

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

**MINUTES  
Meeting  
January 23, 2014**

The New Fairfield Zoning Board of Appeals (ZBA), held a public hearing followed by a business session at 7:00 pm. on Thursday, January 23, 2014, in the New Fairfield Library located at 2 Brush Hill Drive. Secretary Laurie Busse took the Minutes.

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

ZBA members absent: Vinny Mancuso, and John McKee

Town Officials in attendance: None

Chairman Joe DePaul called the meeting to order at 7:03 pm, introduced the Board members, and explained the meeting process and voting procedures of a 4 member Board. Joe DePaul gave the definition of a recusal.

Joe DePaul read two emails into the meeting. The first email dated January 22, 2014, from Dainius Virbickas which stated they will be withdrawing ZBA Application # 36-13. The second is from Doug MacMillan dated January 23, 2014, stating that he is withdrawing Application # 39-13.

Secretary Laurie Busse read the Agenda. Patrick Hearty made a motion to remove Application # 36-13 and Application # 39-13 from the Agenda, duly 2nd, approved 4-0. Secretary Laurie Busse read the Call of the Meeting.

**Continued Application # 34-13:** ECB Realty, 7-9 Brush Hill Road, for use variances to zoning regulations for the purpose of constructing a drive thru for the future home of Dunkin Donuts.

Withdrawn

**Continued Application # 36-13:** John and Rebecca Castelhana, 41 Knollcrest Road for variances to zoning regulations for the purpose of constructing an addition.

John Apple made a motion to bring Continued Application # 36-13 to the floor, duly 2nd, approved 4-0.

Becky Castelhana approached the Board. At last month's meeting discussion focused on the subdivision map that showed the words "private road" going along side the applicant's property. The applicant was supposed to discuss with the ZEO, Tom Gormley, if this "private road" was considered a road or an access way, noting if the "private road" is considered a road, then their home would be on a corner lot. Zoning Regulation 1.5.9 regarding corner lots was read into the meeting. Discussion followed. The Chairman had gone out to visit the

property. The "private road" has 8 or 9 houses on it and it has been plowed from the recent snowfall. After reading Zoning Regulation 1.5.9 and visiting the property, he feels that this "private road" is actually a road and not a driveway or access way. The prior ZEO always considered a road to be a road, even if it was a paper road, which seems to be the case here. Other members of the Board agreed.

Joe DePaul asked for any further public comment--none heard.

John Apple made a motion to enter the business session, duly 2nd, approved 4-0.

In the business session, the Board discussed that corner lots have different setbacks than other houses and in this case the corner lot zoning regulations should be applied. If the corner lot zoning regulations had been applied a variance would not be required at all.

Joe DePaul made a motion to grant the variance for a rear setback to 44.9' subject to the plans as submitted. The hardship is the layout of the land and the "paper road" that would make this house a corner lot, Duly 2nd, approved 4-0.

**Minutes:** Joe DePaul made a motion to adopt the Minutes to the December 19, 2013 meeting as presented, Duly 2nd, approved 3-0-1. Patrick Hearty abstained.

**Continued Application # 37-13:** Tamara Muscarell, 5 Fair Lane, for variances to zoning regulations for the purpose of constructing a front porch with stairs to grade.

John Apple made a motion to bring Continued Application # 37-13 to the floor, duly 2nd, approved 4-0.

Tamara Muscarrell and Jerry Cymbalisty approached the Board. They recapped on last month's meeting noting the Board requested documentation showing that the home used to have a front porch. The applicants submitted a field card showing the old porch. The field card indicated the old deck was approximately 10' X 5' with 2 steps down to a landing to another deck. The total size of the old deck was about 17'. Discussion followed. The applicants had addressed the Board's concerns by submitting documentation and reduced the size of the requested front porch from 12' X 9' to 10' X 5'. Discussion followed, based on the information submitted, the Board would be OK if the applicants wanted to discuss their original size front porch of 12' X 9' as they would be reducing nonconformity and still be further away from the front setback than the original front porch. Discussion followed, the applicants may wish to stay with the smaller front porch for financial reasons, however, they would like to consider the option of having the 12' X 9' deck. The Board explained how to move forward, noting they can always build less than what is granted.

Joe DePaul asked for any further public comment--none heard.

Jack Michinko made a motion to move into the business session, duly 2nd approved 4-0.

In the business session the Board discussed the old deck was 17' away from the house and much closer to the road. The new proposal is 9' way from the house. This is a reduction in nonconformity.

Joe DePaul made a motion to grant the variance for a front setback to 25' subject to the plans as submitted, the hardship is the size of the lot, further stipulating this variance decreases nonconformity, duly 2nd approved 4-0.

**Application # 39-13:** Stanley and Suzanne Berrie, 3 Candlewood Road, for variances to zoning regulations for the purpose of constructing a screened in porch, a 2<sup>nd</sup> story, a 2 story garage addition, and a car port.

Withdrawn

**Application # 01-14:** John Lombardo, 5 Paradise Court, for variances to zoning regulations for the purpose of legalizing an oversized shed.

Jack Michinko made a motion to bring Application # 01-14 to the floor, duly 2nd, approved 4-0.

John Lombardo and Rachel Schwartz approached the Board They explained they purchased the prefabricated 10' X 14' shed that is 9' high and had it put on a bed of gravel without a permit, because they did not realize a permit was required. It is used to store items to maintain their pool and lawn. The zoning regulations do not allow a shed to be larger than 120sqft.; structures larger than that must also meet setback requirements. The shed is 16' from the side setback and 40' from the rear setback. Discussion followed there is also a chicken coop on the property and pergola. Joe DePaul spoke with the Town's Zoning Enforcement Officer, Tom Gormley, who indicated a permit is not required for the chicken coop. The prior owner constructed the pergola near the pool without a permit. The Board discussed the size of the shed. Zoning Regulation 3.0.4G was read into the meeting. Prior zoning regulations permitted 10' X 14' sheds. The Board discussed ways to decrease nonconformity such as removing 2' off the shed, or taking down the pergola. The Board discussed it would be difficult to have a hardship arising from the land to allow for an oversized shed.

Joe DePaul asked for any further public comment--as follows:

Amad Coury, 3 Paradise Court: Since the applicants purchased the house, they have done nothing except enhance the property. The shed can hardly be seen from the road and he has no issues with the shed. Additionally, he lives on the pergola side of the property. The pergola is an enhancement to the pool area. He does not have any issues with that either. He is glad he has neighbors who take pride in their property.

Joe DePaul asked for any further public comment--none heard.

Jack Michinko made a motion to enter the business session, duly 2nd, approved 4-0.

In the business session the Board discussed although they disagree with the current zoning regulations that only allow for a 120sqft shed, they have to abide by them. A hardship does not exist for the size of the shed.

Joe DePaul made a motion to grant the variance for a side setback to 16' and a rear setback to 40' to allow a 140sqft shed, not subject to the plans submitted, but rather subject to the construction already in place. The hardship is the size and slope of the lot in the rear of the property duly 2nd, denied 0-4.

Vinny Mancuso made a motion to adjourn the meeting at 8:20pm, duly 2nd, approved 4-0.