

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

**MINUTES  
January 19, 2017**

The New Fairfield Zoning Board of Appeals (ZBA) held a public hearing followed by a business session at 7:00 p.m. on Thursday, January 19, 2017 in the Community Room of the New Fairfield Library, located at 2 Brush Hill Road. Secretary Joanne Brown took the Minutes.

ZBA members in attendance: Joe DePaul, Chairman; John Apple, Vice Chairman; Patrick Hearty; Vinny Mancuso; and John McCartney.

Town Officials in attendance: None.

Chairman Joe DePaul called the meeting to order at 7:00 p.m. and introduced the Board Members. Joe DePaul explained the meeting process and voting and appeal procedures. Secretary Joanne Brown read the Agenda. Joe DePaul made a motion to amend the agenda to discuss neighbor notification, duly 2<sup>nd</sup>, approved 5-0. Patrick Hearty made a motion to adopt the agenda as amended, duly 2<sup>nd</sup>, approved 5-0. Secretary Joanne Brown read the Call of the Meeting.

**Continued Application # 32-16:** Marlowe, 25 Overlook Road, for variances to Zoning Regulations 3.2.5A, 3.2.6B Side Setback to 2.5', 3.2.11, 7.1.1.1A,B&C and 7.2.3A,B&E for the purpose of expanding an existing deck. Zoning District: R-44; Map: 45; Block: 5; Lot: 62 & 63.

Patrick Hearty made a motion to hear Application # 32-16, duly 2<sup>nd</sup>, approved 5-0. Cord and Kelly Marlowe approached the board. Kelly Marlowe clarified to the board that the existing deck is currently noncompliant. They are not expanding the deck but, are requesting a variance for the existing size so the deck is made compliant with regulations. Joe DePaul explained that the deck was constructed 35 years ago but was built 2' wider than the variance granted in 1980. Joe DePaul stated that he tried to find the variance, but the ZBA's records did not go back that far. The history of the vacant lot adjacent to the property was discussed. Joe DePaul showed photos to the board of the line underneath the deck representing the property line. Kelly Marlowe reiterated that they just wanted to make the deck compliant. Joe DePaul explained that if the deck was covered, it would have been grandfathered under the town's regulations, but because it is not covered, it is regarded as a structure and not subject to being grandfathered in under the law. John McCartney asked if there was any prior action taken because the deck was not in compliance. Vinny Mancuso asked the applicants if they knew about the deck before they purchased the house. Kelly Marlowe stated that they knew there were open permits on the house and the process to rectify the situation to make it legal.

John McCartney made a motion to enter into the Business Session, July 2<sup>nd</sup>, approved 5-0. While in the Business Session, Patrick Hearty stated that his question regarding how the deck passed inspection was answered by the applicant stating that the deck had an open permit. Vinny Mancuso stated that he did not see any problem with the application. Joe DePaul made a motion to grant a variance with a side setback to 2.5' per the construction in place, not per the plans as submitted; the hardship being the size, shape, and slope of the lot, July 2<sup>nd</sup>, approved 5-0. Variance granted.

While in the Business Session, Vinny Mancuso made a motion to adopt the minutes as written, July 2<sup>nd</sup>, approved 5-0. Joe DePaul made a motion to discuss neighbor notification, July 2<sup>nd</sup>, approved 5-0. A lengthy discussion ensued about the Town and Zoning Regulations regarding neighbor notification. Joe DePaul stated that it was up to the ZBA to decide for themselves whether or not to notify neighbors. Joe DePaul read Section 8.7.2 B of the Zoning Regulations which states:

B. Newspaper Notice. Upon scheduling a public hearing by such Commission or Board, the agency involved shall cause notice of the hearing to be published in a newspaper having general circulation in the Town of New Fairfield at least twice at intervals of not less than two (2) days, the first no more than fifteen days, nor less than ten (10) days, and the last not less than (2) days before the date of the hearing or as otherwise provide by § 8-7d of the General Statutes.

C. Other Notices. Upon the scheduling of the public hearing by the Commission or Board, the applicant shall notify by Certified Mail all owners of property as required for a particular application.

Joe DePaul pointed out that "as required" was at the discretion of the Board and it is up to the ZBA to decide on their own regulations. Joe DePaul stated that the Town of Ridgefield uses the following wording for Notification of Adjacent Property Owners:

Section 8-7 of the Connecticut General Statutes allows the Board to establish the manner in which adjacent property owners are notified of upcoming ZBA hearings. The Board has established that notification shall be by legal notice published in a newspaper having substantial circulation in the Town of Ridgefield. Whenever possible, notice shall also be provided in the Zoning Board of Appeals section of the Town of Ridgefield website. Notwithstanding the above, Board members may require individual notification of any adjacent property owner(s) during the course of any hearing.

Joe DePaul stated that if applicants fail to notify neighbors correctly, it could open the Board up to appeal in the court system. A brief discussion ensued about the ZBA's responsibility to protect property owners' rights and to notify them when the Board deems it necessary. Joe DePaul made a motion that the Zoning Board of Appeals of the Town of New Fairfield has established that adjacent property notification shall be by legal notice published in a

newspaper having substantial circulation in the Town of New Fairfield. Notwithstanding the above, Board members may require individual notification of any adjacent property owner(s) during the course of any hearing, duly 2<sup>nd</sup>, approved 5-0. Joe DePaul stated that he would relay this information to the Zoning Commission to clarify this regulation in the Zoning Regulations.

**Continued Application # 33-16:** Campanelli, 18 Brook Drive, for variances to Zoning Regulations 3.0.4C Minor Accessory Buildings & Structures, 3.2.5A&B, 3.2.11, 7.1.1.1A,B&C and 7.2.3A&B for the purpose of erecting a 12'x16' pre-engineered shed on the side yard. Zoning District: R-44; Map: 44; Block: 4; Lot: 57.

Vinny Mancuso made a motion to hear Continued Application # 33-16, duly 2<sup>nd</sup>, approved 5-0. Joe DePaul read a letter from Robert Campanelli requesting a continuance because the applicant was out of town. John McCartney made a motion to continue Application # 33-16 to next month, duly 2<sup>nd</sup>, approved 5-0.

Vinny Mancuso made a motion to adjourn the meeting at 7:25 p.m., duly 2<sup>nd</sup>, approved 5-0.