday, February 22, 2024, and Thursday, February 29, 2024

## LEGAL NOTICE OF HEARING

**Notice is hereby given that the Westport Planning and Zoning Commission will hold a Remote Public Hearing on Monday, March 04, 2024, at 7:00 P.M.**

*The public may attend using the link to be published on the agenda prior to the meeting. The meeting agenda will be available at [www.westportct.gov](http://www.westportct.gov) on the "[Meeting List and Calendar](#)" web page one week prior to the meeting.*

1. **Text Amendment #841:** #PZ-24-00010 submitted Atty. Enrico R. Costantini to modify §32-18.2.1(c) of the Zoning Regulations to require the Historic District Commission (HDC) or their designee shall apply the Secretary of the Interior's Standards when determining eligibility of a Historic Residential Structure; to modify §32-18.5(d) to authorize the Planning and Zoning Commission the discretion to allow certain properties located in the Residence A Zone, less than one (1) acre in size, not including those in a Historic District regulated by the HDC, to be subdivided provided that the property contains a Historic Residential Structure that is at least 100 years old as of March 1, 2024, and the development on the new lot will not exceed the Total Coverage or Building Coverage that would otherwise be permitted under the Zoning Regulations. As proposed, any lot created under the proposed text amendment that does not contain a Historic Structure shall not be subject to the preservation requirements of §32-18. All lots created shall be at least 6,000 square feet in lot area. The amendment to §32-18.5(d) also adds language that provides that the age of a structure shall be determined by a date reasonably ascertained from available physical or documentary evidence. Changes to §32-18.5(e) are proposed to replace language describing how to determine the age of an eligible Historic Residential Structure to be consistent with changes proposed in §32-18.5(d), and to provide clarifying language referencing the Commission's authority to reduce dimensional requirement pursuant to §32-18.5(a). A copy of the text amendment is available on-line at [www.westportct.gov](http://www.westportct.gov) on the Planning & Zoning Office web page under "P&Z Pending Applications & Recent Approvals." A copy may also be viewed at Town Hall, 110 Myrtle Ave., in the Town Clerk's Office and Planning & Zoning Office.

**Text Amendment #841/PZ-24-00010**

Submitted: 1/5/24

Received: 1/8/24

Revised: 1/24/24, further revised 2/20/24

Public Hearing: 02/22/24

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

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

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## **Proposed Text Change, Submitted by FLB Law**

**Note:** Proposed new language is shown in **red, highlighted, and underlined**.  
Proposed deletions are shown in **bracketed, struck through and highlighted**

### **32-18 Historic Residential Structure (HRS)**

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#### **32-18.1 Purpose**

The purpose of this regulation is to further the preservation, rehabilitation, restoration, reconstruction and/or adaptive re-use of historic structures containing existing special permit uses listed in §11-2.1 thru §11-2.2.13, historic residential structures and associated historic accessory structures in Westport residential districts. The P&Z Commission may, by grant of a Special Permit/HRS, authorize the use, setback, height parking, landscaping, coverage and lot area and shape incentives of this section in those circumstances where applicable zoning regulations have the practical effect of discouraging the preservation or continued use of historic buildings and historic accessory structures.

#### **32-18.2 Definitions**

##### **32-18.2.1 Historic Structure**

For the purposes of this regulation, a structure is considered historic if, as of the effective date of this regulation, it is located in Westport and meets at least one of the following criteria:

- a. The structure or accessory structure is:
  - i. A property listed or eligible for listing on the National or State Register of Historic Places or is a contributing historic resource in an established or eligible National or State Historic Register District; and
  - ii. Has been determined to be historic by the Historic District Commission ("HDC") Administrator after consultation with the Historic District Commission or its designee.
- b. The structure or accessory structure is a local Historic Landmark Property or a contributing resource in a local Historic District. Such Properties and Districts are listed in Chapter 63 of the Town Code.
- c. The structure or accessory structure is:
  - i. Listed on the Westport Historic Resources Inventory; and
  - ii. Has been determined to be historic by the HDC Administrator after consultation with the Historic District Commission or its designee **when**

applying the Secretary of the Interior's Standards. The HDC Administrator or its designee shall provide a report to the Planning & Zoning Commission detailing its findings of whether the structure is historic pursuant to this subsection.

- d. The structure or accessory structure has been determined eligible for consideration under this Section by the Historic District Commission or its designee after consideration of including but not limited to the following standards:
- i. The structure is fifty or more years old.
  - ii. The property is associated with events or persons important to the history and development of the Town of Westport, State of Connecticut or the Nation.
  - iii. The property is associated with a famous person.
  - iv. The structure was designed by a significant architect.
  - v. The structure is indicative of a significant architectural style or period.
  - vi. The structure contributes contextual significance to the historic or cultural value of the property

### **32-18.2.2 Alteration, Historic Structure**

Any Regulated Activity in the Westport Historic Districts & Properties Handbook, or any relocation, demolition, restoration or reconstruction of the historic structure or historic accessory structure.

### **32-18.2.3 Scale**

The relationship of a structure, as a whole to its neighboring structures, street and landscape. For the purposes of this regulation, neighboring structures are understood to be those located on properties within 250 feet of the subject property.

### **32-18.3 Application Requirements**

An application for Site Plan and Special Permit/HRS shall be submitted as required under Section 44 of the regulations. In addition to Section 44, the applicant must submit the following:

- a. Information sufficient to demonstrate that the structure or accessory structure meets any one of the criteria set forth in §32-18.2 (a) through (d) hereof.
- b. Any proposed plans for alteration to the historic structure or historic accessory structure or its use.
- c. All applications shall be accompanied by a perpetual preservation easement pursuant to Connecticut General Statutes, Section 47-42 a-c, enforceable by both the P&Z Commission and the Historic District Commission, which shall provide, among other things, for the right of the holder of the easement to do all things necessary to preserve the structural and historic integrity of the historic structure or historic accessory structure and to charge the expense thereof to the owner upon the owner's failure to keep the exterior of the structure in good repair.
- d. Any application for alteration pursuant to (b) herein, shall be referred to the Historic District Commission and the Architectural Review Board for a combined recommendation from a joint meeting. Their guidelines for review will be the most

recent Secretary of the Interior's Standards for the Treatment of Historic Properties, Standards for Rehabilitation.

### **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 medical uses approved by the Zoning Board of Appeals, and/or historic accessory structures, use incentives to allow for its preservation, retention of its historic scale and/or its location on the property.(794, 08/13/2021)
- 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.

### **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 hereof.
- c. Allow limited office uses in one historic accessory structure containing an existing special permit use and allow expansion of medical use in one historic principal structure containing a medical use approved by the Zoning Board of Appeals under such conditions as set forth in §32-18.8, §32-18.9, §32-18.10, and 32-18.11, herein.(794, 08/13/2021)
- d. Allow lot area and shape in Residence AAA, AA and A Districts to be reduced to an extent equal to the area and shape requirements of lots in the next less restrictive

zoning district. Therefore, lots in the AAA zone can be reduced to not less than one (1) acre and lots in the AA zone can be reduced to not less than one-half (1/2) acre. Lots in the A zone can be reduced, **in the Commission's discretion**, to not less than **one-quarter (1/4) acre** **6,000 square feet** provided the shape requirements of lots in Residence B zone are met. The incentives in this subsection apply only to a lot on which there is **either: (i)** more than one (1) Historic Residential Structure and each new lot created under this subsection must contain at least one (1) Historic Residential Structure; **or (ii) there is one (1) Historic Residential Structure on a lot: (a) the Lot Area of the Lot containing the Historic Residential Structure is less than one (1) acre; (b) located in a Residence A Zone; (c) that is not already located in a Local Historic District regulated by the Town of Westport Historic District Commission; and (d) that the Historic Residential Structure is 100 years old or older as of March 1, 2024. Provided, however, that the development on the new vacant lot created under this 32-18.5(d)(ii) shall not exceed the Total Coverage or Building Coverage that would be permitted without any adjustments permitted under Section 32-18.5(a) relating to Coverage.** The general requirements for subdivisions or re-subdivision under §51 of these Regulations shall continue to apply and the applicant may concurrently file an application under §51 and for the incentives listed in §32-18.5 hereof. **A Lot created by this regulation that does not contain a Historic Structure shall not be subject to the preservation requirements of §32-18. The age of the structure shall be determined by a date reasonably ascertained from available physical or documentary evidence and a historic residential structure shall be as defined in §32-18.2.**

- e. For lots in the Res AAA District that are either divided by the Aspetuck River OR are non-conforming to the minimum Gross Lot Area and Lot Shape and such lots are a minimum of 25,000 square feet of Gross Lot Area as of 6-12-16, to allow the Gross Lot Area to be reduced to no less than 10,000 square feet and a minimum of forty-percent (40%) of the original Gross Lot Area and the minimum required Lot Shape to be reduced to 60 feet x 80 feet. Required building height for new construction on both lots to be reduced per (vii) listed below and required building and lot coverage for new construction on both lots to be reduced per (viii) listed below. The setback requirements for both lots are to be reduced as allowed by §6-3.1, Non-Conforming Lots, Setbacks.
  - i. One lot created under this subsection must contain at least one (1) historic residential structure as defined herein.
  - ii. The remaining portion of the original lot must have a maximum of sixty-percent (60%) of the original Gross Lot Area and the minimum required Lot Shape to be reduced to 60 feet x 80 feet.
  - iii. The incentives in §32-18 apply only to the lot on which there is at least one (1) historic residential structure 100 years old or older as of 6-12-16, the effective date of this change to this regulation.
  - iv. The remaining portion of the original lot is not regulated by §32-18.
  - v. The age of the structure shall be determined **a date reasonably ascertained from available physical or documentary evidence** **[by the Actual Year Built (AYB) as listed on the Tax Assessor's Field Card**

records] and a historic residential structure shall be as defined in §32-18.2.

- vi. The general requirements for subdivisions or re-subdivision under §51 of these Regulations shall continue to apply and the applicant may concurrently file an application under §51 and for the incentives listed in §32-18.5 herein.
- vii. Height

The maximum height of the principal building each lot shall be as follows **unless such dimensional requirements are allowed to be reduced and/or increased pursuant to 32-18.5(a) hereinabove\***:

Gross Lot Size Max.	Maximum Stories	
0 - 13,000 (0.0 Ac. – 0.29 Ac.)	2	30'
13,001 - 21,799 (0.3 Ac. – 0.49 Ac.)	2 1/2	30'
21,780 - 43,559 (0.50Ac. – 0.99 Ac.)	2 1/2	35'
43,560 or more (1.0 Ac. or more )	3	35'

\*Except for properties located south of the railroad shall not exceed a Building Height of 2 1/2 stories and 26 feet?

viii. **Coverage**

The maximum coverage on each lot shall be as follows **unless such dimensional requirements are allowed to be reduced and/or increased pursuant to 32-18.5(a) hereinabove\***:

Gross Lot Size Max.	Building Coverage	
0 - 13,000 (0.0 Ac. – 0.29 Ac.)	15 %	25 %
13,001 - 21,799 (0.3 Ac. – 0.49 Ac.)	15 %	25 %
21,780 - 43,559 (0.50Ac. – 0.99 Ac.)	15 %	25 %
43,560 or more (1.0 Ac. or more )	N/A	25 %

**32-18.6 Conditions of Approval**

Any Special Permit/HRS approved by the P&Z Commission under this regulation shall be consistent with the Secretary of Interior’s Standards for the Treatment of Historic Properties.

- a. A copy of this document is available at the P&Z Dept. and online at: CT Trust for Historic Preservation.
- b. Prior to issuance of a Zoning Permit, the applicant shall grant a perpetual preservation easement pursuant to Connecticut General Statutes, §47-42 a-c, enforceable by both the P&Z Commission and the Historic District Commission, which shall provide, among other things, for the right of the holder of the easement to do all things necessary to preserve the structural and historic integrity of the historic structure or historic accessory structure and to charge the expense thereof to the owner upon the owner’s failure to keep the exterior of the structure in good repair.
- c. Any Special Permit/HRS granted under this regulation shall prescribe the specific conditions to be observed and exterior architectural elements (See Westport

Historic Districts & Properties Handbook) which are to be maintained for the subject structure.

### **32-18.7 Alterations, Historic Structure**

Once a Special Permit/HRS has been granted, the historic structure or historic accessory structure shall not be altered unless such alteration is reviewed by the HDC Administrator to evaluate whether HDC review is needed and is reviewed by the P&Z Commission or their designee to determine if approval is required from the P&Z Commission.

#### **32-18.7.1**

Any significant maintenance requirements to a historic structure or historic accessory structure covered by this regulation required to preserve its structural and historic integrity shall be completed by the owner within a reasonable period or within eighteen months of notification by the Zoning Enforcement Officer.

#### **32-18.7.2**

Emergency repairs may be made by the owner as a result of fire, flooding, or other similar type of damage. The Zoning Enforcement Officer shall be notified in writing not later than 72 hours after the repair or stabilization process is initiated. A plan for permanent repair must be submitted for review to the P&Z Office. This will include review by the HDC Administrator. The subject structure must be returned to its previous exterior appearance within eighteen months.

### **32-18.8 Change of Use**

Any change in use of any historic structure or historic accessory structure which has an approved Special Permit/HRS under this regulation may only be authorized by application to, and approval by, the P&Z Commission. Said application shall contain all relevant information pertaining to the previously approved use and proposed change of use for the historic structure or historic accessory structure. The P&Z Commission shall determine if the proposed change in use is appropriate and in keeping with the intent of the original Special Permit/HRS granted for the subject structure according to the standards referenced in §32-18.4 hereof.

### **32-18.9 Permitted Uses of Historic Accessory Structure**

#### **32-18.9.1 Home Based Business:**

Special Permit and Site Plan approval in accordance with Section 43 herein is required for the use of an historic accessory structure for a Home Based Business. All conditions associated with §11-2.4.6, Home Office, or §11-2.4.6A, Home Occupation, Level 1, or §32-21 Home Occupation, Level 2, as applicable are required to be met except as modified herein:

- a. Location: the Home Based Business shall be incidental and clearly a secondary use of the residential use of the property.
- b. Floor Area: the total interior floor area as of the effective date of this regulation may be devoted to a Home Based Business in an historic accessory structure.

#### **32-18.9.2 Accessory Apartments:**

one historic accessory structure or portion thereof may be converted to allow the incorporation of one (1) additional dwelling unit on the premises subject to Special Permit and Site Plan Approval

in accordance with §43 herein, and all conditions associated with §11-

2.4.12 Accessory Apartments except as modified herein:

- a. Qualifications: no accessory apartment exists in the main dwelling unit nor does any other historic accessory structure contain a dwelling unit.
- b. Eligibility: No age restriction.
- c. Floor Area: the total floor area of the historic accessory structure used for a dwelling unit shall be the larger of the following:
  - i. The size of the historic accessory structure as of the effective date of this regulation.
  - ii. Up to 800 square feet, including additions to the original historic accessory structure.
  - iii. Up to 1,000 square feet, including additions to the original historic structure, if the unit is designated affordable in compliance with the affordability standards of Connecticut General Statutes §8-30(g) and is deed restricted on the Westport Land Records for 40 years as an affordable unit. (See §32-18.10)

### **32-18.9.3 Annual Certification:**

prior to the issuance of a Zoning Permit, a certificate in the form of an affidavit to verify that the principal owner is in residence or has inspected and performed necessary preservation maintenance or in possession of a special permit use for the subject property. Thereafter, the principal owner shall submit such notarized affidavit to the P&Z Office by January 31st of each year as a requirement for the continuance of the Special Permit/HRS.

### **32-18.9.4 Limited Offices -Principal Structures**

One principal historic residence or portion thereof containing an existing medical office use approved by the Zoning Board of Appeals may be converted to limited medical 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 medical office uses shall be limited to those uses authorized by ZBA variance.
- c. Floor Area: The floor area devoted to the medical office shall not exceed the floor area approved by the ZBA unless otherwise authorized by the Commission but shall not exceed 50% of the total floor area of the building so it remains an accessory use.
- d. Fire Code: Limited Office Use spaces in all residential occupancies shall comply with the requirements for Business Occupancies as required by the Connecticut State Fire Safety Code in effect at the time of application.
- e. Parking: 2 spaces in addition to the requirement for the Dwelling Unit plus additional parking shall be provided as determined by the P&Z Commission.



- f. Signage: One free-standing sign or wall sign not to exceed two (2) square feet in area nor six (6) feet in height, identifying the name and address of the occupant of a Dwelling and/or a Home Occupation.(794, 08/13/2021)

### **32-18.9.5 Limited Offices – Accessory Structures**

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 met:

- a. Location: The existing Special Permit site (lot):
  - i. must have frontage on a collector or arterial street,
  - ii. must adjoin a commercial zoning district, and
  - 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 business, professional or other administrative offices accessory to and directly associated with the existing Special Permit Use. Healthcare offices, medical offices, banks and retail uses shall be excluded
- c. Floor Area: The floor area devoted to limited office uses shall not exceed either; 5,100 square feet, 60% of the total existing floor area within the accessory historic structure or 20% of the total existing floor area on the site, whichever is less,

(794, 08/13/2021)

### **32-18.10 Affordable Accessory Apartment in Historic Accessory Structure Requirement**

#### **32-18.10.1**

The income of the occupant(s) of any Affordable Accessory structure shall not exceed 80% of the state median adjusted for family size, as determined by the United States Department of Housing and Urban

Development for the State of Connecticut, in accordance with CGS 8-30(g). The rental charge for this unit shall not exceed 30% of the renters' income.

#### **32-18.10.2**

In conjunction with an application for approval of a Special Permit for an affordable accessory apartment in an historic accessory structure, the applicant shall submit an Affordability Plan, in accordance with CGS §8-30(g) which shall describe how the regulations regarding affordability will be administered. The plan shall include provisions for administration of and compliance with the income of the occupant of the affordable unit and the rent charged. It shall also include procedures for verification and yearly confirmation to the P&Z Dept. of the unit occupancy income in compliance with the affordability requirements and an explanatory statement that will be provided to the occupant of the affordability unit of the restrictions on income and rent for the unit. In addition, it must include notice procedures to the general public of the availability of the affordable unit.

### **32-18.11 Permitted Use of Historic Principal Structure**

One principal historic residence or portion thereof containing an existing medical office use approved by the Zoning Board of Appeals (ZBA) may be expanded 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. Floor Area: The floor area devoted to the medical office shall not exceed the floor area approved by the ZBA unless otherwise authorized by the Commission but shall not exceed 50% of the total floor area of the building so it remains an accessory use.

(794, 08/13/2021)