

**BLACK POINT BEACH CLUB - ZONING BOARD OF APPEALS
PUBLIC HEARING AND REGULAR MEETING
Saturday, NOVEMBER 16th, 2013
MINUTES**

A Public Hearing and Regular Meeting of the Black Point Beach Club Zoning Board of Appeals was held on Saturday morning, November 16, 2013 at 10 AM in the Black Point Beach Association Clubhouse located on 6 Sunset Avenue in Niantic, CT.

PRESENT: Steve Fogarty, Chairman, Joyce Wojtas, Sally Cini, Paul Pendergast,
John Sullivan, Alternate

ALSO PRESENT: Cheryl Colangelo & Ray Lillis, Owners/Applicants
Attorney Theodore Harris, Representing the Applicant
Marianne Neptin, Alternate

ABSENT: Anita Schepter, Alternate

1. Call Public Hearing to Order

Chairman Fogarty called the Public Hearing to order at 10 AM.

2. Read Notice of Public Hearing

Mr. Fogarty, read the Notice of Public Hearing:

Case No. 1-2013:

Application of Cheryl Colangelo and Raymond Lillis for a variance of the Black Point Zoning Regulations Section V 1A to allow an expansion of non-conformity in connection with a renovation of their non-conforming dwelling at 39 Whitecap Road, Niantic, CT. The property is further identified on the East Lyme Assessor's Map 5.14, Lot 39.

Mr. Fogarty said that this notice was published in The New London Day and that the certificates of mailing to the abutters have been submitted (**Exhibit 1**).

3. Introduction of Zoning Board of Appeals members

Mr. Fogarty asked the Board Members to identify themselves for the audience. The members did so.

4. Poll ZBA Members for conflicts of interest –

Mr. Fogarty polled the Board members for any conflicts of interest – hearing none – he noted to the applicant and the audience that they would need four votes in favor for the appeal to be granted and that they had a full Board of five members seated.

Mr. Fogarty then asked the applicant or their representative to present the case.

Attorney Theodore Harris, 351 Main Street presented **Exhibit 2** – pictures of the house in relation to the abutting properties; **Exhibit 3** – a letter from a neighbor expressing no objection and **Exhibit 4** – plans showing the elevation proposed in comparison to what is allowed. He said that the request is for a side yard variance to allow for a full vertical addition to the single family home. The lot is 4,000 sq. ft. which is pre-existing, non-conforming. They also do not comply with the frontage setbacks. Applying the current regulations to the pre-existing parcel create the hardship by significantly diminishing the usable portions of

the property. Building a second floor in compliance with the regulations would create a 9' wide second floor that would be aesthetically displeasing and not allow for the necessary space. The application of the side yard setbacks causes the second story to be 'off balance' as the house is off center on the lot and only 4.9' away from one side. The proposed addition would allow for an additional bedroom and bathroom and storage area. The requested variance is 10.1' on the westerly side yard and 4.2' and the easterly side yard. He continued that an unusual hardship is not the only basis for granting a variance – he cited the Stillman v. Town of Redding case relating to a septic system and well on a small lot where the variance was granted as it caused undue hardship on the proposed addition to the house.

(Note: 10:13 AM – Marianne Neptin, Alternate joined the meeting)

Mr. Sullivan asked what year the Stillman case was heard.

Attorney Harris said 1991. He added that in the Stillman case that the people later went back for a vertical/horizontal variance also and that was also granted.

Mr. Sullivan said that one of the issues in the Stillman case is that they were on septic and well and that we do not have that here as we are on public water and sewer.

Mr. Harris said that he is applying the Stillman principles to this case as they have a very minimal building line and it would cause them to have to build a bowling alley addition. They are not increasing the height beyond what is normally allowed and he said that they would generally be consistent with the other homes in the neighborhood. He added that he would say that it would be consistent with the public health and safety and more consistent than those with an ugly roof line. They are also adding storage so the house could be used year round. He asserted that it meets the standards and that the variance is justified.

Mr. Sullivan said to Mr. Harris that he did not speak to the land in the back of the house where they have room to put an addition and to follow the required setbacks without expanding a non-conformity.

Mr. Harris said that in the back that the setbacks would be met but they would still have a very long and narrow addition and it would not get them the space that they need.

Mr. Sullivan asked about that space.

Mr. Harris said that they would still only have a 10' addition out the back.

Mr. Sullivan asked what additional square footage they would end up with by following the setbacks.

Mr. Harris and Mr. Bonelli said that it would be 180 sq. ft. (10' x 18').

Mr. Harris added that it would not allow for the two full bedrooms, full bath and storage space that they need.

Ms. Wojtas asked if the existing house is around 24' wide by 44' in length and one story.

Mr. Harris said yes.

Mr. Pendergast asked if the house is on a slab or if it has or would have a basement.

Mr. Harris said that it is not on a slab and that there is no basement and one is not planned so they would not gain any space there for storage.

Mr. Sullivan asked if the second story would exceed the base floor.

Mr. Harris said no.

Mr. Fogarty asked if the Board members had any further questions –

Hearing none –

Mr. Fogarty called for anyone from the public who wished to speak regarding this application -

Cheryl Colangelo, Owner 39 Whitecap said that she had a letter from her doctor noting that she has a medical condition that prohibits her from going to the attic with storage items and that she cannot use a pull-down staircase and must have a regular staircase and this would allow for that. She added that it is hard with only four closets to have a full time life here.

Richard Diachenko, 25 Sunrise said that they are direct neighbors and they are fine with the proposal and they think that they should have something useful to live in and to retire to. (Letter was previously submitted and is attached)

Ray Lillis, Owner 39 Whitecap said that he has been coming here for the summers for the past 40 years and that he raised his 2 children in a raised ranch in New York who are now on their own. They are looking for

the possibility of having storage space and to be able to stay here full time and they have a lot of support for this project from their current neighbors.

Pat Tomaino, 26 Indianola said that she is in support of this request.

Dan Lemieux, 26 Whitecap said that he lives across the street and supports this as it is a matter of aesthetics and what he would be looking at and that he would not like looking at something that looked like a 'chimney'. (Letter was previously submitted and is attached)

Ann Farley, 39 Seacrest said that she is in favor of this and that people should not have to fight for medical things and that this is a retirement community and that people have to accommodate it.

Mr. Fogarty asked if there were any further questions from the panel –

Mr. Sullivan said to Mr. Harris – that he has used the phrase 'aesthetics' several times and that it is his understanding from the State Statutes that 'aesthetics' has no standing here.

Mr. Harris said that was correct but one of the statutory goals of zoning is to preserve property values and an ugly roofline would have an impact.

Mr. Fogarty asked if there were any further comments –
Hearing none –

****MOTION (1)**

Mr. Pendergast moved to close the Regular Meeting for Case 1-2013.

Ms. Cini seconded the motion.

Vote: 5 – 0 – 0. Motion passed.

Mr. Fogarty closed this public hearing at 10:42 AM.

REGULAR MEETING

Mr. Fogarty opened the Regular Meeting for Case No. 1-2013 at 10:43 AM.

Case No. 1-2013:

Application of Cheryl Colangelo and Raymond Lillis for a variance of the Black Point Zoning Regulations Section V 1A to allow an expansion of non-conformity in connection with a renovation of their non-conforming dwelling at 39 Whitecap Road, Niantic, CT. The property is further identified on the East Lyme Assessor's Map 5.14, Lot 39.

Mr. Fogarty noted that they could take no further public comment on the application.
He called for discussion or a motion –

Mr. Sullivan said that he had to say for the record that there is a tendency for people to speak to how long they either have lived here or have been coming here and that he does not think that longevity should determine the vote. If they do not agree with the zoning regulations, the forum in which to address that is with the Zoning Commission.

Mr. Pendergast said that he thinks that it is based on the usefulness of the property and not longevity.

Mr. Sullivan said that he has heard several people cite how long they have been coming here as a reason and that it is something that they can discuss after the meeting.

Ms. Cini agreed with Mr. Pendergast that people seem to always talk about how long that they have been here and that nothing is meant by it – it is just discussion.

****MOTION (2)**

Ms. Wojtas moved to approve the Application of Cheryl Colangelo and Raymond Lillis for a variance of the Black Point Zoning Regulations Section V 1A to allow an expansion of non-conformity (10.1' on the westerly side yard and 4.2' and the easterly side yard) in connection with a renovation of their non-conforming dwelling at 39 Whitecap Road, Niantic, CT. The property is further identified on the East Lyme Assessor's Map 5.14, Lot 39.

Mr. Pendergast seconded the motion.

Ms. Wojtas said that the hardship is with the property itself and an existing non-conforming lot and house. Mr. Fogarty called for a vote on the motion.

Vote: 5 – 0 – 0. Motion to APPROVE passed.

Mr. Pendergast said that it felt good to him to vote for this regardless of what others have in the past told him to do with regard to variances. It has always bothered him that when he interviewed for the ZBA that he was advised to deny most requests and that this had freed him from his disagreement with that philosophy.

There being no other business before the BP Zoning Board of Appeals Mr. Fogarty called for a motion to adjourn the meeting.

ADJOURNMENT

****MOTION (3)**

Mr. Pendergast moved to adjourn the November 16, 2013 meeting of the Black Point Beach Club Zoning Board of Appeals at 10:58 AM.

Ms. Wojtas seconded the motion.

Vote: 5 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary

**BLACK POINT BEACH CLUB ASSOCIATION
APPLICATION TO THE BLACK POINT BEACH CLUB
ZONING BOARD OF APPEALS
RE: CHERYL COLANGELO AND RAYMOND J. LILLIS
39 WHITECAP ROAD, NIAN TIC**

The parcel in question contains 4,000 s.f and predates current Regulations, which require 8,000 s.f. and hence, is pre-existing, non-conforming as to the current Regulations. Moreover, given the fact that the parcel in question is non-conforming as to frontage, the Application of side yards to the property leaves a building envelope of only ten (10) feet in width. The Application of the current Regulations to the pre-existing parcel create the hardship by significantly diminishing the usable portions of the property.

The current premises is substantially located on the single floor, with attic storage area. Surrounding properties typically contain two stories; however, due to the limited width allowed by current setbacks, any expansion of habitable space on the second floor would be impracticable as to use, and aesthetically unattractive, as evidenced in the plan submitted. The Application of the side yards is exacerbated by the pre-existing location of the home, which is off center on the lot.

Accordingly, the hardship imposed on this property results from the confluence of the pre-existing, non-conforming lot, as well as the placement of the home on that lot. The requested variances are the minimum necessary to renovate the home consistent with others in the area. This is more than evidenced by the fact that the property currently is well below the existing height requirements of the district, and even after renovations, would still be below the maximum height and the overall height of surrounding residences. As the renovations would be consistent with other homes in the area, it would not negatively impact such homes, nor the comprehensive plan for Zoning within the Association.

Accordingly, the following variances are requested:

Section V 1A - Dimensional requirements

Westerly side yard	10.1'
Easterly side yard	4.2'

The purpose of each of the variance requests is to allow reconstruction of the home and completion of living space on the second story, as detailed in the architectural plan submitted with this Application.

**BLACK POINT BEACH CLUB ASSOCIATION
APPLICATION TO THE BLACK POINT BEACH CLUB
ZONING BOARD OF APPEALS
RE: CHERYL COLANGELO AND RAYMOND J. LILLIS
39 WHITECAP ROAD, NIANTIC**

5. Properties within fifty (50) feet of any lot line:

Maureen Dunn Fox, Trust	43 Indianola Road, Niantic, CT 06357
Elizabeth O'Brien, Trust	121 Forest Drive, Newington, CT 06111
Lillian Diachenko	25 Sunrise Avenue, Niantic, CT 06357
Harriet P. Shea, Trust	76 Glenbrook Road, West Hartford, CT 06107
Jean M. Shea, Trust	42 Jameswell Road, Wethersfield, CT 06109
Daniel J. & Carol Lemieux	243 Windmill Hill, Wethersfield, CT 06109
James C. & Carmea M. Mastria	15 Soobitsky Road, Higganum, CT 06441
Eduardo & Rosa Martone	350 Brownstone Ridge, Meriden, CT 06451
David F. & Susan Izbicki	42 Whitecap Road, Niantic, CT 06357

STEVENS, HARRIS, GUERNSEY & QUILLIAM, P.C.

ATTORNEYS AND COUNSELORS AT LAW

351 MAIN STREET

P. O. DRAWER 660

NIANTIC, CONNECTICUT 06357

RONALD F. STEVENS
THEODORE A. HARRIS
PAUL M. GUERNSEY
PAIGE STEVENS QUILLIAM

MEGAN C. FLAHERTY

TEL (860) 739-6906
FAX (860) 739-2997
E-MAIL shg-realestate@snet.net

October 21, 2013

Black Point Zoning Board of Appeals
Ned Cosgrove, Interim Zoning Enforcement Officer
P.O. Box 715
Niantic, CT 06357

RE: 39 Whitecap Road, Niantic, CT

Dear Mr. Cosgrove;

Enclosed please find the Revised Architecturals pertaining to the above-reference matter.
My apologies for the error in the prior items.

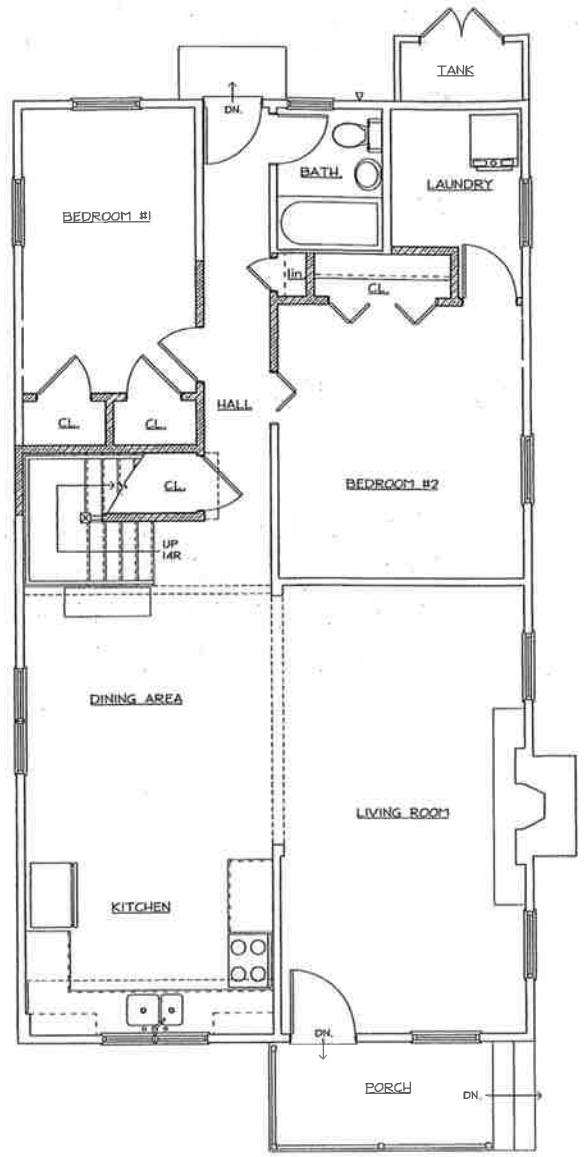
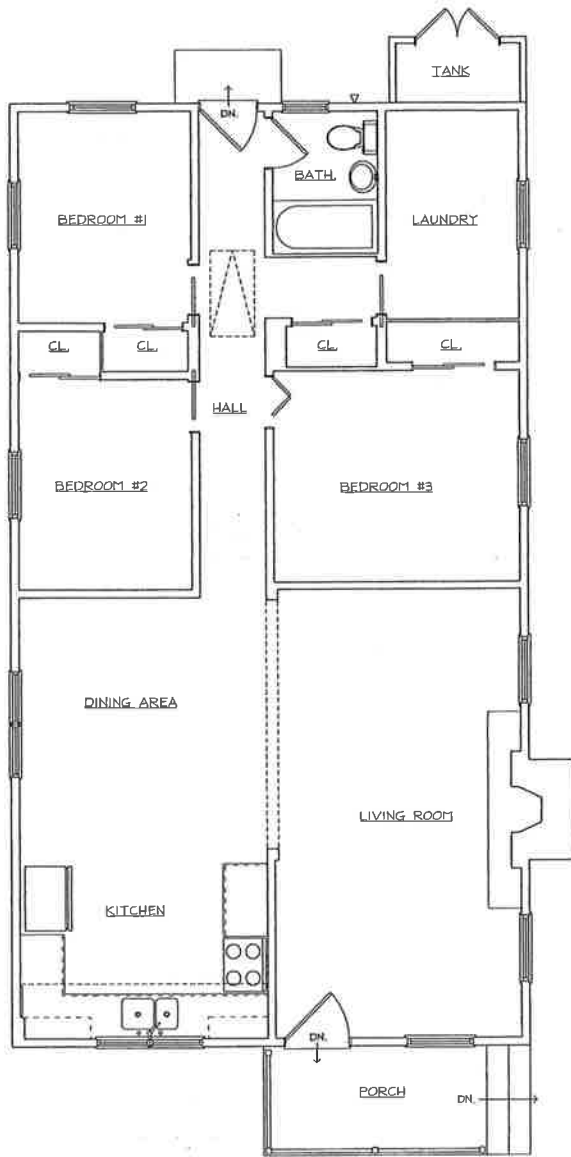
Thank you for your assistance in this matter.

Yours very truly,

Theodore A. Harris
Stevens, Harris, Guernsey & Quilliam, P.C.

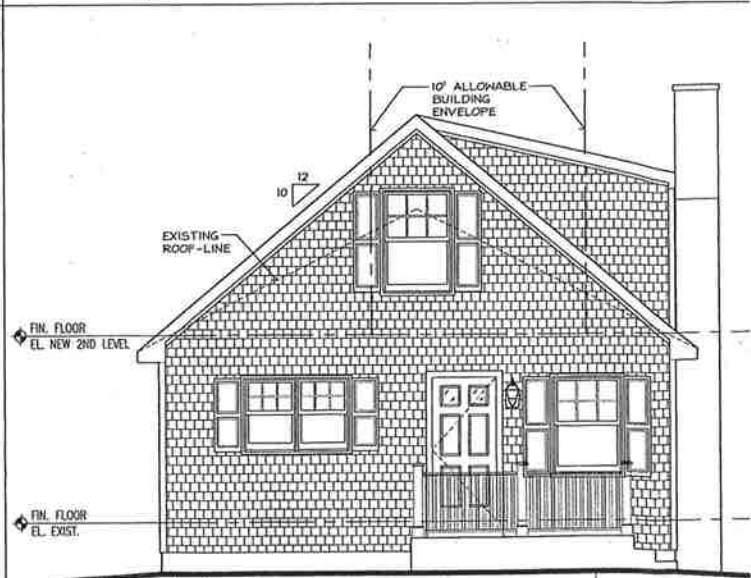
Exhibit 3

11/10/13 Submitted



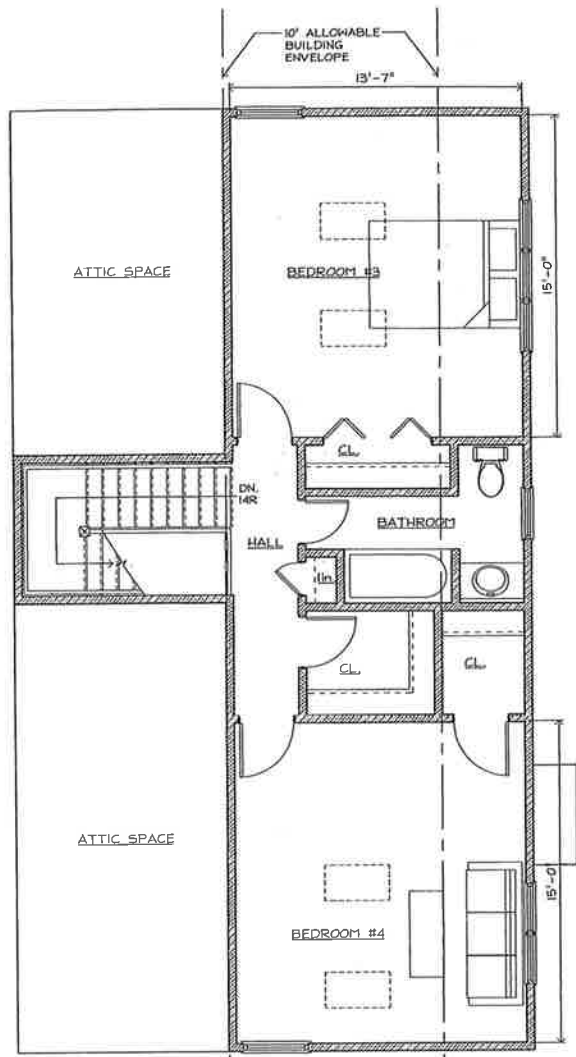
EXISTING FLOOR PLAN

PROPOSED MAIN LEVEL PLAN

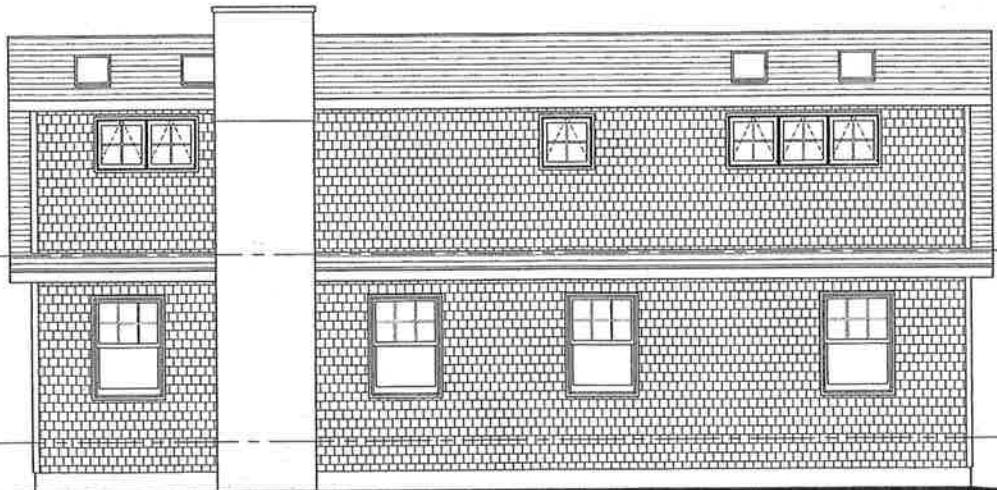


"ZONING COMPLIANT" ELEVATION

PROPOSED FRONT ELEVATION



PROPOSED UPPER LEVEL PLAN



PROPOSED SIDE (EAST) ELEVATION

THE LILLIS/COLANGELO RESIDENCE

39 WHITE CAP ROAD
 NIAANTIC, CONNECTICUT

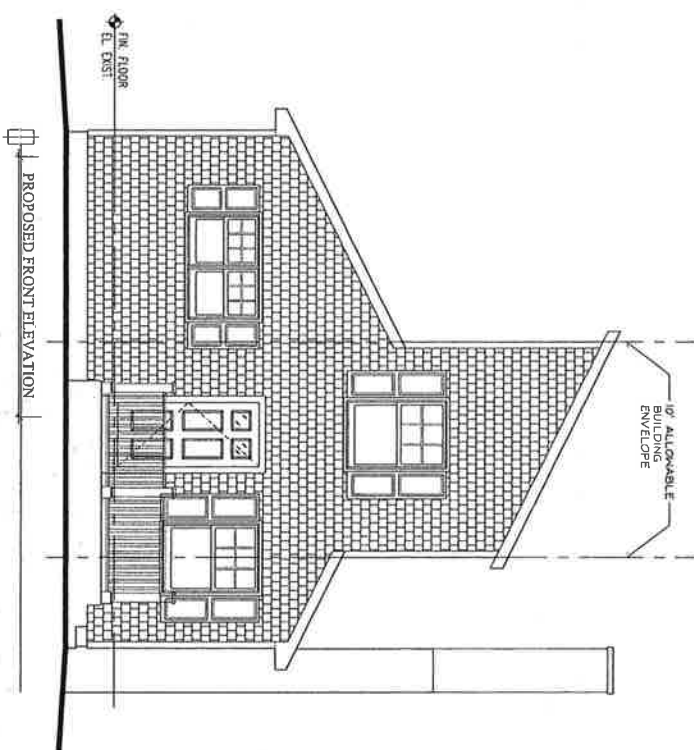
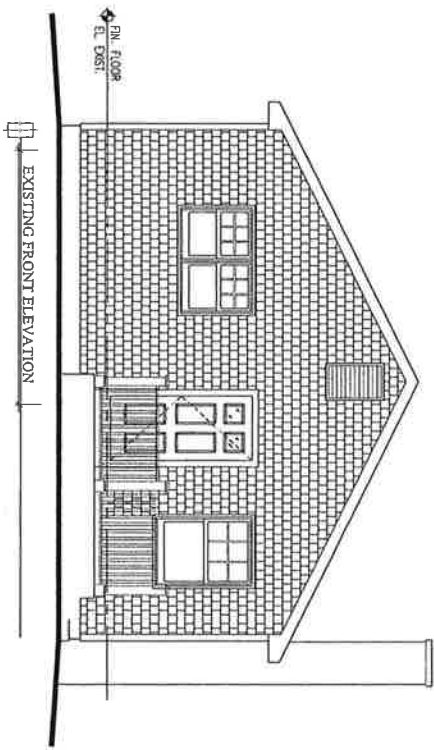
DeFIORE ARCHITECTS
 CHRISTOPHER DeFIORE, R.A.
 16 MAYWOOD DRIVE OLD LYME CT
 P. (860) 478-0833 F. (860) 594-8216
 cdef@defiorearchitects.com

DWG. TITLE
 SCHEMATIC DESIGN:
 FLOOR PLANS &
 EXTERIOR ELEVATIONS II

DATE: 08/29/13
 SCALE: 1/8" = 1'-0"

SHEET No.

A1



Allowable addition in accordance with Regulations

DATE: 08/04/10
 SHEET No. A1

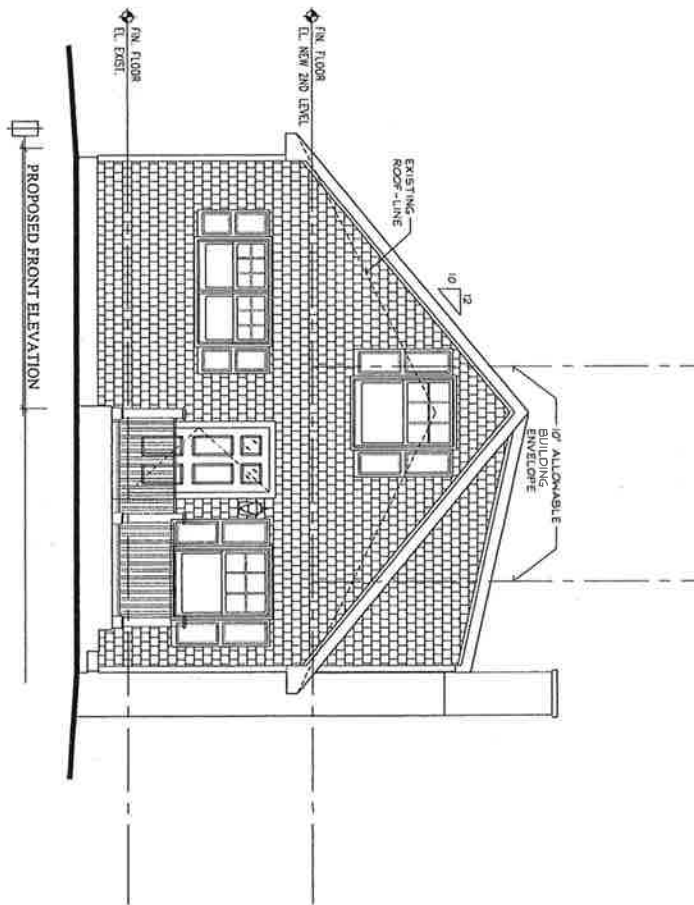
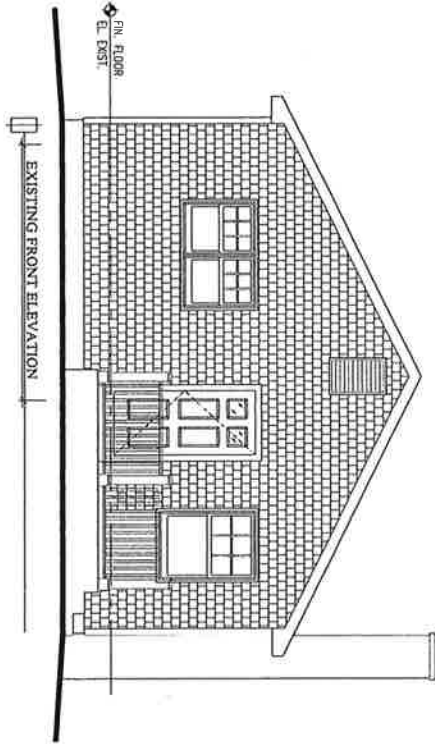
DRG TITLE: SCHEMATIC DESIGN: EXISTING & PROPOSED EXTERIOR ELEVATIONS I



CHRISTOPHER DeFIORE, RA
 39 WHITE CAP ROAD
 NIAHTIC, CONNECTICUT
 P. 860.753.1300 F. 860.753.1301
 www.deforearchitects.com

THE LILLIS/COLANGELO RESIDENCE

39 WHITE CAP ROAD
 NIAHTIC, CONNECTICUT



Addition based on proposed Variance

A2

DWG TITLE
SCHEMATIC DESIGN:
EXISTING & PROPOSED
EXTERIOR ELEVATIONS II

DATE: 06/2013

SCALE: 1/8" = 1'-0"



THE LILLIS/COLANGELO RESIDENCE

39 WHITE CAP ROAD
MIANATIC, CONNECTICUT

Tues 10/1/13

7:00 p.m

Rick & Lil Diachenko

25 Sunrise Av
Niantic, CT 06357
860-739-7221

To The Black Point Zoning Board of Appeals:

We are writing this letter as neighbors of Cheryl Colangelo and Ray Lillis, 39 Whitecap Rd, requesting that they be granted a variance to the requirement of having 15ft set-aside from the side property lines to any new structure.

Cheryl's father built the cottage over 50 years ago, Cheryl has been a part of Black Point since then and Lil and Cheryl have been friends all of that time. Cheryl and Ray hope to retire soon and make this their permanent home. Happy to say, we have been their next door neighbor since both houses were built in the 50's, and this would be a good thing for them, Black Point and us. They have been and will continue to be active members at BP.

The issue is the 15ft set-asides on this narrow 40 foot lot. We ask that you grant them a variance on this for the following reasons:

- * *No Problem as their direct neighbors:* We, as adjacent neighbors, do not have any issues with you granting this variance

- * *Prior Practice has set a Precedent:* There are numerous houses on Black Point that have been built on 40ft wide lots with 10ft set-asides. This can be seen on East Shore, Whitecap and Cottage to name a few street locations. In fact most older cottages do not meet the set aside standards and would not be allowed to be built if applications were submitted today!

- * *A New Structure with a 10ft Wide Addition Would Affect Property Values:* The recent sale of 10 Whitecap Rd, at a much reduced price showed what ineffective and non aesthetic additions do to nearby property values. Having recently refinanced, we can say that that house negatively affected the appraiser's opinion of Black Point properties, which was communicated to us through our mortgage broker.

- * *The Use of Black Point Properties has Changed from Cottages to Year Round Homes:* Black Point has evolved from being summer residences for Hartford people to a desired year round destination. Cheryl and Ray will be permanent residents and a 10ft wide addition is an ineffective use of space. It also raises the question that if others set a precedent with variances to have smaller set-asides, why not Cheryl and Ray.

- * *Aesthetics:* A narrow conforming addition would not be attractive and bluntly ugly compared to homes in the area.

- * *A 10ft second story addition would be inconsistent with neighboring structures:* Of the 5 houses closet to 39 Whitecap Rd, 4 are two story homes. Please note in the following

Harriet P. Shea
76 Glenbrook Road
West Hartford, CT 06107

November 5, 2013

Stephen Fogarty, Chairman
Zoning Board of Appeal
Black Point Beach Club Assn.
37 Billow Road
Niantic, CT 06357

Re: Application of Cheryl Colangelo and Raymond Lillis, 39 Whitecap Road

Dear Chairman Fogarty:

I reside at 41 Whitecap Road, which abuts 39 Whitecap Road, and am writing in support of the above application. I am in favor of permitting the requested expansion and believe the addition of year round residents will benefit the community. My support is conditioned upon the expectations that the renovation/expansion work will not damage my fence or yard, and that any damage inadvertently inflicted will be repaired by, or at the expense of, the Applicants.

Thank you.

Sincerely,



Harriet P. Shea
Harriet P. Shea Trust

November 5, 2013

To the members of the Black Point Zoning Board,

We would like to take this opportunity to write in support of Ray and Cheryl Coangelo's request for a variance. We have been neighbors with the Coangelos for decades and have enjoyed them every summer since we bought our house on White Cap Road in 1998. They are the perfect neighbors. They are respectful, giving, friendly and trustworthy. In addition, they love the Black Point community and have chosen to become extremely involved in the Bocce League and Kayak outings. It would be wonderful to see a couple who obviously loves Black Point this much be able to move to Niantic permanently.

We are hopeful that you will allow their variance to go through. If you have any questions at all, please call us on (860) 721-8557. Thank you very much for all you do at the beach. It is very much appreciated!

Sincerely,



Dan and Carol Lemieux

36 White Cap Road

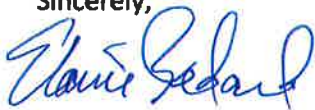
Niantic, CT 06357

September 17, 2013

To Whom It May Concern:

We are the neighbors of Cheryl Colangelo, 39 Whitecap Road, Niantic. We have been made aware of the remodeling plans they have proposed to the board for consideration and have no objections with their proposed plan.

Sincerely,



Elaine Bedard
38 Whitecap Road
Niantic, CT



Gale Shepard



ne: jgkcmxH

Submitted

ZBA

11/16/13

Exhibit Z



Exhibit 2 12/16/13 ZBA



Exhibit 2 11/16/13 ZPSA



Exhibit 2 ← neighboring house 39 Whitecap