

Minutes of Black Point Beach Club Zoning August 25th, 2023, Public Hearing - 08/25/23

Date and time: 08/25/23 6:00 PM to: 09/01/23 6:55 PM

Present: Brooke Stevens, Recording Secretary, Jim Ventres, Zoning Enforcement Official, Jim Fox, Chairman, Jim Allen, Secretary, Betsy Klemmer, Regular Member, John Horoho, Regular Member, Joseph Katzbek, Regular Member, Mike Walsh, Alternate, Jason Bookmiller, Alternate, Keith Turner, Alternate , (arrived at 6:27 p.m.)

CC: Arlene Garrow, Zoning Liaison

Location: BPBCA Clubhouse, 6 Sunset Avenue, Niantic, CT, 06357

Link: <https://app.meetingking.com/meetings/403750>

Topics

1. Call to Order

Note Chairman Fox called the Public Hearing of the Black Point Beach Club Association Zoning Commission to order at 6:00 p.m.

2. Attendance and Establishment of Quorum

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

Note Mr. Fox noted for the record that the Public Hearing Notice was filed with the Town Clerk, posted at the Clubhouse, posted on the Black Point Beach Club website, and published in the New London Day Newspaper on August 14th, 2023, and August 21st, 2023.

3. Public Hearing Notice

Note Mr. Fox read the Public Hearing Notice into the record-
"The Black Point Beach Club Association Zoning Commission will hold a Public Hearing on August 25, 2023 at 6 pm at the BPBCA Club House, 6 Sunset Avenue, Niantic, CT, to hear the following:
This is a comprehensive revision of the regulations to reflect changes in State law and clarify terminology. The changes can only be summarized here and interested parties are urged to read the entire text. Proposed comprehensive regulation changes include, but are not limited to, the following:

1. Section I - Creation of a Preamble
2. Section II - Reorganization of the Jurisdiction Section
3. Section IV – Definitions - Comprehensive additions and modifications to the definitions to include all terms and nouns in the proposed regulations.
4. Section V – Districts and Boundaries - To consider the creation of an Association District to include Association owned properties.
5. Section VI – Permitted Uses - To consider defining permitted uses for a retail store in the Business District and to prohibit the sale of Cannabis Products.
6. Section VII – Prohibited Uses - To consider additions to prohibited uses – Helistops, Junk Yards, & Manufacturing. To consider the addition of a maximum length for motor homes instead of gross vehicle weight.
7. Section VIII – General Regulations – To consider regulating camp trailers by length instead of weight. To clarify what a household pet is. To prohibit dynamic and internally illuminated signs.
8. Section IX – Dimensional Requirements – Clarification of Uses associated with accessory units. Clarification of Dimensional requirements for accessory structure, patios, and decks.
9. Appendix A - Addition of Site Plan Review Plot Plan Requirements including specifications for what site plans must contain, and when a waiver will be granted.
10. Appendix B – Addition of a Building Height Diagram to demonstrate how building heights are determined.

Copies of the full text of these proposed changes are available for inspection during regular hours at the East Lyme Town Clerk's Office, Town Office Building, 108 Pennsylvania Avenue, East Lyme. They also can be found posted on the Black Point Beach Club Association web page under the Zoning section.

At this hearing interested persons shall be heard and correspondence received. Written responses and questions can also be emailed to bpzoning@gmail.com and the comments and questions will be presented at the public hearing.

James Fox, Chairman

Dated at Niantic CT this 24th day of July 2023."

Note Mr. Fox noted the Commission is happy to see so many members in attendance and looks forward to hearing their feedback.

Note Mr. Fox added that they will tackle the Public Hearing items in sections, and people will be invited to speak either for or against. He also noted some of the following:

The goal is to make the regulations better for the community as a whole.

This process has a lot to do with feedback and guidance from both Jim Ventres, the Zoning Enforcement Officer, and from their Attorney, Mark Branse, who specializes in Land Use.

4. Section I - Creation of a Preamble Section II - Reorganization of the Jurisdiction Section Section IV – Definitions - Comprehensive additions and modifications to the definitions to include all terms and nouns in the proposed regulations.

Note Mr. Fox called for Public Comment.

4-1. Sean Brosseau of 19 East Shore Drive

Note Mr. Brosseau said in terms of definitions, he thinks "nonconforming lot" and "nonconforming structure" are two of the more important ones. He noted that "nonconforming lot" is a relatively easy concept to grasp, while a "nonconforming structure" is more complicated; some examples might be helpful especially for persons not well versed in this topic.

4-2. Colleen Chapin of 53 East Shore Drive

Note Ms. Chapin thanked the Commission, Mr. Ventres, and Attorney Branse for their hard work and efforts, and said they deserve a lot of respect for crafting this intensive draft. She offered some of the following remarks:

There's a preamble, a second paragraph, and then the purpose.

It seems somewhat duplicative, and she doesn't know if it was the intention to delete the purpose and adopt the second paragraph.

There's a lot going on in the definition section, it's a lot to absorb.

The regulations might be able to be calibrated to the definitions more.

Given the length of all the definitions and the complexity of the definitions it's easy to see how some minor things might have been missed.

There's a definition for a child daycare facility and at the very end it says this is required by Connecticut Statute in a residential zone; shouldn't we actually say that in our section about allowed home occupations?

You could say that a daycare facility can have up to six children in that section instead, because the definition isn't a regulation.

In terms of the definition for lot line and front line, they're close, but they're not the same, so there could be some conflict there.

There's also reference to a rear lot, but a rear lot is never actually defined.

4-3. Arlene Garrow, Zoning Liaison

Note Ms. Garrow directed the Commission to page 21, "terraces and patios," and it says they're to be no more than 18 inches above existing grade or ground. She asked if they're going to be subject to setback requirements since this isn't specified.

Ms. Garrow said stairs and landings are discussed, it says they shall not exceed into the side or setback area less than 5 feet from the property line; they also would not go up to the property, but the property line itself.

Note Mr. Fox said in terms of the land here, very few areas are flat, so people "create flatness" and it could be raised out of the ground quite a lot. He explained that in this situation a terrace or patio is something that's less than 18 inches, so at that point it still falls within that area and wouldn't need a setback.

Note Ms. Garrow said what if it required a step that fell into the step setback and Mr. Ventres explained that the step setback is for a single-family home, and that's how it's defined.

4-4. Pat Kolosowski of 52 Indianola Road

Note Ms. Kolosowski said some of the following:

She has a couple questions about the definitions for an accessory building or structure.

She found it a bit confusing.

Is it supposed to mean an addition?

She's also concerned about the Airbnb issue.

What constitutes a week after a one-night stay?

They should also consider bees and beehives in the regulations; bees are important, but can be dangerous.

5. Section V – Districts and Boundaries - To consider the creation of an Association District to include Association owned properties. Section VI – Permitted Uses - To consider defining permitted uses for a retail store in the Business District and to prohibit the sale of Cannabis Products. Section VII – Prohibited Uses - To consider additions to prohibited uses – Helistops, Junk Yards, & Manufacturing. To consider the addition of a maximum length for motor homes instead of gross vehicle weight.

Note

Note Mr. Fox called for Public Comment.

5-1. Arlene Garrow, Zoning Liaison

Note Ms. Garrow said that under residential district, they have the one-foot buffer strip, and she believes it should say "perimeter owned by the Association." That aside, she asked why the one-foot strip is in this section if they're going to pull out the common area Black Point properties and put them into an Association District.

Note Ms. Garrow further added the following:

On page 24 it says, "Old Black Point shoreline property identified as Parcel ID 5.1 / 7." She thinks it should read "Old Black Point Road Shoreline" instead since they're not in Old Black Point. She's also curious why the right-of-way on Osprey (east of Waterside Ave), was omitted.

Note Ms. Garrow further added the following:

On page 24 it says, "Old Black Point shoreline property identified as Parcel ID 5.1 / 7." She thinks it should read "Old Black Point Road Shoreline" instead since they're not in Old Black Point. She's also curious why the right-of-way on Osprey (east of Waterside Ave), was omitted.

What about on Sunrise, between Sea View and Sea Crest?

There is a right-of-there as well, but she didn't have time to search the Land Records and find out if there is a joint ownership there between the abutting neighbors, but this should be looked at.

It's not buildable on Osprey and Sunrise but if we're going to incorporate everything, they shouldn't overlook any pieces.

She also wants to make sure that the creation of an "Association District" is not going to affect our common property tax rates with the town.

5-2. Colleen Chapin of 53 East Shore Drive

Note Ms. Chapin offered the following remarks:

She's curious about the uses in the business district and not wanting art & antique shop.

There are several different allowed uses for the store which is great.

The new owner is doing a great job there, but it's good to have options in case things ever change.

She suggested widening the allowed uses in case there ever is a transition again.

Maybe include art studio, bakery, deli, cafe and the like.

Note Mr. Fox replied that they certainly want to encourage other uses in case there ever needs to be an alternative, and the intent was to try to determine what uses the community would want to see.

Note Mr. Fox said that especially with the business district, permitted use is dynamic; there's also the opportunity to update these regulations at any time. He added that if they're ever approached with an idea, it's a straightforward process in terms of allowing that, perhaps it's not as comprehensive as we want, or maybe they want it smaller, which is why feedback is an important part of the process for them.

Note Ms. Chapin said she encourages them to consider bakery, deli, and art studio in any future deliberations, that those could be interesting ideas.

Note Ms. Chapin asked if there are any setback requirements for gazebos and pergolas in the Association District, if they inherit the same setback and size requirements for accessory structures. She said it's not clear if it differs in each district.

Note Mr. Ventres said under dimensional requirements it says, "within the limits of the Association meets the following requirements," so it inherits the same requirements.

Note Ms. Chapin said she's really curious about the regulation prohibiting a helistop and Mr. Ventres explained that Attorney Branse is thorough and looks at the worst-case scenario; if they don't have it as a prohibited use, somebody will do it.

6. Section VIII – General Regulations – To consider regulating camp trailers by length instead of weight. To clarify what a household pet is. To prohibit dynamic and internally illuminated signs. Section IX- Dimensional Requirements – Clarification of Uses associated with accessory units. Clarification of Dimensional requirements for accessory structure, patios, and decks

Note Mr. Fox said in terms of the general regulations, the changes mostly deal with trailers; the requirement before was associated with weight and now they've added a length measurement to it.

Note Mr. Ventres observed that it's impossible to figure out the vehicle unless you pull the registration and since we already had boats that could not exceed 26 feet, the proposal is to say the same thing for motorhomes and camper trailers.

Note Keith Turner arrived at 6:27 p.m.

Note Mr. Ventres said page 31, livestock, could also be amended to include bee hives as well.

Note Mr. Fox called for Public Comment.

Note Ms. Chapin briefly discussed accessory dwelling units and noted that the State stipulates that they follow the same setbacks as the primary dwelling, and the regulations can't be more restrictive than the ones for the primary dwelling. She said two things jumped out at her, the requirement for 3 parking places, and judging whether the adu is in harmony with the primary dwelling; they don't have any of those kinds of parameters for the primary dwelling.

Note Mr. Ventres said 2 of the parking spots are for the primary dwelling while only one is required for the accessory unit. He agreed that the harmony aspect of the regulation is a push but that it didn't come up as an area of concern when Attorney Branse completed his review.

Note Mr. Fox explained that the State started pushing for accessory dwellings, and as a Commission, they had to decide whether to accept and adopt the State regulations or create their own. He said they chose to adopt but wanted to ensure that something vastly different isn't plopped down as a unit.

Note Mr. Fox acknowledged that they don't have design standards or the like for primary residences, but for the most part, our community in general, is similar. Ms. Chapin replied that conceptually she understands what they're trying to accomplish, but they need to be very careful, since "harmony" is a very subjective word.

6-1. Don McKenzie of 10 Woodland Drive

Note Mr. McKenzie asked if they're measuring the length of the trailer or the boat, and Mr. Ventres explained they've been in the practice of measuring the length of the boat, and the intent from the start has been for 26 feet for the boat, so they may want to clarify this further.

6-2. Pat Kolosowski of 52 Indianola Road

Note Ms. Kolosowski said she has lived in developments where there have been deeded covenants that a house has to be a certain way and Mr. Fox explained that they don't currently have design standards. Ms. Kolosowski said this might be the way to avoid an issue and Mr. Fox said there intent was to avoid having a shipping container or the like serve as an accessory dwelling.

Note Ms. Kolosowski asked if the accessory building in general is an addition, and Mr. Fox explained it's a separate structure.

Note Mr. Fox further explained that if you have room on your property for a second building, an accessory structure, you will still have to meet the setback requirements.

6-3. Colleen Chapin of 53 East Shore Drive

6-4. Colleen Chapin of 53 East Shore Drive

Note Ms. Chapin observed that you can put a shed of any form on the property but not a storage container for an adu, so this might need a bit of calibration.

6-5. Pat Kolosowski of 52 Indianola Road

Note Ms. Kolosowski asked where short term rentals fit into this, and Mr. Fox offered some of the following remarks:

It's been part of the zoning regulations and predates his arrival as well as everyone else's on the Commission.

On paper, it makes an awful lot of sense but the enforcement of it is a completely different matter.

The majority of times there's no way to contact the property owner if there is an issue.

We don't have the ability to confront it, can pass on issues to our ZEO, but he doesn't live here.

Other beach communities as well as the Town, are struggling with this issue as well.

The Town and the First Selectman have made a big initiative to try to get this addressed.

Hopefully something will happen at the Town level, which is easy for us to adopt.

As far as he can tell, the original intent of the regulation was to prevent two-night stays where a big party happens, that is a huge inconvenience to everybody else who's here.

By making it a week, you are more likely to get a family as a rental, and hopefully one that is related to someone in the community, and more likely to follow the rules.

6-6. John Cellino of 60 East Shore Drive

Note Mr. Cellino briefly detailed how he has been appointed to the Town of East Lyme Short Term Rental Subcommittee and how they will be holding a public hearing, date to be forthcoming. He added that at their first meeting they discussed how if whatever they decide becomes an ordinance as opposed to a regulation, it will trump all town zoning and quasi municipality zoning; a regulation would only affect the jurisdiction ruled by town zoning.

6-7. Sean Brosseau of 19 East Shore Drive

Note Mr. Brosseau observed that while not perfect, he thinks having the one-week minimum stay has been effective and the success of the rentals is dependent largely on the owners following the rules and not allowing shorter stays.

7. Appendix A - Addition of Site Plan Review Plot Plan Requirements including specifications for what site plans must contain, and when a waiver will be granted. Appendix B – Addition of a Building Height Diagram to demonstrate how building heights are determined.

Note Mr. Fox noted that they added the verbiage that anything less than 200 sq ft may not require a survey and is at the discretion of Mr. Ventres. Mr. Ventres said this section gives people a checklist to work with, and that in the case of diagrams A & B, if someone is trying to calculate their building height, this acts as a kind of how to, which also matches the building code.

7-1. Colleen Chapin of 53 East Shore Drive

Note Ms. Chapin made the following remarks:

The diagrams are helpful, but she's hoping there's an opportunity to make a few tweaks to them.

It should read "eave" and it looks like the eaves are at two different heights and you probably want to make sure they're equal.

For the formula, you want to take the sum, and there should be a bracket around the whole thing; it makes a difference.

You could make a pretty tall house if you went with the formula how it's written, and she doesn't think that's the intent.

Note Mr. Fox observed that basically, they need to have a parenthesis around the entire bracket, and then divide it by two.

Note Ms. Chapin said in the second drawing, the formula has the letter E, but there's no letter E on the diagram.

Task Mr. Fox asked Mr. Ventres what he recommends, and Mr. Ventres said there has been some good recommendations have been made that require tweaking, and he'll get a definitive answer about whether the creation of an Association District would alter their tax rate with the Town.

Owned by Jim Ventres, Zoning Enforcement Official due 09/15/23

Note Mr. Fox observed that basically, they need to have a parenthesis around the entire bracket, and then divide it by two.

Note Mr. Ventres noted he has received no correspondence in regard to the proposed changes but suggested they keep the Public Hearing open to they can see to the tweaking and entertain any feedback they may receive after that.

Note MOTION (1)

Mr. Allen moved to continue the August 25th, 2023, Public Hearing of the BPBCA Zoning Commission. Mr. Horoho seconded the motion.

Note Ms. Chapin noted that if they specify the date, they don't have to republish the public hearing notice in the newspaper.

Decision MOTION (2)

Mr. Allen amended his previous motion and moved to continue the Public Hearing of the BPBCA Zoning Commission to September 15th, 2023, at 6:00 p.m., with the Regular Meeting of the Zoning Commission to immediately follow.

Mr. Horoho seconded the motion.

Motion carried, 5-0-0.

Note The Public Hearing adjourned at 6:55 p.m. and a Special Meeting of the BPBCA Zoning Commission immediately followed.

Note Respectfully Submitted,
Brooke Stevens, Recording Secretary

Task Summary

New Tasks

Task Mr. Fox asked Mr. Ventres what he recommends, and Mr. Ventres said there has been some good recommendations have been made that require tweaking, and he'll get a definitive answer about whether the creation of an Association District would alter their tax rate with the Town.

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