

**New Fairfield Zoning Board of Appeals  
New Fairfield, Connecticut 06812**

**SPECIAL MEETING MINUTES  
May 31, 2018**

The New Fairfield Zoning Board of Appeals (ZBA) held a special meeting public hearing followed by a business session at 7:00 p.m. on Thursday, May 31, 2018, in the Community Room of the New Fairfield Public Library located at 2 Brush Hill Road. Secretary Joanne Brown took the Minutes.

ZBA members in attendance: Joe DePaul, Chairman; John Apple, Vice Chairman; John McCartney, Dan McDermott and Alternate Ann Brown.

ZBA members not in attendance: Vinny Mancuso

Town Officials in attendance: Evan White, Zoning Enforcement Officer.

Chairman Joe DePaul called the meeting to order at 7:05 p.m. and introduced the Board Members. Joe DePaul explained the meeting process and voting and appeal procedures. Joe DePaul noted that since this meeting is a special meeting, the agenda cannot be amended in any way. Secretary Joanne Brown read the Agenda. John Apple made a motion to adopt the agenda, duly 2<sup>nd</sup>, approved 5-0. Secretary Joanne Brown read the Call of the Meeting.

**Continued Application # 11-18:** Mohr, 35 Macbean Drive, for variances to Zoning Regulations 3.0.2A Table of Zoning Requirements – Residential District, 3.2.5A and 7.1.2.2 for the purpose of having the vacant lot recognized as a single-family dwelling building lot. Zoning District: R-44; Map: 24; Block: 14; Lot: 16.

John McCartney made a motion to hear Continued Application # 11-18, duly 2<sup>nd</sup>, approved 5-0. Joe DePaul read a letter from Neil Marcus, the Town Attorney, stating that, in his opinion, the property falls under the Zoning Regulation Section 7.1.2.2. Mr. Marcus also noted a flaw in the current Zoning Regulations which relates only to properties in the R-88 Zone and not in the R-44 Zone and stated that he has been authorized to file an amendment to correct the situation. Attorney Lubus, Ellen Mohr, and Gene Cassavechia approached the board. Attorney Lubus gave the board an additional hardship description handout and reiterated the history of the undersized property. John Apple commented that this information should have been given to the board prior to the meeting to have sufficient time to absorb it. Ellen Mohr, owner of the property, stated that she has paid taxes and maintained the lot as a buildable lot since 1960. Joe DePaul sympathized with her but stated that the board had never granted a variance to make an undersized lot a buildable lot and was reluctant to do so. Ray Lubus stated that the Zoning Commission approved these lots before houses were erected. Joe DePaul stated that state law dictates if a lot is not built on and the regulations change, one loses the right to do so. Attorney Lubus countered that this is protected under the R-88 Regulations and not under the R-44 regulations which need to be amended. Ellen Mohr explained to the board that she was told the property was grandfathered in

and that a variance was not needed. Ms. Mohr stated that if a variance was not granted, the property would become abandoned as it would not be worth the upkeep. John McCartney looked at comparable lots in the neighborhood and stated it would be in the town's best interest to maintain the property and readdress the zoning amendment. Dan McDermott agreed. Ann Brown stated that the fact the property does not need additional setbacks helps the applicant's situation. Joe DePaul asked the public for comment. Walter Wolyniec of Weldon Woods stated that the town would be better off getting the property tax revenue from a new home rather than an empty lot. Ray Lubus reiterated that the property meets the criteria and hardship. John Apple made a motion to enter into the Business Session, July 2<sup>nd</sup>, approved 5-0. The board discussed the fact that there are no other setbacks required, only to vary 3.2.5A and 7.1.2.2; the hardship being the undersized lot, zoning change and north/south rather than an east/west configuration. John McCartney noted that the lot fits in with the neighborhood. Joe DePaul made a motion to grant a variance to allow the lot to become a buildable single family lot providing no further front, side or rear setbacks are needed, the hardship being the configuration, undersized lot and changes in zoning regulations, July 2<sup>nd</sup>, approved 5-0. Variance granted.

While in the Business Session, John Apple made a motion to accept the Minutes as read, July 2<sup>nd</sup>, approved 4-0-1, Ann Brown abstaining.

**Application # 09-18:** Hughes, 335 Route 39, for variances for Zoning Regulations 3.2.5A&B, 3.2.6B Side Setback to 18', 3.2.6C Rear Setback to 30', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a rear deck over an existing patio and replacing a porch roof. Zoning District: R-44; Map: 2; Block: 8; Lot: 5.

John Apple made a motion to hear Application # 09-18, July 2<sup>nd</sup>, approved 5-0. No one was present for the application and the application was moved to the end of the agenda.

**Application # 14-18:** Tilton, 72 Lake Drive South, for variances to Zoning Regulations 3.2.5A&B, 3.2.6B Side Setback to 12.4', 3.2.11, 7.1.1.2, and 7.2.3A,B&E for the purpose of a vertical expansion to add a bay window and a new bedroom dormer. Zoning District: R-44; Map: 20; Block: 1; Lot: 24.

Ann Brown made a motion to hear Application # 14-18, July 2<sup>nd</sup>, approved 5-0. Erich Diller, Evolve Design, approached the board as agent for Brian and Radha Tilton. Mr. Diller gave a brief overview of the house which had one part built in the 1930s and an addition built in the 1960s. The existing house contains 5 bedrooms which do not meet the current building code. The proposal would add a dormer to the second floor and a bay window to the rear over an existing balcony. The front bay window would be removed with a minor decrease in nonconformity. Joe DePaul asked the public for comment. None given. John Apple made a motion to enter into the Business Session, July 2<sup>nd</sup>, approved 5-0. The board noted that there was no increase in nonconformity. Joe DePaul made a motion to grant a side setback to 12.4' to allow construction of a dormer and a bay window per the plans as submitted, noting the decrease in nonconformity making the hardship unnecessary, July 2<sup>nd</sup>, approved 5-0. Variance approved.

**Application # 15-18:** Skogstrom, 50 Dick Finn Road, for variances to Zoning Regulations 3.0.6B Swimming Pools and 3.1.6B to 22' for the purpose of constructing an above ground pool. Zoning District: R-88; Map: 14; Block: 1; Lot: 22.

Dan McDermott recused himself from Application # 15 -18. John Apple made a motion to hear Application # 15-18, duly 2<sup>nd</sup>, approved 5-0. Anika Skogstrom approached the board and gave an overview of the proposal. A previous application for a variance was denied in 1998 for a prior owner who installed a pool without the necessary variance. Ms. Skogstrom stated that she had a pool company come in to assess where a pool could be placed. Due to septic location and limited viable topography, the pool was proposed to be placed next to the deck. Ms. Skogstrom stated that her neighbors had written a letter for the file stating that they had no objections. A lengthy discussion ensued over the other areas that might be more suitable. Evan White stated that an above-ground pool must be placed 10' from the septic. The board suggested moving the pool within an area that would not require setbacks or getting a smaller-sized pool. Joe DePaul stated that he did not like to approve variances for applications that were previously declined. The board suggested that the applicant continue the application until next month to explore other placement areas or withdraw the application if the pool can be built within the setbacks. John McCartney made a motion to continue Application # 15-18, duly 2<sup>nd</sup>, approved 4-0. Application Continued.

**Application # 16-18:** Tharas, 1 Dale Road, for variances to Zoning Regulations 3.0.4E&F Minor Accessory Building and Structures to construct a 12'x16' wood shed. Zoning District: R-44; Map: 33; Block: 1; Lot: 73.

Dan McDermott recused himself from Application # 16 -18. John Apple made a motion to hear Application # 16-18, duly 2<sup>nd</sup>, approved 4-0. David and Kelly Tharas approached the board seeking a new shed. Joe DePaul read Zoning Regulation 3.0.4 into the record stating that the placement distance from the property line must be 2 times the height (9.6' or 19') and no less than 10'. David Tharas stated that it would be impossible to meet those requirements due to the small lot size, placement of the septic and slope of the property. A brief discussion ensued about sheds being grandfathered in and whether they are considered a structure. The existing shed is 10'x10' and the proposed shed is 12'x16'. John Apple stated that he liked the current placement of the shed. Mr. Tharas gave a brief overview of his property, noting that some of it falls in New York, with a brook running through it. Mr. Tharas also stated that Wetlands told him that a garage or any other structure cannot be built on the property. Joe DePaul requested Mr. Tharas obtain a letter from the neighbor stating that they had no objection. Evan White noted that CT Statute 8-13a grandfathered sheds as structures. Joe DePaul stated that he would contact the Town Attorney to clarify. The board stated that the restrictions from Wetlands would work in the applicant's favor as an additional hardship. John McCartney suggested that the applicant continue the application until next month to explore whether the current shed is grandfathered in. John McCartney made a motion to continue Application # 16-18 until next month, duly 2<sup>nd</sup>, approved 4-0. Application continued.

**Application # 17-18:** Spruce Ridge Craftsmen, 28-30 Lillian Avenue, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 38', 3.2.6C Rear Setback to 15', 3.2.11,

7.1.1.1A,B&C and 7.2.3A,B&E for the purpose of constructing a new single family house. Zoning District: R-44; Map: 34; Block: 20; Lot: 24

Dan McDermott returned to the board. John Apple made a motion to hear Application # 17-18, duly 2<sup>nd</sup>, approved 5-0. Joe Reilly, contract purchaser of the property, approached the board with a proposal to merge two lots into a 100'x100' lot to construct a single family house with the septic in the front. The applicant is asking for a rear setback to 15' and a front setback to 38' with no side setbacks needed. The proposed house would be an 1800 sq. ft. raised ranch with a garage to the side and a 12'x12' deck. Mr. Reilly stated that he tried to keep the house similar to the neighbors. The current plans show a raised deck but Mr. Reilly stated that the deck is only 12" off the ground. Joe DePaul suggested moving the house slightly forward and 1' to the side. Joe DePaul asked the public for comment. Dan Reilly stated that similar properties have been granted variances such as 31 Merlin Avenue. A brief discussion ensued over the elevation, fill and septic. The board suggested Mr. Reilly obtain revised plans and continue the application until next month. John McCartney made a motion to continue Application # 17-18, duly 2<sup>nd</sup>, approved 5-0. Application continued.

**Application # 18-18:** Reilly, 21 & 23 Lloyd Avenue, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 14', 3.2.6C Rear Setback to 39', 3.2.11, 7.1.1.1A,B&C and 7.2.3A,B&E for the purpose of constructing a new single family house. Zoning District: R-44; Map: 34; Block: 20; Lot: 15.

Dan McDermott made a motion to hear Application # 18-18, duly 2<sup>nd</sup>, approved 5-0. Dan Reilly approached the board with a proposal to merge two lots into a 100'x100' lot to construct an 1800 sq. ft. raised ranch with a 14' front setback, 39' rear setback and a 12'x12' deck. The septic would be placed in the rear. Evan White noted that the two neighboring houses had 18' and 19' front setbacks. John Apple asked about the deck. Mr. Reilly noted that the deck would be off the second story due to the slope of the lot. Joe DePaul asked the public for comment. ZEO Evan White noted that the houses in the neighborhood were the same configuration. Dan McDermott made a motion to enter into the Business Session, duly 2<sup>nd</sup>, approved 5-0. Joe DePaul made a motion to grant a front setback to 14' and a rear setback to 39', noting that the lots must be merged prior to construction, to construct a single family home per the plans as submitted, the hardship being the small size and shape of the lot, duly 2<sup>nd</sup>, approved 5-0. Variance granted.

**Application # 09-18:** Hughes, 335 Route 39, for variances for Zoning Regulations 3.2.5A&B, 3.2.6B Side Setback to 18', 3.2.6C Rear Setback to 30', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a rear deck over an existing patio and replacing a porch roof. Zoning District: R-44; Map: 2; Block: 8; Lot: 5.

John Apple made a motion to hear Application # 09-18, duly 2<sup>nd</sup>, approved 5-0. No one was present for the application. It was decided that the application remain unopened and on the agenda for next month as it falls within the 65 day timeframe. John McCartney made a motion to adjourn the meeting at 9:22 p.m., duly 2<sup>nd</sup>, approved 5-0.