

Black Point Beach Club Association – Exempt Structures Discussion

*This document was a combined effort of
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1. Local Zoning Commissions derive their authority from the Connecticut General Statutes. The statutes grant the zoning commission the ability to regulate the height, number of stories and the size of buildings and other structures, and the percentage of area covered. See the abbreviated statute below.
CGS - 8-2 Regulations
2. The requirement for permits for sheds and fences does *not* “rely on tradition (we’ve been doing this for decades).” The Zoning Regulations define a “building” as: “Any structure having a roof and intended for shelter, housing or enclosure of persons, animals, or materials.” A shed is thus a “building.” The definition of “structure” in the Regulations expressly includes “fences or walls,” in addition to other types of structures. Section VII.12 of the Regulations expressly and specifically set standards for fences, walls, and hedges. If the Commission exempts fences and walls from the permit requirement, it will not be possible to confirm compliance with Section VII.12 until after the structure is built, which will make enforcement much more difficult and expensive.
3. When discussing exempt structures, the commission needs to put in perspective the area in which this is being discussed. Black Point Beach Club Association (BPBCA) has a majority of lots that average 4500 to 8000 square feet – not even 1/5 of an acre. In area rural towns, that equates to a postage stamp in size. If sheds were to be exempt, does that mean someone could build three sheds or more? Are they to be included in the coverage calculations if they are exempt? If they are to be included in the coverage calculation, how will compliance be determined prior to construction if there is no permit requirement? In communities with close confines such as BPBCA, the review of the zoning enforcement officer can ensure issues don’t arise which would be detected by a proper review of shed placements and fencing. Many fences installed without the benefit of a review have led to neighborhood disputes. When asking about what is reviewed – it is simple – is the requested placement in the appropriate place, the proper coverage, and the appropriate height. The follow-up is to review the final placement for compliance. As for turn-around of applications, once the application, the site plan, and fee is received, the typical response time is within four days or less unless received when there is a ZEO on vacation..
4. The International Residential Code (IRC) exempts many activities but clearly states the following: “Exemption from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or **any other laws or ordinances of this jurisdiction.**” It is clear they decided to exempt certain activities where the risk of injury due to a

structural failure is low, but they do not claim to have authority over zoning regulations, inland wetlands regulations, coastal CT DEEP regulations, flood zone regulations, and health code regulations. Each of these factors need proper review beyond the International Residential Code. Zoning commissions, after proper review and consideration, do have the ability to consider exempting certain structures. For example, in the case of the BPBCA Zoning Commission, the construction of decks under eighteen (18) inches above the natural grade are exempt from requiring a zoning permit.

See attached 2021 International Residential Code (IRC)

And yes, similar beach associations do regulate sheds for the reasons stated previously. Zoning commissions in the area that do regulate sheds: Giants Neck Beach Association, Crescent Beach Association, Groton Long Point, and BPBCA. East Lyme, Waterford, Old Lyme, and East Haddam.

5. Process for a regulation change. The first process typically taken is a written request for the commission to discuss. This step requires buy-in from the commission that the request may benefit the community and meets the requirements for the Master Plan or Plan of Conservation and Development.

See 8-3 Regulation Changes below

In some cases, the commission may request the formal process be adhered to, which requires a formal written application to have the item considered officially through the required public hearing process. That process is outline in the Connecticut General Statutes Section 8-3 and timing through Connecticut General Statutes 8-7d. Whether initiated by the commission or by a formal application from a third party, hat zoning amendment process requires a public hearing to be held which in turn requires two legal notices to be published in a local newspaper prior to the meeting, and once after a decision is made. BPBCA only has one local newspaper – the New London Day. Typical cost is around six hundred (600.00) dollars.

CGS - Sec. 8-2. Regulations. (a)(1) The zoning commission of each city, town or borough is authorized to regulate, within the limits of such municipality:

- (A) The height, number of stories and size of buildings and other structures;
- (B) the percentage of the area of the lot that may be occupied;
- (C) the size of yards, courts and other open spaces;

Connecticut General Statutes Sec. 8-3. Establishment and changing of zoning regulations and districts.

(a) Such zoning commission shall provide for the manner in which regulations under section 8-2 or 8-2j and the boundaries of zoning districts shall be respectively established or changed. No such regulation or boundary shall become effective or be established or changed until after a public hearing in relation thereto, held by a majority of the members of the zoning commission or a committee thereof appointed for that purpose consisting of at least five members. Such hearing shall be held in accordance with the provisions of section 8-7d. A copy of such proposed regulation or boundary shall be filed in the office of the town, city or borough clerk, as the case may be, in such municipality, but, in the case of a district, in the offices of both the district clerk and the town clerk of the town in which such district is located, for public inspection at least ten days before such hearing, and may be published in full in such paper. *The commission may require a filing fee to be deposited with the commission to defray the cost of publication of the notice required for a hearing.*

(b) Such regulations and boundaries shall be established, changed or repealed only by a majority vote of all the members of the zoning commission, except as otherwise provided in this chapter. In making its decision the commission shall take into consideration the plan of conservation and development, prepared pursuant to section 8-23, and shall state on the record its findings on consistency of the proposed establishment, change or repeal of such regulations and boundaries with such plan. If a protest against a proposed change is filed at or before a hearing with the zoning commission, signed by the owners of twenty per cent or more of the area of the lots included in such proposed change or of the lots within five hundred feet in all directions of the property included in the proposed change, such change shall not be adopted except by a vote of two-thirds of all the members of the commission.

(c) *All petitions requesting a change in the regulations or the boundaries of zoning districts shall be submitted in writing and in a form prescribed by the commission and shall be considered at a public hearing within the period of time permitted under section 8-7d.* The commission shall act upon the changes requested in such petition. Whenever such commission makes any change in a regulation or boundary it shall state upon its records the reason why such change is made. No such commission shall be required to hear any petition or petitions relating to the same changes, or substantially the same changes, more than once in a period of twelve months.

(d) Zoning regulations or boundaries or changes therein shall become effective at such time as is fixed by the zoning commission, provided a copy of such regulation, boundary or change shall be filed in the office of the town, city or borough clerk, as the case may be, but, in the case of a district, in the office of both the district clerk and the town clerk of the town in which such district is located, and notice of the decision of such commission shall have been published in a newspaper having a substantial circulation in the municipality before such effective date. In any case in which such notice is not

published within the fifteen-day period after a decision has been rendered, any applicant or petitioner may provide for the publication of such notice within ten days thereafter.

Sec. 8-7d. Hearings and decisions. Time limits. Day of receipt. Notice to adjoining municipality. Public notice registry. (a) In all matters wherein a formal petition, application, request or appeal must be submitted to a zoning commission, planning and zoning commission or zoning board of appeals under this chapter, a planning commission under chapter 126 or an inland wetlands agency under chapter 440 or an aquifer protection agency under chapter 446i and a hearing is required or otherwise held on such petition, application, request or appeal, such hearing shall commence within sixty-five days after receipt of such petition, application, request or appeal and shall be completed within thirty-five days after such hearing commences, unless a shorter period of time is required under this chapter, chapter 126, chapter 440 or chapter 446i. Notice of the hearing shall be published in a newspaper having a general circulation in such municipality where the land that is the subject of the hearing is located at least twice, at intervals of not less than two days, the first not more than fifteen days or less than ten days and the last not less than two days before the date set for the hearing. In addition to such notice, such commission, board or agency may, by regulation, provide for additional notice. Such regulations shall include provisions that the notice be mailed to persons who own land that is adjacent to the land that is the subject of the hearing or be provided by posting a sign on the land that is the subject of the hearing, or both. For purposes of such additional notice, (1) proof of mailing shall be evidenced by a certificate of mailing, (2) the person who owns land shall be the owner indicated on the property tax map or on the last-completed grand list as of the date such notice is mailed, and (3) a title search or any other additional method of identifying persons who own land that is adjacent to the land that is the subject of the hearing shall not be required. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing, any person or persons may appear and be heard and may be represented by agent or by attorney. All decisions on such matters shall be rendered not later than sixty-five days after completion of such hearing, unless a shorter period of time is required under this chapter, chapter 126, chapter 440 or chapter 446i. The petitioner or applicant may consent to one or more extensions of any period specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five days, or may withdraw such petition, application, request or appeal.