

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

**MINUTES
February 16, 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, February 16, 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; Vinny Mancuso; John McCartney and Alternate Ann Brown.

Town Officials in attendance: None.

Chairman Joe DePaul called the meeting to order at 7:02 p.m. and introduced the Board Members. Joe DePaul explained the meeting process and voting and appeal procedures. Secretary Joanne Brown read the Agenda. 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 # 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.

Joe DePaul read into the record a letter from Robert Campanelli requesting a continuance due to a recent surgery. Joe DePaul noted that this case cannot be continued past next month and must be voted on at that time. Vinny Mancuso made a motion to continue Application # 33-16 to March, duly 2nd, approved 5-0.

Application # 01-17: Rubio, 61 Lake Drive North, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 24', 3.2.6B Side Setbacks to 13' and 10', 3.2.7, 3.2.11, 7.1.1.1A,B&C and 7.2.3A,B&E for the purpose of reconstructing 1700 sq. ft. of an existing house and adding a 525 sq. ft. front addition. Zoning District: R-44; Map: 15; Block: 1; Lot: 47.

John McCartney made a motion to hear Application # 01-17, duly 2nd, approved 5-0. Attorney Neil Marcus, Cohen & Wolf, and Tammy Zinnick approached the board seeking three variances in connection with the Rubio's proposed renovation. Tammy Zinnick produced an enlarged site map with color coding to show the existing and proposed changes which include moving the house 8' forward in front to make room for a new septic in the rear. Attorney Marcus gave a brief history of the preexisting nonconforming property. The applicant is asking for a west side setback of 13' (currently 13.24') and an east side setback of 10'

(currently 9.81'). The house would be brought forward 8' and the existing garage would stay where it is with no vertical expansion. Attorney Marcus stated that the current roof height (24') would stay the same, moving the building forward into the natural grade and tucking the house into the hill. Attorney Marcus stated that the neighbors' views would not be negatively impacted and that no zoning regulations mention views. Joe DePaul questioned whether the height was measured from sea level, which is not the same as measuring from the zoning regulations. Attorney Marcus explained that Lake Drive North was designed with a layout of alternated properties with views between the houses and that landscaping had affected the views with tall trees over the years. Attorney Marcus stated that the Rubios had improved the neighbors' views by taking trees down.

Attorney Marcus presented the board with a hard copy of the authorization letter from the Rubios along with letters from neighbor Lesa Parsons (65 Lake Drive North) and Lisa Elsberry (57 Lake Drive North) stating their support of the proposed renovation. The board noted that those neighbors were located on the lake side of the street just as the Rubios are and so their views would not be impacted by the construction. The Rubios hired architect Maura Juan from Seventy2 Architects to do a site analysis of the view of the uphill neighbors' property. Ms. Juan went through a lengthy presentation of the views from several neighbors using mathematical equations to calculate the degree the views would be impacted. Ms. Juan argued that the views would be changed by a very slight degree, less than 1 degree. Joe DePaul countered that the neighbor's views were not based on 360 degrees and 1 degree could be a significant amount of change. Neil Marcus stated that the views would be affected 9" to 2', only a very slight difference to the human eye. The front and rear variances were discussed; the 8' shift forward would reduce the impact on the water and would give room to put in a new septic system. Tim Simpkins, Town Sanitarian, reviewed the septic plans and gave his approval. Landscape Architect, Ellen Henry and Designer, Lynn Persan, presented drawings of the proposal. A lengthy discussion ensued about the roof height. John McCartney stated that the height of the front of the proposed house looked very different from the existing height. The existing house is currently 2674 sq. feet, and the proposed house would be approximately 3900 sq. feet, with 300 sq. feet area connecting the garage, with an average ceiling height of 7.6' and a 9' cathedral ceiling in the master bedroom. Attorney Marcus summarized that the proposal was only slightly different from the existing structure, would bring the building to code while keeping the roof as low as possible; recognizing the real view of other property owners is between the houses. Attorney Marcus stated that the applicants agree not to plant tall landscaping between the houses obstructing views. Attorney Marcus stated that the hardship was that the lot was undersized and the house was functionally obsolete, with need to improve the septic and move the house away from the water. Joe DePaul asked the public for comments. Michael Loguidice submitted a letter from Gianluca and Stella Bellarini (56 Lake Drive North) expressing their concern over losing their beautiful lake views and consequential lost property value. Mr. Loguidice (54 Lake Drive North) stated that his biggest issue was that there was no hardship to justify the construction and that even a slight loss of view was not slight to him. Jim Foley (52 Lake Drive North) stated his concern and welcomed the architects to examine the impact of the proposed construction on his views. Joe DePaul suggested that the applicant should offer to take down trees to accommodate the neighbors' views. Mrs. Rubio commented that they tried to compromise and was met with unreasonable demands. Tammy Zinnick showed the board

the existing location of the septic system and the proposed septic plans and fields, along with a letter from Tim Simpkins.

Attorney Marcus suggested that a computer simulation could be useful in showing the neighbors the impacted views and offered to continue the application to get the necessary information. Attorney Marcus is not available for next month's meeting and asked that the application be continued to the April meeting. John McCartney made a motion to continue Application # 01-17, duly 2nd, approved 5-0.

Application # 02-17: Hicks LLC, 7 Route 37, for variances to Zoning Regulations 4.1.3A&B Minimum Lot Area, 4.1.4B Minimum Building & Structure Setbacks and 7.2.3A,B&E for the purpose of adding a roof over an existing outdoor vehicle lift. Zoning District: B/C; Map: 24; Block: 8; Lot: 4.

Vinny Mancuso made a motion to hear Application # 02-17, duly 2nd, approved 5-0. Gilbert and Tom Hicks approached the board and stated that they were granted a variance for the overhead lift approximately four years ago. Joe DePaul recalled the variance and stated it was a safety issue. The variance setbacks were discussed and it was discovered that the setbacks were not advertised in the newspaper. Joe DePaul stated that he would be more inclined to grant an enclosed garage than a roof over the existing lift. Tom Hicks agreed and stated that he would have four season use of the lift if it was enclosed. Joe DePaul suggested that the applicant get the setback surveyed and continue the application with an amended application for an enclosed garage. John McCartney made a motion to continue Application # 02-17, duly 2nd, approved 5-0.

Application # 03-17: Brodsters Roadsters, 3 Dunham Drive, for the purpose of holding a public hearing for an Automobile Dealer's License/Repairer's License to approve a move 25 feet from their current location. Zoning District: LI; Map: 24; Block: 15; Lot: 18.

John Apple made a motion to hear Application # 03-17, duly 2nd, approved 5-0. Joe DePaul stated that this was a special situation, not a variance. Joe DePaul read that there is a state law for garages/automotive repair shops that need ZBA approval.

Section 14-54 (b) states that any person who desires to obtain a license for dealing in or repairing motor vehicles in a municipality with a population of less than twenty thousand shall first obtain and present to the commissioner a certificate of approval of the location for which such license is desired from the board or authority designated by local charter, regulation or ordinance with the town, city or borough wherein the business is located or is proposed to be located, except that in any town or city having a zoning commission, combined planning and zoning commission and a board of appeals, such certificate shall be approved by the board of appeals.

Permission from the police department is also needed. Susan Chapman has already signed an approval. Patrick Toth approached the board and stated that he moved his location to accommodate Village Hardware's move and downsized his space. Mr. Toth is asking to

move 25 feet to the right. Mr. Toth commented that Village Hardware was allocated 24 parking spaces and he will be asking permission to appeal that amount to 12 spots. John Apple questioned why he did not come before the board previously and Mr. Toth explained that the prior ZEO, Tom Gormley, had him go before Zoning, not ZBA. Joe DePaul asked what unit he was relocating to. Mr. Toth replied Unit F. Vinny Mancuso stated that he did not have a problem with this application. Joe DePaul asked the public for comment. None given.

Vinny Mancuso made a motion to enter into the Business Session, July 2nd, approved 5-0. Joe DePaul made a motion to grant permission to operate a vehicle repair and sales shop at 3 Dunham Road, Unit F, July 2nd, approved 5-0. While in the Business Session, Vinny Mancuso made a motion to adopt the minutes as read, July 2nd, approved 4-0-1, Ann Brown abstaining.

Application # 04-17: McClain, 2 Flak Lane, for variances to Zoning Regulations 3.2.5A, 3.2.6A Front Setback to 22', 3.2.11, 7.1.1.1A,B&C, 7.2.3A,B&E and 7.2.4 Restoration of Damaged Structures or Buildings for the purpose of rebuilding a raised ranch that was destroyed by fire. Zoning District: R-44; Map: 6; Block: 1, Lot: 6&7.

Ann Brown made a motion to hear Application # 04-17, July 2nd, approved 5-0. Mark Drayton and agent Jack Muscolino approached the board. Mr. Muscolino presented plans showing the existing structure footprint and proposed structure highlighted in red. Mr. Muscolino explained that the hardship was that the house had two fronts, with steep grades. They propose to move closer to the street to accommodate the septic. Joe DePaul stated there is an existing shed on the property and questioned how long it had been on the property. Mark Drayton replied over 25 years. Joe DePaul stated that it could be preexisting nonconforming but it is currently illegal to have a shed in a front yard. Mr. Drayton stated that none of the neighbors had a problem with the shed. Mr. DePaul stated that the board doesn't like to approve an application where there is a shed in the front yard and would be more inclined to vote favorably on the proposal if the shed was removed. A lengthy discussion followed and the zoning regulations were read regarding sheds. Joe DePaul stated that the applicant is entitled to rebuild exactly what they had previously, but since the applicant is asking to build a larger house and increase nonconformity, it would be contingent upon removal of the shed. John Apple made a motion to enter into the Business Session, July 2nd, approved 5-0. Joe DePaul made a motion to grant a variance to construct a two story house with a 22' front setback per the plans as submitted contingent upon the removal of the existing shed, July 2nd, approved 5-0. Variance granted.

Vinny Mancuso made a motion to adjourn the meeting at 9:18 p.m., July 2nd, approved 5-0.