

New Fairfield Zoning Board of Appeals New Fairfield, Connecticut 06812

MINUTES March 16, 2015

The New Fairfield Zoning Board of Appeals (ZBA) held a public hearing followed by a business session at 7:00 p.m. on Monday, March 16, 2015 in the New Fairfield Community Room above the Senior Center located at 33 Route 37. Secretary Joanne Brown took the Minutes.

ZBA members in attendance: Joe DePaul, Chairman; John Apple, Vice Chairman; Jack Michinko; and Alternate Ann Brown.

ZBA members absent: 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. John Apple made a motion to adopt the Agenda, duly 2nd, approved 4-0. Secretary Joanne Brown read the Call of the Meeting.

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.

Applicant Anthony Varvaro, approached the board. The application was continued from last month and had to be re-advertised with the correct setbacks needed for a vertical expansion. Mr. Varvaro stated that there is no increase in nonconformity and the expansion was within the existing footprint. Chairman DePaul stated that Alternate Ann Brown was present, although not a voting member, at the February meeting and was familiar with this application. Chairman DePaul asked the public for any comment. None given. John Apple made a motion to enter in the business session, duly 2nd, approved 4-0. Joe DePaul made a motion to grant a variance to construct a vertical expansion with a front setback to 24.7' and a side setback to 13.7' noting that there is no increase in nonconformity and the hardship being the small size and shape of the lot, duly 2nd, approved 4-0. Variance granted.

While in the business session, Joe DePaul made a motion to adopt last month's minutes as read, duly 2nd, approved 3-0-1, Ann Brown abstaining.

Application # 03-15: Rowan, 63 Bogus Hill Road, for variances to zoning regulations 7.2.3A,B&E, 3.2.5A&B, 3.2.6B Side Setback to 9', 3.2.6C Rear Setback to 38', and 3.2.11 for the purpose of adding an addition to the front of the house and to raise the roof over the northwest gable. Zoning District: R-44; Map: 11; Block: 2; Lot: 25.

John Apple made a motion to bring Application # 03-15 to the floor, duly 2nd, approved 4-0. Caren Carpenter, architect for the Rowans, approached the board. Ms. Carpenter explained that the applicants were in front of the board last year and were granted a variance to construct a garage but have decided not to construct the garage due to economics. Ms. Carpenter asked for a rear variance to build on to the front of the home. Chairman DePaul asked how far the house was from the street. Ms. Carpenter stated that the house was about 200' from the street. The home was built in the 1920s and was grandfathered in before zoning regulations. The applicants are asking for an addition 2'. Chairman DePaul reviewed the previous variance. John Apple questioned where the garage was on the previous plans. It was determined that the garage was within the setbacks. The Chairman questioned the side setback. Ms. Carpenter stated that the ZEO suggested that she request a side setback to 9' to ensure that there was enough room for the eaves. Joe DePaul stated that now the applicant is increasing nonconformity. A lengthy discussion ensued about whether or not the side setback was needed. The A2 survey was provided from the file. Chairman DePaul determined that an extra side setback was not needed and it would be left at 10.5'. Caren Carpenter amended the original application to reflect the change in the side setback. Chairman DePaul asked for public comment. None given. Chairman DePaul asked what the hardship is. Ms. Carpenter replied that the lot is very steep and narrow. Chairman DePaul stated that there is no increase in nonconformity but a variance was still needed. John Apple made a motion to enter into the business session, duly 2nd, approved 4-0. Chairman DePaul stated that this was a very confusing application but had no increase in nonconformity. Chairman DePaul made a motion to grant a rear setback to 38.4' and side setback to 10.5' for the purpose of creating an expansion to the existing construction per the plans as submitted, the hardship being the irregular size and shape of the lot, duly 2nd, approved 4-0. Variance granted.

Application # 04-15: Reilly, 35 Ball Pond Road East, for variances to zoning regulations 7.2.3E, 3.2.5A and 3.2.6C Rear Setback to 26' for the purpose of constructing a roof over an existing second story balcony. Zoning District: R-44; Map: 22; Block: 5; Lot: 18.

Ann Brown made a motion to bring Application # 04-15 to the floor, duly 2nd, approved 4-0. Joe and Diane Reilly approached the board and explained that there is an existing concrete balcony on the house in disrepair. The applicants would like to keep a small section of the balcony and put a roof over the remaining balcony and add an enclosed tower to the balcony corner to change the look of the house. Chairman DePaul asked if they are getting closer to the pond. Mr. Reilly stated that they staying within the footprint of the balcony. Mr. Reilly presented photos of the balcony to the board. Chairman DePaul asked about the change in height. Mr. Reilly stated that the proposed tower would be 3' higher than the existing roof line. Chairman DePaul asked if this height increase would block views. Mr. Reilly explained that they also own the property across the street and that it would not block any neighbors view. The existing garage placement was discussed. Chairman DePaul stated that there was no increase in nonconformity. Roof measurement was discussed. It was determined that the expansion was still less than the 35' height zoning requirements. It was noted that a 26' rear setback was needed and the applicant

amended the application. Joe DePaul asked for public comment. None given. John Apple made a motion to enter the business session, duly 2nd, approved 4-0. Chairman DePaul noted that the property was not increasing nonconformity but did have many variances on the property. Joe DePaul made a motion to grant a rear setback to 26' to create a vertical expansion per the plans as submitted, the hardship being the size and shape of the lot, duly 2nd, approved 4-0. Variance granted.

Application # 05-15: Rossini, 7 Pleasant View Road, for variances to zoning regulations 3.2.5A&B, 3.2.6B South Side Setback to 1', and 3.2.11 for the purpose of adding a deck with a catwalk and staircase. Zoning District: R-44; Map: 2; Block: 6; Lot: 55.

Jack Michinko made a motion to bring Application # 05-15 to the floor, duly 2nd, approved 4-0. Guy Rossini approached the board and apologized that he did not have an A2 survey. The applicant stated that due to the current weather he was not able to have anyone survey the property. Mr. Rossini was in possession of a B100 survey which showed severe elevation changes on the property. Mr. Rossini stated that there is currently no rear access to the property and service or emergency personnel cannot get to the rear of the property without going through the house. The gasman has to use a 6' floor ladder to make a delivery. The applicant is proposing a small deck (8'x10'). The deck would be accessed from the front of the lot by a proposed catwalk with a staircase that goes to the front of the property where you can access the rear. The proposed deck appeared to be located approximately 1' from the side of the property. Joe DePaul stated that the board needed an A2 survey, especially when the applicant is asking for a 1' side setback. Joe DePaul asked what the current side setback is. Mr. Rossini stated that the side setback is currently 9'. The applicant stated he needs at least 6'-6" for the catwalk and staircase. There is currently a retaining wall across the front of the property. Pictures from the file were shown to the board. Joe DePaul stated that he saw the need for the catwalk and stairway for egress but not the need for the deck. A discussion ensued about getting a survey and the board visiting the property. Joe DePaul reiterated a 1' setback is a lot to ask for. Jack Michinko asked what was in the backyard that he needed access to. Ann Brown asked if stairs could be located at the retaining wall. The applicant said that could be a possibility. The applicant also stated that the downstairs window had approval for an egress. The applicant stated that no service people can get through the rear of the house without going through the house. Chairman DePaul asked if there will be a door to the deck. The applicant stated that he would like to add a door from the living area. Chairman DePaul said that an A2 survey was necessary for the board to vote on the application. Chairman DePaul stated that some members of the board would take a look at the property. Mr. Rossini agreed to a continuance. John Apple asked if this was a second home or primary residence. Mr. Rossini stated it was a primary residence. Chairman DePaul also questioned the hardship of the property, noting that having service people have to come through the house does not necessarily substantiate a hardship. Chairman DePaul stated that the zoning requirements are currently 20' and he is currently at 10', wanting to go to a 1' setback. Chairman DePaul suggested getting a letter from his neighbor in support of this plan. Jack Michinko commented that his plans were difficult to read. Mr. Rossini signed a continuance form. John Apple made a motion to continue, duly 2nd, approved 4-0.

Application # 06-15: Deluke, 22 Sunset Drive, for variances to zoning regulations 3.2.5A&B, 3.2.6A Front Setback to 22.9' and 3.2.11 for the purpose of constructing a two car garage. Zoning District: R-44; Map: 11; Block: 2; Lot: 6.

Ann Brown made a motion to bring Application # 06-15 to the floor. Lynn and Otto Deluke approached the board and explained that in 2009 they built a second garage at the top of their property across a private road for extra room for guest's vehicles. The applicants received a permit and followed what they thought were all the township regulations. The work was inspected by the town officials throughout the construction process. The building inspector called about 6 months ago and stated that a staircase needed an extra handrail which was inspected and approved. Several weeks ago, Mr. Deluke was told that he needed a final A2 survey to receive a CO. Mr. Deluke had his surveyor, Paul Hiro, prepare the survey. When the applicant submitted the survey to the Land Use department, it was discovered that the setback to the new garage was different than that shown on the approved plan submitted for the building permit. The setback went from 41' to 23'. The applicant said that behind the garage was a severe slope and the garage probably could not go be built back further. Chairman DePaul stated that it was a huge mistake if the garage was to be build 41 feet from the road and was actually built 23 feet from the road. Chairman DePaul asked if the surveyor staked out the garage. The Deluke responded yes. A lengthy discussion ensued about prior variances on the property. The Chairman asked if they had gotten a variance for the garage. Otto Deluke stated that they have a variance for the garage but did not produce it. Mr. Deluke produced several Zoning Permits showing that the town inspected the stakes and the foundation. Chairman DePaul questioned that no one from the town noticed the large difference in the front setback. It was determined that a variance was not needed if the garage had been placed at 41'. The Chairman stated that the applicants had a legal case against the builder, Harmony Builders, and the surveyor. A lengthy discussion ensued about how this error could occur and the timing of the completion of the garage. Chairman DePaul questioned why the surveyor did not point out the setback differential. Chairman DePaul said that this situation was hard to believe. Chairman DePaul said that it would be helpful to have a letter from someone (builder, surveyor or town) taking responsibility for this error. Mr. Deluke produced a letter from 2014 from Zoning requesting a final A2 survey showing the constructed setbacks. Chairman DePaul stated that there are many requests for garages and that the board has turned down many such requests. Mr. Deluke said that this was not done intentionally and resisted the idea of suing anyone. Chairman DePaul stated that there is no hardship for a second garage and probably would not have been approved if they had come before the board for a variance before building.

Chairman DePaul suggested the applicants continue to next month. John Apple made a motion to continue Application # 06-15 to next month, duly 2nd, approved 4-0.

Jack Michinko made a motion to adjourn at 8:52 pm, duly 2nd, approved 4-0.