

ZONING REGULATIONS
BLACK POINT BEACH CLUB ASSOCIATION

With amendments adopted on July 31, 2010, to become effective on September 1, 2010

Purposes

These regulations are adopted for the purposes set forth in the General Statutes of the State of Connecticut, namely; to promote the health, safety and general welfare of Black Point Beach Club Association with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality; to protect the existing and potential public surface and ground drinking water supplies; to lessen congestion in the streets; to secure safety from fire, panic, flood and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision for transportation, water, sewerage, parks and other public requirements.

SECTION I - DEFINITIONS

Accessory Building.

A detached subordinate **building** located on the same **lot** with the principal **building** and devoted to an **accessory use**, but not used for human habitation.

Accessory Use.

A use subordinate to and customarily incidental to the principal use of a **lot** or **building** and on the same **lot**.

Association Right-of-way

A strip of land, owned by Black Point Beach Club Association, that is granted, through an easement or other mechanism for transportation purposes for access to the BPBC beach or other property.

Beach Front Lot.

All *lots* within the limits of the Association which abut the Reserved Beach, Niantic Bay or Long Island Sound.

Boat.

A watercraft propelled by oars, paddles, sails or engine.

Building.

Any *structure* with walls and a roof securely affixed to the land and entirely separated on all sides from any other *structure* and which is designed for the shelter, enclosure, or protection of persons, animals or chattels.

Building Height.

The vertical distance from the average height of the highest and lowest point of the center of the street parallel to the *front lot line* of the property to the highest point of flat or mansard roofs, including the top of the parapet, or to the mean level between the eaves and the ridge for gable, hip or gambrel roofs. (See Figure I-BH)

Building Line.

The line parallel to a street which establishes the minimum depth of front yard for the particular district as measured from the street right-of-way.

Deck.

An outdoor raised structure, above ground level, not enclosed by any roof or walls, but which may be enclosed by a low railing not exceeding 42 inches in height.

Dwelling, One Family.

A detached *building* for or occupied by one (1) *family*.

Exterior Accessory Equipment

All fixed heating, air conditioning, fuel storage, swimming pool filtering and pumping equipment (including but not limited to Heat Pumps, surface mounted air conditioners, condensers, gas storage tanks and swimming pool accessory equipment) that are not attached to the primary dwelling unit or approved auxiliary building.

Family.

Any number of individuals related by blood, marriage or adoption, living together as a single housekeeping unit, provided that any two (2) persons not related by blood or marriage may be considered a **family**.

Final Grading.

The final elevation of the ground surface after the completion of **grading**.

Floor Area.

a. Net **floor area** shall be the actual occupied area above grade, not including accessory unoccupied areas, or thickness of walls.

b. Gross **floor area** would include the total sum of all measurable **floor area**, where measurement is made from the outside dimensions of the **structure** at the applicable floor levels, above grade, exclusive of attic area.

Front Lot Line

The **lot line** on the street address of a lot.

Garage.

A **structure** designed principally for the shelter, enclosure or protection of vehicles.

- Attached Garage. A **garage** that is part of a **dwelling** by being physically connected to it by means of any permanent structural connection other than pavement or fences.
- Detached Garage. An **accessory building** which is not physically connected to a **dwelling** by means of any permanent structural connection other than pavement or fences.

Gazebo

An open **accessory building** not exceeding 144 square feet with a roof not exceeding 12 feet in height.

Grading

Any excavation, grubbing, filling (including hydraulic fill) or stockpiling of earth or any combination thereof, which results in a change of contour or elevation.

Gross Vehicle Weight Rating

The maximum recommended weight for a vehicle, including: the weight of the vehicle itself, fuel and other fluids, passengers, and all cargo.

Ground Level

An elevation not exceeding 2 inches above the final grading.

Housekeeping Unit

One or more rooms which are arranged, designed, or used as living quarters for only one (1) *family* and which have individual bathrooms and permanently installed kitchen facilities.

Lot.

A plot or parcel of land occupied or capable of being occupied by one principal *building* and the *accessory buildings* customarily incidental to it.

Lot Line.

The outside dimension of a *lot* as defined in these regulations.

Mobile Home.

A *dwelling* of vehicular, portable design, built on a chassis and designed to be moved from one site to another and to be used without permanent foundation.

Motor Home.

A vehicular unit designed to provide living quarters and necessary amenities which are built into an integral part of, or permanently attached to, a truck or van chassis.

Nonconforming.

Any use of a **building** or **lot**, or any **building** or **structure**, lawfully existing as of the effective date of these regulations, but not conforming to these regulations as they pertain to the district in which the use, **building** or **structure** is located.

Nonconforming Lot.

A **lot** within the residential district having less than 8,000 square foot and/or less than 60 feet frontage on a street.

Open Space.

That portion of a **lot** which is to be unoccupied by **buildings** or **structures** as determined by the **setback** of **buildings** or **structures** from the street right-of-way or other **lot lines**.

Patio

See Terrace.

Pool.

An artificially created or contained body of water designed or used for swimming, wading or bathing.

Pool Cabana.

An **accessory building** designed for use or used in connection with a **pool**.

Pool Complex.

A **pool** together with any above ground level apron or deck, **pool cabana** or other **structure** which is attached to or used in connection with such **pool**.

Setback.

The minimum distance permitted between a **structure** and a designated **lot line**.

Shed.

An **accessory building** designed for the shelter, enclosure or protection of tools, recreation equipment, swimming pool equipment, lawn maintenance equipment and the like.

Street Right-of-way

A strip of land, owned by East Lyme, that is granted, through an easement or other mechanism for transportation purposes, such as a street. Additional land abutting the paved street may also be reserved for the purposes of maintenance or expansion of existing services with the right-of-way and is considered part of the right-of-way.

Structure.

Anything constructed or erected, the use of which requires location on, under or above the ground or attachment to something having location on the ground, provided that patios, walkways and driveways constructed at ground level shall not be **structures** for the purposes of these regulations.

Terrace/Patio

A level, landscaped and/or surfaced area located at ground level with no roof and no structural supports other than subsurface materials.

Trailer.

A vehicular device designed to be pulled by a motor vehicle as provided below:

- Boat Trailer. A **trailer** designed to store and transport a **boat** not exceeding 26 feet in length.
- Camping Trailer. A vehicle not exceeding a **gross vehicle weight rating** of 5,000 pounds which is designed to be used primarily as temporary living quarters for recreational, camping, travel, or seasonal use that does not have its own motor power, but is mounted on or towed by another vehicle.
- Utility Trailer. A **trailer**, whether uncovered or enclosed, used for hauling materials, goods or objects, provided that it shall not exceed 16 feet in length and it shall not have a **gross vehicle weight rating** of more than 2,600 pounds.

Variance.

A modification to the requirements of these regulations which may be granted in an individual case by the Zoning Board of Appeals.

Yard, Front

An open space extending across the full width of a lot, lying between the *front lot line* of the lot and the principal building structure on the same lot.

SECTION II – JURISDICTION

Within the Black Point Beach Club Association, no *lot*, *building* or other *structure* shall be used and no *building* or other *structure* shall be constructed, reconstructed, enlarged, extended, moved or structurally altered except in conformity with these regulations. No *lot* shall be subdivided, conveyed or encumbered so as:

1. To make said *lot nonconforming* or more *nonconforming* to these regulations.
2. To make any use thereof, or any *building* or other *structure* thereon, *nonconforming* or more *nonconforming*.
3. To make any *nonconforming building line*, *setback* or *open space* more *nonconforming*.

SECTION III - DISTRICTS

The area of the Black Point Beach Club Association is hereby divided into two districts and zones, they being a residence district and a business district.

Residence district.

All the zoned area of the Black Point Beach Club Association except the business district as hereinafter defined. This shall include all the land within the territorial limits of the Black Point Beach Club as described in a map made by Daboll & Crandall, received for filing May 27, 1931 and placed on file in the Town Clerk's office in the Town of East Lyme, Connecticut.

Business District.

The business district of the Black Point Beach Club shall consist of *lots* 722 and 723 as described on the map above-referred to and is located at the northwest corner of Sunrise Avenue and Nehantic Drive.

Permitted Uses.

The following uses of *buildings* and/or land and no others are permitted in the residence district:

1. One single **family** detached **dwelling**. Furnishing of meals or lodging for compensation, (i.e. the use of a **dwelling** or **building** as a hotel, motel, boarding house or restaurant), is prohibited in this zone. The rental of an entire **dwelling** for a permitted use for a period of less than one week is prohibited in this zone.

2. A clubhouse or community **building** owned by the Black Point Beach Club Association and a playground or other grounds used for recreational purposes and owned by the Black Point Beach Club Association.

3. Signs not more than six(6) square feet in area when placed in connection with the sale, rental, construction or improvement of the premises provided that there shall be only one (1) sign in connection with the premises.

4. Home Occupation Service or Profession

The operation of a home occupation, service or profession in the residence district shall be permitted subject to the following requirements:

a. Such home occupation, service or profession includes, but is not limited to, the office or studio of an architect, artist, economist, engineer, insurance agent, lawyer, photographer, or real estate broker. Such uses as physicians' offices, restaurants, tearooms, funeral homes, barbershops, beauty parlors, tourist homes, animal hospitals, any activities which constitute the manufacture of goods or products for sale, and any uses which require more than incidental traffic of clients to the **dwelling**, shall not be deemed to be a home occupation, service or profession.

b. The total area devoted to the home occupation shall be located within the dwelling and shall not exceed twenty-five (25) per cent of the **floor area** of the single **family dwelling**. For the purposes of these regulations, a garage, attached or detached, cannot be used for a home occupation.

c. No one who is not a resident of the single **family dwelling** shall be employed or otherwise engaged in the home occupation at that address.

d. No sign, display or advertising of the home occupation on the **lot** shall be permitted.

e. No outside storage associated with the home occupation shall be permitted.

f. No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced, no health or safety hazard shall be created, and no interference with radio or television reception in the neighborhood shall be produced by the home occupation.

g. Before any home occupation, service or profession in the residence district may be initiated, a Home Occupation Zoning Application must be submitted to the Zoning Enforcement Officer with the requisite fee, and approved.

The following uses of **buildings** and/or land and no others are permitted in the business district:

1. Any **building** or use permitted in a residence district.
2. Post Office.
3. Retail store excluding:
 - a. store selling alcoholic beverages
 - b. store offering for use more than three (3) electronic video games or other coin operated amusement devices.

SECTION IV - GENERAL REGULATIONS

These regulations shall apply in all districts:

1. **Lots** and yards shall be kept completely free from trash, rubbish, unregistered motor vehicles, unstacked fire wood, unstacked **building** materials or other items which are unsightly.

2a. No tents or temporary **buildings** shall be erected or placed upon the property, provided that the placement of pup tents for casual or temporary use shall not be prohibited and the placement of party tents or canopies for social occasions shall not be prohibited, provided such placement shall not last longer than seven consecutive days and complies with all applicable requirements of the Department of Public Safety and the Building Code of the Town of East Lyme which require permits in some instances. No **building** or **structure** shall be erected on a **lot** prior to the erection of the **dwelling**. **Mobile homes** and **motor homes** will not be permitted on any **lot**.

2b. One of the following may be stored on a **lot**:

- one unoccupied **boat** not exceeding 26 feet in length and one **boat trailer**, OR
- one unoccupied **camping trailer**, OR
- one **utility trailer**

except that any such *utility trailer, boat or camping trailer* shall be located behind the front setback building line. The only exception is the period between April 15th and Memorial Day, while boats are being prepared for the season. During this period, boats are allowed forward of the front setback building line. This subsection shall not prohibit the storage of *boats* not exceeding 16 feet in length nor *boats* designed to be propelled solely by oar or paddle.

3. The keeping of pets shall be restricted to caged birds (canaries, parakeets, etc.) cats and dogs. All local and state ordinances, laws and regulations shall be complied with in the keeping of pets.

4a. No wall, fence or other *structure* shall be erected, and no hedge, tree or other obstruction shall be maintained on a *lot* which may cause danger to vehicular or pedestrian traffic on a public street, including an Association right-of-way, by obscuring the view. For the purposes of this section, no wall, fence or other *structure* and no hedge or other shrubbery shall be permitted to be higher than 42 inches measured from the level of the street pavement within ten feet of an intersection of streets, including intersections of streets and Association rights-of-way, measured from the beginning of the street pavement at the intersection. (See Figure IV-4a.) Terraces/patios – As defined for purposes of these regulations shall not be considered as structures for determining lot coverage.

4b. Notwithstanding minimum *lot* dimensions as set forth in these regulations and except as provided in Section 4a of these regulations, walls and fences not exceeding six feet in height may be erected in any district along, or within five feet of, the *lot line* provided that there is compliance with all other regulations and applicable *building* codes and that said wall or fence shall be located within the *lot line* of a *lot*.

5. No sewage shall be discharged into Long Island Sound. No cess-pool, earth closet or privy may be built, nor can any outside toilets be erected.

6. There shall not be constructed or maintained within the limits of the Association any cow or horse stable, pigsty, slaughter house, chicken coops, or any *structure* to house prohibited animals.

7. There shall not be constructed, erected or maintained within the limits of the Association any microwave or satellite dish type antenna having a diameter or other dimension which exceeds eighteen inches. Standard VHF rooftop television antennas are permitted.

8. No *accessory building* may be used as a *dwelling*.

9. Storage or parking of large vehicles - No motor vehicle having a *gross vehicle weight rating* in excess of 10,000 pounds shall be parked or stored on public or private property in the residence or business districts except in the case of a commercial vehicle when temporarily engaged in providing a service directly related to the property where it is parked.

10. Handicapped Access - Notwithstanding any other provision of these regulations which would prohibit such a structure, the ZEO may issue a temporary permit for a handicap access ramp to a residential structure under the following conditions:

- a) said access shall be of such size and configuration to involve the least amount of conflict with these regulations which would otherwise be applicable. There will be no roof, roofing, or shelter associated with the structure.
- b) such size, location, and configuration shall not be a hindrance or danger to public welfare or safety.
- c) request for handicapped access ramps shall include a written statement detailing the reason(s) why such ramp is required.
- d) said temporary ramp shall be for a period of two years, but can be automatically renewed by the ZEO, provided the circumstances initially requiring the handicapped access still exist. When such circumstances cease to exist, the access will be removed by the end of the permit period or within sixty (60) days of notice to remove from the ZEO, whichever is sooner.

11. No construction or construction related activity including, but not limited to, land clearing, excavation, the installation of footings or foundations, the erection of **structures**, and the siding or roofing of such **structures**, shall commence prior to 8:00 AM nor conclude later than 6:00 PM on any day.

SECTION V - DIMENSIONAL REQUIREMENTS

1A. Dwellings.

No **dwelling** shall be constructed within the limits of the Association unless it meets the following requirements:

- a. The **lot** on which it is constructed must have an area of at least 8,000 square feet.
- b. The **lot** on which it is constructed must have at least a 60 foot frontage on a street.
- c. The **dwelling** shall be located on the **lot** so as to maintain the following **setbacks** from the **lot lines**:

A BEACHFRONT LOT

25 feet from the **lot lines** on the bank of the beach or beach wall;

15 feet from all other *lot lines*.

ALL OTHER LOTS

20 feet from the front *lot lines*,
15 feet from all other *lot lines*.

Compliance with required *setbacks* from *lot lines* shall be determined by measurement from the closest exterior side of the *dwelling*, including any *deck*, provided that architectural projections such as roof overhangs, bay windows, chimneys, sills, cornices, etc., which do not constitute living space shall be permitted into *setback* areas as herein provided for up to two feet.

- d. It shall have a maximum *building height* (as defined in these regulations) not to exceed 27 feet.
- e. It shall have no more than two (2) floors of living space.
- f. It shall have a net *floor area* of not less than 1,200 square feet.
- g. The *dwelling*, in combination with all *accessory buildings*, *pool complexes* and other *structures* shall not occupy more than 35% of the total area of the *lot*, provided that steps accessing a *dwelling* shall not be considered for the purposes of this limitation.

1B. Landings and Stairs Within Setback Areas

Exterior landings and stairways to exterior doors which are constructed within the *setback* areas defined in this section shall be consistent with the following requirements, and no further deviation from such *setback* areas shall be permitted unless expressly authorized by a variance granted by the zoning board of appeals:

- a. Landings shall not exceed the dimensions of 4-feet by 4-feet.
- b. Stairways shall not extend into a side or rear *setback* area more than 3 feet nor into a front *setback* area more than six feet.
- c. The coverage of any roof constructed above a landing shall not exceed the dimensions of the landing, and the landing beneath a roof shall not subsequently be enclosed.
- d. No roof or other overhead *structure* shall be constructed above stairways

1C. Exterior Accessory Equipment

All Exterior, Accessory Equipment shall meet the following requirements:

- a. No accessory equipment shall be located in the *front yard*.
- b. No accessory equipment shall extend into the setback line more than 3 feet.
- c. Accessory equipment shall be screened by evergreen plantings or other materials acceptable to the Commission or its designee, and shall be of sufficient height to obscure the equipment from view from the street.

1D. Grading of Property.

Final grading of an entire lot shall not exceed one foot of vertical rise or decline per every 10 feet of horizontal distance when measured from the existing street elevation of the front lot line, and shall not increase or decrease water runoff to adjacent properties.

2. Accessory Buildings

Except as otherwise expressly provided in these regulations, no more than two *accessory buildings*, of which not more than one may be a *garage* and not more than one may be a *shed*, shall be constructed on any buildable *lot* within the limits of the association, provided that such *accessory buildings* must meet the following requirements:

DETACHED GARAGE

- a. It may not be constructed before the principal *building* has been lawfully constructed on the *lot*;
- b. It shall be located on the *lot* so as to maintain the following *setbacks* from the *lot lines*:

ON A BEACHFRONT LOT

25 feet from the *lot lines* on the bank of the beach or beach wall;

15 feet from the rear *lot line* along the street;

15 feet from the side *lot line*.

ON ALL OTHER LOTS

20 feet from the front *lot lines*;

15 feet from all other *lot lines*.

- c. It shall have a maximum *building height* of 20 feet;
- d. It shall occupy no more than 10% of the total area of the *lot*;
- e. It shall have only one floor.
- f. It shall be located on the lot not less than ten feet from the *dwelling* or any *accessory building* at the point at which the two *structures* are closest.
- g. It shall contain no toilet facilities.
- h. The conversion of a *detached garage* to an *attached garage* shall require a zoning permit.

SHED

- a. It may not be constructed or erected before the principal *building* has been lawfully constructed on the *lot*;
- b. It shall be located on the *lot* so as to maintain the following *setbacks* from the *lot lines*.

ON A BEACHFRONT LOT

50 feet from the *lot line* on the bank of the beach or beach wall.

20 feet from the street lot line

15 feet from the lot line fronting any Association right-of-way

5 feet from all other *lot lines*

ON ALL OTHER LOTS

50 feet from the front *lot lines*.

20 feet from any side street lot lines

5 feet from all other *lot lines*.

- c. It shall not exceed the dimensions of 8 feet x 10 feet by 12 feet.

3. Pools, Pool Cabanas and Pool Complexes.

No *pool, pool cabana or pool complex*, shall be constructed or erected upon any *lot* within the limits of the Association unless it meets the following requirements:

- a. It may not be constructed or erected before the principal *building* has been lawfully constructed upon such *lot*.
- b. It shall be located on the *lot* so as to maintain the following *setbacks* from the *lot lines*:

ON A BEACHFRONT LOT

25 feet from the *lot lines* on the bank of the beach or beach wall;

15 feet from all other *lot lines*.

ON ALL OTHER LOTS

20 feet from the front lot lines

15 Feet from all other *lot lines*.

- c. A *pool cabana* shall not exceed the dimensions of 8 feet x 10 feet by 12 feet.
- d. For the purposes of this subsection, any above ground, movable *pool* not exceeding the dimensions of 8 feet by 8 feet shall be required to meet the *setback* requirements for *sheds*.

4. Other Structures

Except as otherwise provided herein, no *structure* shall be constructed or erected upon any *lot* within the limits of the Association unless it meets the *setback* requirements for *dwelling*s.

SECTION VI - NONCONFORMING USES, BUILDINGS AND LOTS

Any lawful use of a **building lot** existing as of September 1, 2010 may be continued subject to the following conditions:

1. Except as hereinafter provided in this Section, a **nonconforming** use shall not be enlarged or extended.

2. A **nonconforming** use may not be changed to another **nonconforming** use.

3. If any **nonconforming building** or **structure** shall be destroyed by fire, flood or other casualty, or is intentionally razed or demolished, it may be restored or replaced by a **building** or **structure** having the same **nonconforming** features as the **building** or **structure** destroyed or razed provided such restoration or replacement is started within one year of such razing, demolition or destruction and diligently pursued to completion.

4. A **nonconforming** use which ceases for any reason for a continuous period of more than one (1) year, or is changed to a conforming use, shall not thereafter resume.

5. Any permitted use may be made of, and any permitted **building** may be constructed on, a **nonconforming lot** provided that as of August 2, 1980 and continuously thereafter the legal owners of record of the **nonconforming lot** did not, at any time during their ownership of the **nonconforming lot**, own any adjoining or contiguous **lot**. When lots are joined, for the purpose of complying with the Zoning Regulations, the lots need not be combined into one lot on the land records. The interior lot lines, where the lots abut, have no zoning significance relative to setback requirements for any building located on the so joined property.

6. The owner of two (2) or more adjoining or contiguous **nonconforming lots** may, upon approval by the Board of Governors of the Association, resubdivide those **nonconforming lots** to create one (1) or more conforming **lots**.

7a. Except as set forth in paragraph 7(b), a **nonconforming building** shall not be enlarged or extended, vertically or horizontally, unless:

(i) Such extension or enlargement complies with the set back requirements of these regulations regardless of the existing **setback** lines of the **nonconforming building**; and

(ii) Such extension or enlargement complies with all other provisions of these regulations pertaining to the type of **building** being extended or enlarged as relates to height, dimensions and number of floors.

7b. (i) Any open portion of a *nonconforming dwelling* having a roof and existing as of February 5, 1991 may be enclosed so to form a portion of the interior of the *dwelling*.

(ii) The roofline immediately over actual occupied areas above grade, not including accessory unoccupied areas, in a nonconforming dwelling may be changed, providing the overall height of the structure is not increased.

SECTION VII - ADMINISTRATION AND ENFORCEMENT

The provisions of these regulations shall be enforced by the Agent of the Zoning Commission of the Black Point Beach Club Association, who shall be known as the Zoning Enforcement Officer.

1. It shall be the duty of said Zoning Enforcement Officer to receive applications for zoning permits and said Officer is hereby given the power and authority to approve those applications found to be in conformity with the provisions of these regulations, to reject those found not to be in compliance with these regulations, and to otherwise enforce the provisions of these regulations.

2. No use of a *lot* may be made and no *building* or *structure* shall be constructed, erected or modified within the limits of the Association unless and until the owner of the *lot* in question obtains a permit signed by the Zoning Enforcement Officer of the Black Point Beach Club Association evidencing that such use, *building*, *structure* or modification complies with these regulations or is a valid *nonconforming* use, *building* or *structure* under these regulations.

The Following modifications shall be deemed to be in compliance with the BPBC Zoning Regulations for which the requirement for a zoning permit is waived: (1) Any modification, allowed under these Zoning regulations, which is made entirely within the enclosed interior of an existing Building in the residence district, (2) replacement of windows and doors, (3) reshingling of roofs and (4) residing

3. Violations of the zoning regulations of the Black Point Beach Club Association shall be penalized in accordance with the provisions of Section 8-12, Chapter 124 of the General Statutes, 1958 Revision, as amended.

4. The Zoning Enforcement Officer has no obligation to issue any permit or certification under these regulations unless the application therefore is accompanied by the applicable fee as such is determined by the Board of Governors of the Black Point Beach Club Association.

5. A zoning permit issued hereunder shall be valid for a period of 12 months from the day that it is issued, except that the Zoning Enforcement Officer, in his discretion, shall have the

authority to extend this period for not more than 45 days without any additional fee. In the event that the construction which is the subject of the zoning permit is not completed within said 12 month period as so extended by the Zoning Enforcement Officer, the permittee may extend the zoning permit for one additional period of 6 months upon the submission of an application therefor accompanied by the applicable fee as provided in Subsection 4 of this section. Failure to complete the construction which is the subject of the extended zoning permit within the period so extended will require a new application for a new zoning permit which will be subject to all zoning regulations then in effect at the time the new permit is granted.

SECTION VIII - ZONING BOARD OF APPEALS

1. There shall be a Zoning Board of Appeals which shall be appointed by the Board of Governors of the Black Point Beach Club Association which shall have the following powers and duties:

a. To hear and decide all matters, including an application for a *variance*, upon which it is required to pass by the specific terms of these regulations or of any statute. The zoning board of appeals may vary the application of the Zoning Regulations when it determines that such action is in harmony with their general purpose and intent, 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 regulations would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured by granting the *variance*. In making a determination on a *variance*, the zoning board of appeals shall include consideration of the following issues:

1. The extent to which the applicant has demonstrated that exceptional shape, size, topography or other unique characteristics of the site requires a *variance* from a literal enforcement of the Zoning Regulations
2. Whether the exceptional difficulty or unusual hardship claimed has been created by the owner or the person or persons requesting the *variance*
3. Whether the *variances* requested will adversely affect the neighborhood and whether they will be in harmony with the purpose and intent of the Zoning Regulations
4. Whether the applicant has shown that there is no reasonable alternative other than to grant the requested *variance(s)*
5. Whether economic hardship is the only basis for requesting the *variance*.

b. To hear and decide appeals where it is alleged that there is an error in any order, requirement or decision made by the agent of the Black Point Zoning Commission or any other official charged with the enforcement of these regulations.

c. To adopt such rules and procedures as may be necessary to carry out these regulations.

2. Notwithstanding the foregoing powers, no *variance* shall be granted which will permit in any district a use which is not permitted in that district.

3. The Zoning Board of Appeals shall not be required to hear any application for the same *variance* or substantially the same *variance* for a period of six (6) months after decision by the Board or by a court of competent jurisdiction on an earlier application for said *variance*.

4. Subject to the requirements of the Connecticut General Statutes pertaining to zoning appeals, an appeal to the Zoning Board of Appeals must be filed with the Zoning Enforcement Officer and the Chairperson or Secretary of the Zoning Board of Appeals within thirty (30) days after the date of the action being appealed together with the applicable fee which will be determined from time to time by the Zoning Commission of the Association, provided that an application for a variance to construct a ramp to permit wheelchair or other handicapped access to a dwelling or accessory building shall not be subject to the payment of a fee.

5. The Zoning Board of Appeals will send a notice of the requested variance of a property and the time and date of the hearing at which it will be heard to all owners whose property is within fifty(50) feet of any lot line from the property being considered for variance. Notice to landowners will be sent to the address used for tax collection as well as the Black Point address.

SECTION IX - AMENDMENTS

The Zoning Commission may from time to time, after public notice of a hearing, amend, change or repeal these regulations or districts as provided by statute.

SECTION X - VALIDITY

Should any section or provision of these regulations be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of these regulations as a whole, or any part thereof.

SECTION XI - EFFECTIVE DATE

The most recent amendments to these regulations have been adopted on July 31, 2010 by the Zoning Commission of the Black Point Beach Club Association as authorized by law after a public hearing on July 31, 2010, and become effective September 1, 2010.

John Sullivan, Chairperson
Dated: July 31, 2010