

# Memorandum

**To:** Members, Zoning Board of Appeals

**From:** Amanda Trianovich, Planner

**Date:** September 24, 2024

**Re:** Variance & Coastal Site Plan Appl. #ZBA-24-00443, 66 Harbor Road

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**Address:** 66 Harbor Road

**ZBA #:** ZBA-24-00443

**Zone:** Residence A district

**PID #:** B0208800

**Owner:** Thomas & Pamela O'Brien

**Applicant:** Curt Lowenstein, LANDTECH



*Source: Tax Assessor, dated 08-11-2015*

## Variance Proposal

The applicant has requested relief from:

- §6-3.1, Non-Conforming Lot Setbacks
- §6-2.2, Non-Conforming Lot Coverage
- §6-2.1.6, Non-Conforming New Construction
- §13-4, Residence A Setbacks
- §13-6, Residence A Building and Total Coverage

The applicant is proposing to raise the existing single-family residence to be FEMA compliant, construct additions in the Setbacks and over in Building and Total Coverage, and to find consistency with Coastal Area Management Regulations.

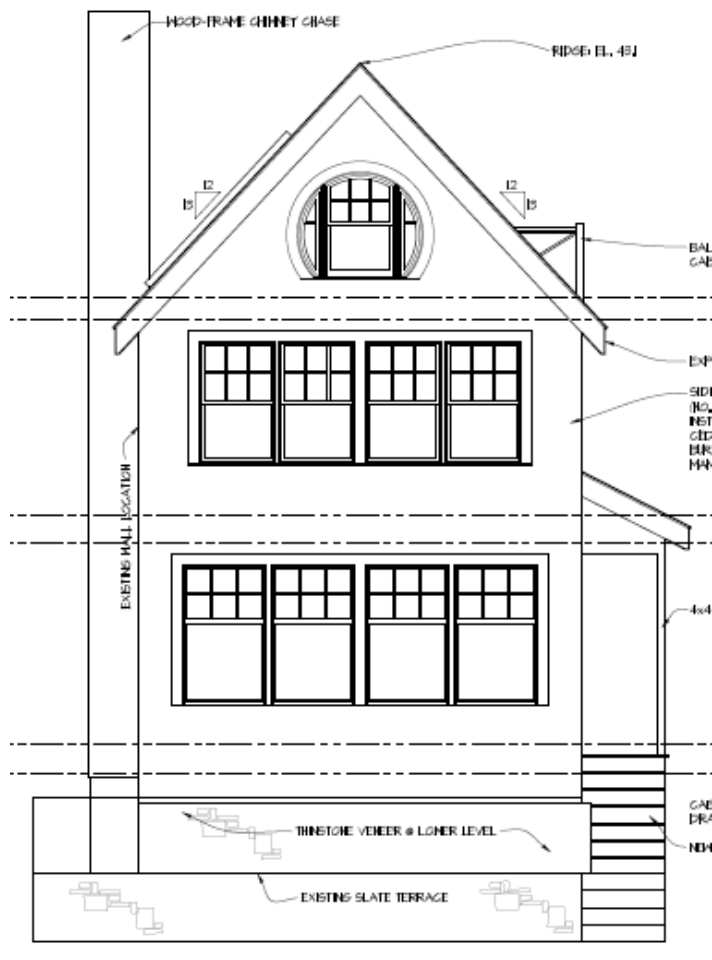
The project includes several enhancements such as a new driveway, covered front porch, and side patio. The existing shed within the setback will be removed and the mechanicals will be moved to the roof deck.

## Hardship Offered by Applicant

- Pre-existing undersized lot. Subject property is located in a FEMA flood zone (AE 13.0). Subject property is a corner lot have two (2) front yard set backs.



Rowland Place Elevation as depicted in the Architectural Plans prepared by Richard Swann Architect dated 8/14/24.



Harbor Road Elevation as depicted in the Architectural Plans prepared by Richard Swann Architect dated 8/14/24.

**Property Description/Background**

The property is located within the Saugatuck Shores area on the corner of Rowland Place and Harbor Road. The lot is nonconforming to lot area having 2,491 SF in the Residence A (21,780 SF) zoning district. The property is located within the 100-year flood hazard areas, the Coastal Area Management (CAM) boundary, and the Waterway Protection Line Ordinance (WPLO) boundary. Additionally, the lot is serviced by public water and sewer.

The current house was constructed in 1993 and received [Variance #4702](#) and [Coastal Site Plan #93-008](#) approvals. The Zoning Certificate of Compliance was issued a year later. Prior to the construction of the new house in 1993, the property received a [Variance #1181](#) in 1960 for Setbacks to construct an addition.

**Summary of Variance Review**

**DATA TABLE** (Requested Variance marked in **Red**)

|                                      | <b>Existing</b>                                       | <b>Proposed</b>                                       | <b>Required/Allowed</b>  |
|--------------------------------------|---|---|--|
| <b>Gross Lot Area:</b>               | 2,491 SF<br>Non-conforming Lot                        | Same  | 21,780 SF  |
| <b>Net Lot Area:</b>                 | Same.<br>No wetlands or steep slopes on the property. | Same.<br>No wetlands or steep slopes on the property. | N/A  |
| <b>Building Coverage:</b>            | 833 SF (33.4%)<br>ZBA#4702                            | <b>1,090 SF (43.8%)</b><br><b>Increase of 257 SF</b>  | 373.65 SF (15%)  |
| <b>Total Coverage:</b>               | 1,693 (68%)<br>ZBA#4702                               | <b>1,503 SF (60.3%)</b><br><b>Decrease of 190 SF</b>  | 622.75 SF (25%)  |
| <b>Setbacks:</b>                     | ZBA#4702  |   |  |
| <b>Front:</b>                        | 2' & 2.5'   | <b>2' &amp; 2.8'</b>                                  | 20'  |
| <b>Sides:</b>                        | 2.6' & 0.9'   | <b>2' &amp; 8.5'</b>                                  | 7.5'   |
| <b>Rear:</b>                         | n/a   | n/a   | n/a-corner lot   |
| <b>Height and Stories:</b>           | 2 -Stories<br>25'-3" Height                           | 2 -Stories<br>30'-9 1/2" Height                       | 2 -Stories<br>31' Height *   |
| <b>Flood Zone Standards: (AE 13)</b> | Not FEMA compliant.                                   | Finished First Floor 16' with proper flood venting    | Finished First Floor located at El. 13' + 1' freeboard = 14' with proper flood venting** |

\*§6-3.3 permits building height for principal buildings may be increased by up to an additional five feet; (Maximum of 31') for an existing or new structure located within the Special Flood Hazard Area specifically, when such structure is proposed have its first finished floor elevated to at least the Base Flood Elevation has no basement or cellar below the BFE and in the AE Zone is designed to be fully compliant with §31-11.5.2 (Elevated Buildings).

\*\*Enclosed area measured from exterior face in accordance with FEMA Technical Bulletin 01, Requirements for Flood Openings in Foundation Walls and Walls of Enclosures, March 2020

|  |                     |
|--|---------------------|
| Excavation & Fill Application Required?                          | No.                 |
| P&Z Site Plan/Special Permit Required?                           | No.                 |
| Is this Application eligible for a Site Plan Waiver per §43-5.2? | N/A                 |
| Is Architectural Review Board Required?                          | No.                 |
| Is Coastal Area Management Site Plan Required?                   | Yes, per §31-10.6.4 |

§46-3.2 states, *“The Zoning Board of Appeals shall determine and may vary the application of the zoning regulations in harmony with their general purpose and intent and with due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land where owing to conditions especially affecting such parcel but not affecting generally the district in which it is situated, a literal enforcement of such zoning regulations would result in exceptional difficulty or unusual hardship, so that substantial justice will be done and public safety and welfare secured; provided, however, that in no case may a variance be granted which permits a commercial use in a district in which such use is not otherwise allowed by these regulations, including the extension of a non-conforming commercial use.”*

**Coastal Site Plan Analysis**

This property lies within the Coastal Area Management Boundary, as defined by C.G.S. §22a-94, and therefore, a CAM review is required in accordance with C.G.S. §22a-109 and the Town of Westport Zoning Regulations §31-10.2 (Location) and §31-10.5 (Coastal Site Plan Requirements).

§31-10.6.4 of the zoning regulations requires CAM Site Plan review as the proposed additions are within two hundred (200) feet of MHWL and enlarge the building area by more than 25%.

The applicant has noted that the following coastal resource is present on site or within the influence of the project: Coastal Hazard Area.

According to the [Cahn, Inc. Map](#), the following coastal resources have been identified as either on and/or adjacent to the site: Coastal Flood Hazard Area, Nearshore Waters, Modified Bluffs & Escarpments, Beaches & Dunes, and Intertidal Flats. The coastal resources are defined in the Connecticut Coastal Management Manual and are defined as follows:

**General Coastal Resources:** *“Coastal Resources”* means that coastal waters of the state, their natural resources, related marine, and wildlife habitat, and adjacent shorelands, both developed and undeveloped, that together form an integrated terrestrial and estuarine ecosystem.

**Coastal Flood Hazard Areas:** *“Coastal Hazard Areas”* are statutorily defined as those land areas inundated during coastal storm events or subject to erosion induced by such events, including flood hazard areas as defined and determined by the National Flood Insurance Act, as amended (U.S.C. 42 Section, 4101, P.L. 93-234) and all erosion hazard areas as determined by the Commissioner.

Coastal hazard areas encompass most other important coastal resources, can serve as flood storage areas, and provide numerous open spaces and recreational opportunities. They are, by their nature, hazardous areas for structural development, especially residential type uses. This resource is located on and adjacent to the site.

**Nearshore Waters:** *“Nearshore Waters”* are those waters and their substrates lying between mean high water and a depth approximated by the ten meter contour.

Coastal waters are areas of high primary and secondary productivity. Coastal waters provide habitat for a variety of marine organisms; support many diverse floral and faunal species; provide spawning and breeding areas for many species; and are an important contributor to the productivity of contiguous ocean waters.

**Beaches and Dunes:** *“Beaches and dunes”* are beach systems including barrier beach spits and tombolos, barrier beaches, pocket beaches, land contact beaches and related dunes and sandflats. In general, beaches are dynamic areas abutting coastal waters that are characterized by sand, gravel or cobbles.

Beaches and dunes provide critical nesting habitat for some shore birds and unique habitats for plant species and communities. They act as a buffer to coastal flooding and erosion and dissipate wave energy.

**Bluffs & Escarpments:** *“Bluffs and Escarpments”* are naturally eroding shorelands marked by dynamic escarpments or sea cliffs which have slope angles that constitute an intricate and dynamic balance between erosion, substrate, drainage and degree of plant cover.

Bluffs and escarpments are a significant sediment source for other features such as beaches and dunes. They provide valuable wildlife habitat and support unique plant communities and species. They reduce the impact of coastal flooding by dissipating wave energy.

**Intertidal Flats:** *“Intertidal flats”* are very gently sloping or flat areas located between high and low tides composed of muddy, silty and fine sandy sediments and generally devoid of vegetation.

Intertidal flats serve as rich sources of and reservoirs for nutrients. Intertidal flats provide valuable feeding areas for invertebrates, fish, and shorebirds and significant shellfish habitat. Intertidal flats are sinks for toxic materials where they are generally sequestered in the finer sediments, thereby contributing to improved water quality.

**Flood Zone:** The site is wholly located within the bounding limits of the 100-year Flood Line, with the designation AE 13' as shown on Panel #09001C0551G (effective 7/8/13) of the FIRM maps. The first floor of the proposed house will have a finished floor elevation of 16' feet, which is 3 feet higher than the adjacent flood zone (AE 13). All mechanical equipment is proposed on a roof deck. Flood vents are proposed below the Base Flood Elevation.

**Sediment and Erosion Controls:** The proposed anti-tracking construction entrance and silt fencing should be installed prior to the commencement of construction and remain in place until the lot is stabilized which will help to limit possible sediment movement into the coastal resources. The stockpile area should also be surrounded by silt fencing in order to be consistent with CAM policies.

**Stormwater Management:** The Connecticut Coastal Management Manual encourages storm water management systems which provide that the volume of runoff generated by the first one inch of rainfall is retained on-site and that the post-development runoff rates and volumes do not exceed pre-development runoff and volumes. CAM policies encourage a reduction in impervious cover adjacent to coastal waters and other sensitive coastal resources.

As described in the Stormwater Management Report dated 6/13/24:

*"The proposed drainage system will consist of a 24" deep gravel driveway with a 6" perf. pvc pipe embedded within the stone to provide a connection point for the roof leaders of the proposed porch and front half of the main roof area as well as aide in evenly distributing the runoff routed to the stone reservoir. In addition to the water quality improvements provided by the installation of the proposed drainage system, there will be a net reduction in the overall impervious areas on the property by approx. 250 sf as a result of the proposal which is an improvement to both the water quality and runoff control for the site."*

In the Town Engineering comments dated 8/20/24, *"The storm water drainage system as depicted on the plans substantially complies with the Town of Westport Engineering Department Drainage Standards."*

This is consistent with CAM policies.

**Vegetated Buffer:** The Office of Long Island Sound Program Fact Sheet for Vegetated Buffers, by the Connecticut Department of Environmental Protection states the following,

*"Buffers protect resources from adjacent development by reducing the adverse effects of human activities on natural resources including wetlands and surface waters. They protect water quality and temperature, control erosion and trap sediment, protect and provide wildlife habitat, reduce the effects of flooding, reduce the potential for direct human disturbance of sensitive resources, and maintain aesthetic diversity and recreational value. A buffer provides a mosaic of interdependent functions. Installation of a buffer area can also lessen lawn maintenance requirements by reducing the area of manicured landscape."*

The Department of Energy and Environmental Protection (CT DEEP) Office of Long Island Sound Fact Sheet on Vegetated Buffers suggests that *"large buffers (e.g. 100 feet or greater in width) provide the best protection for water quality by buffering temperature changes and improving control of erosion, sedimentation, and pollution. However, even a narrow buffer (15 to 30 feet in width) can be effective under certain conditions."*

Harbor Road serves as a barrier between #66 and the coastal resources. As indicated on the Drainage Plan, the existing plantings along Harbor Road, shown below, will be preserved.



### **Summary of Coastal Review**

The coastal site plan review concludes the application may be considered consistent with the goals and policies of the CAM act.

The Westport Zoning Board of Appeals may find that this project is consistent with the policies identified in Section(s) 22a-92(b) (1) and 22-a-92 (b) (2) of the Coastal Area Management Act; that it will not adversely affect adjacent Coastal Resources identified in Sections 22-93 (a) (7) of said Act with the following recommendations:

1. The proposed anti-tracking construction entrance and silt fencing should be installed prior to commencement of construction and remain in place until the lot is stabilized which will help to limit possible sediment movement into the coastal resources.

### **Process Considerations**

The application will be reviewed at a remote public hearing of the Zoning Board of Appeals. The Town of Westport provides access to the public hearing in real-time, by live stream on the Town's [website](#), and by broadcast television on Optimum Government Access Channel 79 and Frontier Channel 6020. Additionally, anyone can join the remote meeting by accessing the meeting link published on the agenda one week prior to the meeting. Meeting agendas are available at [www.westportct.gov](http://www.westportct.gov) on the "[Meeting List and Calendar](#)" web page.

**This is a two (2) part approval process therefore two (2) separate votes are required:**

1. **Variance:** The Board shall grant or grant with modifications if the Variance application is in harmony with the Zoning Regulations and due consideration was taken for conserving the public health, safety, convenience, welfare, and property values. If exceptional difficulty or unusual hardship(s) were not proven, the Board shall deny the Variance as submitted.
2. **Coastal Site Plan:** The Board shall approve, approve with modifications, or deny the Coastal Site Plan when determining if the application is consistent with the goals and policies of the CAM act.

**Prior to issuance of a Zoning Permit**, if the Variance is granted and the Coastal Site Plan approved, the applicant shall:

- File the resolution on the Land Records; and
- Obtain Engineering Department approval; and
- Obtain Conservation Department approval.

**Department Comments:**

|                          |  |
|--------------------------|--|
| Engineering Department:  | <p>The Flood &amp; Erosion Control Board approved the application during the July 10, 2024, meeting.</p> <p>Comments submitted by E. Gill dated August 20, 2024, state the drainage, Flood Zones &amp; FEMA, and S&amp;E controls, all substantially comply with the Town of Westport Standards.</p> <p><i>“While the granting of these variances is at the discretion of the Board, we find no issues in our review that would preclude such action.”</i></p> |
| Conservation Department: | <p>The applicant received Conservation Commission approval on July 17, 2024, and permit #WPL-11929-24 was issued.</p> <p>The Conservation Director issued comments dated August 7, 2024, approving the revised plans.</p>  |

**Available in the File and on the Website [here](#):**

- Coastal Site Plan Review Application Form prepared by LANDTECH dated 7/30/24
- Improvement Location Survey (Existing) prepared by Land Surveying Services revised 8/15/24
- Improvement Location Survey (Proposed) prepared by Land Surveying Services revised 4/15/24
- Stormwater Management Report prepared by LANDTECH dated 6/13/24
- Drainage Plan prepared by LANDTECH revised 8/15/24
- Architectural Plans prepared by Richard Swann Architect dated 8/14/24
- Flood & Erosion Control Board approved 7/10/24
- Town Engineering Comments dated 8/20/24
- Conservation Resolution & Permit #WPL-11929-24 approved 7/17/24
- Conservation Department Comments dated 8/7/24
- Coastal Site Plan application #93-008 approved on 7/21/93
- Variance application #1181 approved on 10/8/59
- Variance application #4702 approved on 1/12/93
- Cahn Inc. Map Depicting Coastal Resources