

**Black Point Beach Club Association
Zoning Board of Appeals
Minutes of Public Hearing & Regular Meeting
Saturday September 22nd, 2018**

Present:

Colleen Chapin, Chairman
Arlene Garrow
Paul Pendergrast
Sally Cini
Anita Schepker, Alternate (*Sat as a Regular Member)
Kim Craven, Alternate
Marianne Neptin, Alternate

FILED IN EAST LYME
CONNECTICUT
Sept 23 20 10 AT 11:55 AM/PM
Brooke Harmon ATC
EAST LYME TOWN CLERK

Also Present:

Jim Ventres, Zoning Enforcement Officer

Absent:

Joyce Wojitas

A Public and Regular Meeting of the Black Point Beach Association Zoning Board of Appeals was held on Saturday September 22nd, 2018 at 9:00 a.m. at the Black Point Beach Club Association Clubhouse located at 6 Sunset Avenue in Niantic, Connecticut.

I. Call to Order

Chairman Chapin called the Public Hearing of the BPBCA Zoning Board of Appeals to order at 9:01 a.m.

II. Attendance and Establishment of Quorum

Ms. Chapin noted a quorum was present.

III. Public Hearing

a. Black Point Zoning Board of Appeals Case 2-2018, Application of Harry Danos, request for a variance of setback in order to build a deck/carport at 148 Old Black Point Road, Niantic, CT. Said parcel appears on the East Lyme Assessor's map 05.9, lot 34/35.

- Ms. Chapin noted the legal ad that was published for this application on September 9th and 12th, 2018.
- Ms. Chapin explained Mr. Danos' request is to extend 5 feet within the 15 feet setback.
- Ms. Chapin noted the certificate of mailings sent to the abutting property owners which include 9 Woodland Drive, 144 Old Black Point Road, 6 Woodland Drive, the Black Point Beach Club, 150 Old Black Point Road and 8 Woodland Road; because some of the properties are not part of the Black Point Beach Club Association the Town has officially been informed as well.

Mr. Danos came forward to speak and shared the following:

- He has lived here since 1966.

- There are many homes on Woodland Drive are based on new regulations- He said he is used to asking permission from the ZEO which is no longer the case.
- He has 5 feet, 6in of legal space to project into but there are storage areas at the end of the building which make it difficult to access.
- His extension request is not out of character since many homes are over the building line.
- None of the current line limits will be exceeded.
- The extension is for a carport and deck, so the space is open.

Contractor John Bonelli of 12 South Trail discussed how for front setbacks the Town evaluates 3 or more properties and averages both sides. Mr. Danos will not be coming any further out than the current averages on the street.

Ms. Chapin called for Public Comment.

1. Geoff Maynard of 9 Woodland Drive came forward to speak. He said that he, Don Mackenzie & Kathy Miller of 10 Woodland Drive, and Charles & Bonnie Hanley of 8 Woodland Drive prepared a written statement which he read into the record (attached.)

Mr. Maynard emphasized the following:

- He's opposed to this application.
- Construction has been going on for a long time and the neighbors have been told conflicting information about the project.
- There is no particular hardship, no unusual topography or conditions.
- This affects many parcels and property values.
- Mr. Danos has one of the bigger lots on the street and his view will go from looking at the water to looking at Harry's carport.

There were no further Public Comments.

Ms. Chapin called for Comments from the seated members of the Commission.

Ms. Cini said that technically we are charged with looking at a hardship and asked what the distinct hardship here is.

Mr. Danos said there are new rules for old buildings and he doesn't think this matter should be coming before this Board. He said there is not a hardship and he is trying to get more space for the ease of opening car doors and so forth. He said this is a case of old situations being handled in a new manner.

Mr. Pendergrast asked what his definition of an Architect Studio is. He asked if it will have any other purposes and if there will be any commerce associated with it and Mr. Danos said he doesn't know yet.

Mr. Danos said their regulations do permit an in-house studio and it's not a business; the building has been designed for the first floor to be a gallery of sorts.

Ms. Garrow asked if he was going to have people/customers coming and going and Mr. Danos said he didn't think so.

Ms. Schepker said determining if there is a hardship is their only job here and that is

dictated by the State of Connecticut. She said in her opinion there is no hardship here and if they were to grant this they would be setting a precedent and essentially changing the Zoning Regulations, and they can't do that.

Ms. Chapin asked for clarification of whether there is a hardship here- and a hardship is a really high hurdle.

Mr. Bonelli asked about other instances where people received variances on the same street.

Ms. Schepker said cases are handled on a case by case basis for different reasons and unfortunately the preference of the property owner doesn't come into play. She added this is brand new construction.

Mr. Danos said he's been at his property since 1966 and it's grandfathered in. Mr. Pendergrast asked if he had any evidence of this and Mr. Danos said the Town Records are evidence.

Ms. Chapin said she is in the process of going through all past ZBA cases and Minutes, and the ZBA has been around for 30 years and is not new. Mr. Danos said it depends on what you mean by new.

Ms. Chapin said she understands his frustration that things were once different but Zoning Regulations are for the benefit of the community. She said the earliest Black Point Beach Zoning Regulations she has seen is from the 1970s so this is not new stuff. She added that we have regulations that allow for building on the existing footprint and she doesn't believe he has done that here; at this point it's considered new construction.

Mr. Ventres said Black Point did win a case in 2008 to merge the 3 lots and that court case was never filed on the Land Records and this has since been rectified; now depending on which front street he chooses his frontage setback for 148 Old Black Road is 15 feet and he has 5 feet to work with.

MOTION (1)

Ms. Schepker moved to close the Public Hearing at 9:36 a.m.

Ms. Garrow seconded the motion.

Motion carried, 5-0-0.

IV. Regular Meeting

a. Black Point Zoning Board of Appeals Case 2-2018, Application of Harry Danos, request for a variance of setback in order to build a deck/carport at 148 Old Black Point Road, Niantic, CT. Said parcel appears on the East Lyme Assessor's map 05.9, lot 34/35.

Ms. Schepker said she thinks we've exhausted the hardship issue.

Mr. Pendergrast said he would like to comment on Ms. Chapin's diligence.

MOTION (1)

Ms. Schepker moved to deny Black Point Zoning Board of Appeals Case 2-2018, Application of Harry Danos, request for a variance of setback in order to build a

deck/carport at 148 Old Black Point Road, Niantic, CT. Said parcel appears on the East Lyme Assessor's map 05.9, lot 34/35.

Mr. Pendergrast seconded the motion.

Motion carried, 5-0-0.

The Commission took a short break and reconvened at 9:43 a.m.

V. New Business

a. Approval of Minutes

The Commission discussed approving the minutes from the last meeting in June; it needs to be clarified that Ms. Craven was present but not seated. This item will be tabled until the next meeting.

b. Misc Discussion

- The Commission discussed the proposed change in zoning fees and Ms. Cini noted she didn't support it. Ms. Craven said it's more than what the Town charges.
- Mr. Pendergrast again commended Ms. Chapin on her hard work and thorough examination of the regulations and past cases.
- Ms. Chapin noted Ms. Schepker and Ms. Neptin have terms that expire in July and the Commission had a general discussion regarding term limits.

VI. Adjournment

MOTION (2)

Mr. Pendergrast moved to adjourn the Zoning Board of Appeals meeting at 9:56 a.m.

Ms. Schepker seconded the motion.

Motion carried, 5-0-0.

Respectfully Submitted,

Brooke Stevens,
Recording Secretary