

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

**MINUTES
February 19, 2015**

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 19, 2015 in the New Fairfield Library Community Room located at 2 Brush Hill Road. Secretary Joanne Brown took the Minutes.

ZBA members in attendance: Joe DePaul, Chairman; John Apple, Vice Chairman; Jack Michinko; Vinny Mancuso; and Patrick Hearty.

Town Officials in attendance: None.

Chairman Joe DePaul called the meeting to order at 7:02 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 # 36-14: McSpedon, 299 Route 39, for variances to zoning regulations 3.2.5A, 7.2.3A, B&E, 3.2.7; Building S (cottage on south side of property) 3.2.6C Rear Setback to 1.8' and 3.2.6B South Side Setback to 1.0'; Building N (cottage on north side of property) 3.2.6C Rear Setback to 0.5' and 3.2.6B North Side Setback to 0.5' for the purpose of renovating the two buildings including adding second story.

Vinny Mancuso made a motion to bring Continued Application # 36-14 to the floor, duly 2nd, approved 5-0. Attorney Richard Smith and Mr. McSpedon approached the board. Attorney Smith explained that his client was before the board in December presenting a vertical expansion to stay within the footprint of the existing building and to remove an encroachment on a neighbor's property. Since the December meeting, the applicant has met with the Building and Health Inspectors who both raised concerns. The Health Inspector would like the applicant to perform perc tests but currently the weather does not allow for any testing.

The site slopes toward the water. The applicant is looking to eliminate the encroachment on the neighbor's property and is considering adding a room underneath both cottages instead of a vertical expansion. Attorney Smith did not know if a variance was needed to construct below the house. The Chairman replied that regulations were revised several years ago to address vertical expansions but he is not sure what is needed regarding adding a basement room. He stated that they still will be adding to the size of the house. Attorney Smith said that he has not seen any case law on this subject. Joe DePaul stated that if the applicant is not

pursuing the existing application, he would advise them to withdraw the existing application and reapply when the weather allows them to complete the necessary soil testing. The applicant agreed and withdrew the application.

Application # 01-15: Grauert, 27 Linda Lane, for variances to zoning regulations 3.2.5A and 3.2.6C Rear Setback to 41' for the purpose of constructing a deck addition to the rear of the house. Zoning District: R-44; Map: 6; Block: 4 Lot: 1

John Apple made a motion to bring Application # 01-15 to the floor, duly 2nd, approved 5-0. Applicant Patricia Grauert and Architect, John McGuirk, approached the board. Mr. McGuirk explained to the board that the property is located on Candlewood Hills on a pre-existing nonconforming lot which is .44 acres in an R-44 district. The lot is irregular shaped; rear of the house is skewed to the rear property line. To the left of the house is the reserve septic system area. They are proposing to remove the existing deck which is irregular in shape, unusable and has no access to the rear yard and replace it with a larger deck. Mr. McGuirk also noted that the condition of the deck necessitated its replacement. Because of the irregular shape of the lot, the proposed deck extends into the rear setback and the applicant is requesting a 42.7' rear setback variance. He stated that he was trying to stay 10' from the reserve septic area and proposes to wrap the deck around the house and provide a set of stairs to the yard thereby providing a second egress from the house. Pictures were presented by the applicant showing the steep slope in the rear of the property. The Chairman asked if there was a buildable lot behind the property. The applicant indicated the property was not buildable and was heavily wooded with a steep slope.

The applicant made the board aware that there is an existing 4'x8' deck at ground level which they intend to reconstruct as 6'x12'. The deck is on grade and does not require a variance. The Chairman asked why the applicant is requesting a 41' rear setback when the plans show that a 42.7' setback is needed. The applicant stated that it was to provide wiggle room. The Chairman said that it was too great and the applicant conceded.

The applicant provided four letters of support from adjacent property owners which were read into the file. A discussion ensued about the dimensions of the proposed deck. The board discussed the issue of increasing nonconformity and suggested modifying the plans to reconfigure the deck. It was agreed that the applicant would decrease the deck in the rear of the house from 12' to 10' and increase the size on the side of the house from 10' to 15'. This will reduce the requested rear setback variance by 2'. The proposed deck as revised is 10'x39.5' in the rear of the house and 24'x15' to the side of the house. Joe DePaul asked the public for any comment. None given.

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 construct a deck with a rear setback to 44.7' with the deck extending 10' from the rear of the house, 39.5' wide by 24'x15' per the plans as submitted and modified the hardship being the steep slope behind the house, duly 2nd, approved 5-0. Variance approved.

In the business session, Vinny Mancuso made a motion to adopt the January 2015 minutes as read, duly 2nd, approved 5-0.

Application # 02-15: Varvaro, 10 Carleon Road, for variances to zoning regulations 7.2.3A, B&E; 3.2.5A&B; 3.2.6A Front Setback to 25'; 3.2.6B Side Setback to 14'; and 3.2.11 for the purpose of raising an existing roof which creates a vertical expansion. Zoning District: R-44; Map: 33, Block: 3; Lot: 3.

John Apple made a motion to hear Application # 02-15, duly 2nd, approved 5-0.

Applicant Anthony Varvaro, approached the board and stated that there were two previous variances granted on the property, one for a dormer and one for a garage. The house is less than 400 sq. ft. and is considered a two bedroom. In order to utilize the second floor as a bedroom, he needs a vertical expansion for room height. The Chairman asked if the house had a basement, the applicant stated yes but with no access from inside the home. The Chairman asked if the expansion was within the existing footprint and the applicant indicated yes. The applicant stated that he proposes to raise the roof 3.5' so when he constructs the dormers he has enough height in the room. The Chairman stated that the applicant is requesting a side setback of 14'; however it is indicated on the plans that it is 13.7' to the eaves. The Chairman explained to the applicant that the setback line is measured from the eaves and the vertical expansion is measured to the eaves. The Chairman also explained that the application was advertised for a side yard setback of 14' and it needs to be re-advertised for 13.7'. The Chairman also noted that the front setback is incorrect and should be measured from the eaves. The front setback needs to be re-advertised for 24.7' instead of 25'. Mr. Varvaro agreed to amend the original application and it would be re-advertised and continued to next month.

Vinny Mancuso made a motion to adjourn at 8:02 pm, duly 2nd, approved 5-0.