

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

**MINUTES  
August 20th, 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, August 20th, 2015 in the 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; Vinny Mancuso; Jack Machinko and Alternate Ann Brown.

ZBA members absent: 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. Joe DePaul made a motion to adopt the Agenda, duly 2<sup>nd</sup>, approved 4-0. Secretary Joanne Brown read the Call of the Meeting.

**Continued Application # 15-15:** Donovan, 64 Gillotti Road, for variances to zoning regulations 3.0.5A,B&C Private Permanent Detached Garage, 3.1.5A&B Minimum Lot Area and Frontage; 3.1.6B Side Setback to 20', 3.1.11, 7.1.1.2 Improved Lots Not in Validated or Approved Subdivisions and 7.2.3A&B for the purpose of constructing a 1,080 sq. ft. detached garage. Zoning District: R-88; Map: 23; Block: 16; Lot: 8.

John Apple made a motion to hear Continued Application # 15-15, duly 2<sup>nd</sup>, approved 4-0. Denise and John Donovan approached the board with revised plans which met the setback requirements. The applicants were seeking a square footage increase from 750 to 896 in accordance with Zoning Regulation 3.0.5B which states that there may be up to two-hundred fifty (250) square feet of additional building area, up to a maximum of one-thousand (1,000) square feet of building area per lot, if the lot size exceeds the minimum lot size for the applicable zoning district for the lot by over twenty-thousand (20,000) square feet. The applicants have 18,120 square feet over the one acre lot size (90% of 20,000 square feet) so a case could be made that if you looked at the situation proportionally, an additional 225 square feet (90% of 250 square feet) of buildable area could be justified. Joe DePaul stated that he was impressed that the applicants moved the placement of the garage within the setbacks and that the square footage the applicants asked for was less than the amount that could be justified on a proportional basis. Joe DePaul discussed the dimensions of the garage. It was determined that the size of the garage would be a

28'x32'(896 square feet), one-story garage, with no plumbing, no living area and no heat. A discussion ensued about the possibility of a second-story garage and modifying the proposal. Joe DePaul asked the public for comment. None given. John Apple made a motion to enter into the business session, July 2<sup>nd</sup>, approved 5-0. Joe DePaul noted that the applicants did a great job in moving the garage within the setbacks and asked the board for comments. None given. Joe DePaul made a motion to grant a variance to construct a 28x32' 896 square foot one-story second garage with storage above and with the top of the garage roof being no higher than 22' feet from the ground, the hardship being the narrow size and shape of the lot, July 2<sup>nd</sup>, approved 5-0. Variance approved as modified.

While in the business session, Vinny Mancuso made a motion to adopt the minutes as read, July 2<sup>nd</sup>, approved 5-0.

**Application # 16-15:** Muckell, 50 Ridge Road, for variances to zoning regulations 3.2.5A&B, 3.2.6A Front Setback to 35'6", 3.2.6B Side Setback to 5', 3.2.6B Side Setback to 7'2", 3.2.11, 7.1.1.1A&B and 7.2.3A,B&E for the purpose of constructing an addition to extend the kitchen, add a garage and bedroom over the garage. Zoning District: R-44; Map: 15; Block: 6; Lot: 127 & 128.

Vinny Mancuso made a motion to hear Application #16-15, July 2<sup>nd</sup>, approved 5-0. The applicant was not present and John Apple made a motion to hear Application #16-15 at the end of the agenda, July 2<sup>nd</sup>, approved 5-0.

**Application # 17-15:** Rowan, 63 Bogus Hill Road, for variances to zoning regulations 3.2.5A&B, 3.2.6B Side Setback to 9' and 3.2.6C Rear Setback to 11', 3.2.11, 7.1.1.1A,B&C and 7.2.3A,B&E for the purpose of a vertical expansion to add a second floor bump up, gable and dormer on the right side of the home. Variance required to match existing right side of house. Zoning District: R-44; Map: 11; Block: 2; Lot: 25.

Vinny Mancuso made a motion to hear Application # 17-15, July 2<sup>nd</sup>, approved 5-0. Caren Carpenter, agent for the Rowans, approached the board. Ms. Carpenter gave a brief history of the approved variances on the property. While working on the house, it was discovered that the rafters in the roof were cut improperly and the roof needed to be changed which required an additional variance. The applicant was asking for a shed dormer instead of an intersecting gable because of the problems with the roof. A lengthy discussion ensued about the position of the house, height, square feet of the house and type of roof to be replaced which would mirror the opposite side of the house. The agent showed the board the changes from the approved sets of plans and Joe DePaul presented current pictures of the property. Ms. Carpenter showed plans where the new roof would cover the existing roof to keep the characteristics of the home. Joe DePaul asked how much the roof was to be raised. The agent stated that the roof would match the height of the existing gable peak. Joe DePaul stated that there is no increase in nonconformity and it is a structural situation. He asked the public for comment. None given. John Apple made a motion to enter into the business session, July 2<sup>nd</sup>, approved 5-0. In the business session the board discussed that this was a structural design change with no increase in nonconformity. Joe DePaul made a motion to grant a variance to modify the North roof to include a shed dormer and modify the East roof to remain a gable roof but change the structure of the gable roof per the plans as submitted noting that there is no increase in nonconformity, the hardship being the irregular size and shape of the lot, July 2<sup>nd</sup>, approved 5-0. Variance approved.

**Application # 18-15:** Deaton, 9 Lake Drive, for variances to zoning regulations 3.2.5A&B, 3.2.6C Rear Setback to 13' 5", 3.2.11, 7.1.1.1A,B&C and 7.2.3A&B for the purpose of replacing a deck with a larger 12'x26' deck. Zoning District: R-44; Map: 31; Block: 7; Lot: 28 & 29.

Vinny Mancuso made a motion to hear Application # 18-15, July 2<sup>nd</sup>, approved 5-0. Inez Deaton approached the board requesting to replace an existing nonconforming deck which is not structurally sound and visually unappealing with a new deck and partial sunroom. Joe DePaul read a note in the file requesting an A2 survey. Joe DePaul ascertained that the current setback is 15.2' and the applicant is asking for 13.5'. The property line and the close proximity to the neighbor's house were discussed. John Apple asked if the applicant would consider building a bigger patio instead of a bigger deck. The applicant stated that the compressor is under the deck. Joe DePaul stated that there was room on the side of the house for the deck. The board discussed other options for placement for the deck. Vinny Mancuso asked if the deck could be replaced in its current location. The applicant explained that an extra 2' was needed to put a stairway in. Joe DePaul explained that the board is reluctant to increase nonconformity and suggested the applicant reconfigure the plans within the current setbacks. A discussion ensued over the placement of the stairs. Joe DePaul also stated that there is no hardship associated with the land and granting an additional 2' would increase nonconformity. The applicant stated that the whole house is currently nonconforming and there was no other place to have the deck placed because of the lower level windows. Joe DePaul explained how hardship is based upon the land and that making a deck bigger and nicer does not substantiate hardship. Joe DePaul suggested that the applicant continue the application to explore other options and obtain an A2 survey. The applicant signed the continuance form. Vinny Mancuso made a motion to continue Application # 18-15 to next month, July 2<sup>nd</sup>, approved 5-0.

**Application # 19-15:** Hotchkiss, 65 Lake Drive South, for variances to zoning regulations 3.2.5A&B, 3.2.6C Rear Setback to 13', 3.2.11, 7.1.1.1A,B&C and 7.2.3A&B for the purpose of bringing into compliance existing structures that were not built according to the previously approved plans and variances. Zoning District: R-44; Map: 39; Block: 1; Lot: 60-63.

Vinny Mancuso made a motion to hear Application # 19-15, July 2<sup>nd</sup>, approved 5-0. Sherman Hotchkiss and builder Kevin Van Coughnett approached the board. Joe DePaul asked if the applicants were in front of the board because of the existing stairway on the property which was not approved in the previous variance. Mr. Hotchkiss and Mr. Van Coughnett explained to the board that they believed the stairway to be approved verbally to their architect by the previous Zoning Enforcement Officer when the walkout was changed. Joe DePaul questioned why there was no certificate of occupancy if this was the case. Mr. Van Coughnett stated that there is a new ZEO currently and no record of this agreement. Joe DePaul stated that the stairway was not on the original plans that were submitted to ZBA and in our files and that the ZEO does not have the authority to approve the plans when there is an increase in non-conformity. The applicants presented different and updated plans that were signed by town officials but were not the plans that were in the ZBA files as approved with the variance. All variances in New Fairfield are granted "per the plans as submitted." Any changes outside the building envelope, especially a change that increases non-conformity, has to be approved by the ZBA. The ZEO or any other town official has no authority to grant a change in plans that increases non-conformity. The

original "plans as submitted," in 2008 at the time of the variance did not have any stairs located on the south side of the terrace the way the current plans show. A lengthy and heated discussion ensued. Joe DePaul stated that the addition of the current stairway violates zoning regulations. Mr. Van Coughnett presented a letter from Daniel Lamb, architect, which was read into the file stating that he believed the ZEO granted a verbal approval of the plans. Joe DePaul stated that when a town official approves a plan, there is usually an initial signing off on a plan. Joe DePaul questioned where the documentation is. Joe DePaul stated that there was not a stairway on the plans that the ZBA approved. Mr. Hotchkiss stated that he assumed the plans were approved. Joe DePaul explained that Zoning is different from Zoning Board of Appeals. Mr. Van Coughnett said it was their intention to do the right thing. Vinny Mancuso stated approval needed to be in writing. Joe DePaul questioned that the plans were changed after they were approved by ZBA. Mr. Hotchkiss stated that he received incorrect advice from the ZEO. Joe DePaul read the variance approved in April 2008 and questioned whether there is another variance. Joe DePaul stated that ZBA would research if there was another variance on file. Joe DePaul stated that this stairway increases nonconformity and questioned why the stairs were needed at all and that they were not a necessity. Joe DePaul stated that the applicant violated the 30' setback from the 440 line. John Apple stated that ZBA needs to go through the files and research to see if there is another variance on file. A lengthy discussion ensued advising the applicant about changes to the plans and how they have to be approved by the ZBA, not by Zoning who has no authority to approve plans that increase non-conformity. Joe DePaul questioned why the applicants waited so long to get a CO when they were relying on a 2008 variance. Mrs. Hotchkiss stated that they were in front of the ZBA last August or the year before to get another variance. Joe DePaul suggested that the application should be continued so ZBA can research additional variances. Mr. Van Coughnett stated that the stairway would be shown on an additional variance because it was drawn in afterwards. Vinny Mancusco made a motion to continue Application # 19-15 to the next meeting, July 2<sup>nd</sup>, approved 5-0.

**Application # 16-15:** Muckell, 50 Ridge Road, for variances to zoning regulations 3.2.5A&B, 3.2.6A Front Setback to 35'6", 3.2.6B Side Setback to 5', 3.2.6B Side Setback to 7'2", 3.2.11, 7.1.1.1A&B and 7.2.3A,B&E for the purpose of constructing an addition to extend the kitchen, add a garage and bedroom over the garage. Zoning District: R-44; Map: 15; Block: 6; Lot: 127 & 128.

Vinny Mancuso made a motion to hear Application # 16-16, July 2<sup>nd</sup>, approved 5-0. Douglas Muckell approached the board with a request to put an addition on the front of the house. Mr. Muckell produced an A2 survey to show the plans requesting a 36' setback on one side. Measurements were taken and the location of the neighbor's property was discussed. The proposed addition would include a garage space to put the utilities in because there is no basement, only a crawl space. Joe DePaul questioned the current square footage (800 sq. ft.) and it was determined that the addition would add 700 sq. ft. with a 24' height. Joe DePaul asked the public for comment. None given. Vinny Mancuso made a motion to enter into the business session, July 2<sup>nd</sup>, approved 5-0. Joe DePaul made a motion to grant a variance to construct an addition on the front of the house with a front setback of 35'6", a side setback of 5'5", a side setback of 7'8" per the plans as submitted and modified for a garage and living area, the hardship being the irregular size and shape of the lot, July 2<sup>nd</sup>, approved 5-0. Variance granted.

Vinny Mancuso made a motion to adjourn the meeting at 9:02 p.m., July 2<sup>nd</sup>, approved 5-0.