

**Black Point Beach Association
Annual Informational Meeting
August 3rd, 2019
Meeting Minutes**

Present: Cheryl Colangelo, Chair
Mary Cahill, Ex-Officio
Steven Beauchene, Vice Chair
Will Fountain
Bill McDowell
Cary Michael Johnson
Tom Sheehan

Also Present: Jim Moffett, Association Manager
Carolyn Boyle, Interim Treasurer
Ruth Ames, Tax Collector

Absent: Phil Lombardo

The Annual Informational Meeting of the Black Point Beach Club Association was held on Saturday August 3rd, 2019, at 9:00 a.m. in the Black Point Beach Club Association Clubhouse located at 6 Sunset Avenue, Niantic, Connecticut.

I. Call Meeting to Order and Attendance

Chair Cheryl Colangelo called the Informational Meeting of the BPBCA to order at 9:01 a.m. and introduced the Board of Governors and staff, who she thanked, noting it has been a challenging year:

Dr. Steve Beauchene - Pier Liaison, Zoning Ex-Officio, heading up Treasurer search

Mr. Mike Johnson (Cary Michael Johnson) - stepped up to fulfill vacancy left by Kevin Callahan when he had to step down; he has been extraordinarily helpful with research, advice and expertise.

Mr. Bill McDowell - Liaison for Fishing & Kayak registration.

Mr. Will Fountain - Liaison for Grounds, Buildings & overall wellbeing of BPBCA.

Mr. Tom Sheehan- Former Association Manager who is now serving on the Board.

Ms. Brooke Stevens - Recording Secretary.

Ms. Ruth Ames - Tax Collector.

Mr. Jim Moffett - Association Manager.

Ms. Carolyn Boyle - Interim Treasurer.

Ms. Mary Cahill - Ex Officio & on Council of Beaches.

Ms. Colangelo thanked Ms. Ames for the additional work she has done regarding the special assessment noting it's another job in and of itself, and gave a special thanks to Ms. Boyle who came out of retirement to help us for the season when we were in need of a Treasurer. Ms. Colangelo said that Ms. Cahill has decided to step back from her role as Ex-Officio on the Board, but she will still be around for advice and to offer a historical outlook when needed; she thanked Ms. Cahill for a lifetime of service. Ms. Cahill suggested that everyone remember that Black Point comes first.

Ms. Colangelo reminded the Members that only those who own property in Black Point Beach Club Association or who are renters in the Association but are registered voters in the Town of East Lyme may speak during the meeting. Members will be limited to 3 minutes and will not be given another chance to speak until everyone who wants to speak gets a chance to do so.

Ms. Colangelo shared some of the following:

- The issues with the website have been fixed and reminded the attendees that the email address is bog@blackpointbeachclub.com with no "s" included, and instructed how to navigate the website to obtain meeting minutes.
- In anticipation of the pier project the lines, buoys, and rafts will be coming down this coming week.
- The other beaches will be open but there won't be lines, buoys and rafts.
- Whitecap to Nehantic Beach will be open until work starts, at which time they will not be able to be accessed at all.
- The Kayak racks will also be coming up; if you have a registered small watercraft or kayak, please give Bill McDowell your email for our list.
- Parking at Nehantic- it's okay to pull right up to the cement barriers and this will provide more room for maneuvering vehicles as well as added safety.
- If you have a new phone number or new address please get in touch with Beth Bruckner so it can be corrected in the phone book for next year; this is a service Ms. Bruckner provides on her own and at her own cost.
- Nadia Banever and Erica Garnett couldn't be here today and one of their missions was to restore old cherished events and invite new traditions; they brought back the Club Fair and held movie nights in the Clubhouse for the younger children and on the beach for the older children.
- Next year Ms. Banever and Ms. Garnett would like to see about having Club Monday thru Friday and reinstituting junior & senior lifesaving.
- A questionnaire about the Parks & Rec Program has been mailed to all the parents.

Ms. Colangelo briefly reviewed the West Lane Development and the measures the Board took in assessing the situation including but not limited to the following:

- Thorough review of all documentation on record regarding West Lane.
- Meeting with both the First Selectmen and Planning Director on several occasions.
- Attending the Planning Commission Public Hearings.

- Hiring a Land Use Attorney to determine if the application met all the regulations of the Town of East Lyme.
- The Attorney spoke with the Applicant's attorney with the aim of making the development as unobtrusive as possible if it goes forward but no deals were made.
- Our Attorney determined the development is a viable proposal.
- There will be no more than 5 houses, one will be built at a time, and one driveway will serve all the houses coming out onto West Lane.
- West Lane is not the property of Black Point Beach nor is the right-of-way.
- The houses will be set back 50 feet from the street.
- Only the 5 houses and the Perry house will be able to exit onto West Lane regardless of any future development.
- The stonewall will be rebuilt with the existing stones and a landscape buffer will be constructed.

Steel Pier Report- Dr. Steve Beauchene

Dr. Beauchene gave an update on the pier project and shared some of the following:

- The approval process is moving along pretty much on schedule.
- We received DEEP's initial concerns and have been addressed by the permitting agency with input from Black Point Beach Club.
- A Member of the Association took it upon themselves to directly contact DEEP and expressed concerns regarding eelgrass protection, construction details, Army Corp of Engineers etcetera; this has led to an additional study on the eelgrass issue and Keith Neilson came over with a botanist to inspect our eelgrass bed.
- The closest single eelgrass plant to the pier was about 3 feet away and the botanist replanted it further away from the pier so it wouldn't be a factor, and he has written a report to DEEP explaining that.
- All of this has led to a few things- the finished height of the pier according to DEEP's comments will be no higher than it is now while we were seeking an additional foot for greater longevity amongst rising water levels.
- The finished width of the pier was going to be extended about 18 inches for reinforcement but because of the solitary eelgrass plant, DEEP has cut that measurement to 6 inches which we're challenging.
- He respectfully asks that if any of the membership have any questions or concerns that you contact the BOG via the website and he will get information back to you as soon as possible; we don't want to create any angst with the DEEP.
- DEEP has until October 8th, 2019 to decide on our application.
- Construction will begin immediately upon approval with an anticipated time period of 6 to 8 weeks for labor.
- We've had the plans and contracts available in the Clubhouse all Summer for public perusal; if anyone wants a copy he can send a pdf with the exception of the design plans due to their large size.
- We will continue to keep people informed of the progress of the project via the website.

- He thanked the membership for their support of this project and noted the pier committee will continue to oversee the project.

Dr. Beauchene brought samples of the whalers the design team wants to utilize and encouraged the membership to view the other colors available online and offer feedback.

Dr. Beauchene asked if anyone had any questions and the following spoke:

1. A member who didn't identify himself asked about the life expectancy of the bolts and Dr. Beauchene said 75 to 80 years and that they will be galvanized.
2. Bob Guenther of 17 Bellaire Road said in light of the pier being 12 inches shorter, will that affect construction costs? Dr. Beauchene replied it should be cheaper but we are challenging that.
3. Another member who also didn't identify himself cautioned against the utilization of dark colors given the heat which will make it difficult to walk on.

Ms. Colangelo called for any general public comments or questions and the following individuals spoke-

1. Cindy Trocki of 22 Blue Heron said she would like to give some information regarding what she has been reading about West Lane and its impact on as as an Association:
 - West Lane development lies in Old Black Point and is a portion of the land at 212 Old Black Point Road.
 - The district is RU-40 and they have water but no sewer.
 - LUV was a study done which said it was legally and physically undevelopable.
 - The Town has approved the development with a reference to the access point in Black Point Beach Club's jurisdiction.
 - Our Board has not given our Zoning a direction to address the zoning issue.
 - Our district requires 60 feet frontage and the entire frontage to be open to the street; this property does not have that.
 - It's actually using about 5 feet of our reserved strip.
 - The reserve strip is to help protect from the openings of our territory limits.
 - Unfortunately the reserve strip has stopped short and an electrical easement has been erected there; our deeds from 1904 cite that we had the right to erect a pole and maintain wires for the sole purpose of electricity.
 - This developer believes they can move the pole and wires onto their property.
 - As an abutter and someone who has delved into the deeds, charter and ordinances of our Town, she has found that our rights and properties are being acquired by others.
 - The plan and design was exclusive to us and expandable for our use only.
 - This developer has been granted water and sewer from our Association.
 - Chapter 16, 262, Section 4 reads "no duplication of water to a district" and this property has been granted just that.
 - Our zoning which helps us be a municipality says no other zoning is to come into RU-12 and this development is RU-40.

- Our BOG paid full price for the pier application to DEEP (rather than half), because they don't know how to prove that we are our own municipality.
- She is requesting that our Board of Governors understand our rights and what we have been granted.
- She would like to be able to vote at all meetings which she attends and be granted ample time to speak when she has information to share with the BOG.
- Let us come together and protect what has been given and granted to us- our property and rights as a full member.

Ms. Colangelo replied that the Board feels we have explored this more than adequately and we don't feel we as a Board need to do anything more to protect the Association and properties that fall under the Association; we encourage anyone that has an individual issue to proceed with whatever they feel they need to do.

2. Bob Trocki of 22 Blue Heron Road said one of the conditions the Land Use Attorney recommended was to add a driveway from the Perry property to allow access, but it already has access so why would you add access for another home instead of just the five? He said that seems like a concession that doesn't benefit Black Point.

Ms. Colangelo replied that it seemed like a reasonable proposal so that we are assured that no one else will be able to exit out from that point.

3. Jim Shepherd of 46 Indianola thanked the Board for their careful and thoughtful consideration on this issue; he thanked the Board for all the labor they put in.
4. John Fleet of 17 Cottage Lane commended Mr. Moffett and his co-workers for the wonderful job he did maintaining the clay tennis courts.
5. Rick Diachenko briefly discussed how many of the cottages here are nonconforming and the limitations of what is considered a zoning hardship. He asked that the Board review the regulations to address the issue of hardship and change the focus to the residents, neighbors and community instead.

Ms. Colangelo responded that she had a similar issue a few years ago and noted the proper vehicle for this discussion is the Zoning Commission rather than the Board of Governors and encouraged people to broach this topic with them.

6. Sharon Orszulak of 26 Sea Spray asked for clarification regarding a ZBA vote and if majority rules. She detailed how she attempted to get a shed several years back and was told she would have to get a smaller 8X10 one instead; when she said she would like the larger one instead she was told she could pay her application fee but would ultimately be denied. She asked how this is at all appropriate and that if our Zoning is unsuccessful getting what the residents want then perhaps we should eliminate ours and go with Town Zoning instead.

7. Sharon Sklar of 20 Sunrise Avenue said she was on the Zoning Board for 6 years and shared that if we went with Town Zoning we would lose our classification as a municipality; we could potentially have rooming houses on the beach. She added that just because the Town approves something, it doesn't mean it's also an appropriate course of action for us as well. She said that zoning meetings are open to all Members and suggested people attend them if they would like to seek change. She said Zoning regulations are for the good of the entire Association and not specific to an individual.

Ms. Colangelo explained how ZBA voting works and Ms. Cahill noted that if someone is having a ZBA hearing and there is not a full Commission present, they have the right to ask for a change of date.

8. Roberta Jordan of 25 Sea View said she has been on both Zoning and the ZBA and that the regulations are now continually being revised and it behoves us all that if we have problems or see issues, to bring it to the attention of Zoning Chair Jim Fox.
9. Veronica Casey of 19 Sea View said the ZBA is a 5 member board and that you need 4 votes in the affirmative for approval.
10. Carol Ward of 23 Blue Heron said she thinks it's important we maintain a sense of community; we need to keep our own Zoning and maintain our borders. She said the West Lane development will result in non-association members using our beaches and pier. She said the Town was not really for us- they want more money.

Ms. Colangelo said she knows there is concern about people using the beach who are not permitted to do so, but that if Mr. Moffett is notified he will courteously ask people leave as he has done in the past.

11. Ed Gosgrove of 14 Blue Heron discussed the high tide line.

Ms. Colangelo said we are the only beach that pays taxes on the high tide line and up.

12. Sally Cini of 28 Sea Breeze asked about charging non-association individuals for a membership and what some of the pros and cons might be.

Ms. Cahill explained that as a tax district we are not permitted to that and that we would become a condo association.

13. Ellen Reeder of 105 East Shore Drive said the West Lane development impacts us all. She said we will have more traffic, at least 12 cars, deliveries, construction trucks; the Board is missing a point, that this is all of our problem and can happen again on the Attawan side. Ms. Reeder said she thinks we should all stand up in solidarity with our neighbors.
14. Gene Massey of 10 Brightwater said he wanted to make a closing statement regarding West Lane; he appreciates the diligence of the Board but noted that he and a couple

neighbors have done more. He said last Friday they filed a lawsuit challenging the Planning Commission decision Mr. Massey said he has flyers explaining in detail what they've done (attached) and why. He said that anyone who wants to be informed may submit their email on the signout sheet he put out.

15. Matthew Borrelli of 15 Indianola discussed the difference between personal interest and state (governing) interest. He said regulations have to be general based and not site specific.
16. Dave Simpson of 9 Bond Street asked about the sewers that will be utilized for the West Lane development and Ms. Colangelo said the sewers belongs to the Town and not Black Point Beach Club.
17. Alice Baril of 17 Sea View asked for clarification regarding the West Lane development- if they're members of Old Black Point or just East Lyme residents.
18. Joan Hayes of 51 Whitecap said the Board has done more than its due diligence in regards to West Lane and it's under the jurisdiction of the Town of East Lyme.
19. Helen Reeder of 105 East Shore Drive said we have information through a survey done by the Trocki's that we didn't have before.

Ms. Colangelo said these are concerns of an individual level and that this is not the forum to discuss this.

Ms. Colangelo adjourned the Black Point Beach Club Association Annual Informational Meeting at 10:02 a.m.

West Lane Litigation

On August 6, 2019, the East Lyme Planning Commission approved a 5-lot subdivision of a 12-acre tract just west of West Lane. We have been watching this process unfold and have decided to appeal.

Although the address of the subdivision is 212 Old Black Point Road, the developers are proposing to access the development from the Black Point side – the southwest corner of West Lane just north of the Old Black Point chain. When Black Point was laid out by Jas. J. Smith in 1931, he retained a one-foot strip around the perimeter to protect the integrity of Black Point. This one-foot strip was eventually transferred to the BPBCA. In 2018, the developers wrote to the Board requesting the right to cross the one-foot strip on the west side of West Lane. An attorney for the Board refused to grant approval and noted that the position of the BPBCA Board was that the development should use its existing access to Old Black Point Road.

This year a proposal was made by the developers to utilize a gap in the one-foot strip for access to West Lane. The BPBCA Board of Governors hired both a lawyer and a surveyor to evaluate that claim. The surveyor concluded that there was a gap in the one-foot strip. The lawyer, relying on the surveyor's conclusions did not challenge the access issue before the Planning Commission, but concentrated on negotiating some modest revisions to the plan. Thereafter, the BPBCA Board declined to pursue the matter further.

Some members of the BPBCA, led by Cindy Trocki (22 Blue Heron), were not satisfied. First, they hired another surveyor (Gerwick – Mereen L.L.C.). That survey showed that there was about 52 feet between the south end of the one-foot strip and the southern end of the subdivision, but only 44.5 ft. of it is on the public portion of West Lane. The balance (7') borders on Old Black Point property and cannot be used as a public right-of-way. Because a 50-foot right-of-way is required for a common driveway serving more than three lots, the subdivision does not have sufficient access for a five-lot development.

When it became clear that the subdivision right-of-way did not comply with the East Lyme subdivision regulations, these members hired the New London law firm Mueller Greene to appeal the East Lyme Planning Commission approval. On August 23, 2019, a complaint was filed in the New London Superior Court. The objective is a rerouting of the access road to Old Black Point Road where there already is adequate right-of-way. This is precisely the position the BPBCA Board adopted in 2018.

Although the most proximate neighbors have been in the vanguard on this issue, it impacts all of Black Point. Five points are noteworthy:

1. The subdivision is in clear violation of the Subdivision Regulations and should not be permitted.
2. Since there is no public access to the Old Black Point property, a 50-foot right-of-way will infringe on 7 feet of the one-foot strip owned by BPBCA. Preserving the integrity

of the one foot strip has always been a high priority as was reflected in the Board's 2018 refusal to allow the developers a right to cross it.

3. Black Point roads are already strained by local traffic, delivery trucks, golf carts, bicycles, joggers, pedestrians, and, most importantly, our children and grandchildren. Construction vehicles and additional household traffic will increase the risk of an accident.
4. Houses contiguous to BPBCA do not contribute to the BPCA coffers, but they often use the beaches and other amenities. Allowing this proposed subdivision access to West Lane is an implicit invitation to continue and expand this practice. We should resist development that will encourage it.

Permitting any compromise of the one-foot strip on West Lane would set a precedent for further violations of the integrity of Black Point, to the detriment of the total Beach community.

There are other issues In addition to the right-of-way. Black Point has its own water and sewer infrastructure which the developers propose to connect to. The permissibility and implications of connecting to our water and sewer lines need further evaluation. Also a significant portion of the property is wetlands, which raises environmental and construction questions.

We would appreciate the support of all our Black Point neighbors. If you are interested in helping us, please contact:

Bob and Cindy Trocki, 22 Blue Heron Road, (508) 561 – 8761.

Gene and Mary Ellen Massey, 10 Brightwater Road, (202) 257-3951.