

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

**MINUTES
August 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, August 18, 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; and Alternate Ann Brown.

ZBA members absent: Vinny Mancuso

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, duly 2nd, approved 4-0. 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

John Apple made a motion to hear Continued Application # 13-16, duly 2nd, approved 4-0. Paul Szymanski, PE, approached the board and presented a letter of filing consent from First Light for the proposed project. Mr. Szymanski indicated that after meeting with First Light their interpretation of property lines were changed to reflect the original 440 line which was beneficial to the applicant. The applicant will no longer require a rear setback. Mr. Szymanski produced 11 similar cases in the immediate area where variances were requested and granted and the setback was measured from the property line and not the easement line. Joe DePaul said that the setbacks are defined by the Zoning Regulations which could have changed over time. Mr. DePaul reiterated that the ZEO and Town Attorney agreed that the zoning regulations clearly state that the setbacks should be measured from the easement line.

Mr. Szymanski proposed an alternate plan which took into consideration the ZEO's interpretation of measurement from the easement line. The alternate plan reduces imperious surfaces by 75.2 percent and reduces nonconformity. Mr. Szymanski told the board that the

applicant took their comments seriously, came up with a viable alternative and decreased nonconformity by removing the garage. Joe DePaul asked the board and public for comments. Several neighbors, represented by Lori Macomber (39 Knollcrest) objected to any pavers or objects in the right of way, including a proposed stone retaining wall and pervious paver stairs that would impede access to the sea wall and impact the natural grass setting in the access way to the lake. Richard and Yvette Holzmaier (45 Knollcrest) and Mr. Blijdmaj (37 Knollcrest) also voiced their concern over the proposed pavers in the access way. The neighbors voiced their concern and wished to oppose any changes to the shared access way. Deborah Vanderheyden voiced her concerns over the tightness of the driveway and the ability to turn her car around safely. Mr. Szymanski addressed the issues as more of a wetlands issue than Zoning Board of Appeals issue and agreed to meet with the neighbors to try to work out a solution that would be agreeable to all the parties. Joe DePaul commended the applicant on decreasing nonconformity and suggested continuing the application until the next month. Patrick Hearty made a motion to continue Continued Application # 13-16 to next month, July 2nd, approved 4-0.

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 4-0. Dainius Virbickas of Artel Engineering, agent for the applicant, approached the board, and noted that they took the board's suggestions to reduce the side and front yard setbacks and keep the house within the existing 28'. The garage was switched to the opposite side of the house and moved 2' further from the road. The revised footprint impacted the septic so the leaching products were revised. Joe DePaul mentioned that he would have liked to see the house more centered between the 440 line and the easement. Mr. Virbickas discussed the placement and the need to have the required distance for the septic. The easement around the property was discussed. Joe DePaul asked the public for comment. Charles Simmons, 54 Wood Creek Road, explained the history of the existing easement and stated that he was pleased to see the garage relocated. Mr. Simmons voiced his concern over the turn radius of the driveway to get the car in and out of the garage, the drainage of the septic systems and questioned the approval of the garage. Joe DePaul explained the board's positive position on garages to get cars off the street. Joe DePaul asked Mr. Virbickas if it were possible to center the house and move it further off the street and away from the road. Mr. Virbickas agreed to continue the application and Patrick Hearty made a motion to continue Continued Application #17-16 to next month, July 2nd, approved 4-0.

Continued 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.

Patrick Hearty made a motion to hear Continued Application #20-16, duly 2nd, approved 4-0. Ralph Gallagher and the Lisi's approached the board. Mr. Gallagher gave an overview of the request by the board to decrease nonconformity and modified the proposed plans. The proposed plans will maintain the existing 64.3' front setback, and increase the rear setback from 34.8' to 41.5'. The issue of privacy, drainage, and plantings were discussed. Mr. Gallagher provided the board with square footage of nearby houses which all fell into the 4,000-5,000 square foot range. The old ice house on the property was discussed. It is an existing nonconforming structure with a rear setback of 34.8' which will be demolished. Mrs. Lisi discussed the history of the property and how it was subdivided from its original 144 acres. Joe DePaul asked the public for comment. Attorney Neil Marcus spoke on behalf of adjacent neighbors, Anthony and Rosemary Pelligrino, and voiced their concerns. Mr. Marcus reiterated Mr. DePaul's opening statements on hardship and stated that the property does not meet the criteria of a hardship. Zoning regulations were discussed regarding accessory structures. Mr. Marcus noted that nonconformity was increased by 150 per cent and Joe DePaul countered that the existing structure has two stories which will go down to one. The one acre zoning in a two acre zone was discussed. Joe DePaul provided photos from the Pelligrino's property, noting that their view would be improved by removal of the 2nd story of the house. Neil Marcus stated that the applicant is building a large structure on a lot of less than one acre. Ralph Gallagher discussed the distance of the rear setback and that Wetlands wanted a 40-50' setback from the brook. Mr. Gallagher also discussed the drainage into the brook. Maureen D'Angelo (59 Ball Pond Road) stated her concerns over the effect on the brook and the placement of the septic. Mr. Gallagher responded to Ms. D'Angelo's satisfaction. Patrick Hearty made a motion for a 5 minute recess for the agent and applicant to converse, duly 2nd, approved 4-0. Ralph Gallagher stated that they applicant had done everything in good faith and decreased nonconformity and kept the size of the house consistent with those in the neighborhood. Joe DePaul asked for a clarification of the setbacks. 64.3' front setback and 41.5' rear setback were confirmed. It was decided that the application would be continued and Ralph Gallagher amended the original setbacks on the application so the application could be re-advertised. Patrick Hearty made a motion to continue Continued Application # 20-16, duly 2nd, approved 4-0.

Continued 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 Continued Application # 21-16, duly 2nd, approved 4-0. Mrs. Lisi stated that they had contacted Wetlands to move the proposed plans within the setbacks. Joe DePaul stated that he would like to see the house application go through first and that this application should be continued to next month. Storage on the property for kayaks and paddle surfers were discussed. John Apple made a motion to continue Continued Application # 21-16, duly 2nd, approved 4-0.

Application # 22-16: Sleight, 30 Inglenook Drive, for variances to Zoning Regulations 3.2.5A&B, 3.2.6C Rear Setback to 35', 3.2.11, 7.1.1.1A,B&C and 7.2.3A&B for the purpose of adding a third bay (15'x25.6') to an existing garage. Zoning District: R-44; Map: 41; Block: 5; Lot: 71.

John Apple made a motion to hear Application # 22-16, July 2nd, approved 4-0. Leigh Sleight approached the board and gave a brief history of the property. Setbacks were discussed and the shape of the lot. Joe DePaul questioned the property and said that it looked like a corner lot, with two fronts and two sides. Ann Brown questioned if the road was a private road. Ms. Sleight answered that there were three houses that used the road. The garage placement was discussed. Joe DePaul said that there was no hardship for a third garage and urged the applicant to speak to the ZEO to see if the lot could be classified as a corner lot where no variance would be needed. Patrick Hearty made a motion to continue Application # 22-16, July 2nd, approved 4-0.

Application # 23-16: Alesi, 263 Ball Pond Road, for variances to Zoning Regulations 3.1.5A, 3.1.1.1, 7.1.1.2 Improved Lots not in Validated or Approved Subdivision and 7.2.3A,B&E for the purpose of building a 34'x52' attached three car garage. Zoning District: R-88; Map: 23; Block: 20; Lot: 15.

Ann Brown made a motion to hear Application # 23-16, July 2nd, approved 4-0. Thomas Alesi, Jr. approached the board, representing his son. Mr. Alesi explained that there was previously a garage on the property which was converted into a family room by the previous owner. The garage doors still exist but are screwed shut and sheet rocked over. The lot is a corner lot and meets all the setbacks including the overhangs. Setbacks were discussed. The proposed garage would be 1 story and 34'x52', with planted trees. Joe DePaul and the board discussed the size of the garage and noted that the size was more like a commercial garage. It was suggested to Mr. Alesi to modify the proposal to a smaller, residential size 3 car garage with the stipulation that the garage doors be taken off the old garage and replaced with new windows. John Apple made a motion to continue Application # 23-16, July 2nd, approved 4-0.

John Apple made a motion to enter into the Business Session, July 2nd, approved 4-0. John Apple made a motion to approve the minutes as read, July 2nd, approved 4-0. Patrick Hearty made a motion to adjourn the meeting at 9:28 p.m., July 2nd, approved 4-0.