

**Black Point Beach Club Association Zoning Commission
October 9th, 2021 Public Hearing Meeting Minutes**

Present:

Jim Fox, Chairman
Jim Allen, Secretary
John Horoho
John Kycia
Charles Bruce, Alternate (Sat as a Regular Member)
Betsy Klemmer, Alternate
Joseph Katzbek, Alternate

Also Present:

Jim Ventres, Zoning Enforcement Official
Steven Beauchene, Board of Governors Liaison

Absent:

Matt Peary

A Public Hearing of the Black Point Beach Club Zoning Commission was held on Saturday October 9th, 2021 at 9:00 a.m. at the Black Point Clubhouse located at 6 Sunset Avenue, Niantic, CT.

I. Call to Order

Mr. Fox called the Public Hearing of the Black Point Beach Association Zoning Commission to order at 9:02 a.m.

II. Attendance and Establishment of Quorum

Mr. Fox sat Mr. Bruce as a Regular Member for the morning, introduced the Commission Members, and noted a quorum was present.

Mr. Fox cited the public hearing notice dated September 11th, 2021 that was published in the New London Day and posted on the Black Point Beach Club Website. Mr. Fox read the meeting notice into the record.

III. Proposed Regulation Amendments

1. Nonconforming Buildings & Lots

Mr. Ventres said when they provided a sliding scale for non conforming lots based on their width last year, they neglected to consider lots that have a narrow depth and this is an effort to address that as much as they can. He explained for the record how this is a sliding scale from under 40 feet, 40 feet to 49 feet, 50 feet to 59 feet, and from 60 feet to 65 feet; the corresponding diagrams (attached) merely provide a visual aid and demonstrate maximum coverage. Mr. Ventres noted this should supply some flexibility for narrow oddly shaped lots, and the sliding scale is the same concept from last year.

Mr. Fox asked what they would likely be looking at in terms of actual square footage of the home in the case of smaller lots that are 39 feet or 45 feet. Mr. Ventres replied they could have up to two stories and explained they're gaining a lot; If it's a real narrow lot they're gaining an additional 10 feet on the back, and they should be able to build a standard or close to standard size cottage and/or single family home. He clarified that they're not talking 3,000 or 4,000 square feet and that when a contractor sees an aged 600-800 square feet cottage they may decide it's cheaper to knock it down, rather than try to build it to code, and this will allow some flexibility.

Mr. Fox observed that this cleans up the regulations a bit and addresses a lot size previously overlooked but that it's almost impossible to have a perfect regulation.

Mr. Ventres said he was sent no emails or letters regarding this regulation change but did receive some correspondence from Mark Zamarka, the Association Attorney:

"The amendments will apply equally to all similarity situated lots within the Association, is consistent with the overall development plan, and may eliminate some non conformities... the proposed amendments comply with the applicable Statutes that are within the purview of the association Zoning Commission."

Mr. Fox called for Public Comment.

1. Colleen Chapin of 53 East Shore Drive said some of the following:
 - She's pleased that they listened to some of her previous comments and realized they were neglecting 15% of the properties in the Association with their adjustments, last year and thanked the Commission for that.
 - The Commission spends a lot of time considering these zoning regulations and how they can best provide appropriate flexibility, for all property owners.
 - It's a value judgment, to make sure that these properties have the appropriate value, they're getting taxed heavily regardless, so why restrict them?
 - Zoning is not two dimensional and there are other elements that are really supposed to be considered in accordance with their own purpose statement.
 - Things like preventing overcrowding of land, providing adequate light and air, avoiding undue concentration of the population.
 - She wants to remind them there are other facets here and as they go down the road of reducing setbacks in the largest, most concentrated community.
 - In the long term, they may actually be reducing all of their property values, and hope they will think about that.
 - She was hoping the Plan of Conservation and Development would happen this year so that they could utilize the thoughts of the community as well as understand what the overall values are.
 - She's only one voice but she knows that there is a lot of concern about increasing density which these setbacks do.
 - She's also hoping that they can be really conscious about all dimensions and what effect decreasing setbacks will have over time.

- A random example is that modern low E, energy, Windows will damage vinyl siding located within 30 feet, and all the new houses seem to have this plastic siding on them, as well as these energy efficient windows, and we're allowing the buildings to be less than 30 feet from each other, so we're enabling neighbors damaging neighboring properties.

Ms. Chapin added that in regards to this Section, back on June 16th she pointed out that there was the ability to extend the nonconformity, 20%, but there's no limit on that so it implies you could do that repeatedly until you achieve the maximum 35% coverage. She said during this meeting, it was discussed how it's only to be a one time event and this clarification doesn't seem to have made it into the regulations, or the proposed changes for this year.

Mr. Ventres said that since the entire section was published in the Public Hearing notice it would be appropriate to amend any language and doubly so in this case, since the amendment would reflect the initial intent.

Mr. Ventres said they also discussed how the submittal of an A2 Survey with construction applications be at the discretion of the Zoning Enforcement Officer since it may not be needed for sheds and smaller structures of that nature. He added that making this change would match the permit language.

The Commission further discussed the A2 Survey requirement language and ultimately Mr. Ventres suggested adding "*the submittal of an A2 Survey for minor accessory structures 160 square feet or less in size will be at the discretion of the ZEO.*"

2. Accessory Apartments

Mr. Ventres explained Public Act 21-29 and noted some of the following:

- The Zoning Commission shall either accept the accessory apartments, as part of their regulation or if they vote to opt during this Public Hearing by having at least a two thirds vote of the commission, it's required that this is followed by a two thirds vote by the Board of Governors.
- It's a proposal for conforming lots, with one or two bedrooms, which is part of the Statute.
- The net floor area is not less than 30% of the principal dwelling or 1,000 square feet, whichever is less.
- It can only have up to two bedrooms and only one additional parking space can be required.
- It can be attached, detached, or contained within the existing structure.
- This regulation as proposed comes with what he calls "the Madison caveat."
- Madison for decades has been allowing accessory apartments, but not short term rentals, Airbnbs, and all of those components.
- He has provided what would be an accessory apartment application and affidavit (attached.)
- There's also a section where there's a definition for "accessory apartment" and a definition for "short term rentals."
- If this is approved, you'd have to include "accessory apartments" as a permitted use in this Section.

Mr. Ventres noted the communication they received from the Association Attorney suggested adding *“a dwelling unit that is located on the lot or within a single-family home, is **subject to the standards set forth in Section IV 9.**”*

Ms. Chapin said she has some administrative comments:

- This section says it is going to be VI. #9 but the existing VI. in the Zoning Regulations discusses soil erosion control.
- There's language in here that says that the exterior materials “shall be in harmony” and incredibly subjective language.
- She likes the enabling legislation that allows the zoning control over architectural design to be pointed out and thinks this could be problematic in the future.
- She couldn't find in our existing regulations anything about parking requirements but these regulations specifically now say that you need a minimum of three parking spaces, and they must be paved.
- An inordinate amount of this community has no paved parking on their property at this time.
- This language might not be appropriate for this community.
- And there's the issue of extra paving in the face of climate control.

Mr. Ventres said he can clean up a few things and that “Section VI.” is a typo, it should read “Section V.”, and the regulation can say that parking shall be paved or have an all weather gravel surface.

Mr. Ventres discussed the proposed regulation and said in terms of architectural design the intent of the language is to try to ensure that whatever materials are being used is similar to the existing home.

Ms. Chapin said you can't make that subjective call and cautioned that they be careful.

Mr. Bruce asked about leases and how one might enforce the prohibition of airbnb rentals.

The Commission discussed the use of an affidavit recorded on the Land Records, as a means of enforcing rental use.

Mr. Kycia asked about the requirements for a year round structure and Mr. Ventres explained that the building code no longer differentiates between the two.

The Commission further discussed accessory apartments and Mr. Venres clarified that if the Commission doesn't act this becomes legal with no controls.

Ms. Chapin offered some of the following comments:

- There's a couple other things in the new state regulations that affect this community that haven't been brought up.
- One is the prohibition against denying a childcare facility in your home.
- And also, cottage food in this case being the low bar to basically allow you to bake cakes and cookies, and sell them from your house.
- Those two are in the state regulations and as of now, you can't prevent them, but our home occupation section actually does prevent them so there might be some adjustments that may need to be considered.

MOTION (1)

Mr. Allen moved to adjourn the Black Point Beach Club Association Zoning Commission Public Hearing at 9:46 a.m.

Mr. Horoho seconded the motion.

Motion carried, 5-0-0.

Respectfully Submitted,

Brooke Stevens

Recording Secretary