

New Fairfield Zoning Board of Appeals New Fairfield, Connecticut 06812

MEETING MINUTES **December 13, 2018**

The New Fairfield Zoning Board of Appeals (ZBA) held a public hearing followed by a business session at 7:00 p.m. on Thursday, December 13, 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; Vinny Mancuso, John McCartney, Dan McDermott, Alternates Bob Jano and Ann Brown.

ZBA members not in attendance: John Apple, Vice Chairman.

Town Officials in attendance: None.

Chairman Joe DePaul called the meeting to order at 7:00 p.m. and introduced the Board Members. He noted that Bob Jano would be a full voting member while Ann Brown would be observing the meeting and would not be a voting member. Joe DePaul explained the meeting process and voting and appeal procedures. Secretary Joanne Brown read the Agenda. Joe DePaul made a motion to add the 2019 calendar to the agenda, duly 2nd, approved 5-0. Vinny Mancuso made a motion to adopt the agenda, duly 2nd, approved 5-0. Secretary Joanne Brown read the Call of the Meeting.

Continued Application # 40-18: Sage, 6 Candlewood Road, for variances to Zoning Regulations 3.0.5C Private Detached Garage, 3.2.5A, 3.2.6A Front Setback to 6.3', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a second story vertical expansion to an existing detached garage. Zoning District: R-44; Map: 39; Block: 3; Lot: 22-38.

John McCartney made a motion to hear Continued Application # 40-18, duly 2nd, approved 5-0. Camille and Steve Sage returned to the board with the requested information from last month's meeting. Mr. Sage gave a brief update on the proposal to rebuild the garage and vertical expansion for storage above. The applicant produced a letter from Tim Simpkins stating that the garage could not be moved back due to septic placement. Joe DePaul questioned which direction the roof would face and if there would be a window. A brief discussion ensued over the dimensions of the garage. It was determined that the previous garage was 24.3' and the proposed garage would be 28.3', with 2' added to each side. No side setback is needed. Joe DePaul stated if the garage could have been moved, it would decrease nonconformity. Since that scenario is not possible, the fact that the garage sits deep within the grade allowing access from the second floor, makes the garage less obtrusive. The second level would be storage only; no plumbing, heating or living quarters. Joe DePaul asked the public for comment. None given. Vinny Mancuso made a motion to enter into the Business Session, duly 2nd, approved 5-0. The board discussed the fact that the garage could not be moved back and keeping it in the existing footprint would allow it to sit into the grade. Joe DePaul made a motion to grant a front setback to

6.3' for a vertical expansion garage reconstruction with 2nd story storage only per the plans as submitted, the hardship being the small shape and size of the lot, noting no increase in structural nonconformity, duly 2nd, approved 5-0. Variance granted.

While in the Business Session, Vinny Mancuso made a motion to accept the October Minutes as written, duly 2nd, 4-0-1; Bob Jano abstaining

Application # 41-18: Martino, 7 Woods Road, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 38.1', 3.2.6B Side Setbacks to 7.3' and 5.6', 3.2.6C Rear Setback to 38.6', 3.2.11, 7.1.1.2A&B and 7.2.3A,B&E for the purpose of rebuilding an existing house with additions on the northeast and southwest corners. Zoning District: R-44; Map: 45; Block: 1, Lot: 10.

John McCartney made a motion to hear Application # 41-18, duly 2nd, approved 4-0. Agent Bruce Hickey and applicants, Thomas and Elizabeth Martino, approached the board with their proposal to rebuild their house which was damaged in the May, 2018 storm. The existing square footage would increase by 50 sq. ft. to square off two small areas. A brief discussion ensued regarding the setbacks. It was determined that the setbacks were incorrectly advertised. The correct setbacks needed are front setback to 38.1', side setbacks to 6.9' and 5.6' and rear setback to 29.7'. It was decided that the application should be continued to re-advertise the setbacks and get a precise survey. Vinny Mancuso made a motion to continue Application #41-18, duly 2nd, approved 5-0. Application continued.

Application # 42-18: Pogmore, 64 Inglenook Road, for variances to Zoning Regulations 3.2.5A, 3.2.6A Front Setback to 8', 3.2.6B Side Setback to 5' and 3.2.6C Rear Setback to 59', 3.2.11, 7.1.1.1A&B and 7.2.3A,B&E for the purpose of constructing a 22'x25' detached garage. Zoning District: R-44; Map: 41; Block: 1; Lot: 1.

John McCartney made a motion to hear Application # 42-18, duly 2nd, approved 5-0. Andrew Pogmore approached the board requesting a 24'x26' detached garage. Joe DePaul questioned the placement of the garage and noted that the proposal would create a tremendous increase in nonconformity. Joe DePaul explained to the applicant that if he would keep the garage within the front setback of 40', existing rear setback of 25.4' and side setback of 20', it would be easier to support the application because it would not increase nonconformity. Mr. DePaul suggested the applicant get an architect to explore different options within the current setbacks. John McCartney made a motion to continue Application #42-18, duly 2nd, approved 5-0. Application continued.

Application # 43-18: Jakacic, 17 Keplers Way for variances to Zoning Regulations 3.2.5A, 3.2.6A Front Setback to 29', 3.2.6B Side Setbacks to 0', 3.2.6C Rear Setback to 8', 3.2.11, 7.1.1.2A&B and 7.2.3A,B&E for the purpose of constructing a new dormer, roof deck and new rooflines on an existing garage and new rooflines on the main house. Zoning District: R-44; Map: 45; Block: 5; Lot: 20.

Bob Jano made a motion to hear Application # 43-18, duly 2nd, approved 5-0. Chad Nehring, Architect, gave a brief history of the house which was damaged during the May storm. The

existing footprint would remain, with the walk out basement built to 2nd floor height. There would be a change in the roof, with the height of the new roof not exceeding the height of the highest roof. The position of the house on the lot was discussed. The front of the house faces Overlook Road. Keplers Way is on a cul-de-sac. Mr. Nehring presented photos and plans of the new construction. Joe DePaul questioned the side setbacks. It was presented that the existing house is located directly on the property line with an encroachment easement. Mr. Nehring produced 3 letters from neighbors supporting the proposal. (Anderson – 15 Keplers Way and 20 Overlook Road; Reif – 16 Keplers Way and Hylenski – 21 Overlook Road). The detached garage would keep the existing footprint, adding a gable shed roof, with a vertical expansion of 8' to contain a small office/playroom and ½ bath with roof deck. A brief discussion ensued over town regulations regarding living areas and that no cooking areas or showers are permitted. Joe DePaul asked the public for comment. None given. Vinny Mancuso made a motion to enter into the Business Session, duly 2nd, approved 5-0. The board saw no problems with the application. Joe DePaul made a motion to grant a front setback to 29', a northeast side setback to 0' and a rear setback to 8' to allow the change of roof line and additions of the deck and area over the garage per the plans as submitted; the hardship being the size, shape and topography of the lot, duly 2nd, approved 5-0. Variance approved.

Application # 44-18: Bianco and Perchal, 20 Deer Run, for variances to Zoning Regulations 3.2.5A, 7.1.1.2A&B and 7.2.3A,B&E for the purpose of tearing down and rebuilding an existing house. Zoning District: R-44; Map: 15; Block: 1; Lot: 159 & 160.

John McCartney made a motion to hear Application # 44-18, duly 2nd, approved 5-0. It was determined that there was no authorization on file for this application and it was moved to the end of the agenda so the agent could acquire the necessary authorization. John McCartney made a motion to move Application # 44-18 to the end of the agenda, duly 2nd, approved 5-0.

Application # 45-18: DeSimone, 10 Milltown Road, for variances to Zoning Regulations 3.2.5A, 3.2.6A Front Setback to 35.6', 3.2.11, 7.1.1.1A&B and 7.2.3A,B&E for the purpose of constructing a portico and a rear addition. Zoning District: R-44; Map: 27; Block: 3; Lot: 71.

John McCartney made a motion to hear Application #45-18, duly 2nd, approved 5-0. Agent Kevin Desharnais approached the board noting the unique position of the property. The lot has two fronts and two sides. Mr. Desharnais explained that the property requires a variance because it is less than .5 acre and the existing front stoop is within the front setback. The proposal is within the setbacks except for the front stoop. The front setback is currently 40.6'. The proposed front setback is 35.6' and would include an open portico covering the front steps with columns and a roof. Joe DePaul asked the public for comment. None given. Vinny Mancuso made a motion to enter into the Business Session, duly 2nd, approved 5-0. The board noted no problems with the application. Joe DePaul made a motion to grant a front setback to 35.6' to allow a portico over the front entrance and a rear addition, per the plans as submitted, noting the minimum increase in nonconformity; the hardship being the position of the lot having two sides and two fronts, duly 2nd, approved 5-0. Variance granted.

Application # 46-18: Stalzer, 5 East Lane, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to .08', 3.2.11, 7.1.1.2A&B and 7.2.3A,B&E for the purpose of enclosing a portion of an existing covered porch. Zoning District: R-44; Map: 10; Block: 2; Lot: 2.

Bob Jano made a motion to hear Application #46-18, duly 2nd, approved 5-0. Agent Tom Stalzer stated that the house was a total loss after the May storm. Mr. Stalzer gave a brief history of the house which was built in 1925 on a .30 acre lot. The property was granted two previous variances which were approved for 2nd story additions in 1978 and 1988. Mr. Stalzer stated that the variances were both for a front setback of 18'. He surmised that at this time the setbacks were incorrectly measured to the edge of the road and not the property line. The front setback measured to the property line is 0.8'. The proposal would keep the existing footprint adding a 25 sq. ft. expansion to square off a poorly designed kitchen. Joe DePaul questioned why keep the house so close to the road and a lengthy discussion ensued about insurance, previous variances, moving the house and setbacks. After further discussion over the inaccurate variances, possible errors and a continuance of the application, the applicant decided to proceed with a vote. The setbacks were confirmed; front setback to 0.8. Joe DePaul asked the public for comment. None given. John McCartney made a motion to enter into the Business Session, duly 2nd, approved 5-0. Joe DePaul made a motion to grant a front setback to 0.8' to reconstruct the house on the existing footprint and fill in a 25 sq. ft. section of the covered porch, per the plans as submitted; the hardship being the destruction of the home, duly 2nd, approved 5-0. Variance granted.

Application # 47-18: See, 47 Lake Drive South, for variances to Zoning Regulations 3.2.5A&B, 3.2.6B Side Setback to 12.2', 3.2.11, 7.1.1.2A&B and 7.2.3A,B&E for the purpose of expanding an existing deck. Zoning District: R-44; Map: 20; Block: 5; Lot: 22.

Vinny Mancuso made a motion to hear Application # 47-18, duly 2nd, approved 5-0. Scott Yates, Architect, gave a brief overview of the damage which occurred during the May storm and the proposed expansion of the upper deck. The house is pre-existing nonconforming with two decks. The open upper deck will be expanded 140 sq. ft. to allow access from the upper level. Joe DePaul asked how high the lower deck was from the ground. Mr. Yates stated that it was at least 10' off the ground. The only setback needed would be a side setback to 12.2'. Joe DePaul asked the public for comment. None given. John McCartney made a motion to enter into the Business Section, duly 2nd, approved 5-0. Joe DePaul made a motion to grant a side setback to 12.2' to allow construction of a deck per the plans as submitted, noting the small increase in nonconformity; the hardship being the narrow shape of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 48-18: Bernardini, 80 Route 39, for variances to Zoning Regulations 4.1.14B,D&E Outdoor Eating for the purpose of keeping the outdoor patio in use year round with 8 tables with 4 chairs each. Zoning District: B/C; Map: 19; Block: 12; Lot: 20.

Vinny Mancuso made a motion to hear application # 48-18, duly 2nd, approved 5-0. David Bernardini appeared in front of the board requesting a variance to keep the patio open year-round with eight (8) tables and thirty-two (32) chairs. The area would not be enclosed. Zoning Regulation 4.1.1.4B,D&E was read into the record. Regulations 4.1.1.4D states that the area should not exceed six (6) tables and twenty-four (24) chairs and 4.1.1.4E states that the outdoor

eating area should be seasonal not to exceed a six-month period from May 1st to October 31st of each year. Joe DePaul saw no hardship with this application and felt that the board was not in a position to re-write the Zoning Regulations. Vinny Mancuso stated that he felt the business was providing a service to the town. John McCartney asked if the tables would be taken down. Bob Jano also stated that he saw no hardship. Joe DePaul asked the public for comment. None given. The board did not believe there was a hardship to support this application. David Bernardini withdrew the application. Application withdrawn.

Application # 49-18: Anderson, 20 Overlook Road, for variances to Zoning Regulations 3.2.5A, 3.2.6A Front Setback to 34', 3.2.6B Side Setback to 13', 3.2.6C Rear Setback to 25', 3.2.11, and 7.1.1.2 for the purpose of rebuilding an existing house with shed dormer, screened-in porch and bay window additions. Zoning District: R-44; Map: 45; Block: 5; Lot: 49, 50 and 51.

Vinny Mancuso made a motion to hear Application # 49-18, duly 2nd, approved 5-0. Chad Nehring, Architect, representing Roberta Anderson, appeared in front of the board seeking to rebuild a house which was destroyed during the May storm. Mr. Nehring gave a brief history of the 3-lot nonconforming property containing deep ledge and difficult topography with sheer cliffs. The new construction would be built on the existing footprint with several changes including a shed dormer, bay window and a screened-in porch. The only change from the existing setbacks required would be 1' needed on the side for the bay window. The screened-in porch would be built on top of an existing deck. Vinny Mancuso made a motion to enter into the Business Session, duly 2nd, approved 5-0. Vinny Mancuso stated that he saw no problem with the application. Joe DePaul made a motion to grant a front setback to 34', a side setback to 13' and a rear setback to 25' to allow reconstruction of a house with shed dormer, a bay window and screened-in porch, per the plans as submitted; the hardship being the steep topography of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 50-18: Tavares, 82 Gillotti Road, for variances to Zoning Regulations 3.1.6A Front Setback to 72' for the purpose of connecting a deck to existing front entry Pergola. Zoning District: R-88; Map: 23; Block: 16; Lot: 3.

John McCartney made a motion to hear Application # 50-18, duly 2nd, approved 5-0. Nicole and David Tavares came to the board seeking to connect an existing deck to a new deck with a front entry pergola. A brief discussion ensued regarding whether the deck could be covered. The applicants said that the ZEO would not approve a covered deck. The board saw no problems with this application. Joe DePaul asked the public for comment. None given. Vinny Mancuso made a motion to enter into the Business Session, duly 2nd, approved 5-0. Joe DePaul made a motion to grant a front setback to 72' to allow an existing deck to be connected to a deck with a pergola, noting a small increase in nonconformity, per the plans as submitted; the hardship being the small size and shape of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 44-18: Bianco and Perchal, 20 Deer Run, for variances to Zoning Regulations 3.2.5A, 7.1.1.2A&B and 7.2.3A,B&E for the purpose of tearing down and rebuilding an existing house. Zoning District: R-44; Map: 15; Block: 1; Lot: 159 & 160.

Dan McDermott made a motion to hear Application # 44-18, duly 2nd, approved 5-0. Abigail Adams and Maura Juan provided an email from the applicant granting authorization to represent them. Ms. Adams gave a brief overview of the property located on Candlewood Isle that was destroyed during the May storm. The house is located on Deer Run but the front yard is determined to be Fox Run. The existing house was 1600 sq. ft. with a 1 story garage and was demolished. The proposed new construction would be 1825 sq. ft. The proposed construction will not violate any setbacks. A variance is required due to the house being pre-existing nonconforming due to the undersized lot. The new roof height would be 29.5' and the elevation of the house would be raised for better placement on the lot. Maura Juan gave a brief description of the aesthetics of the house. Joe DePaul asked the public for comment. None given. Vinny Mancuso made a motion to enter into the Business Session, duly 2nd, approved 5-0. Joe DePaul made a motion to grant a variance to reconstruct a single-family house, per the plans as submitted; the hardship being the topography, shape and size of the lot, duly 2nd, approved 5-0. Variance granted.

While in the Business Session, Joe DePaul made a motion to vote on the 2019 ZBA Calendar, duly 2nd, approved 5-0. Vinny Mancuso made a motion to accept the 2019 ZBA Calendar, duly 2nd, approved 5-0.

Bob Jano made a motion to adjourn the meeting at 9:51 p.m., duly 2nd, approved 5-0.