

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

**MINUTES
July 25, 2016**

The New Fairfield Zoning Board of Appeals (ZBA) held a public hearing followed by a business session at 7:00 p.m. on Monday, July 25, 2016 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 Alternate Ann Brown.

ZBA members absent: Debbie Bing-Zaremba.

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. Patrick Hearty made a motion to adopt the agenda, July 2nd, approved 5-0. Secretary Joanne Brown read the Call of the Meeting.

Continued Application # 13-16: Vanderheyden, 49 Knollcrest Road, for variances to Zoning Regulations, 3.2.5A&B, 3.2.6B Side Setback to 10', 3.2.6C Rear Setback to 33.5', 3.2.11, 7.1.1.1A,B&C, and 7.2.3A,B,&E for the purpose of demolishing an existing house and constructing a new single family house. Zoning District: R-44; Map: 10; Block: 3; Lot: 86.4

Joe DePaul read a letter from Ms. Vanderheyden requesting a continuance until next month. Vinny Mancuso made a motion to continue Application # 13-16 to the August 18th meeting, July 2nd, approved 5-0.

Continued Application # 17-16: Bonney, 56 Wood Creek Road, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 9', 3.2.6B Side Setbacks to 21.3' (south) and 55.3' (north), 3.2.6C Rear Setback to 19.1', 3.2.11, 7.1.1.1A,B&C and 7.2.3A,B&E for the purpose of constructing a new single family house. Zoning District: R-44; Map: 25; Block: 11; Lot: 4.

Patrick Hearty made a motion to hear Continued Application # 17-16, July 2nd, approved 5-0. Dainius Virbickas of Artel Engineering, agent for the applicant, approached the board and presented the proposal to demolish the existing cabin on the property and construct a new house. Mr. Virbickas explained that the lot is a severely undersized lake front property. The existing cabin with the deck is approximately 800 square feet, with no well or septic. Mr.

Virbickas stated that the proposal began with finding an area for the septic and well, working backward to find a suitable position for the house. The applicant has gotten approval from the health department for the septic. The proposed home is a three bedroom 40'x30' house, with a detached garage on the North side. Joe DePaul reiterated that the setbacks are measured from the right of way easements as per zoning regulations. The applicant is seeking a 19' rear setback. Joe DePaul questioned about flipping the garage and house which was brought up at last month's meeting. Mr. Virbickas explained that the position of the garage and house was to squeeze in as much space behind the septic system. Joe DePaul asked about the use of French drains. Mr. Virbickas noted the substantial change in the plans in the position of the stairs from the deck which now have been rotated to the side. The boat house and the date of construction of the home were discussed. The cottage and boat house were erected in the 1920s. Joe DePaul asked the board for comments. None given. Joe DePaul asked the public for comments. Charles Simmons, 54 Wood Creek Road, gave the background of construction of the existing cottage and boat house. Mr. Simmons voiced his objection and concern that as an adjacent homeowner, he and the other adjacent neighbors were not notified to the construction by certified mail as stated in Connecticut Statute CGS8-7D. Mr. Simmons felt that he did not have the opportunity to review the plans to make meaningful comments to the board. Joe DePaul noted Mr. Simmons concerns but reiterated that it is up to the board to require neighbor notification and stated that the ZBA does not require notification because the legal notice is published in the newspaper. Joe DePaul stated that he would like to see the house moved closer to the 440 line and that the applicant is entitled to rebuild the home and vertically expand it without increasing nonconformity. Joe DePaul asked the public for comment. None given. Setbacks were discussed from the 440 line and that it would be more agreeable to move the house further from the road and to flip the garage, keeping the setback within 28'. The board agreed that moving the house closer to the lake would be a better option. Mr. Virbickas stated that they would revisit the house's position again. Vinny Mancuso make a motion to continue the application until next month, July 2nd, approved 5-0.

Application # 18-16: Gucci, 46 Ridge Road, for variances to Zoning Regulation 3.0.4 Minor Accessory Buildings and Structures (C) for the purpose of building a 16'x12' shed. Zoning District: R-44; Map: 15; Block: 6; Lot: 131 & 147.

Vinny Mancuso made a motion to hear Application #18-16, July 2nd, approved 5-0. Tom Westlake, agent, and Bob and Sandy Gucci approached the board. The topography of the property was discussed. Mr. Gucci produced photos of the proposed site of the shed, showing the retaining wall and the steep slope. The size of the shed will be 16'x12', which is smaller than the 200 square feet allowed. The ordinance calls for the shed to be situated behind the line of the house. Approximately 2/3 of the shed is behind the house and 1/3 or approximately 5' extends beyond the back of the house line. Joe DePaul asked the public for comment. None given. Patrick Hearty mentioned that the shed is smaller than what is allowed and that should be taken into consideration. Zoning regulation 3.0.4 was discussed and the fact that the shed is 5' in front of the line of the house. Vinny Mancuso made a motion to enter into the Business Session, July 2nd, approved 5-0. In the Business Session, the board discussed how the shed is behind the garage and smaller than what regulations allow. Joe DePaul made a motion to grant a variance for a shed that violates Zoning

Regulation 3.0.4 by approximately 5' in the front of the rear building line relative to the street per the plans as submitted; the hardship being the extreme slope of the lot, duly 2nd, approved 5-0. Variance granted.

While in the Business Session, John Apple made a motion to approve the minutes as read, duly 2nd, approved 4-0-1, Vinny Mancuso abstaining.

Application # 19-16: Abric, 7 Lamont Road, for variances to Zoning Regulations 3.2.5A,B&C, 3.2.6 A Front Setback to 30.5', 3.2.6B Side Setbacks to 15.2' and 17', 3.2.6C Rear Setback to 44' and 3.2.11 for the purpose of constructing a single family house. Zoning District: R-44; Map: 36; Block: 10; Lot: 16.

Ann Brown made a motion to hear Application # 19-16, duly 2nd, approved 5-0. Ralph Gallagher, agent, explained the revisions to the previously approved plan and noted the decrease in nonconformity. The proposed side setbacks are 17' each side, with 15' previously approved. The front setback would go from 27' previously approved to 30', with an increase in the size of the home from 24'x40' to 26'x47', with an 8'x20' deck in the rear. Joe DePaul asked the public for comment. Valerie J. White, an adjacent neighbor located at 42 Fulton Drive, voiced her concerns about the run off from the drainage system because of flooding problems with the stream in her yard. Ralph Gallagher stated that the plans have been approved by wetlands and the health department. Perk tests were discussed. The board urged Ms. White to hire an expert and contact Mr. Simpkins of the Health Department to voice her concerns as the ZBA has no authority over the matters of the Health Department. Vinny Mancuso made a motion to enter into the Business Session, duly 2nd, approved 5-0. John Apple and Vinny Mancuso both stated that the variance to build a house has already been approved and that the ZBA has no authority over health issues. The board discussed the decrease in nonconformity. Joe DePaul made a motion to grant a variance with a front setback to 30.5', side setbacks to 17' and a rear setback to 44' to construct a new house on a lot with a previously approved variance noting the decrease in nonconformity in the side setbacks; the hardship being the irregular size, shape and slope of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 20-16: Lisi, 50 Ball Pond Road East, for variances to Zoning Regulations 3.1.5A&B, 3.1.6A Front Setback to 56.5', 3.1.6B Side Setback to 33.1', 3.1.6C Rear Setback to 51.1', 3.1.11, 7.1.1.2 Improved Lots not in Validated or Approved Subdivision and 7.2.3A,B&C for the purpose of tearing down an existing home and building a five bedroom house. Zoning District: R-88; Map: 22; Block: 7; Lot: 31.

Ann Brown made a motion to hear Application #20-16, duly 2nd, approved 5-0. Ralph Gallagher and Mrs. Lisi approached the board. Mr. Gallagher gave an overview of the lot. Mr. DePaul stated that the ZBA can only vote on the hardship of the land and not for personal reasons. Mr. Gallagher stated that the existing home would be demolished. The setbacks requested are a 51' rear setback, a 56.5' front setback and a 33.1' side setback. The current setback is nonconforming at 64.3'. John Apple questioned the position of the proposed garage. A brief history of the area of Weldon Woods was discussed, noting the 2 acre zoning. Joe DePaul stated that the applicant was entitled to maintain the existing front setback of

64.3' because it would not increase nonconformity and could go to 35' side setback without getting a side variance. The position of the preexisting grandfathered shed was discussed with a rear setback of 34.8'. Joe DePaul stated that the applicant is entitled to keep the rear variance because it is preexisting nonconforming. Mr. DePaul suggested that the applicant modify the plans within those existing setbacks. The square footage and design of the house was discussed. Joe DePaul asked the public for comment. Alexander Copp, attorney for Rosemary Pellegrino, an adjacent neighbor, commented that the hardship should be based on the land alone, and that the zoning requirements for 2 acre lots should be abided by. Mr. Copp objected to the large footprint and style of the house, noting it would be out of the character of the neighborhood. Rosemary Pellegrino voiced her concern over the size of the home and the loss of privacy due to trees being taken down. Ralph Gallagher agreed to modify the plans to the house and make them available in Land Use by August 5th for review. Vinny Mancuso made a motion to continue Application #20-16, July 2nd, approved 5-0.

Application # 21-16: Lisi, 49 Ball Pond Road East, for variances to Zoning Regulations, 3.0.4A,C,D&E Minor Accessory Buildings and Structures, 3.0.8A,C&E Gazebos, 3.2.5A, 3.2.6A Front Setback to 21', 3.2.6C Rear Setback to 47', 3.2.11, 7.1.2.2 Vacant Lots Not in Validated Subdivision or Recorded Approved Subdivision and Re-subdivision and 7.1.3 Requirements for the purpose of building a Pavilion/Gazebo. Zoning District: R-44; Map: 22; Block: 5; Lot: 27.1.

Patrick Hearty made a motion to hear application # 21-16, July 2nd, approved 5-0. Ralph Gallagher, agent, explained the proposed structure of the pavilion for the property. The pavilion would be a 22'x22' roof structure over a flagstone patio without walls. Wetlands have already approved the location. The regulations of an accessory structure were discussed. Joe DePaul stated that this was an unusual request and that the applicant is a contract purchaser, depending on the vote of the board. Mr. DePaul stated that the board has never approved an accessory structure on a separate piece of land. The area and lots around Ball Pond containing accessory structures were discussed. Mr. DePaul stated that if no setbacks were needed it would be easier to grant the variance and that the structure could be placed within the setbacks and closer to the lake which would not increase nonconformity. John Apple made a motion to continue the application until next month, July 2nd, approved 5-0.

Vinny Mancuso made a motion to adjourn the meeting at 8:57 p.m., July 2nd, approved 5-0.