

Minutes of BPBCA Zoning Commission Public Hearing - 08/23/24

Date and time: 08/23/24 06:00 pm to: 08/23/24 07:03 pm

Present: Brooke Stevens, Recording Secretary, Jim Ventres, Zoning Enforcement Official, Jim Fox, Chairman, John Horoho, Regular Member, Joseph Katzbek, Regular Member, Mike Walsh, Regular Member, Gale Shepard, Alternate, Absent:, Betsy Klemmer, Regular Member, Keith Turner, Alternate

CC: Arlene Garrow, Zoning Liaison

Location: BPBCA Clubhouse, 6 Sunset Avenue, Niantic, CT, 06357

Topics

1. Call to Order

Note Chairman Fox called the Public Hearing of the Black Point Beach Club Association Zoning Commission to order at 6:00 p.m. and did roll call; a quorum was present.

Note Mr. Fox noted for the record that the Public Hearing Notice was filed with the Town Clerk and on the Black Point Beach Club website on July 29th, 2024, and published in the New London Day Newspaper on August 12th, 2024, and August 19th, 2024.

Note Mr. Fox read the legal notice into the record.

Note Ms. Shepard sat as a Regular Member for the evening.

Note Mr. Fox stated that tonight's objective is to listen to the public's feedback on the various regulations under consideration for amendment. He wishes to review each proposed change, provide a brief background on the reasons for the proposed amendments, and then open the floor to public comments on each specific regulation.

2. Public Hearing – Potential Amendments and changes to the Zoning Regulations.

Note see attachment 1.

 [20240903_230433.jpg](#)


Note see attachment 2.

 [20240903_230423.jpg](#)

Note see attachment 3.

 [20240903_230345.jpg](#)

Note see attachment 4.

 [20240903_230441.jpg](#)

2-1. Section III 5. Make zoning permits valid for 18 months instead of 12 months.

Note The first proposed zoning regulation change discussed was extending the validity of zoning permits from 12 months to 18 months due to variability in building materials availability.

Note Jim Schepker of 46 Indianola asked about the intent of the permit extension, clarifying that it allows more than two years when including possible extensions.

Note Mr. Ventres clarified that the intent is not included in the regulation itself; it's merely ancillary. Currently, the permit is valid for one year. He has the authority to grant an additional 45 days individually, or they could apply for an extension. The proposal suggests that before they seek the additional 45 days or an extension from him, the duration would increase from 12 to 18 months. That is the essence of the initial permit proposal.

2-2. Section VII – Prohibited uses – Prohibit metal buildings as a principal or accessory structure.

Note The second proposed change was to prohibit metal buildings as principal and accessory structures to maintain aesthetic consistency with existing structures.

Note Mr. Fox clarified that the state has mandated the allowance of accessory ADUs, also known as accessory dwelling units. As a Commission, their objective was to promote the development of such dwellings in a manner consistent with existing structures. Crafting a regulation to this effect is challenging due to the vast array of architectural styles. However, a unanimous concern among the Commission Members was the prospect of converting a shipping container into a home or accessory dwelling unit. This concern is the impetus for proposing the new regulation.

Note There were no public comments on this item.

2-3. Section VIII 12 – General Regulations – Changes for Walls, Fences, and Hedges.

Note The third proposed change involved general regulations for walls, fences, and hedges, including limiting fence height to 42 inches in front of houses and requiring 50% transparency.

Note Mr. Fox explained that under our current fence regulation, a height limit of six feet is set. As it stands, one could encircle their house with a six-foot fence, front included. The goal is to amend this by setting the maximum height at 42 inches in the area forward of the house's front plane. Consequently, any fence erected beyond the front of the house would be capped at 42 inches and must offer 50% transparency. A typical picket fence would comply with this proposed change, whereas a solid, non-transparent fence, such as vinyl where panels abutt each other, would not.

Note Wendy Bourget of 1 Osprey Road raised about the impact of the fence regulation on waterfront properties, where the front of the house faces the water, and the need for solid fences for protection.

Note Mr. Fox explained that a guiding principle in zoning is referred to as 'existing non-conforming.' This means if there is a pre-existing structure, it would become non-conforming should the regulations change; Her waterfront home would be deemed pre-existing and non-conforming, and the regulatory change does not compel or require her to make any alterations. It is permitted to remain as it currently is.

Note After further discussion, Mr. Fox acknowledged that Ms. Bourget raised a very interesting question, which merits consideration. The initial thought process behind the regulation focused on a typical road rather than a waterside view.

Note Phil Lombardo of 3 East Shore Drive asked for clarification regarding what constitutes the front plain verses the street side of the house, and Mr. Fox explained that anything forward of the house is called a frontal plane.

Note Mr. Ventres explained that if we consider the front plane, drawing a line from the road's edge to the street on that corner lot, as it is currently defined, would limit what's in the front plane. This action would square off the corner and the entire front, making it part of your side yard. However, the intent is to keep the remainder of the side yard normal, assuming he has correctly understood the Commission's intention.

Note Phil Lombardo inquired about the reasons behind the concern. He questioned the motivation and the rationale for the prohibition of fences in the front yard. He wondered whether it was related to safety or other factors.

Note Mr. Fox stated that it is indeed a matter of safety. The concept of a safe front yard entails having a fence that allows visibility, rather than a solid barrier which poses a greater risk to everyone in the vicinity. When backing out of a driveway, a fence that obstructs the view can lead to potential incidents. Conversely, a lower, see-through fence enhances safety by not hindering visibility.

Note Mr. Walsh concurred and said the intent is to open up new corridors as much as they can.

Note John Cellino of 6 East Shore believes that the proposed zoning regulation to protect the front plane doesn't seem logical. He suggests a uniform rule of setting structures 20 feet back from the street line, as stated in section 20. This consistency across all houses would provide clarity and uniformity.

Note Mr. Fox stated that the concerns regarding the waterside properties were not considered during their regulatory review. Therefore, the purpose of sharing this is to solicit feedback and address any issues they may have overlooked, as informed by public input.

Note Ms. Bourget's said if that if the waterfront is on the street side, then it's crucial for people to safeguard it, and any actions taken there should be done with safety in mind.

Note Will Fountain of 31, Whitecap asked who is responsible for enforcing this and Mr. Fox replied that the Zoning Enforcement Officer is responsible.

Note John Wilson of 2 East Shore inquired about the decision timeline, and Mr. Fox clarified that this is part of the public hearing process where input is gathered. Following this, the Commission will convene with all the collected information to decide whether to amend the proposed language, maintain it as is, or discard it entirely. Should any proposal be advanced, it would likely not be implemented until November or December of this year.

Note Mr. Fox mentioned that many pre-existing walls and hedges won't be impacted by this. The aim of implementing this regulation is to eventually educate individuals about managing overgrown hedges. Overgrown shrubs are encroaching on the road and cutting them back leaves no vegetation. However, this is necessary for safety, and we've seen positive outcomes already; one property owner removed their shrubs after their discussion, leading to a safer environment. This regulation is part of a long-term strategy to enhance safety by clearing obstructions.

Note The next item discussed concerns intersection visibility and hedge height regulations for community safety.

Note Mr. Fox pointed out that the longstanding zoning regulation is clearly intended to ensure the community members' safety. A fundamental principle of zoning is to promote health, safety, and welfare. Two years prior, they were ready to present this language at a public hearing. However, the new attorney advised against proceeding, believing the regulation should fall under the Black Point Beach Club rules and the Board of Governors' jurisdiction. The Commission chose to proceed with the regulation due to the lack of progress thus far.

Note Mr. Fox stated that the proposal is to amend the current regulation, which requires a distance of 10 feet from the corner and hedges no higher than 42 inches; To enhance the corridor's visibility at the intersection, thereby improving safety for community members. they're proposing 20 feet from the corner and hedges no higher than 36 inches in height.

Note Will Fountain inquired about the hedges near the boat ramp, and Mr. Fox expressed that it has been a significant issue for him. He voiced his concerns in a public meeting approximately two years ago, regarding the difficulties with that area. When he addressed the regulation, a property owner dismissed his concerns. The challenge persists, especially with a zoning regulation that defaults to existing non-conformity. A homeowner merely needs to assert that their situation is an existing non-conformity, and no changes can be enforced. As a result, our safety hinges on the community's shared understanding and commitment to following the rules.

Note Phil Lombardo said the way the regulation is written, it's very difficult for him to understand how you measure the 20 feet.

Note Mr. Fox mentioned that if you refer to the diagram, it illustrates where the regulation introduces new terminology, specifically the 'level of the adjoining pavement' that has been added. He believes what Mr. Lombardo seeks is greater clarity on the definition of 'corner' and how it is determined. In his case, the corner where he resides is not a sharp angle but rather a rounded one.

Note Mr. Ventres stated that by moving back 20 feet, one would reach the edge of the pavement, in accordance with the regulation. By doing so, the area would be narrowed down. Although the corner of your property is rounded, if you extend the straight lines of your property's boundaries until they meet at a point, and then measure 20 feet back from that point, you will likely find yourself within your property. It's where these straight lines intersect that you can mark a spot, which might even coincide with the pavement, depending on the developer's methods.

Note Mr. Lombardo discussed how his own fence has been measured differently by various officials over the years, leading to confusion and inconsistency, and he thinks the measurement method could be made clearer in the regulation; it would be helpful if anyone who lives on the corner could go out and easily measure it themselves.

Note Sally Cini of 28 Sea Breeze said that considering the level of the adjoining street pavement is 36 inches away after sewer installation and road reconstruction, she's concerned about the controlled water flow beside her house. Her curb is at least six inches high, followed by grass, suggesting her property edge could be 30 inches high. In contrast, the front area, where water enters her yard, has minimal curb. She suspects this measurement originates from the street pavement level and queries why this specific part was selected. She dismisses the low car argument, noting that most vehicles in her area are significantly taller. Moreover, she anticipates that the impact will vary across different properties.

Note Sally Cini of 28 Sea Breeze said that considering the level of the adjoining street pavement is 36 inches away after sewer installation and road reconstruction, she's concerned about the controlled water flow beside her house. Her curb is at least six inches high, followed by grass, suggesting her property edge could be 30 inches high. In contrast, the front area, where water enters her yard, has minimal curb. She suspects this measurement originates from the street pavement level and queries why this specific part was selected. She dismisses the low car argument, noting that most vehicles in her area are significantly taller. Moreover, she anticipates that the impact will vary across different properties.

Note Mr. Fox noted the presence of low cars in the area. Additionally, there are children and children on small bikes. The reality, as depicted in DOT diagrams, is that the standard used is based on the position of your wheels, not the curb or the elevated curb.

Note Mr. Ventres mentioned that he is driving his wife's Subaru today, which he dislikes driving in this area. He prefers his truck because it sits higher, providing a better view over the terrain. With the Subaru, he feels too low to the ground to see around corners, and that's simply the reality of it.

Note Mr. Ventres further discussed measurement methods with the attendees and how new constructions will require surveys to determine property lines accurately, while existing properties may use existing surveys or assumed lines.

Note Mr. Ventres elaborated how they're fortunate, since the Association did a survey of East Shore Drive on the water side, so a measuring tape can be pulled across the road, that's easy enough to do. He added that it has the potential to make a lot of people unhappy, because half of their shrubs are in the road. He has also databased every A2 survey that's in our file here, and most of the lines are straight, so we can pull from an existing survey.

Note The Commission discussed how their emphasis is on the importance of maintaining clear visibility at intersections to prevent accidents, with a focus on trimming hedges and other obstructions.

Note After further discussion Mr. Lombardo said it sounds like he really need to know where the town property starts and ends and Mr. Ventres replied that it helps, but in his case, his property is pre-existing, but that they could work from the existing surveys if they needed to.

Note John Cellino said that since this is a precursor to the Board of Governors taking action, he'd like as much guidance as possible.

Note Mr. Fox detailed how hedges at an intersection are a challenge, and this regulation is an attempt to minimize the situation; even cutting back the hedges a bit, helps. He added that if they followed the formulas used by municipalities, they'd be changing the regulation to 80 feet instead of 20 feet.

Note Mr. Walsh said even if hedges are trimmed, they still grow, and that's the challenge.

2-4. Section IX – Create a separate accessory building regulation for the Association District

Note The next item reviewed was a new regulation to create a separate accessory building regulation for the Association District, allowing more flexibility in the number and type of structures.

Note Mr. Schepker asked if the 10% coverage only applies to the Association District and Mr. Fox replied in the affirmative and clarified that residential properties are still allowed two accessory structures, but the Association District will have a cap based on the total area of the lot.

Note John Cellino noted how there's a difference between right-of-way and access way, and how this too needs to be considered.

Note Jim Schepker and the Commission briefly discussed the difference between a right-of-way and a access way, with a focus on the Association's ownership and usage rights.

Note The Commission debated on whether to discuss proposed language changes now or in the next meeting, and whether there is enough information to close the Public Hearing. There was a consensus among the Commission Members that no further input was needed from outside sources to make a decision.

3. Adjournment

Decision MOTION (1)

Mr. Horoho moved to close the August 23rd, 2024, BPBCA Zoning Commission Public Hearing at 7:03 p.m.

Mr. Katzbek seconded the motion.

Motion carried, 5-0-0.

Note Respectfully Submitted,
Brooke Stevens, Recording Secretary

Next Meeting

Meeting title: Bpbca zoning commission special meeting
Date and time: 08/23/24 07:04 pm to: 08/23/24 07:33 pm
Location: BPBCA Clubhouse, 6 Sunset Avenue, Niantic, CT, 06357

Open tasks from previous meeting(s)

Task Mr. Lombardo observed that it's confusing and that it would be helpful to have a diagram. Mr. Ventres replied that he will provide one for reference at the public hearing.

Owned by Jim Ventres, Zoning Enforcement Official due 08/23/24