

**Black Point Beach Club Association Zoning Board of Appeals
August 23rd, 2019 Public & Regular Meeting Minutes**

Present:

Colleen Chapin, Chairman
Arlene Garrow
Paul Pendergrast
Sally Cini
Kim Craven, Alternate (*Sat as a Regular Member)
Marianne Neptin, Alternate

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Also Present:

Jim Ventres, Zoning Enforcement Officer

August 28, 20 19 AT 8:18 AM/PM
Brooke Stone ATC
EAST LYME TOWN CLERK

Absent:

Joyce Wojitas

A Public and Regular Meeting of the Black Point Beach Association Zoning Board of Appeals was held on Friday August 23rd, 2019 at 6:00 p.m. at the Black Point Beach Club Association Clubhouse located at 6 Sunset Avenue in Niantic, Connecticut.

I. Call to Order

Chairman Chapin called the first Public Hearing of the BPBCA Zoning Board of Appeals to order at 6:00 p.m.

II. Attendance and Establishment of Quorum

Ms. Chapin introduced the Commission members and noted a quorum was present.

III. Public Hearing

- a. Black Point Zoning Board of Appeals Case 2-2019 Application by Elizabeth Klemmer, requesting a variance of setback requirements in order to provide accessible accommodation at 7 Saltaire Road, Niantic, CT. Said parcel appears on the East Lyme Assessor's Map 05.19, Lot 33.**

- Ms. Chapin detailed the public hearing process for the audience and explained the Alternates will be able to participate during the public hearings but only the Alternate that sits will be able to participate in deliberations.
- The Commission sat Ms. Craven as a Regular Member for the evening.
- Ms. Chapin noted the legal ad published in the New London Day Newspaper on August 9th and August 19th, 2019 and read the public notice into the record.
- She noted the certificate of mailings sent to abutting property owners within 50 feet of Saltaire Avenue, as determined by the East Lyme GIS Map.

Ms. Klemmer came forward to speak and shared the following:

- She is seeking a variance so she can move both her mother and her aide into the home.
- Her mother uses a walker with 4 wheels; the width makes it difficult to maneuver in the house, prevents her from utilizing the second floor and the aim is to accommodate her so she can function on the first floor.
- The current 10x10 room is not sufficient enough space for her to transverse the floor.
- The intent is to bump the front porch out 5 feet (she is already at 20 feet) and the sides also need a variance- she is about 10 feet on either side already; the property is only 40x100 feet and the house is 20 feet wide.
- She wants to put a room on the back of the house to use for her mother's bedroom and give the aide her current 10x10 bedroom so they're located on the same floor.

Ms. Chapin said she received no official correspondence regarding this variance request and called for Public Comment.

1. Tim Shea of 9 Saltaire Avenue emphasized the following:
 - He's located directly adjacent to this property and is opposed to this application.
 - A variance request has to show hardship and accessibility is not a hardship; you can make modifications to your home whenever you like which is why single and multi-family homes are exempt from ADA guidelines.
 - His Lot is 100x100 feet but the property next to him is already nonconforming, the setbacks are tight and impeding on his property.
 - There are ways to renovate the porch for accommodation.
 - The financial aspect of this is also not a hardship.
 - Houses are picked up and moved all the time- you need to stay within your footprint.
 - Ms. Klemmer's request would result in a 25% increase in floor area and a 50-60% increase for the roof above, which has nothing to do with the structure or accessibility.

Mr. Shea submitted a google map of the area for the record (attached) and noted that her property is one of the smallest on the block and this variance approval would result in making it one of the largest. He added that he spoke with several of his neighbors today and submitted a petition containing 5 signatures in addition to his own (attached.)

Mr. Shea further detailed his objections and added some of the following:

- This would contribute to greater density which is a significant issue within a beach community.
- He understands the need for accessibility and a simple temporary ramp to the front door and modifications to the interior would be appropriate.
- In the beach community this kind of change affects everyone.
- It's not right that he heard about this request via mail rather than being told in person.
- He would like the number of variances requested listed.
- It seems to him that the project is about needing more square footage with an ocean view.

Ms. Chapin asked who the abutters are that signed the petition and Mr. Shea said himself and Michael Joyce.

2. Jim Moffett, BPBC Association Manager said approving this would be setting a dangerous precedent if we approve these variances.

Ms. Chapin called for Board questions:

- Ms. Cini asked if the addition will result in more than 35% of the lot being covered.
- Ms. Chapin said currently the coverage is 26% and the addition will make it 34% but clarified that it's a preexisting nonconforming lot that can't be prorated.
- Mr. Pendergrast asked for Ms. Klemmer's interpretation of what a hardship is.
- Ms. Cini asked for clarification of whether the difficulty is a matter of access to/from the porch or moving around on the porch.
- Ms. Craven asked if she is leaving the dormers that are presently there.

Ms. Klemmer explained that her mother can't live in the house full-time as it is now and that she doesn't see any temporary changes that can be made within the house to make it work; she can't make the space wider for her mother. She added this is only a one-story addition.

Mr. Pendergrast asked Mr. Shea about the individuals who were not appraised of this hearing and Mr. Shea responded that many people leave at the end of summer or commute back and forth; he was shocked to only get three weeks notice and said there needs to be more communication.

Ms. Chapin explained that the law in Connecticut requires that public notice be put into a media that circulation covers the area and can be no more than 15 days before the hearing, and no less than 10 days before the hearing, and must be published twice; we are required to notify abutters within 50 feet and utilize the Town's GIS to determine those abutters.

Ms. Cini confirmed with Ms. Klemmer that she is seeking 5 variance setbacks.

Ms. Garrow asked if there was room to make the door wider within the home. She asked about the deck if it's presently located on the back or if that is an addition.

Ms. Cini asked about adding a chair to slide up the staircase and Ms. Klemmer said the staircase would have to be widened.

Ms. Chapin detailed how the ADA does in fact take precedence over Zoning and encourages reasonable allowances.

Mr. Pendergrast asked if Ms. Klemmer could provide documentation proofing the handicap and Ms. Klemmer responded in the affirmative, that it's documented through insurance and she has a handicap sticker..

Ms. Chapin asked if there was any further Public Comment.

Mr. Moffett asked for the Board's interpretation of what a hardship is and Mr. Ventres read the powers and duties of the ZBA into the record.

Mr. Shea said the cost of the addition is prohibitive to just doing the interior remodel.

Veronica Casey of 19 Sea View Avenue asked if the ADA rules apply to people who don't own property and Ms. Chapin said yes.

MOTION (1)

Mr. Pendergrast moved to close the Public Hearing at 6:45 p.m.

Ms. Cini seconded the motion.

Motion carried, 5-0-0.

b. Black Point Zoning Board of Appeals Case 3-2019 Application by Peter & Alice Baril, requesting a variance of setback requirements in order to expand alcove at 17 Sea View Avenue, Niantic, CT. Said parcel appears on the East Lyme Assessor's Map 05.15, Lot 47.

Ms. Chapin called the second Public Hearing of the BPBCA Zoning Board of Appeals to order at 6:45 p.m.

Ms. Chapin read the public notice into the record.

Peter Baril of 17 Sea View came forward and shared some of the following:

- They're seeking a variance from the setbacks, particularly on the eastern side of the property.
- The plot plan submitted shows the indent of the oddly shaped alcove.
- The house was built in 1950 and they've owned it since 2011.
- They're asking to eventually be able to build within that alcove area and make it sound and true with the rest of the east side of the house.
- The exceptional shape is what contributes to the hardship.
- The home is in harmony with the rest of the neighborhood and they have a letter of endorsement from their neighbor on the east side of the property.
- What they're seeking will cause no visual impact.

Ms. Chapin read the letter Mr. Baril referenced into the record (attached.)

Ms. Chapin said she didn't receive any formal correspondence and called for Public Comment.

1. Veronica Casey of 19 Sea View Avenue said she lives next door and has absolutely no objection to this request.
2. Tim Shea of 9 Saltaire Avenue said it's nice to see neighbors supporting a project that was introduced to them by their neighbors themselves rather from by a letter.

Ms. Chapin called for Board questions.

Mr. Pendergrast asked who on earth built the house with an alcove like that which the Board discussed.

Ms. Craven clarified that they're 7 feet, 6 inches from their property line and Mr. Baril said they're 33 feet from their property line to the home next door. She asked if they intend to fill in the area only on the ground level and what their lot coverage will be when completed.

Chris Deferi, the applicant's Architect from Old Lyme, CT and Mr. Baril said the lot coverage will be 1,192 square feet.

Ms. Cini confirmed that the variance is for a stable footprint to eventually construct a new dwelling.

MOTION (2)

Ms. Garrow moved to close the Public Hearing at 7:00 p.m.

Mr. Pendergrast seconded the motion.

Motion carried, 5-0-0.

IV. Regular Meeting

Ms. Chapin called the Regular Meeting to order at 7:00 p.m.

MOTION (1)

Mr. Pendergrast moved to discuss the property at 17 Sea View Avenue first.

Ms. Garrow seconded the motion.

Motion carried, 5-0-0.

b. Black Point Zoning Board of Appeals Case 3-2019 Application by Peter & Alice Baril, requesting a variance of setback requirements in order to expand alcove at 17 Sea View Avenue, Niantic, CT. Said parcel appears on the East Lyme Assessor's Map 05.15, Lot 47.

Ms. Cini said it doesn't seem that this request has any great effect on anyone else but would like it explained exactly how it fits within their guidelines to approve it.

Ms. Chapin observed there is no hardship, this is an oddity and inconvenience.

Mr. Ventres explained these lots were built prior to Zoning and he said when the Applicant approached him, he told them a variance would have to be approved.

The Board further discussed the application and what constitutes an exceptional difficulty.

Ms. Craven said she can relate to this because she has the same kind of home but they chose not to request a variance to fill in the area.

MOTION (2)

Mr. Pendergrast moved to approve the variance request of Peter & Alice Baril to allow for the filling in of the 56 square foot area flush with the level of the adjacent building sides and no taller than the adjacent porch roof.

Ms. Garrow seconded the motion.

Motion failed, 3-2-0.

Yay: Ms. Cini, Ms. Garrow, Mr. Pendergrast.

Nay: Ms. Chapin, Ms. Craven.

Mr. Pendergrast said the request makes sense.

Ms. Chapin said this is challenging since there is no hardship and to be consistent with other rulings they've had in the past, she feels they have to say no. She said after the decision is published in the Newspaper they have 15 days to appeal the decision with the Superior Court.

a Black Point Zoning Board of Appeals Case 2-2019 Application by Elizabeth Klemmer, requesting a variance of setback requirements in order to provide accessible accommodation at 7 Saltaire Road, Niantic, CT. Said parcel appears on the East Lyme Assessor's Map 05.19, Lot 33.

Ms. Chapin observed that this request is also a very challenging topic.

Mr. Pendergrast said hardship seems to be a relative term; the hardship today is purely based on the health and welfare of the occupant.

Ms. Cini said the application has to show there is no reasonable alternative which the Board further discussed.

Ms. Chapin said the turning diameter of a wheelchair is 5 feet

The Board discussed the porch and door width in depth.

Ms. Chapin said she thinks it's a reasonable request to accommodate and noted they're not asking for two-stories; the deck provides more transparency than a roof in terms of density. She added there is no hardship and the onus is on them to prove the accommodation is not reasonable.

Ms. Garrow said this is a situation that has risen today due to a specific situation and wondered if the cost associated with renovating the exterior could instead be spent on the interior to make it accessible. She further added that this is a temporary situation will affect Black Point Beach long-term.

Ms. Craven and Ms. Cini agreed with Ms. Garrow.

Ms. Cini said there are companies that can make narrow staircases work for an automated chair.

MOTION (3)

Ms. Chapin moved to approve the variance request of Elizabeth Klemmer as requested with the stipulation that the decks not be incorporated into the house in the future, without obtaining another variance; setbacks cannot be extended onto the second-story subject to the Zoning Regulations at the time without a separate variance.

Mr. Ventres said you can only approve the plan submitted and you can only grant what is asked for.

MOTION (4)

Mr. Pendergrast moved to deny the Application by Elizabeth Klemmer, requesting a variance of setback requirements in order to provide accessible accommodation at 7 Saltaire Road, Niantic, CT.

Ms. Craven seconded the motion.

Motion carried, 4-1-0.

Yay: Mr. Pendergrast, Ms. Craven, Ms. Cini, Ms. Garrow.

Nay: Ms. Chapin.

Ms. Chapin said she thinks this is a discriminatory act and noted the Applicant has 15 days to appeal the decision with the Superior Court upon publication in the newspaper. She said they could also explore minimizing the renovations.

Ms. Chapin encouraged the Board to review the lawsuit against the Black Point Beach Club where we denied accessibility.

MOTION (5)

Mr. Pendergrast moved to adjourn the Regular Meeting of the Zoning Board of Appeals at 7:48 p.m.

Ms. Garrow seconded the motion.

Motion carried, 5-0-0.

I oppose the 7 Saltaire variance request submitted to the Black Point Zoning Board for review on 8/22/19

Name

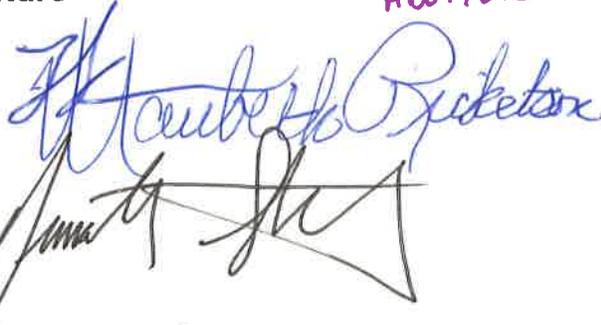
Address

Signature

ABUTTER

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TIM SHEA

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Google Maps Saltaire Ave

10 seaplan → *JOYCE*



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