

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

**MEETING MINUTES
May 18, 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, May 18, 2017 in 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; Patrick Hearty; John McCartney and Alternate Ann Brown.

ZBA members absent: Vinny Mancuso

Town Officials in attendance: None.

Chairman Joe DePaul called the meeting to order at 7:08 p.m. and introduced the Board Members. The meeting room was changed from the Community Room to the Adult Library due to air conditioning issues. Signage was posted on the door and inside the library noting the change. 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 # 11-17: Morris, 40 Lakeshore North, for variances to Zoning Regulations 3.2.5A, 3.2.6A Front Setback 22', 3.2.6B Side Setbacks to 7.4' and 19', 3.2.6C Rear Setback to 25.6', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of a vertical second floor expansion. Zoning District: R-44; Map: 40; Block: 4; Lot: 4.

As previously agreed on at the April meeting, this application was continued to the June meeting.

Continued Application # 12-17: HKMQ LLC, 42 Route 39, for variances to Zoning Regulations 4.1.4A,B&D Minimum Building and Structure Setbacks, 4.1.4A Front Setback to 17' and 4.1.4B Side Setback to 16' for the purpose of constructing a retail/office building. Zoning District: B/C; Map: 19; Block: 13; Lot: 12.

Ann Brown made a motion to hear Continued Application # 12-17, duly 2nd, approved 5-0. Joe Reilly, Applicant, approached the board and explained that Ralph Gallagher, PE, was unable to make the meeting. Mr. Reilly stated that he spoke to the ZEO, Evan White, and was awaiting a letter regarding the zoning of the abutting neighbor. Joe DePaul questioned if the ZEO had mentioned an overlooked zoning regulation 4.2.7B #3 Landscaping Requirement which states:

B. If the property adjoining a proposed Special Permit activity is not of a business, commercial, or multi-family nature, then:

3. A fifty (50) foot landscape buffer satisfactory to the Commission shall be maintained within the setback required in Sections 4.2.7B.1 and 4.2.7.B.2 to protect neighboring residential properties. Retaining natural growth within the buffer area is preferable but supplemental planting to provide year-round screening may be required.

Mr. Reilly stated that he did not get that information from the ZEO but was awaiting an email or letter regarding the adjoining property. Joe DePaul stated that Evan White did mention the letter to him. A lengthy discussion ensued about whether the adjoining properties were commercial or residential and if the application should be continued to correctly advertise Zoning Regulation 4.2.7.B. The traffic situation and site lines were discussed. Mr. Reilly said that the proposed application met the requirements for a site distance of 350 feet for a roadway speed of 35-40 mph. John Apple noted his concern over the traffic and safety. Joe DePaul voiced his opinion that the proposed building was too close to a major road. A lengthy discussion ensued regarding the position of the building and flood plains. The board questioned whether the building could be moved further back from the road and out of the side setback. Ann Brown questioned whether the applicant could reduce the number of garages, noting that with one less garage door, less space would be needed to back out of the garages. There would be 29 parking spaces, with the building having one, two or possibly three retail locations on the first floor and storage areas behind. The board asked if the building could be made smaller and repositioned 3' further from the side which would eliminate the need for a side setback variance. Mr. Reilly stated that the building could possibly be moved back to 25' from the road. The board asked Mr. Reilly if he would like to continue the application to revise the proposal and ascertain from the ZEO the zoning of the abutting property. Patrick Hearty made a motion to continue Application # 11-17, duly 2nd, approved 5-0.

Continued Application # 14-17: Bernardini, 90 State Route 39, for variances to Zoning Regulations 4.1.4B,C&D Minimum Building and Structure Setbacks, 4.1.4C Rear Setback to 10' for the purpose of expanding a parking lot which abuts residential R-44 property. Zoning District: B/C; Map: 19; Block: 12; Lot: 19.

Patrick Hearty made a motion to hear Application # 14-17, duly 2nd, approved 5-0. David Bernardini returned to the board as requested with his abutting neighbor. Joe DePaul stated that he went to the property and found the traffic to be a major safety concern and would not vote favorably for more parking. John Apple asked if the Zoning Commission had asked for a traffic study. Mr. Bernardini said he was in the process of getting a traffic study done. A highly charged discussion ensued over what the board thought could be done and the time and expense that Mr. Bernardini would have to put in to the property. Mr. Bernardini stated that he did what the board suggested at the last meeting by getting an approval from his neighbor on the proposal and was frustrated over the loss of time and money. Joe DePaul reiterated that he spent an hour at the site and didn't realize just how bad the traffic was and that personal hardship was not a reason to grant a variance. Joe DePaul suggested that the application be continued to allow the applicant time to reconfigure the parking to possibly add

more spaces by combining the two lots, moving propane tanks, repositioning the dumpster and by removing one of the three driveways to make the situation safer. Neighbor Tino Punturiero, 5 Escape Road, lives directly behind the property and stated that he had no objection as long as the buffer zone was landscaped. Patrick Hearty made a motion to continue Application #14-17, duly 2nd, approved 5-0.

Continued Application # 15-17: Srinivasaraghavan, 144 and 146 Lake Drive South, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 8.2', 3.2.6B Side Setbacks to 6' and 17.4', 3.2.6C Rear Setback to 2.6', 3.2.7, 3.2.11, 7.1.1.2 and 7.2.3.A,B&E for the purpose of constructing a new addition to a home on a combined lot to become 146 Lake Drive South. Zoning District: R-44; Map: 25; Block 1; Lot: 32 (144), 31 (146).

Patrick Hearty made a motion to hear Application # 15-17, duly 2nd, approved 5-0. Attorney Neil Marcus, Cohen and Wolf, and Agent Dainus Virbickas approached the board with revised plans. Mr. Marcus concurred that the 440 line should be used as a property line, citing Thomas Hackett v JLG Properties. Mr. Marcus confirmed the front setback to 8.2', north side setback to 0', rear setback to 0' and south side to 17.4'. Mr. Marcus listed how the pre-existing nonconforming lot was reducing nonconformity. Joe DePaul countered that the reduced nonconformity was over the 440 line which is an area the board does not recognize. Mr. Marcus noted that three septic systems will be reduced to one, the number of bedrooms will be reduced from seven to four, water flow runoff will be decreased and there will be no impacts to the views of the neighbors. The square footage of the two houses was 5183 sq. ft. and the new house will be 5140 sq. ft. Mr. Marcus noted that Brian Woods of First Light strongly favored the proposal and the improvement it will make to the quality of the lake. John McCartney reiterated the positives of the application, noting the decrease in nonconformity. Joe DePaul read an email from Town Counsel, Jack Keating, regarding the 440 line being a "lot line" and its definition.

Section 2.1 Definitions

"Four-Forty Line: An elevation (contour) line surrounding Lake Candlewood equal to 440 feet above sea level (defined as the elevation datum established by the United States Geological Survey, National Geodetic Vertical Datum of 1929 [NGVD29]). For purposes of these Regulations, this line shall be considered a lot line."

Neil Marcus noted the vast improvements to the lot and the lake. Joe DePaul asked the public for comments. None given. John Apple made a motion to enter into the Business Session, duly 2nd, approved 5-0. While in the Business Session, the board noted that while there is no hardship; the existing house is in violation of the zoning regulations and removing this house will provide a decrease in nonconformity, a decrease in impervious coverage, and smaller house coverage than the total of the two houses. Patrick Hearty noted the application was for the greater good of Candlewood Lake. John McCartney noted the reduction of three septic systems to one. Joe DePaul made a motion to grant a front setback to 8.2', side setbacks to 0' and 17.4' and a rear setback to 0' for the purpose of constructing a new addition on a combined lot to become 146 Lake Drive South, noting that there is no hardship but a

decrease in nonconformity by decreasing the house size and impervious coverage, duly 2nd, approved 5-0. Variance granted.

While in the Business Session, John Apple made a motion to accept the Minutes as read, duly 2nd, approved 4-0-1, John McCartney abstaining.

Application # 16-17: Williams, 17Cloverleaf Drive, for variances to Zoning Regulations 3.0.4C&F, #1 & #2 Minor Accessory Buildings and Structures, Front Setback to 72.4' and Side Setback to 7.6' for the purpose of constructing a 16'x12' shed. Zoning District: R-88; Map: 13; Block: 4; Lot: 23.19.

John Apple made a motion to hear Application #16-17, duly 2nd, approved 5-0. David Williams approached the board with plans for a 16'x12' shed. Mr. Williams described the terrain and slopes of the property. Zoning regulations for R-88 lots allow for a 400 sq. ft. shed; the proposed shed would be considerably less at 250 sq. ft. Joe DePaul presented photos of the property. A lengthy discussion ensued over the proposed location. The board stated that a shed in the front yard was not the best possible placement for the shed. Joe DePaul stated that he does not vote in favor of a shed in the front of a property. The regulations from the property line were discussed. It was suggested that the best placement would be 10' from the property line behind the continuation of the stone wall at the end of the driveway. The applicant agreed. Joe DePaul asked the public for comment. None given. Patrick Hearty made a motion to enter into the Business Session, duly 2nd, approved 5-0. Joe DePaul made a motion to grant a variance to allow a shed in a side yard located 10' from the property line anywhere behind the continuation of the stone wall at the end of the driveway, duly 2nd, approved 5-0. Variance granted.

Application # 17-17: Hollister, 25 Candlewood Drive, for variances to Zoning Regulations, 3.2.5A&B, 3.2.6C Rear Setback to 3.2', 3.2.7, 3.2.11, 7.1.1.2 and 7.2.3A&B for the purpose of building a rear porch and side addition to an existing house. Zoning District: R-44; Map: 39; Block: 1; Lot: 64/69.

Patrick Hearty made a motion to hear Application # 17-17, duly 2nd, approved 5-0. No one was present for the application. Patrick Hearty made a motion to continue the application to the end of the meeting, duly 2nd, approved 5-0. Joe DePaul made a motion for a five minute break, duly 2nd, approved 5-0. John Apple made a motion to reconvene, duly 2nd, approved 5-0.

Application # 18-17: Hahn, 9 Merlin Avenue, for variances to Zoning Regulations 3.2.5A, 3.2.6B Side Setback to 17', 3.2.6C Rear Setback to 15.5', 3.2.11, 7.1.1.1A&B and 7.2.3A&B for the purpose of extending an existing deck into the rear and side yard. Zoning District: R-44; Map: 34; Block: 3; Lot: 7.

John McCartney made a motion to hear Application # 18-17, duly 2nd, approved 5-0. Douglas Hahn approached the board. Mr. Hahn explained that his existing deck is in disrepair, rotting and falling apart. Mr. Hahn was requesting to enlarge the deck to make it useable. Joe DePaul presented photos of the existing deck and stated that there is no hardship. Setbacks

were discussed. The applicant is asking for a 15.5' rear setback noting that the lot is very shallow and the house is slightly angled. The existing deck is only 6' wide. The deck is tucked in the corner of the house, with no neighbors in view, surrounded by wooded property. Joe DePaul asked if the deck could be placed over the driveway. The applicant stated that it would not look nice and that his neighbors would not be happy with the placement. Mr. Hahn stated that he thought there might be a prior variance on the property for a 24' rear setback. Ann Brown suggested that the applicant consider a patio that would not require a variance. The board suggested the applicant research the prior variance and continue to next month. John McCartney made a motion to continue Application #18-17, July 2nd, approved 5-0.

John McCartney made a motion to hear Application # 17-17, July 2nd, approved 5-0. No one was present for the application.

John Apple made a motion to adjourn the meeting at 9:18 pm, July 2nd, approved 5-0.