

Letters from our readers

What AI has to say about Harbor Road boondoggle...

(Editor’s Note: This ChatGPT analysis of the situation surrounding the August 18-19, 2024 washout of Harbor Road in Stony Brook and the standoff over who is going to repair it, the Town of Brookhaven or the Ward Melville Heritage Organization, was prompted by questions submitted to AI by Lisa Mormile. She submitted the response as an op-ed.)

Dear ChatGPT,
If the Town of Brookhaven previously paved Harbor Road over the Mill Pond Dam, does that mean they own that part of the road?

Not necessarily. The fact that Brookhaven paved Harbor Road over the Mill Pond Dam is *not definitive proof of ownership* — though it can be a strong indicator of assumed responsibility. Here’s what matters legally and practically: Key Legal Principle: *Ownership ≠ Maintenance* - Just because a town maintains or paves a road doesn’t mean it owns it. Ownership is determined by title, dedication and acceptance, public easement, or statutory authority.

Legal Ownership Can Be Established in Several Ways:

Deed or Title
If Brookhaven holds title to Harbor Road or the dam beneath it, that clearly makes them the owner. You’d find this in Suffolk County land records or town records.

Dedication and Acceptance
A road built by a private party can become public if: It’s formally offered to the town (dedication), and the town accepts it by resolution or by *long-term maintenance/use*. Courts in New York have ruled that *consistent municipal maintenance* (like paving) may constitute implied acceptance— especially over 10+ years.

Public Easement
The town might not own the *underlying land*, but could have a public *right-of-way* (ROW) over it. This would allow them to pave and maintain the road legally, but not take responsibility for structures beneath (like the dam).

Relevant Case Law (New York):
Town of Oyster Bay v. Commander Oil Corp.*
Long-term *maintenance and public use* can imply public ownership, even if the title isn’t recorded.

Can Ward Melville Heritage Organization (WMHO), a Private Nonprofit Organization (PNP), submit for FEMA assistance for Harbor Road in Mill Pond of Stony Brook, NY (as it spans across the top portion of the dam connecting Head of the Harbor and Stony Brook)?

Yes, Harbor Road in Stony Brook may qualify for FEMA Public Assistance (PA) infrastructure aid — but only under specific conditions. Based on what you described (a washed-out road owned by a private nonprofit (PNP) that impedes emergency medical access), here’s how eligibility could apply:

- Be a legally recognized 501(c)(3) or similar nonprofit.
- Own or operate a facility that provides critical or essential public services,
- Is open to the general public (not gated or restricted),
- Connects populated areas or municipalities (as Harbor Road does between Stony Brook and Head of the Harbor)
- Provides emergency vehicle access or medical evacuation routes, and
- Is the most direct or only feasible route for emergency services.

For an alternate consideration, could the dam be restored with just the Mill Pond pedestrian/ bike path running across the restored dam, as there were sidewalks on either side of the road, therefore restoring the pond & eco-life under eligible public function?

Yes — if both the pedestrian path and the dam on Harbor Road are owned by WMHO, and the dam served an *eligible public function*, then restoring the pedestrian path could be used to justify restoration of the dam — and both may be eligible for FEMA Public Assistance (PA)**.

The PNP must own or operate a *facility that provides eligible services*, such as:

- Education
- Utility services



After a catastrophic rainstorm August 18-19, 2024 washed out Harbor Road (above) connecting Head of the Harbor Village to Stony Brook, residents protest last month that no action has been taken yet to rebuild the road.



- Irrigation
- Community centers
- Museums
- Parks or recreational facilities (only in limited cases)

The dam:

- Was used for a public purpose (e.g., water supply, flood control, or recreation),
- Was damaged by a federally declared disaster, and
- Was maintained and not under the responsibility of a federal agency (like the U.S. Army Corps of Engineers).

This would let WMHO control the restoration, especially if they want to rebuild the *pedestrian path*, stabilize the dam, and maintain heritage access.

Would you like help drafting a project proposal or

exploring alternative funding options for the walking path conversion?

Or would you like help drafting a *Freedom of Information Law (FOIL) request* to the Town of Brookhaven for Harbor Road paving and maintenance records? That could help clarify whether they’ve claimed responsibility in the past.

Thanks, ChatGPT, you are one sassy SaaS (Software as a Service). I am sure a crowd is forming at Riverhead as we speak.

As for the rest of you, the elected officials of the township or board members of the heritage organization, the residents don’t want to see one person cutting tape, kissing babies, or dancing at one of your summer boomer concerts for the rest of the season until this matter is resolved with a plan.