

**Black Point Beach Club Association Zoning Board of Appeals
March 18th, 2021 Public & Regular Meeting Minutes**

Present:

Colleen Chapin, Chairman

Sally Cini

Marianne Neptin

Anita Schepker

Kim Craven, Alternate (Sat as a Regular Member)

Also Present:

Jim Ventres, ZEO

Will Fountain, BPBCA BOG Member

A Public and Regular Meeting of the Black Point Beach Association Zoning Board of Appeals was held on Thursday March 18th, 2021 at 6:00 p.m. via teleconference.

I. Call to Order

Chairman Chapin called the Public Hearing of the BPBCA Zoning Board of Appeals to order at 6:02 p.m. and noted the teleconference is being recorded in its entirety and in accordance with the requirements of executive order 7B, issued by Governor Lamont, which allows for public meetings to held over teleconference.

II. Attendance and Establishment of Quorum

Ms. Chapin introduced the Commission members and noted a quorum was present; Kim Craven, Alternate, will be sitting as a regular Member this evening in order to reach this quorum. Ms. Chapin noted a meeting notification was posted a couple of times on the Black Point Beach Club website, posted on the Black Point Beach Club facebook page, and emailed to the Black Point Beach Club membership who have registered their email addresses with the Association.

Ms. Chapin stated that any parties that may be interested in the position of zoning alternate may contact her after this hearing.

III. Public Hearing

- a. Black Point Beach Club Zoning Board of Appeals Case 1-2021 Application of Frank and Kathleen Deknis, request for a variance of setback requirements at 32 Whitecap Road, Niantic, CT. Said parcel appears on the East Lyme Assessor's map 05.14, lot 47.**

Ms. Chapin detailed how Zoom works for those who may be unfamiliar with it or attending the meeting via telephone, and she noted the following:

- Notification mailings sent to abutting property owners within 50 feet of 32 Whitecap Road, as determined by the East Lyme GIS Map.

- In accordance with Governor Lamont's executive orders this meeting is being recorded in its entirety and will be posted to the Black Point website within 7 days.
- Meeting minutes will be a summary derived from the Zoom recording.

Ms. Schepker noted that the Governor's executive orders have been extended through April 20th, 2021, and there is some speculation by the legislature that given the pandemic, it will be extended again.

Ms. Chapin reminded those in attendance, what constitutes a zoning hardship and turned the meeting over to the Deknis', so that they could detail their variance request. Mr. Deknis said some of the following:

- They recently purchased the house located at 32 Whitecap and the garage doesn't accommodate the two vehicles they have.
- There is no way to walk into the garage when it's closed and he had to push one of their vehicles in sideways, on dollies.
- They lost a torsion spring a couple of weeks ago and he had to climb into one car and then climb into the other, in order to reach the garage door; you couldn't get inside any other way besides traveling over the cars, or through the cars.
- It's tight in the garage- there's about 2 inches left on the side of one car, and an inch and ½ left on the side of the other car.
- The garage is tiny and disproportionate with what garages are built as of today.
- The present regulations will allow them to extend a nonconforming structure by 20% of its length as long as it doesn't impact the front or back boundaries.
- With the extension they're asking for the regulations would permit them to do 3 feet, 8 inches of extension and they'd like to go to 6 feet to give them enough room to get the cars inside as well as permit minimal storage of summer furniture and items of that nature.
- They're asking for a variance of 2 feet, 4 inches- going back it would still leave 61 feet from that line to the rear property line, and will not go into any of the other setbacks.
- The actual addition is more of a shed than an extension of the old garage and the house has two roof lines, so the second roof line of the garage would blend in well with the house.

Ms. Chapin reminded everyone that the application materials were posted and made available on the Black Point website and asked Jim Ventres, Black Point ZEO, for his comments. Mr. Ventres said he told them that in order to obtain the extra 2 feet, 4 inches they had to get a variance and added that their calculations are correct. He noted he has legislative authority for the 3 feet, 8 inches but not the rest of what they're requesting.

Ms. Chapin said she received letters in support of the application and she read them into the record:

1. Letter from Rick & Lil Diachenko (see meeting attachment.)
2. Letter from Dan & Carol Lemieux (see meeting attachment.)

3. Letter from Bob Shea (see meeting attachment.)

Ms. Chapin called for Public Comment and there was none.

Ms. Chapin called for Board questions and some of the following was discussed:

- Ms. Schepker said she understands exactly what the applicant is doing and why, but she wants to make a point which Black Pointers need to understand; a hardship is not a question of convenience or inconvenience, but a hardship to the flow of the land.
- She said she appreciates the letters of support from the neighbors but they're not actually speaking of what a zoning hardship actually is, and she wants to clarify this for the record.
- Ms. Schepker said looking at their site plan, the only way they can go is closer to the house, which is not a good plan, or back.
- Her only question is about the 2 feet 4 inches being requested and Mr. Deknis said the space will still be tight but if they went further back it wouldn't be aesthetically pleasing.
- Kim Craven asked about the additional roof line for the garage and Mr. Deknis explained its purpose is to provide a covered walkway but the roof line itself is not actually part of the zba application.
- Ms. Chapin said it's adding 6 feet to the back of the garage and Ms. Schepker said it's not changing the lot line, but going straight back.
- Ms. Craven said it may be going straight back but it's still close to the south side line.
- Ms. Schepker explained that its because it's already there; it's an existing nonconforming grandfathered structure.
- Ms. Neptin said she had a hard time understanding the diagram marked car 1 and car 2.
- Mr. Deknis said it's just for visualization purposes and to understand the garage utilization once the extension is done.
- He said one car would be parked further back to give access to the door while the other would be parked closer to the overhead door to accommodate storage behind it.
- Ms. Cini said her home is only two houses away and she is amazed how small their garage is.
- She said they just answered the question, how two cars would fit by extending the length.
- Ms. Chapin asked what the distance is between the side of the garage and that lot line and Mr. Deknis replied somewhere around 3 feet, perhaps a little less.
- Ms. Chapin said when she looks at the zoning regulations, section 7 and paragraph 11, it states that (for nonconforming) you can't enlarge an existing structure but that one of the exceptions is extending the length provided it doesn't exceed 20% of the structure, or extend into the front or rear side setbacks.
- She added that it says none of the foregoing can result in a nonconformity being constructed no closer than 5 feet from the property line, and asked Mr. Ventres if this extension is in the rear side yard setback and less than 5 feet from the rear side lot line, and therefore actually a variance request for 6 feet.

- Mr. Ventres said he came in through Sunset Road and mistakenly believed the side door was actually the front door.
- Ms. Schepker said she doesn't think it's necessarily fatal to their argument but it's important to note for clarification purposes.
- Mr. Ventres said if their formal front door is on Whitecap we should amend the request to say that they're looking for a variance of the rear yard section where the 6 feet is depicted on the plans.
- Ms. Cini asked exactly what the distance is from the garage to the neighbor's line and Mr. Ventres said it's slightly over 3 feet.
- Ms. Chapin said she appreciates their creativity and asked if they've considered widening the garage, so they could more easily and safely move inside.
- Mr. Deknis said a wider door would not solve the problem because he needs more depth and Ms. Chapin asked about moving the wall closest to the house 5 feet.
- Ms. Deknis said you still wouldn't be able to close the garage door and it's the wrong direction; from the front of the garage to the back of the garage is the problem, not side to side.

Ms. Chapin called again for public comment and Margaret Casey said they could see about changing the formal address, so their side yard becomes the front yard and vice versa or half the garage could be longer, specifically the side that is closest to the house, and that way the side that is nonconforming doesn't become more so.

Ms. Chapin said they would still be seeking a variance but with nonconformities they try to limit the amount as much as possible.

Ms. Cini wondered if there is some hardship involved in the sense that the garage was supposed to fit two cars when it really is more like a shed than a garage.

Ms. Schepker said that while she likes Ms. Casey's creativity, as she looks at the plans, she has to agree with the Deknis' and doesn't think that would work.

Ms. Craven wondered if the address could legally be changed and Ms. Chapin said that's a very expensive and difficult process.

Ms. Casey said they have to distinguish between a personal hardship and a zoning hardship.

There were no further questions or comments.

MOTION (1)

Ms. Chapin moved to close the public hearing at 7:00 p.m.

Ms. Cini seconded the motion.

Motion carried, 5-0-0.

IV. Regular Meeting

Ms. Chapin called the Regular Meeting to order at 7:01 p.m.

Ms. Craven asked if the request has been amended and Ms. Chapin said yes, the variance request is now to extend the garage by 6 feet.

Ms. Schepker said when you actually look at that property, the best utilization of space happens to be the plan the applicant put together; the fact that they're now asking for more than 3 feet is not their fault and going sideways doesn't take care of their problem. She said in keeping with the spirit of the property she thinks going back makes the most sense.

Ms. Chapin pointed out that on the plot plan submitted with this application there is actually an addition off the rear of the garage; the plan was completed when the house was built and prior to the Deknis' purchasing their home. She showed the attendees the section on the plan illustrating the planned garage addition, and noted this could potentially change the variance request to 1 foot.

Ms. Craven asked if that bump out wasn't built because it wasn't allowed and Ms. Chapin said she thinks when they were planning the construction of their house, that garage had an addition.

Ms. Schepker said given the evidence the request of the property owners is much smaller than originally thought.

Ms. Chapin said the variance request is still for 6 feet, this is merely an observation that a great amount of that 6 feet was originally accounted for in the planned garage addition; this variance request is reestablishing what was already there.

The Board further discussed the application and the appropriate wording for a motion.

MOTION (1)

Ms. Chapin moved to grant the Application of Frank and Kathleen Deknis, and grant a variance to extend the garage out 6 feet along the rear lot line.

Ms. Schepker seconded the motion.

Vote:

Yay-

- 1. Ms. Schepker voted to approve the variance going back 6 feet because there is documented evidence of a structure there before, and the variance request is not significant given that information.**
- 2. Ms. Cini voted to grant the variance because it's not a significant length being requested and believes it's a reasonable zoning request.**

3. **Ms. Craven voted to grant the variance because of the dotted line on the survey plan which depicts an existing structure in the majority of that space.**
4. **Ms. Neptin voted to grant the variance due to the uniqueness of the lot.**

Nay-

1. **Ms. Chapin voted to deny the variance request; she sees a personal hardship but not a zoning hardship.**

Motion carried, 4-1-0.

Ms. Chapin told Mr. and Mrs. Deknis that their variance request is granted and they will work with Mr. Ventres on all the necessary permits and processing with the Town.

V. Adjournment

MOTION (2)

Ms. Chapin moved to adjourn the Regular Meeting of the Zoning Board of Appeals at 7:21 p.m.

Ms. Craven seconded the motion.

Motion carried, 5-0-0.

Respectfully Submitted,

Brooke Stevens,
Recording Secretary