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FLYNN, J., concurring in part and dissenting in part. While I agree with the majority that the chairman of the zoning board of appeals could not act on behalf of the entire board in deciding that no hearing should be held on the plaintiff's appeal to the board from the denial of a zoning permit and coastal site plan, I do not agree that the plaintiff has shown a clear legal right to a hearing which is the sine qua non before a writ of mandamus will issue ordering a hearing to be held. Mandamus is an extraordinary equitable remedy. The plaintiff finds himself subject to a cease and desist order because he went ahead and built a concrete sea wall without a permit, despite the knowledge that such a permit was required when he built an earlier stone revetment. I would go no further than to remand with a rescript that mandamus issue ordering the entire board to act on the plaintiff's appeal. I would leave to the board, in the first instance, as the administrative body charged with that function, the determination of whether the essence of the renewed proposal to obtain approval nunc pro tunc of the existing concrete wall is so similar in nature to the prior applications that no further hearing is necessary. That is an administrative decision, which the board as fully constituted has not yet made, but has the right to determine before the matter is ripe for courts to intervene or review.
