

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

**MINUTES
September 12, 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, September 12, 2016 in the New Fairfield Company A Firehouse located at 302 Ball Pond 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: None

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 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

John Apple made a motion to hear Continued Application # 13-16, duly 2nd, approved 5-0. Paul Szymanski, PE, approached the board and stated that he had met with the neighbors, as requested by the board, with regard to the position of the steps, retaining wall and impervious pavers in contention. Mr. Szymanski recapped the meeting and showed revised plans fully within the side and rear setbacks. The revised plans removed the steps, pavers and retaining wall in contention and created a retaining wall higher up in the driveway allowing for a turnaround area. Joe DePaul asked the public for comment. Lori Macomber (39 Knollcrest) stated that they would like to see the revised plans and had concerns regarding the change of grade of the road. Ms. Macomber's concern was over the ability of a snow plow to plow the road to the catch basin. Paul Szymanski stated that the proposed plan changed the grade higher up in the driveway and would make snow plowing less problematic. Rick Plastini (43 Knollcrest) also stated his concerns regarding snowplowing. Ms. Vanderheyden agreed that the grade was an issue and that the proposed plan addressed her safety and improved the slope. Vinny Mancuso made a motion to enter into the Business Session, duly 2nd, approved 5-0. The board discussed how the applicant addressed all the neighbor's concerns. Vinny

Mancuso stated that the applicant decreased nonconformity on every single aspect. Joe DePaul made a motion to grant a variance to tear down the existing structure and to construct a new single family house, per the plans as submitted, noting the decrease in nonconformity and driveway slopes as set out on the revised plans, duly 2nd, approved 5-0. Variance granted.

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

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.

John Apple made a motion to hear Continued Application # 17-16, duly 2nd, approved 5-0. No one was present for the application. Vinny Mancuso made a motion to hear Continued Application # 17-16 at the end of the meeting, duly 2nd, approved 5-0.

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.

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 # 20-16, duly 2nd, approved 5-0. Mrs. Lisi stated that their agent, Ralph Gallagher was detained and asked that both Continued Application # 20-16 and # 21-16 be postponed until his arrival. Vinny Mancuso made a motion to postpone Continued Application # 20-16 and Continued Application # 21-16 until their agent arrived, duly 2nd, approved 5-0.

Continued Application # 22-16: Sleight, 30 Inglebrook 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, duly 2nd, approved 5-0. Joe DePaul read an email from Leigh Sleight withdrawing Continued Application # 22-16.

Continued 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.

John Apple made a motion to hear Application # 23-16, duly 2nd, approved 5-0. Thomas Alesi, Jr. approached the board and requested that his application be postponed until his legal representative arrived. Vinny Mancuso made a motion to postpone Continued Application # 23 -16 until representation arrived, duly 2nd, and approved 5-0.

Application # 24-16: Fitzgerald, 57A Knollcrest Road, for variances to Zoning Regulations 3.2.6B Side Setbacks to 10' and 15.5', 3.2.6C Rear Setback to 33.8', 7.1.1.1A,B&C and 7.2.3A,B&E for the purpose of constructing a vertical expansion. Zoning District: R-44; Map: 10; Block: 3; Lot: 84A.

Vinny Mancuso made a motion to hear Application # 24-16, duly 2nd, approved 5-0. Peter Young, agent for Eoin Fitzgerald, approached the board. Mr. Young gave a brief overview of the property, presented photos and a letter of approval from the condo association on the proposed plans. Mr. Young explained that the roof would be raised 5' on one side to the peak and 7' on the other side with no change in the footprint to allow for lake view windows to be placed. Joe DePaul asked the public for comment. None given. Vinny Mancuso made a motion to enter into the Business Session, duly 2nd, approved 5-0. Joe DePaul noted that there was no increase in nonconformity and made a motion to grant a side setback to 10', a side setback to 15.5', a rear setback to 33.8' to construct a vertical expansion per the plans as submitted; the hardship being the size and shape of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 25-16: Langguth, 12 Calumet Road, for variances to Zoning Regulations 3.2.5A, 3.2.6A Front Setback to 35', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of enclosing an existing concrete patio into living space and reconfiguring the kitchen. Zoning District: R-44; Map: 35; Block: 21; Lot: 2.

John Apple made a motion to hear Application # 25-16, duly 2nd, approved 5-0. Vinny Mancuso recused himself from hearing the application. Rory Langguth and Mark Cassara approached the board. Joe DePaul questioned the applicant on the work presently being done on the property. Mr. Langguth explained that due to issues with erosion and imminent collapse, mechanicals were in place which were approved by the building inspector and town sanitarium to save the structure. Mr. Langguth stated the building is preexisting nonconforming, with two fronts on the house. Mr. Langguth explained the position of the concrete patio. Setbacks were discussed. Joe DePaul questioned whether the shed would remain. Mr. Langguth stated that the shed would be removed. Joe DePaul asked the public for comment. None given. Patrick Hearty made a motion to enter into the Business Session, duly 2nd, approved 4-0. The board discussed the improvements on the property and the decrease in nonconformity. Joe DePaul made a motion to grant a front setback to 35' to reconstruct the house, filling the interior per the plans as submitted, subject to the removal of

the shed and platform; the hardship being the size and shape of the lot and the damage from flooding, duly 2nd, approved 4-0. Variance approved.

Continued 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.

Patrick Hearty made a motion to hear Continued Application # 23-16, duly 2nd, approved 5-0. Attorney Ray Lubus and applicant Tom Alesi, Jr. approached the board with amended plans for the garage. The size of the garage was reduced from 34'x52' to 32x46' with a total reduction of 296 sq. feet. Mr. Lubus explained how the property sat on a corner lot with two fronts and how the original garage was converted into living space by a prior owner. Plans were shown which replaced the garage doors with windows on the living space. Placement of evergreens along the property was discussed. Joe DePaul commented that the size of the garage was still too big for the property and was hesitant to place a commercial size garage on a residential property. Mr. Lubus showed drawings of the garage extending 12 feet to the side. Mr. Lubus stated that he was an abutting neighbor and had no compliant over the proposal. Mr. Alesi stated that he would like the extra space to work on his personal cars. Joe DePaul stated that the applicant needed to revise the plans for a more reasonable size 3 car garage. The question of hardship was discussed. Ray Lubus and Tom Alesi took a brief break to discuss whether to continue. The board discussed the dimensions of a standard 3 car garage. The applicant agreed to continue the application until next month. Vinny Mancuso made a motion to continue Application # 23-16, duly 2nd, approved 5-0.

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 5-0. Agent Ralph Gallagher and Mrs. Lisi approached the board with the proposed plans. The existing front setback would remain at 64.3' and the rear setback would be decreased to 41.5'. The size of the house would be consistent with the neighboring houses but with an attached garage. The proposed evergreen screen was discussed, providing privacy to the neighbors. Mrs. Lisi commented that the type of tree would be chosen by experts which would be 6-8 feet tall, deer resistant and conducive to the area. The drainage plan was approved by Inlands/Wetlands with runoff being directed into the brook. Joe DePaul discussed the subject of hardship and stated that he agreed with Mr. Marcus that there is no hardship in tearing down a house, but hardship is not needed when there is a decrease in nonconformity. Mr. DePaul noted that taking the ice house down and going from two stories to one story would greatly decrease nonconformity. Joe DePaul asked the public for comment. Attorney Neil Marcus, agent for the Pellegrino's, approached the board. Mr. Marcus stated that his client's position has not changed and disputed the Chairman's position on reducing nonconformity. The subject of the structure was discussed, with Mr. Marcus

noting that it was a shed and Mr. DePaul stating that it was not a shed and was a much larger structure that did not meet the definition or zoning regulations of a shed. Mr. DePaul stated that the ice house was preexisting nonconforming. Mr. Marcus discussed that the existing lot is undersized and the current plans should not be built on a one-acre lot. The subject of reasonable use was discussed. Mr. Marcus stated that his client felt strongly regarding the protection of the regulations of the setbacks. The front setbacks were discussed. Ralph Gallagher stated that he did not agree with Mr. Marcus concerning the setbacks, noting that the hardship is a one acre parcel in a two acre zone. John Apple noted that the lot is odd shaped which is a hardship itself. Ralph Gallagher noted that the town pushed back the setbacks by putting in an easement and that the property has more setbacks than meet the eye including the wetlands and how the parcel was separated from the original 144 acre property. Mrs. Lisi stated that a surveyor was called in to identify certain trees as requested by the Pelligrinos. Mr. Marcus referred to a 2004 resubdivision map showing a turnaround in the road. John Apple made a motion to enter into the Business Session, duly 2nd, approved 5-0. The board noted the decrease in nonconformity and a lengthy discussion ensued. Vinny Mancuso noted that he would vote his conscious and not be intimidated by Mr. Marcus's inferred statement of a possible court action. Joe DePaul noted the reduction of nonconformity and that the applicant had done what had been asked of them. Joe DePaul made a motion to grant a front setback to 64.3', a rear setback to 41.5' to tear down the existing structure and construct a one-story single family house, subject to placing 6' evergreens along the property line and the removal of the ice house; the hardship being unnecessary due to the major decrease in nonconformity, duly 2nd, approved 5-0. Variance granted.

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 5-0. Ralph Gallagher stated that the position of the gazebo was moved and no setbacks were needed, and that only the zoning regulation regarding accessory structures needed to be varied. Vinny Mancuso looked up the proper Zoning Regulations. A lengthy discussion ensued about the position of the gazebo on a separate parcel of property across the street from the house. Mrs. Lisi stated that they plan to match the house driveway with the walkway to the gazebo and landscape it to match. The subject of a fence and signs for privacy were discussed. Mr. Gallagher stated that a small stone wall with a gate could be erected to ensure that the property was a privately owned area and not for public use. Joe DePaul noted that he was reluctant to break precedence by allowing a gazebo as an accessory structure without a house on the same lot. Patrick Hearty noted that the Ball Pond neighborhood was very close knit and that everyone would know whose lot it is. Joe DePaul asked the public for comment. None given. Joe DePaul questioned the hardship and use of the land. John Apple made a motion to enter into the Business Session, duly 2nd, approved 5-0. Patrick Hearty reiterated that he had no problem with the gazebo as long it was kept under the regulated

height of 15'. Vinny Mancuso stated that this application might be opening a can of worms to set precedence. Ann Brown stated that she did not have a problem as long as the gazebo was compliant with the zoning regulations. Joe DePaul researched the correct zoning regulations. It was determined that zoning regulations 3.0.4C,D&E, 3.0.8C&E, 3.2.5A, 3.2.11, 7.1.2.2 and 7.1.3 need to be varied. Vinny Mancuso made a motion to leave the Business Session, duly 2nd, approved 5-0. The board questioned whether the applicant would be agreeable to keep the gazebo within the zoning guidelines and erect a 3' stone wall (no fence) with gate across the front for privacy. The applicant agreed. Vinny Mancuso 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 gazebo to be constructed on a separate lot, including a 3' stone wall (no fence) and gate; the hardship being the size and shape of the lot and the environment concerns of Ball Pond, duly 2nd, approved 5-0. Variance granted.

Application # 26-16: Berrie, 3 Candlewood Road, for variances to Zoning Regulations 3.25A, 3.2.6A Front Setback to 20', 3.2.6C Rear Setback to 35', 3.2.7 Maximum Building Area, 3.2.11, 7.1.1.1A,B&C and 7.2.3A,B&E for the purpose of adding a bay window, a covered walkway and altering the roofline. Zoning District: R-44; Map: 39; Block: 1; Lot: 2.2-14.

Vinny Mancuso made a motion to hear Application # 26-16, duly 2nd, approved 5-0. Stanley Berrie, applicant, with legal counsel, Anthony Yorio, and architect, Michel LoBuglio, approached the board. Mr. Yorio stated that the applicant would be raising the roofline and alternating the pitch. The structure is preexisting nonconforming with the front porch and rear bedroom lying outside the setbacks. The new design would take off the porch and construct a covered footbridge. The hardship is the elevation and topography of the land. Mr. Yorio stated that there would be a decrease in nonconformity and that a bay window would be added. The position of the 440 line and roof height were discussed. Joe DePaul questioned whether the neighbors' views would be impacted. The board questioned whether the driveway was exclusive to the property. Mr. Berrie stated it was. A lengthy discussion ensued about the height of the roof and the impact on the neighbor's views. The Chairman stated that the board is very conscious of protecting neighbor's views and that the neighbors should be notified by mail of the proposed plans. Mr. Yorio went over the square footage of the porch (270 sq. ft.), bridge (200 sq. ft.) and the window (225 sq. ft.) and noted the overall reduction of nonconformity. The position of the house was discussed from the road. The Chairman stated that the board would require the neighbors to be notified. Mr. Yorio countered that the board should vote on the decrease in nonconformity. Roof heights and placement were discussed. Anthony Yorio questioned that if the footbridge was uncovered, would the neighbors still have to be notified. Joe DePaul stated that there were many trees that could be taken down to help improve the neighbor's views. Joe DePaul suggested that the applicant continue to the next month so that notification of the proposed plan could be sent to the neighbors. John Apple made a motion to continue Application # 26-16, duly 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.

John Apple made a motion to hear Continued Application # 17-16, duly 2nd, approved 5-0. Dainius Virbickus of Artel Engineering approached the board with modified plans as requested. The house was centered between the property line and the 440 line, 15.2' from the road and 16' away from the 440 line. The new setbacks needed would be a front setback to 13.5' and a rear setback to 14.5'. Joe DePaul asked the public for comment. None given. Joe DePaul stated that the applicant satisfied all the objections of the neighbors by moving the garage, creating a larger and safer driveway and centering the house between the property line and the 440 line with no side setbacks. Vinny Mancuso made a motion to enter into the Business Session, duly 2nd, approved 5-0. Joe DePaul made a motion to grant a front setback to 13.5', a rear setback to 14.5' to tear down the existing house and construct a new house per the plans as submitted; the hardship being the size and shape of the lot and the easement through the property, duly 2nd, approved 5-0. Variance approved.

Vinny Mancuso made a motion to adjourn the meeting at 9:58 pm, duly 2nd, approved 5-0.