

**BLACK POINT BEACH CLUB - ZONING BOARD OF APPEALS  
PUBLIC HEARING AND REGULAR MEETING  
Saturday, OCTOBER 29th, 2011  
MINUTES**

A Public Hearing and Regular Meeting of the Black Point Beach Club Zoning Board of Appeals was held on Saturday morning, October 29, 2011 at 9 AM in the Black Point Beach Association Clubhouse located on 6 Sunset Avenue in Niantic, CT.

PRESENT: Bill Willetts, Chairman, Steve Fogarty, Secretary, Joyce Wojtas,  
Sally Cini

ALSO PRESENT: Gail Stempien, Applicant

ABSENT: Paul Pendergast, Anita Schepter, Alternate

**1. Call Public Hearing to Order**

Chairman Willetts called the Public Hearing to order at 9:08 AM.

**2. Read Notice of Public Hearing**

Mr. Willetts read the Notice of Public Hearing:

**Case No. 1-2011:**

**Application of Gail Stempien for a variance of the Black Point Zoning Regulations Section VI, 7a, to allow an expansion of the non-conformity in connection with a teardown and replacement of their non-conforming dwelling at 5 Brightwater Road, Niantic, CT. Said property is identified on the East Lyme Assessor's Map 5.19, Lot 64.**

Mr. Willetts said that this notice was published in The New London Day on 10/17/2011 and 10/24/2011. Mr. Willetts presented the certificates of mailing to the abutters for the record noting that one neighbor; Mr. Lynch had called just to make sure that he understood what was taking place.

**3. Introduction of Zoning Board of Appeals members**

Mr. Willetts asked the Board Members to identify themselves for the audience. The members did so.

**4. Poll ZBA Members for conflicts of interest –**

Mr. Willetts polled the Board members for any conflicts of interest – hearing none – he noted to the applicant and the audience that they would need four votes in favor for the appeal to be granted.

Mr. Willetts then asked the applicant to present their case.

Gail Stempien, 5 Brightwater Road said that she has been thinking about tearing down and rebuilding their summer cottage for a long time. Her parents built the cottage in 1949 as a summer home and it has had sentimental value to them. They have decided that having two homes is too much and they want to reconstruct here to be able to live full time. However they will need to put a new addition off the back of the house which would conform to the setback requirements but would leave an 18" gap between the new addition and the existing dinette area. The house is small – 1600 sq. ft. and they are asking for a variance on the first floor of the 18" to be able to attach the addition to the dinette area.

Mr. Willetts asked if they would be putting in a basement.

Ms. Stempien said that it would probably be a crawl space as they are close to the water.

Mr. Willetts asked if they would be taking the chimney out.

Ms. Stempien said that there will be a fireplace there – a gas one and the chimney would be needed to vent the gas fireplace.

Ms. Cini asked if there would be any structural deficiency in leaving that 18” gap between the two parts of the house.

Ms. Stempien said that the architect stated to them that it would tax the integrity of the house to leave the gap there. It would also allow for debris to collect and for heavy winds to possibly pull the house apart.

Mr. Stempien stated that the architect built the plans in accordance with the new FEMA rules.

Mr. Willetts called for anyone from the public who wished to speak in favor of this application –

Mr. Dawes, Black Point ZEO said that he reviewed the plans with the Stempiens and that because he is bound by the zoning regulations that he had to send them here. However, he said that he is in favor of granting this as they are not requesting to go up – but just to fill in the 18”. This does not increase as far as expanding out and it falls within the 15’ side yard setback. He said that he does not think that granting this variance will do any harm to anyone and that it makes sense to allow it.

Mr. Willetts called for anyone from the public who wished to speak in opposition to this application -

Barbara Johnston, 35 Sea Crest Ave. asked Mr. Dawes if he had approved or denied their application.

Mr. Dawes said that he did not receive an application – he went over with them what they wanted to do as they knew that they would have to apply for a variance – so he did not deny or approve. He added that the regulations state that they can apply for a permit and be denied or they can go directly to the ZBA for a variance.

Ms. Johnston asked about the publication dates as they did not appear to follow the requirements.

Mr. Willetts said that the notice was published on 10/17/2011 and 10/24/2011.

Ms. Johnston said that they are expanding a non-conformity and that she is against that. She asked if they checked to see if they are in a flood plain.

Ms. Stempien said that they are not in a flood plain.

Ms. Johnston said that the application was not posted in the clubhouse and that she could not see a copy of it beforehand to review it.

Mr. Willetts said that the notice states that the file can be examined in the office of the ZEO.

Ms. Cini suggested that the website is perhaps the better place to go in the off season.

Ms. Johnston said that she is against this and thinks that it should also have been listed in the ZEO report.

Mr. Dawes explained that he gets numerous requests to discuss things that people want to do – before they actually file any papers or do anything. He said that it is not required that they have an application before him and that they can go directly for a variance.

Mr. Willetts said that there is nothing in the rules that states that they have to be denied by zoning first. He said that it was also suggested that they could move the porch/dinette in 18” to meet the addition that is going in as that would also solve the problem.

Mr. Stempien said that would be a legal taking away of their property as it has been a legal non-conforming property for 61 years.

Ms. Stempien added that they are looking for an interior variance and that they are not going outside of the property.

Ms. Johnston said that she thinks that the sore point is that they have set a precedent of approving non-conformities.

Ms. Stempien asked what they would gain by moving the porch/dinette area in by 18" and jogging that line of the house.

Mr. Willetts said that he is suggesting that they can have the 18" if they give up the 18" on the other side – he said that he sees it as an acceptable compromise.

Mr. Stempien said that by allowing the gap to stay that it is against FEMA as it allows for a wind tunnel that could blow the house apart. FEMA sees the building being much stronger if it is attached.

Mr. Dawes said to Mr. Willetts that he said that moving the porch/dinette over by 18" that he could approve it – however – it can also be approved as requested as they are not increasing the non-conformity outward. He added that he feels strongly that this is something that the ZBA is here for – to vary the literal rules if it makes sense to do so.

Ms. Johnston said that would be setting a precedent.

Mr. Fogarty said that it would not be setting a precedent as each case is taken on its own merits.

Mr. Willetts asked if there were any further comments –

Hearing none –

Mr. Willetts closed this public hearing at 9:53 AM.

## **REGULAR MEETING**

Mr. Willetts opened the Regular Meeting for Case No. 1-2011 at 9:54 AM.

### **Case No. 1-2011:**

**Application of Gail Stempien for a variance of the Black Point Zoning Regulations Section VI, 7a, to allow an expansion of the non-conformity in connection with a teardown and replacement of their non-conforming dwelling at 5 Brightwater Road, Niantic, CT. Said property is identified on the East Lyme Assessor's Map 5.19, Lot 64.**

Mr. Willetts noted that they could take no further public comment on the application.

He noted his reluctance to grant this and asked for comments from the other members stating that it would require all four (4) of them to agree in order for this to pass.

Mr. Fogarty said that it makes sense to grant this and that it does not set a precedent as it stands on its own merit just as each case does.

Ms. Wojtas said that she is absolutely opposed to Mr. Willett's suggestion as they have multiple issues here. The addition is conforming and it will not infringe on any of the neighbors. There could potentially be fire or wind hazards by leaving the gap. Further – this does not set a precedent. She said that she supports approval of this request.

Ms. Cini said that she is in favor of granting this variance and that she does see a hardship here – safety, energy conservation and structural integrity. She said that she agrees with Mr. Dawes that when the letter of the law can't be met then the spirit of the law is for them to decide. She said that she does not feel that they are setting a precedent as each case stands on its own merit and she agrees that the literal rules can be varied. She noted that zoning rules are about not having horrific things happen with new buildings. She added that she did not feel that it is their place to negotiate but to decide based upon what is being requested.

Mr. Willetts asked if they were ready to make a motion.

### **\*\*MOTION (1)**

**Ms. Cini moved to APPROVE the Application of Gail Stempien for a variance of the Black Point Zoning Regulations Section VI, 7a, to allow an 8'L x 18"W expansion of the non-conformity in connection with a teardown and replacement of their non-conforming dwelling at 5 Brightwater Road, Niantic, CT. Said property is further identified on the East Lyme Assessor's Map 5.19, Lot 64.**  
**Mr. Fogarty seconded the motion.**

Ms. Cini said that the hardship is one of safety, structural integrity and energy conservation and that what is being requested does not affect the neighbors.  
Mr. Willetts called for a vote on the motion.

**Vote: 4 – 0 – 0. Motion to APPROVE passed.**

▪ **Election of Chairman and Secretary**

Mr. Willetts said that if no one minded that he would conduct the nomination for officers.  
He called for nominations for the position of Chairman of the BP Zoning Board of Appeals.

**\*\*MOTION (2)**

**Ms. Wojtas moved to nominate Mr. Willetts as the Chairman of the BP Zoning Board of Appeals for the upcoming year.**

**Ms. Cini seconded the motion.**

Mr. Willetts called for any other nominations –  
Hearing none – he proclaimed nominations closed and called for a vote on the nomination of him –

**Vote: 3 – 0 – 0. Motion passed.**

Mr. Willetts called for nominations for the position of Secretary of the BP Zoning Board of Appeals

**\*\*MOTION (3)**

**Ms. Cini moved to nominate Mr. Fogarty as the Secretary of the BP Zoning Board of Appeals for the upcoming year.**

**Mr. Willetts seconded the motion.**

Mr. Willetts called for any other nominations –  
Hearing none – he proclaimed nominations closed and called for a vote on the nomination of Mr. Fogarty -

**Vote: 3 – 0 – 0. Motion passed.**

There being no other business before the BP Zoning Board of Appeals Mr. Willetts called for a motion to adjourn the meeting.

**ADJOURNMENT**

**\*\*MOTION (4)**

**Ms. Cini moved to adjourn the October 29, 2011 meeting of the Black Point Beach Club Zoning Board of Appeals at 10:10 AM.**

**Ms. Wojtas seconded the motion.**

**Vote: 4 – 0 – 0. Motion passed.**

Respectfully submitted,

Karen Zmitruk,  
Recording Secretary