

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

**MINUTES
November 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, November 19, 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; Patrick Hearty and newly elected member, Debbie Bing-Zaremba.

ZBA members absent: Alternate Ann Brown.

Town Officials in attendance: None.

Chairman Joe DePaul called the meeting to order at 7:04 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 amend the agenda to include approval of the 2016 calendar and the election of board officers, duly 2nd, approved 5-0. Secretary Joanne Brown read the Call of the Meeting.

Continued 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 Continued Application # 18-15, duly 2nd, approved 5-0. Inez Deaton returned to the board. It was discovered last month that there was a previous variance on the property, Appeal No. 20-76, granting a side setback to 13'9" and a rear setback to 10'6" to erect an above ground pool. The applicant explained that with the previous variance in place, the original proposal (Plan A) would require a lesser rear setback of 11'8". Joe DePaul stated that this would not increase nonconformity. The proposed 12'x26' deck would include a seasonal room contingent on the A2 survey. 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 made a motion to grant a variance with a rear setback to 11'8", noting an existing 10'6" rear variance, the hardship being the size and shape of the lot, per the plans as submitted, duly 2nd, approved 5-0. Variance granted.

While in the Business Session, Vinny Mancuso made a motion to accept the minutes as read, duly 2nd, approved 3-0-2, with Patrick Hearty and Debbie Bing-Zaremba abstaining.

Continued 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 Continued Application # 19-15, duly 2nd, approved 5-0. Joe DePaul read a letter into the record from Attorney Neil Marcus of Cohen and Wolf dated November 5, 2015 stating that the application had been filed in error. The applicant withdrew the application and will pursue the issuance of a Certificate of Zoning Compliance with the ZEO.

Continued Application # 22-15: Bhat, 17 Eldred Road, for variances to zoning regulations 3.2.5A&B, 3.2.6A Front Setback to 16' 5" and 3.2.6B Side Setback to 11'7", 3.2.11, 7.1.1.1A,B&C and 7.2.3A,B&E for the purpose of bringing into compliance an existing addition and constructing a 10'x26' deck. Zoning District: R-44; Map: 37; Block: 2; Lot: 1-4.

Vinny Mancuso made a motion to hear Continued Application # 22-17, duly 2nd, approved 5-0. Agent Jeffrey Madera and applicant Kevin Bhat returned before the board. Mr. Madera presented plans requested by the board last month showing what structures existed prior to the construction. The dimensions of the previous structure which was squared off and existing structures were discussed. Agent Madera stated that the building inspector visited the site and instructed the applicant to go before the board because of the 1' increase where the building corner was squared off. The front setback went from 18'6" to 16'5" due to the roof overhang. In the front of the house there was a previous structure which contained a roof which allowed covered access to the basement. The existing structure was ascertained to be 6' to 8' off the ground which would allow a variance to be issued that would not increase nonconformity. Joe DePaul presented pictures to the board. Joe DePaul asked the public for comment. None given. The agent discussed the improvements to the structure and discussed the completed construction on the property. A side setback to 11'7" to allow for the roof overhang was discussed. Vinny Mancuso made a motion to enter into the Business Session, duly 2nd, approved 5-0. The board discussed that the increase in nonconformity was diminimus to improve the property. Joe DePaul made a motion to grant a front setback to 16'5" and a side setback to 11'7" based upon the construction as completed, the hardship being the irregular size and shape of the lot and the position of the house, duly 2nd, approved 5-0. Variance approved.

Application # 24-15: Rubio, 61 Lake Drive North, for variances to zoning regulations 3.2.5A&B, 3.2.6A Front Setback to 5', 3.2.6B Side Setbacks to 8' and 15', 3.2.6C Rear Setback to 45', 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 demolishing an existing single family dwelling and rebuilding it 8' closer to the road with a roof between the garage and the carport. Zoning District: R-44; Map: 15; Block: 1; Lot: 47.

Vinny Mancuso made a motion to hear Application # 24-15, duly 2nd, approved 5-0. Tamara Zinick of Permit Me Please approached the board representing Andreas and Veronica Rubio. Ms. Zinick gave a brief history of the property which was built in 1931 which is pre-existing nonconforming and presented plans showing the existing and proposed construction. The applicant would like to demolish the current structure and build a new structure, moving the

structure 8' closer to the road. Ms. Zinick stated that the structure needed to be moved to allow room for a new septic to be built to replace the current failing septic. The 440 line runs through the property. The Rubio's currently own the property past the 440 line and into the lake with flowage rights given to First Light. Joe DePaul stated that the board would need to have a letter from First Light ascertaining these facts and a deed proving ownership and that the land could be built on as the board has never approved any variance past the 440 line. The height dimensions were discussed. Debbie Bing-Zaremba inquired if the house would sit higher on the property and if any neighbors' view would be impacted. The board requested more information from the architect, including all dimensions and photos. The slope of the property was discussed. The house is currently 2,510 sq. feet and would increase to 3,835 sq. feet with a proposal to raise the roof height by 8'. The position of the house "on the current footprint" was discussed. Joe DePaul stated that the house cannot be moved 8' closer to the road and still be on the current footprint. The number of stories of the house was discussed, with 3 stories on the lake side including a walkout basement and 1st and 2nd stories. Joe DePaul questioned why they were coming up the hill. Ms. Zinick answered that it needed to come up the hill to make room for the septic. The house currently has 3 bedrooms and 3 bathrooms, with a proposal to add another bedroom and half bath. The garage area was discussed which would include a carport structure with an overhead covering to protect from the weather. Debbie Bing-Zaremba questioned what was motivating the change and if the home could be built in the same footprint. Ms. Zinick replied that the home was in need of repairs (mold, dry rot and collapsing beams) and that the septic was failing. Joe DePaul stated that there would be a decrease of nonconformity in the back of the property but the big concern would be the blockage of lake views to the neighbors, the 440 line and the size of the house.

Joe DePaul asked the public for comment. Michael Logiudice, 54 Lake Drive North, approached the board. Mr. Logiudice voiced several concerns, including storm water management and the fact that the Rubio's live in London 10 months of the year and rent the property. Mr. Logiudice stated that the Rubio's have never complained about having issues with the septic. Joe DePaul stated that the owners have a right to rent the house and that the board does not deal with storm water management issues. Mr. Logiudice stated that his greatest concern was that there would more than an 8' difference if the home was to move. The setbacks actually would go from 36.8' to 24.4' which would be 12.5' instead of the proposed 8'. Ms. Zinick stated that the existing footprint to the new brings it 8' closer to the road. Joe DePaul stated that the applicant was in fact moving 12' in the front and 8' in the back and this is where the extra square feet are coming from. Mr. Logiudice stated that if the 3,835 square feet house was constructed his view of the lake would be impacted and blocked and discussed how the elevation of the house could change when the grade was moved. Mr. Logiudice explained that when the house is moved to 24.4' from the street, since it is being moved higher up the hill from the lake his view of the lake would be impacted. Mr. Logiudice had no problem with the applicant building out toward the side and did not want the existing roofline to be changed. The term "existing footprint" was discussed and stated that the applicant was moving the property 12.5' to the road. Joe DePaul concurred and stated that this is not the same footprint. The side variance was discussed. Mr. Logiudice discussed the shape of the lot which is pie shaped and how the side setbacks are affected when the house is moved forward. Joe DePaul suggested Mr. Logiudice take pictures from several areas showing his view and said that the board would protect the right of the neighbor's view. Debbie Bing-Zaremba stated that she had a problem with establishing hardship and for the

applicant to be aware of that. Debbie Bing-Zaremba referred to the Verrillo opinion which the courts are currently focusing on regarding hardship. Jim Foley, 52 Lake Drive North, approached the board and stated that Mr. Loguidice represented his concerns accurately. Mr. Foley stated that he currently has west side views of the lake and his view would be impacted but not to the extent of Mr. Loguidice's view. Joe DePaul asked the public for comment. None given. Vinny Mancuso made a motion to continue the application to next month, duly 2nd, approved 5-0.

Application # 25-15: Lewis, 32 East View Road, for variances to zoning regulations 3.2.5A, 3.2.6A Front Setback to 36'9", 3.2.6C Rear Setback to 46.6', 7.1.1.1A,B&C, and 7.2.3A,B&E for the purpose of constructing a second story vertical expansion. Zoning District: R: 44; Map: 10; Block: 3; Lot: 78-80.

Vinny Mancuso made a motion to hear Application # 25-15, duly 2nd, approved 5-0. Peter Young, agent for Ryan and Nicole Lewis, approached the board. Mr. Young stated that the applicant posted a red sign and sent certified and registered mail to the neighbors notifying them of the proposed construction. Mr. Young explained to the board that the property sits on three lots with a current rear setback of 46.6' and that the applicants are asking for a straight vertical expansion on the same foundation which would not violate any zoning setbacks. Joe DePaul questioned if the whole roof was to be raised and asked if this construction would block any views to the lake. Mr. Young stated that he did not believe the construction would block any views as the property slopes down. Mr. Young presented several photos to the board of the house and explained that there would be 3 little additions which would be square-offs. The current house is one story with a 24' roof from the front. Vinny Mancuso inquired about the positioning of the neighbor's houses. Joe DePaul questioned how many stories would be constructed. Mr. Young explained that there will be a walk out basement with two stories on top. The roof lines were discussed. Debbie Bing-Zaremba questioned what the height would be. Mr. Young responded that the height would go from 28' to 33' with an increase of square footage from 3,400 to 4,543. Mr. Young stated that the vertical expansion is only a partial expansion. Joe DePaul stated that the property is situation down with the road on top. Joe DePaul asked the public for comment. None given. Joe DePaul suggested the board check out the property and what views would be impacted. Debbie Bing-Zaremba questioned where the square-off was on the plans. Joe DePaul questioned what the vacant piece of property was on the lot. Mr. Young explained that there is a drainage area on the property. Joe DePaul suggested that the board take an additional look at the property. John Apple commented that he would like to see old and new plans. Joe DePaul suggested that Mr. Young gather letters from the neighbors stating that they had no issue with the construction. Mr. Young signed the extension form. Vinny Mancuso made a motion to continue Application # 25-15 to the next meeting, duly 2nd, approved 5-0.

Application # 26-15: ECB Realty, 7-9 Brush Hill Road, for variances to zoning regulations 4.1.3A Minimum Lot Area and Frontage, 7.1.1.1B and 7.2.3A&B for the purpose of removing approximately 331 sq. feet of existing building and infilling center portion of building with approximately 338 sq. feet. Zoning District: R-44; Map: 24; Block: 8; Lot: 10&12.

John Apple made a motion to hear Application # 26-15, duly 2nd, approved 5-0. Mark Kornhaas, Artel Engineering Group, approached the board on behalf of ECB Realty. Mr. Kornhaas explained that due to parking lot improvements ECB would be removing 330 sq.

feet (where the previous Video Island once stood) and would like to infill 338 sq. feet of area, adding a covered porch over the sidewalk. The applicants are making improvements to the building. These infills do not protrude into the side setbacks. The applicants are not increasing non conformity. The tenants of the property were discussed and the proposed improvements to the site, including raising the roof an additional 2' to make room for the air conditioning units and the addition of a new septic. The new roof would consist of colonial style dormers. The rear setback in a commercial district was determined to be 20'. Commercial setbacks were discussed. Mr. Kornhaas stated that with the work that the applicant would be doing, they would be reducing nonconformity. 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 mad a motion to grant a variance to zoning regulations 4.1.3A, 7.1.1.1B and 7.2.3A&B for the purpose of reconstructing the building per the plans as submitted noting any increase in nonconformity is diminimus, the hardship being the size and shape of the lot, duly 2nd, approved 5-0. Variance approved.

Application # 27-15: Ashley, 55 Lavelle Avenue, for variances to zoning regulations 3.2.5A&B, 3.2.6A Front Setback to 21' 8", 3.2.5B Side Setbacks to 14'5" and 5'2", 3.2.11, 7.1.1.1A,B&C and 7.2.3A,B&E for the purpose of building a back extension, roof line change with no change in height and expanding living space over existing storage area. Zoning District: R-44; Map: 2; Block: 7; Lot: 28.

Vinny Mancuso made a motion to hear Application # 27-15, duly 2nd, approved 5-0. Owner Diane Ashley and Patrick Reilly approached the board with a proposal to add 145 sq. feet, increasing the square footage of the house from 750 to 891 sq. feet over the same footprint. Setbacks and the length of the house were discussed. The front of house will not be changed. The deck will be moved 1.6' to the rear, with the corner of the deck clipped to stay within the present setback. The side of the house will be extended by 3'. The area over the storage area and existing structures were discussed. The front roof will stay the same. The left side will have a 3' bump out. Joe DePaul provided photos of the house. Joe DePaul asked the public for comment. Rich Dardia, 56 Lavelle Avenue, approached the board. Mr. Dardia stated that he lives directly across from the applicant and provided pictures of his view and how it would be impacted if the proposed addition was constructed. Mr. Dardia proposed that if two trees would be taken down, he would not oppose the construction. A lengthy discussion ensued about the position of the trees and the blockage of the lake. The view and the construction were discussed from different angles. Joe DePaul stated that Mr. Dardia had a legitimate complaint and that his view would be impacted, with 10-20 percent being taken away. Ms. Ashley commented that she did not like the idea of taking a perfectly healthy tree down which provided shade. After a lengthy discourse, the applicant agreed to a compromise and to cut one cedar tree to the ground as a condition of the variance being granted. 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 with a front setback to 21'8", side setbacks 14'5" and 5'2" for the purpose of expanding the deck and house per the plans as submitted, the hardship being the narrowness and steepness of the lot. The variance is granted on the condition that the cedar tree identified on the left side be removed and cut to ground level, duly 2nd, approved 5-0. Variance granted.

While in the Business Session, the 2016 calendar was discussed. Vinny Mancuso made a motion to approve the 2016 calendar as read, duly 2nd, approved 5-0. John Apple made a motion to elect Joe DePaul as Chairman, noting Mr. DePaul's dedicated service and years of experience on the board, duly 2nd, approved 5-0. Joe DePaul noted John Apple's service to the board and made a motion to elect John Apple as Vice Chairman, duly 2nd, approved 5-0. Vinny Mancuso made a motion to adjourn at 9:50 pm, duly 2nd, approved 5-0.