

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

**MINUTES  
February 18, 2016**

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 18, 2016 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; Debbie Bing-Zaremba, Vinny Mancuso and Alternate Ann Brown.

ZBA members absent: Patrick Hearty.

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. Joe DePaul gave the definition of a recusal.

Secretary Joanne Brown read the Agenda. Vinny Mancuso made a motion to adopt the agenda, duly 2<sup>nd</sup>, approved 5-0. Secretary Joanne Brown read the Call of the Meeting.

**Application # 01-16:** Abric, 7 Lamont Road, for variances to zoning regulations 3.2.5A,B&C, 3.2.6A Front Setback to 27.2', 3.2.6.B Side Setbacks to 15.2', 3.2.6C Rear Setback to 45', and 3.2.11 for the purpose of constructing a house on a previously approved lot. Zoning District: R-44; Map: 36; Block: 10; Lot: 16.

Vinny Mancuso made a motion to hear Application # 01-16. Owner Jeanne Abric and Agent, Ralph Gallagher, approached the board. The applicants explained that a prior variance was granted in 2007 but the house was never built. Since then septic codes have changed and they are now requesting a variance to construct a larger house. The applicant indicated that house size that was approved was incorrectly submitted by the attorney at that time. The small size of the house was discussed. Joe DePaul questioned what the dimensions of the new house would be. Ralph Gallagher responded that the house would be 26'x47' increasing from 23'x40'. Joe DePaul referred to the minutes from 2007 which showed that the size of the house was an issue. The board asked if the applicants would be able to move the house location back on the lot to increase the front yard setback and -decrease nonconformity. Joe DePaul questioned if a deck was on the previous approved plans. Ralph Gallagher stated that he believed there was a previous deck. Joe DePaul stated that he had a problem with the placement of the house and asked why it couldn't be moved back further in 2007. Ralph Gallagher stated that the septic codes in 2007 required the house be 15' from the septic. The

codes have changed and the house can now be located closer to the septic so it might now be possible to move the house back further. Joe DePaul stated that if the house could be moved back, the board would be more likely to grant a variance since there would be a decrease in nonconformity. The rear setbacks were discussed. There was no previous need for a rear setback. The board recommended that the application be continued to next month so the applicant could revise the position of the house. Vinny Mancuso made a motion to continue Application # 01-16 to next month, duly 2<sup>nd</sup>, approved 5-0.

**Application # 02-16:** Shields, 5 Donna Drive, for variances to zoning regulations 3.2.5A&B, 3.2.6B Side Setback to 11.5', 3.2.11, 7.1.1.1A,B&C and 7.2.3A,B&E for the purpose of constructing an addition to the house to add a bedroom and bath. Zoning District: R-44; Map: 27; Block: 3; Lot: 4.

Vinny Mancuso made a motion to hear Application # 02-16, duly 2<sup>nd</sup>, approved 5-0. Delores Shields and Jim Donofrio approached the board requesting a variance to construct an additional bedroom and full bath. The small size of the house was discussed. Joe DePaul stated that there was plenty of room to expand on the property. The owner stated that the plans presented were what the builder originally designed and no other options were discussed. The board discussed that the applicant could expand vertically or behind the house without increasing nonconformity. The subject of hardship was discussed. The board explained that they could not grant a variance where there was no hardship. After further discussion, the applicant withdrew the application.

**Application # 03-16:** Opdahl, 47 Candle Hill Road, for variances to zoning regulations 3.2.5A, 3.2.6B Side Setback to 6.6', 3.2.6C Rear Setback to 19.7', 3.2.11, 7.1.1.1A,B&C and 7.2.3A,B&E for the purpose of constructing an addition to the dwelling with a 12'x24' encroachment on the northern border. Zoning District: R-44; Map: 6; Block: 3; Lot: 7.

John Apple made a motion to hear Application # 03-16, duly 2<sup>nd</sup>, approved 5-0. Sarah and Matthew Opdahl approached the board. Joe DePaul stated that the applicants have a shed in the front yard which is against zoning regulations and said that the board is reluctant to grant variances to people who are currently violating the regulations. The proposed plans for the addition were discussed. The setbacks are currently 18.5'. The applicants are asking for a 6.6' setback. Sarah Opdahl explained that the addition was located as proposed because of the placement of the septic and auxiliary septic. There was no other place to put it. Joe DePaul stated that a letter from the Town Sanitarium, Tim Simpkins, was needed to support the placement of the construction. Sarah Opdahl also mentioned the steepness of the lot. The question of hardship was discussed. John Apple asked if there would be a second story. Joe DePaul discussed the position of the deck and staying within the setbacks. A discussion ensued about other construction options within the setbacks. The board suggested that the applicants explore other options and obtain an A2 survey. The applicants agreed to continue the application to next month. Vinny Mancuso made a motion to continue Application # 03-16 to next month, duly 2<sup>nd</sup>, approved 5-0.

**Application # 04-16:** Anderson & Martinez, 129 Route 37, for variances to zoning regulations 3.1.5A, 3.1.6A Front Setback to 43', 3.1.6B Side Setbacks to 35' and 28', 7.1.1A&B and 7.2.3A&B for the purpose of removing an existing porch and building a 372 sq. ft. deck. Zoning District: R-88; Map: 13; Block: 4; Lot: 9.

John Apple made a motion to hear Application # 04-16, duly 2<sup>nd</sup>, approved 5-0. Maurice Katz, Agent, approached the board. Mr. Katz explained to the board the position of the wrap around deck and stairs to the back of the house. Joe DePaul questioned if there was a previous deck on the property. Mr. Katz produced several photos of the house and property. The dimensions of the deck and walkways were discussed. Joe DePaul asked how high the deck would be from the ground. Mr. Katz stated that it would be 8' off the ground, with stairs to the lower level. Side setbacks were discussed. The board went over the dimensions on the plans and they did not seem to match the setbacks requested. Joe DePaul discussed the previous variance on the property which granted a front setback to 34.4'. The setbacks for an R-88 lot were discussed (side setback 35' front setback 75' and rear setback 60'). The steps were discussed. Mr. Katz said that the steps were removed because they were rotting and the ground was eroding. The board asked the applicant to obtain an A2 survey which would show exact measurements and setbacks needed. The applicant agreed to continue the application until next month. Ann Brown made a motion to continue Application # 04-16, duly 2<sup>nd</sup>, approved 5-0.

**Application # 05-16:** Cicerone, 100 Gillotti Road, for variances to zoning regulations 3.0.5A&B Private permanent detached garage for the purpose of constructing a 32'x46'x30' garage. Zoning District: R-88; Map: 23; Block: 16; Lot: 93.

John Apple made a motion to hear Application # 05-16, duly 2<sup>nd</sup>, approved 5-0. Richard and Kim Cicerone and Jacques Proteau approached the board. Mr. Cicerone explained that he bought the house about a year ago and saw plans in the land use file for a 40'x60' garage. He did not know if the plans were approved since the house went into foreclosure before he purchased it. John Apple questioned why the applicant needed another 3 car garage since they have one already. Joe DePaul stated that the applicant was entitled to construct another garage as long as they keep within the zoning regulations since setbacks were not a concern. Joe DePaul stated that they were in front of the board because the proposed garage exceeded the maximum sq. footage allowed. Town ordinances and regulations were discussed. Joe DePaul explained that the ZBA does not make the regulations. Zoning Regulation 3.0.5 Private Permanent Detached Garages was read into the file. The regulation states that private and permanent detached motor vehicle garage for the use of residents of the lot providing that: A: the building area shall not exceed 750 square feet; B: there may be up to 250 square feet of additional building area, up to a maximum of 1,000 square feet of building area per lot, if the size of the lot exceeds the minimum lot size for the applicable zoning district for the lot by over 20,000 sq. feet; C: it shall comply with all yard setback and coverage requirements applicable to the district within which it is located; and; D: it shall not be a Hoop House Garage. The applicant is asking to build a 1472 sq. foot garage with a second story. The applicant is entitled to put up a 1000 sq. foot garage without approval from the board. The board questioned what the hardship was and that the board cannot legally grant a hardship when there is none. The applicants produced pictures of detached garages

in New Fairfield. The board stated that every piece of property is unique and could have been preexisting nonconforming. The topic of hardship was discussed again and that you cannot grant a variance without hardship. Debbie Bing-Zaremba read a passage from the Connecticut Appellate Court which recently stated that an applicant's disappointment in the use of the subject property, mainly the inability to build a larger structure, is personal in nature, and not a proper basis for defining a hardship. The fact that an owner is prohibited from adding new structures to the property does not constitute a legally recognizable hardship. The board suggested that the applicants lobby the Zoning Commission to address this issue. Joe DePaul reiterated that the applicant was entitled to a 1000 sq. foot, 35' high detached garage and would not require a variance if the garage is within the setbacks. The applicants will explore whether there is a prior variance on the property. The applicants will continue the application until next month or withdraw if no variance is found. Vinny Mancuso made a motion to continue Application # 05-16, duly 2<sup>nd</sup>, approved 5-0.

**Application # 06-16:** Jessor, 18 Fair Lane, for variances to zoning regulations 3.2.5A&B, 3.2.6B Side Setback to 6.3', 3.2.6C Rear Setback to 41.2', 3.2.11, 7.1.1.1A,B&C and 7.2.3A,B&E for the purpose of constructing a second story addition on the current footprint. Zoning District: R-44; Map: 44; Block: 6, Lot: 14 & 22.

Application # 06-16 was unopened because there was no one present for the application, possibly due to a mailing error. Application # 06-16 will be on next month's agenda.

Debbie Bing-Zaremba made a motion to enter into the Business Session, duly 2<sup>nd</sup>, approved 5-0. While in the Business Session, Debbie Bing-Zaremba made a motion to approve the minutes as read, approved 3-0-2, Vinny Mancuso and Ann Brown abstaining. Ann Brown made a motion to adjourn the meeting at 8:37 pm, duly 2<sup>nd</sup>, approved 5-0.