

Minutes of Black Point Beach Club Zoning September 15th, 2023, Public Hearing - 09/15/23

Date and time: 09/15/23 6:00 PM to: 09/15/23 6:35 PM

Present: Brooke Stevens, Recording Secretary, Jim Ventres, Zoning Enforcement Official, Jim Allen, Secretary, John Horoho, Regular Member, Mike Walsh, Alternate, Keith Turner, Alternate, Absent:, Jim Fox, Chairman, Betsy Klemmer, Regular Member, Joseph Katzbek, Regular Member, Jason Bookmiller, Alternate

CC: Arlene Garrow, Zoning Liaison

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

Link: <https://app.meetingking.com/meetings/404727>

Topics

1. Call to Order

Note Secretary Allen called the Public Hearing of the Black Point Beach Club Association Zoning Commission continued from August 25th, 2023, to order at 6:02 p.m., and noted that Jim Fox, Zoning Commission Chair, would be unable to attend this evening's meeting due to work obligations.

2. Attendance and Establishment of Quorum

Note Mr. Allen introduced the Commission Members, sat Mr. Turner and Mr. Walsh as Regular Members for the evening, and noted a quorum was present.

Note see attached attendance sheet for reference.

 [Zoning attendance 9 15 2023.docx](#)

3. Continuation of Public Hearing

Note Mr. Ventres detailed the updates since the last meeting:

One of the questions that came up, was if we created an Association District, would that change the opinion of value for the Assessor.

He emailed the Diane Vitagliano, the East Lyme Assessor, who replied that "Changing the zoning to a more restrictive zone that will not allow residential development will not increase the assessment of the association properties, nor do I think it'll decrease the assessments; they are assessed by use."

see attached response from East Lyme Assessor.

 [EL_Assessor's_comments.pdf](#)

Note They also had comments from the floor last month, about eliminating on page 2, "Purpose."

Attorney Branse agreed that part could go because it's the same as the previous paragraph.

Typos were pointed out, not all were taken care of in the published version, but they can be taken care of easily.

They added Osprey Road and the accessory access ways that were noted at the last meeting and added beehives as a prohibited use.

They revised the appendix to provide a clearer understanding of what the building height diagram is.

Note Mr. Ventres read the following comments from Attorney Branse regarding the potential for a metal building as an accessory unit into the record:

"For accessory dwelling units the operative language in the current draft is the exterior materials roof form windows faces in proportion to the accessory dwelling unit shall be in harmony with those of the existing or proposed principle single family dwelling. While this is pushing the envelope for administrative decisions, I think it would hold up in a court of challenge. It's fairly specific about what's covered, exterior materials, roof form, window pattern and then must be in harmony with the principal dwelling existing or proposed. If the applicant is displeased with the Zoning ZEO requirements, they could appeal to the ZBA...are there any metal buildings at Black Point today? If not, then no accessory dwelling unit can have a metal exterior because the principal dwelling has no metal exterior. Thus, the only risk is if someone tears down and also wants to build a new metal building with metal accessory dwellings."

Note see attached response from Attorney Branse.

 [Attorney Brans's comments.pdf](#)

Note Mr. Ventres discussed how he thinks they could add language at this stage, without a new public hearing because assuming there are no corrugated or sheet metal buildings today, they're just clarifying that such materials are not in harmony with the existing community. He noted how he worded this statement is intentional because he didn't want to say metal exterior since there could be both aluminum siding, which is very common, or standard seam metal roof, which is very popular.

Note Mr. Ventres further added that more detail would require a new public hearing, and the Commission could choose to tackle metal dwellings altogether the next time they do revisions.

Note Mr. Allen noted they received correspondence regarding the first part of the Public Hearing, and Carissa Denmore came forward to briefly discuss her correspondence.

 [Carissa Denmore's comments.pdf](#)

Note Ms. Denmore offered some highlights from her email and made some of the following comments: She mentioned that the expanded definitions include some adjustments to the definition of family. She appreciates that there are now adjustments being made to that but thinks it could be expanded more. The number of persons in a family seems always fairly arbitrary to her when she sees it in zoning. She suggested some alternative language that has been utilized in a couple of other Connecticut communities, which they'll see in her email.

She also commented on the language they were discussing regarding the accessory units being "in harmony" with the primary dwellings.

She believes this might be pushing the envelope in terms of the administrative review process.

She thinks it's a dangerous road to begin down.

It seems unnecessarily restrictive to make accessory dwelling units have to be in harmony with something, when there is no sort of harmony standard for the community.

She was also confused to see that the walls fences, hedges language remains in the in the regulations, when there's been previous discussion at meetings that hedges in particular can't be regulated by Zoning.

Either further discussion for adequate language is needed, or the item should be removed altogether and referred to the BOG to sort out.

At the previous meeting short term rentals and the difficulties related to enforcement was brought up.

It points out that there are some enforcement issues that are separate from construction projects.

It's one thing to enforce things when an active construction project is going on, but there are different protocols and processes that need to be in place for enforcement issues when there isn't an active construction project going on, and she suggests that that be a topic for consideration of future meeting.

She also pointed out that there are some typos and other items in the document definitions that do not appear anywhere else.

She suspects were just a copy and paste from other regulations that have ended up there, but it clutters the draft and makes it more complicated than it needs to be.

She thanks the Commission for their consideration and all the work they're doing.

Note Mr. Ventres said in terms of the definition of family, he agrees wholeheartedly, and thinks they should accept the Meridian definition of family.

Note Mr. Ventres said in terms of architectural review, that's a Commission decision. He added that Attorney Branse advised him that if we change our hedge height regulation to go lower, it makes everybody else's hedge height preexisting, which he then can't enforce, but if the Association through the BOG were to create an ordinance, it could be enforced at that point. Mr. Ventres said Mr. Branse recommended leaving the regulation as is now, and that they can remove it if the BOG opts to enact an ordinance.

Note Mr. Horoho observed that if they remove it now, no regulation whatsoever would be in place.

Note Mr. Allen called for public comments.

3-1. Sally Cini of 28 Sea Breeze

Note Ms. Cini said she concurs with Ms. Denmore's comments about the definition of family and discussed how she's a member of the BPBCA Zoning Board of Appeals. She said she takes issue with the architectural review discussion and the idea that people can appeal to the ZBA.

Ms. Cini noted that "in harmony" is very subjective and her charge as a Member of the ZBA is to take everything zoning has written, and consider it, when making a decision. She's not really sure that's fair when there is no clear answer to what "in harmony" is. Ms. Cini said she thinks alternative language should be supplied.

Note Mr. Ventres suggested they remove "shall" and "should" and at the end of the sentence state that "no exterior corrugated or sheet metal wall surface shall be permitted." He noted this will give people a greater indication of what they're trying to do.

Note Ms. Cini replied that she's still not feeling good about the "in harmony" portion.

3-2. Cindy Trocki of 22 Blue Heron

Note Ms. Trocki said some of the following:
She's always understood "shall" to be "must."

For "harmony" she always understood that to mean whatever the "uniform" is.

Zoning falls under #9 in our Charter, and it states that the general statutes are to be followed under 124, and the building codes of 354.

You get authority from zoning, and you talk about maps in your regulations but omit Map #2.

She understands that we're political subdivision, and those two plans, Map #1 and Map #2, they are on the political subdivision.

Under the political subdivision, we should have some exemption of not being able to change what's in the deed.

#7 in the Charter says the Board nor the Association has any authority to change any restrictive regulations.

She believes what's in the deed is part of the part of the restrictive regulations.

She's outlined what we're supposed to follow in the setbacks and everything else.

Note Ms. Trocki submitted her documentation to Mr. Ventres for the record.

Note Mr. Ventres replied that the easy part is that we are under the Connecticut General Statutes, and the Connecticut General Statutes clearly outlines the legal procedure for changing regulations. He explained that the Planning Commission is the Board of Governors, their charge here is Zoning, and they've legally noticed this meeting, we're holding public hearings, and no committee, organization, or township has remained with their original set because things change, life changes, and times change. He added that Zoning attempts to keep up with these changes.

Note Ms. Trocki said because we were accepted as a subdivision, once those get approved and get filed on record, the maps and deeds get referred back to and Mr. Ventres replied that the regulations are for the Black Point Beach Club Association only.

3-3. Colleen Chapin of 53 East Shore Drive

Note Ms. Chapin offered some of the following comments and observations:

She's still troubled by the issue of raised patios.

In meeting minutes of 2022, the Commission supported a 5 ft setback but now there is no setback, so she's confused by this.

She thinks we really need a definition for subsurface materials.

And if something's 18 inches above ground, and it's only supported on subsurface materials, how does it get to be 18 inches?

She thinks further definitions and some clarity is needed here.

She asked where the 18 inches will be measured?

The International Building Code says seven-inch risers, so that's going to be effectively two and a half steps.

We have a separate regulation that talks about landings to a house can be no more than 6 ft by 6 ft, with a 5 ft setback.

There are there are instances where there are houses where they're at 18 inches or less between the grade, can someone now change their landing and entry steps and have a zero setback?

She thinks more language and further clarification is needed.

As it stands now, she finds it very confusing.

The draft also says that decks are no longer going to be used to calculate the 35% lot coverage.

Over the past four or five years the zoning regulations have worked to allow for increased density, and she's wondering how that fits in with the preamble, which says that you're looking to prevent overcrowding of the land?

When you're taking elements out of lot coverage calculations, are we then increasing the density and overcrowding the land?

It might not happen next year but are we getting into a situation where we are going to be overcrowding, and causing significant drainage issues, to adjacent neighbors, and so on?

In terms of accessory units, the enabling legislation for accessory dwelling unit says that the restrictions on the accessory dwelling unit cannot be greater than that of the primary dwelling.

Wherever you land on the "in harmony" language if we do not have it on the primary dwelling as well, then it's considered more constrictive.

Note There were no further Public Comments.

Decision MOTION (1)

Mr. Horoho moved to close the Public Hearing at 6:35 p.m.

Mr. Turner seconded the motion.

Motion carried, 4-0-0.

Note A Regular Meeting of the BPBCA Zoning Commission immediately followed.

Note Respectfully Submitted,
Brooke Stevens, Recording Secretary

Next Meeting

Meeting title: [Black point beach club zoning september 15th, 2023, regular meeting](#)
Date and time: 09/15/23 06:35 pm to: 09/24/23 07:04 pm
Location: BPBCA Clubhouse, 6 Sunset Avenue, Niantic, CT, 06357