

# Minutes of BPBCA Zoning June 9th, 2023, Meeting - 06/09/23

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**Date and time:** 06/09/23 06:00 pm to: 06/09/23 07:18 pm

**Present:** Brooke Stevens, Recording Secretary, Jim Fox, Chairman, Jim Allen, Secretary, Matt Peary, Joseph Katzbek, John Horoho, Keith Turner, Alternate, Betsy Klemmer, Alternate

**CC:** Jim Ventres, Zoning Enforcement Official, John Cellino, BOG Member, Dan Deknis, ZBA Chair, Arlene Garrow, Zoning Liaison, Absent:, Jason Bookmiller, Alternate

**Location:** Black Point Beach Club Association Clubhouse, 6 Sunset Avenue, Niantic, CT, 06357

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## Topics

### 1. Call to Order

**Note** Chairman Fox called the Regular Meeting of the Black Point Beach Association Zoning Commission to order at 6:00 p.m.

#### 1-1. Attendance and Establishment of Quorum

**Note** Mr. Fox introduced the Commission Members and noted a quorum was present.


### 2. Additions to the Agenda

**Note** There were none.

### 3. Approval of Meeting Minutes

#### 3-1. May 19th, 2023, Regular Meeting Minutes

**Note** See attached minutes.

 [Minutes-of-BPBCA-Zoning-May-19th-2023-Meeting-05\\_25\\_23-1.pdf](#)

**Decision** MOTION (1)

Mr. Allen moved to approve the Minutes of the May 19th, 2023, Zoning Commission Meeting as presented.  
Mr. Katzbek seconded the motion.  
Motion carried, 5-0-0.

### 4. Call for Public Comments

**Note** Public Comments is the time when members of the Black Point Beach Club Association are invited to speak to the Commission about certain matters. Items, referrals, or applications subject to a decision by the Commission, a public hearing or any matters in litigation may not be discussed.

#### 4-1. Steve Albert of the Black Point Market

**Note** Mr. Albert introduced himself to the Commission and said some of the following:

He's the new owner of Black Point Market.

He was aware of the zoning laws prior to buying the building, but since he has been approached several times during the last two weeks, he figured he'd check anyway.

He'd like to humbly ask the Board if one of Zoning's prohibited acts can be changed.

He'd like to see if they would consider approval for a grocery store beer and seltzer permit.

A lot of people have expressed interest in it.

After thinking about it, he thought it might be a viable option if he could receive the blessing of the Zoning Commission.

Obviously, they'd have to go through the State and follow their regulations and policies afterwards.

#### **4-2. Dan Deknis of 32 Whitecap Road**

**Note** Mr. Deknis asked about the rationale for the concept of the Association District. Mr. Fox said given Mr. Deknis' role as ZBA Chair he will respond at this time, and said some of the following:

The impetus behind it is to formally identify the properties that are owned by the Association, such as this Clubhouse, the tennis courts, the parking lots, and so forth.

The current regulations are such that those are zoned residential.

By changing it to an association district then we're going to be able to protect those properties.

Right now, those properties could be turned into anything else, and the idea is to protect these properties from future development.

**Note** Mr. Deknis and the Commission briefly discussed nonconforming uses and how a shed is not a dwelling.

#### **4-3. John Cellino of 60 East Shore Drive**

**Note** Mr. Cellino discussed the Regulations and he and the Board offered the following comments: Mr. Cellino said it says the Clubhouse is only for members "or" sponsored guests, and he thinks it should read "and" sponsored guests.

The Board is currently having a dialogue about who is permitted to use their facilities and rent the Clubhouse.

It was brought up to him that the word "district" in terms of an "Association District," might conflict with the fact that Black Point is their own taxing "district."

It might be better to refer to different zones rather than districts.

Under definitions, decks are classified as "a raised structure, above ground level, not enclosed with a roof or walls, but which may be enclosed by a small railing not exceeding 42 inches."

The Commission may want to consider how that plays into the setback areas.

Mr. Fox noted this portion was deleted.

Mr. Cellino said in regard to the Black Point Market, he personally would be in favor of the beer and wine permit.

However, he is not in favor of video games, and does not think those should be permitted.

He thinks the classification of the market building should be kept as commercial with a residential component on the second floor.

The store is valuable asset to Black Point.

On top of page 27, "Storage buildings owned by Black Point Beach Club not on access ways."

He thinks they should clearly show they're not an access ways.

We don't want any structures, permanent buildings or sheds to sit on those rights-of-way, to block people's views.

We should have some kind of special permit or some kind of requirement where we put sheds.

In regard to the idea of home occupations, we don't want people running an actual business where they have retail customers.

In terms of dumpsters and construction trailers on page 33, they might want to say that the dumpster pod has to be behind in the setbacks and can't be sitting in the front yard blocking people's view.

**Note** Mr. Ventres said from the construction end of things it's almost impossible and Mr. Cellino said he respectfully disagrees, he's in the storage business.

**Note** Mr. Fox said the lots here are very small and it's almost impossible and Mr. Cellino suggested they say, "if at all possible." Mr. Cellino said he understands if it can't be done, but if a pod can be tucked away in someone's driveway, it should be.

**Note** Mr. Cellino mentioned hedges and Mr. Fox noted that it appears that hedges will be a Board of Governors issue and not the purview of the Zoning Commission.

**Note** Mr. Cellino and the Commission discussed how hedge height could be regulated through the adoption of an ordinance.

**Note** Mr. Ventres said they will have to discuss with Attorney Branse exactly what can be regulated in regard to hedge height.

**Note** Mr. Cellino discussed page 39 in regard to pools and jacuzzies, and the recent ZBA application for a plunge pool. He noted that he jotted down no hot tubs within beach setback above six inches above grade and discussed the potential of someone's view being obscured.

**Note** Mr. Cellino mentioned page 42, "Construction of additions that fill in a section," and discussed why he thinks this section could be clearer.

**Note** Mr. Cellino said in regard to the requirement of a survey being at the discretion of the Zoning Enforcement Officer, in some towns this decision is made after consulting the Chairman and Planner as well.

**Note** Mr. Cellino asked what happens between 49 and 6 inches for side yards and setbacks? Mr. Ventres said he rounds up, Mr. Cellino commented this could be clearer, and Ms. Garrow said this discussion came up during a recent ZBA hearing.

**Note** Mr. Fox said they have to remember that the intention of this regulation change, which they made three years ago, was to give more flexibility to the smaller property owners.

**Note** Mr. Cellino replied that there's a gap here between a foot and he thinks the ZEO as well as the ZBA Chair, should have more discretion when dealing with miniscule differences, rather than requiring people to go through the expense of a hearing.

**Note** Mr. Cellino said it will be good to have the Regulations as complete as possible.

## 5. Reports

### 5-1. Communications and Correspondence

**Note** Mr. Fox said he received an email late this afternoon from Mike Walsh of 5 East Shore Drive, who expressed interest in serving on the Zoning Board.

### 5-2. ZEO: Jim Ventres

**Note** See attached report.

 [ZEO\\_Report\\_May\\_2023-2.pdf](#)

**Note** Mr. Ventres noted that things have slowed down a bit, and he has been occupied mostly with small items.

### 5-3. Ex-Officio: Arlene Garrow

**Note** Ms. Garrow asked about a ZEO task report and Mr. Fox detailed how one is provided with each agenda and attached to the meeting minutes. Mr. Allen said he will forward a copy of the latest ZEO report to her.

### 5-4. Chairman: Jim Fox

**Note** Mr. Fox welcomed Ms. Garrow as the new Liaison to Zoning and noted it will be nice to have some stability going forward. He added that the Commission looks forward to Ms. Garrow's involvement and assistance.

## 6. Old Business

### 6-1. Review and discussion regarding status of updating all current Zoning Regulations.

**Note** Mr. Ventres reviewed the items from the Zoning Regulations that the Board is still considering and some of the following was said:

Mr. Ventres said temporary awnings usually aren't considered part of the building and asked if the Commission thinks they should be permitted in the setback or not.

He noted that many small lots want to get some natural cooling and most of them are right on the edge of the setback, and all this is, is a cloth awning

Mr. Fox said he doesn't see a big problem with it and asked if the rest of the Board thinks they need to put some language around it?

Mr. Peary wondered if they might block views and Mr. Ventres said that's a tough one to regulate, especially if you don't have view shed regulation.

Mr. Fox said they have nothing in their regulations about blocking views.

Mr. Ventres said the one sold from Niantic Awning that crank out, are temporary in nature.

Mr. Katzbek said whether a view is blocked is a matter of opinion and Mr. Fox said without a view shed regulation, this is not something that is enforceable here.

Mr. Fox said he does agree that it shouldn't go into the setback.

He added that when he has seen awnings, they're usually in the back of the house, and run the length of their deck or patio, which has a setback limit anyway.

Ms. Garrow asked if they could limit them to the front of the back of the house as opposed to the outside?

Mr. Ventres said that given the way their streets are set up, the front is probably worse.

Mr. Turner asked if they could be limited to a deck or patio?

Mr. Fox said he thinks the language needs to convey that awnings can't extend into the setback.

**Note** Mr. Ventres said in regard to Mr. Cellino's remarks about the Clubhouse (page 9), "and sponsored guests" instead of "or," works.

**Note** Mr. Ventres directed the Commission to page 23, "trailers," and Mr. Fox said they need to determine the maximum length for a trailer, which the Commission briefly discussed.

**Note** Mr. Ventres and Mr. Fox discussed how the length of 26 feet for a trailer would be consistent with the maximum 26 feet for the length of a boat.

**Note** Mr. Ventres directed the Commission to page 26, "permitted uses in a business district," and noted that many communities use what Mr. Cellino recommended, business on the first floor and residential above.

**Note** Mr. Fox observed this is essentially allowing mixed use and Mr. Ventres said he can craft some language for this item.

**Note** Mr. Ventres discussed the permitted retail categories and Mr. Fox asked that he cross out post office since it's no longer relevant for this area.

**Note** Mr. Fox added the following:

He thinks they should try to encourage a certain type of retail.

They want to make sure that regulation promotes what we're all looking for.

Towns routinely have certain business districts encouraging certain types of businesses.

He thinks it makes sense for us to update and upgrade what they currently have.

They could certainly retain deli, grocery, and real estate.

**Note** Mr. Fox said perhaps they could add some kind of shop- i.e. art or antique, and Mr. Turner suggested they stay away from antiques since this could easily lead to a hoarding like situation in front of the business.

**Note** Ms. Klemmer suggested they keep the retail use but limit what can be sold.

**Note** Mr. Ventres and the Commission discussed regulating the commercial activity.

**Note** Mr. Fox said a longer list of permissible businesses would be helpful especially for a public hearing discussion.

**Note** Mr. Fox asked about the items that are prohibited and if they would like to see the selling of alcoholic beverages removed from this list?

**Note** Mr. Ventres said they'd still want to say that the selling of alcoholic beverages is prohibited, except for the selling of beer, seltzer, and whatever is permissible under the grocery category.

**Note** Ms. Garrow discussed the importance of making sure alcohol is not consumed on the market premises.

**Note** Mr. Horoho left the meeting at 7:00 p.m.

**Note** The Commission briefly discussed motorhomes and what an appropriate limitation in size might be.

**Note** After further discussion Mr. Ventres noted that the way it's written now it reads that a 26-foot boat trailer and a 26-foot mobile home is allowable.

**Note** The Commission discussed how they don't think anyone has taken advantage of this but how they need to anticipate any potential problems.

**Note** Ms. Klemmer suggested adding language saying, "you are permitted one boat trailer or one mobile home."

**Note** The Commission discussed how it's not permitted to stay in a trailer on someone's property within Black Point.

**Note** Mr. Ventres directed the Commission to page 32, home occupation, and shared that no outside staff is permitted.


**Note** Mr. Ventres asked about "above ground 8x8 movable pools" on page 39, and asked if this includes jacuzzies and the like? Mr. Fox replied that it makes sense to clean up this language a bit, since it's antiquated.

**Note** Mr. Ventres asked about page 43 and surveys, and the Commission discussed how the cost of surveys has almost doubled in the last 5 years.

**Note** Mr. Ventres said that anything less than 160 sq feet may not require a survey, and Mr. Fox wondered if this number should be higher and cautioned that they need to make sure it's in the confines of the boundaries.

**Note** Ms. Garrow suggested they increase the number from 160 sq ft to 200 sq ft, and the Commission concurred. Mr. Ventres said he will also change the number on page 54 to 200, so everything is consistent.

**Note** Mr. Ventres provided the Commission with an Appendix II Building Height Diagram for reference.

 [2715\\_001.pdf](#)

**Note** Mr. Ventres said they tried to depict how building height is measured, so everyone understands it.

## **6-2. Review and discussion of the creation of a new third District within the BPBCA.**

**Note** The Commission discussed how they all support the idea of an Association District.

## **7. New Business**

### **7-1. Set Public Hearing date for proposed updating of BPBCA Zoning Regulations.**

**Note** The Commission briefly discussed bringing the regulation revisions to public hearing.

**Note** Mr. Ventres suggested that he button up the changes discussed, provide the Commission with an updated draft, and that they schedule the public hearing at the July meeting.

## **8. Adjournment**

**Note** The next Zoning Commission meeting is scheduled for July 21st, 2023.

**Decision** MOTION (2)

Mr. Allen moved to adjourn the June 9th, 2023, Regular Meeting of the BPBCA Zoning Commission at 7:18 p.m.

Mr. Peary seconded the motion.

Motion carried, 4-0-0.

**Note** Respectfully Submitted,  
Brooke Stevens, Recording Secretary

## Open tasks from previous meeting(s)

**Task**  Mr. Bookmiller asked if there was a conflict in regard to structure height, and Mr. Ventres said he will double check this item.

*Owned by Jim Ventres, Zoning Enforcement Official*