

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

**REVISED MINUTES  
Meeting  
May 15, 2014**

The New Fairfield Zoning Board of Appeals (ZBA) held a public hearing followed by a business session at 7:00 pm. on Thursday, May 15, 2014 in the New Fairfield Library located at 2 Brush Hill Road. Secretary Laurie Busse took the Minutes.

ZBA members in attendance: Joe DePaul, Chairman, John Apple, Vice Chairman, Jack Michinko, Vinny Mancuso and John McKee

ZBA members absent: Patrick Hearty

Town Officials in attendance: None

Chairman Joe DePaul called the meeting to order at 7:01 pm, introduced the Board members, and explained the meeting process and voting procedures. Joe DePaul gave the definition of a recusal.

Secretary Laurie Busse read the Agenda. Vinny Mancuso made a motion to adopt the Agenda, duly 2nd, approved 5-0. Secretary Laurie Busse read the Call of the Meeting.

**Continued Application # 07-14:** Home Hearth Builders, 2 Elwell Road, for variances to zoning regulations for the purpose of converting a barn into a garage.

Vinny Mancuso made a motion to bring Continued Application # 07-14 to the floor, duly 2nd, approved 5-0.

Joe DePaul read an email into the meeting from Wayne Skelly dated May 14, 2014, indicating he would like to continue to the June meeting.

John Apple made a motion to continue the application to the June meeting, duly 2nd, approved 5-0.

**Application # 11-14:** Douglas Barrios, 23 Candlewood Road, for variances to zoning regulations for the purpose of reconstructing the existing home on the same footprint and adding a roof over the entry door and a new screened porch with steps to grade.

John Apple made a motion to bring Application # 11-14 to the floor, duly 2nd, approved 5-0.

Douglas Barrios and his architect, Stacey Keeney, approached the Board. They explained the existing house is 26' x 32' and was built in the 1950's. Their plans are to demolish the existing house and rebuild it over the same footprint. The property is very steep. The existing house is built on piers and does not have a basement. The new home will have a basement and the main entrance will be relocated to the side of the house. The front of the home will be one story and the rear of the home will be 2 stories. There is a 6' height

increase. The existing front setback is 32'. The existing rear setback to the 440 Contour Line was 3.4'. The proposed rear setback to the 440 Contour Line is 4'. The Board discussed the reduction in nonconformity. The screened in porch will add 144sqft to the home. The basement will have the same square footage as the main level.

Letters of support from the following neighbors were read into the meeting Glenn Keegan, Nancy Pender, and Melinda Miller.

Joe DePaul asked for any further public comment before continuing-None Heard.

Jack Michinko made a motion to enter the business session, duly 2nd, approved 5-0.

In the business session the Board discussed there is no increase in nonconformity but rather a decrease in nonconformity. There will be no impact on the neighbors.

Joe DePaul made a motion to grant the variance for a front setback of 32' and a rear setback to 4' for the purpose of demolishing the existing home and reconstructing it subject to the plans as submitted. Further stipulating this variance does not increase dimensional nonconformity but rather decreases nonconformity. The hardship is the small size and shape of the lot duly 2nd, approved 5-0.

**Minutes:** Joe DePaul made a motion to adopt the Minutes to the April 19, 2014 meeting as presented, duly 2nd, approved 4-0-1. Vinny Mancuso abstained.

**Application # 12-14:** Robert and Elizabeth Faris, 30 Sunset Trail (CI), for variances to zoning regulations for the purpose of constructing a 2 story addition and a 2<sup>nd</sup> story addition.

John McKee made a motion to bring Application # 12-14 to the floor, duly 2nd, approved 5-0.

Ray Walker, Agent, approached the Board and explained his plans to raise the roofline 2.7', noting it will not be any higher than the existing ridge in the front of the home. The raised roof will not come any closer to the existing side setback of 4.3'. The existing deck will be removed. The 2 story addition in the rear of the house will not come any closer to the existing setbacks.

Joe DePaul asked for any further public comment—None Heard.

Vinny Mancuso made a motion to enter the business session, duly 2nd, approved 5-0.

In the business session the Board discussed this is a classic vertical expansion and removing the deck decreases nonconformity.

Joe DePaul made a motion to grant a side setback to 4.3'. Further stipulating the nonconformity will decrease from 2.1' to 4.3'. The hardship is the irregular shape and size of the lot, duly 2nd, approved 5-0.

**Application # 13-14:** Joseph and Debra Oulvey, 30 Lake Drive North, for variances to zoning regulations for the purpose of constructing a 2 story addition.

Vinny Mancuso made a motion to bring Application # 13-14 to the floor, duly 2nd, approved 5-0.

Joseph Oulvey and his agent, Peter Young approached the Board. Peter Young explained they appeared before us in February and Variance # 04-14 was granted for a roof over the rear entrance way. Mr. Young stated that although the application stated a roof over the rear entrance way, the plans indicated a 2 story addition and since there seems to be some confusion, he has submitted a brand new application. This application is for a 2 story addition. It will include a foyer/mudroom and a ½ bathroom above and of course it will incorporate the roof over the rear entrance, which will be enclosed. It will not be any higher than the existing 18' roof height. A lengthy discussion focused on the prior ZBA applications and variances. Application # 09-91 for a garage was denied in March 1991. In April of 1991 Variance # 15-91 was granted for a 24' x 24' garage with a side setback to 13' 6" and a rear setback to 10', stipulating 50% of the parking area must be returned to the green. In December 2007, a variance for legalizing pergola in the front of the home was denied. Joe Oulvey stated the pergola has been removed. In February 2010, the Board denied a variance request for a 4' height increase. The applicants revised their plans and in April 2010, Variance # 08-10 was granted for a 3' height increase. In February 2014 Variance # 02-14 was granted for a roof over a rear entrance way. Several Board members felt there is a limit to how many variances a property should have.

Although the variance for the garage was granted in 1991, the prior owners never constructed it. Mr. Oulvey has recently received his garage building permit. The garage will be 22' X 24.8' and have unfinished storage above. There will be electric and heat, but no plumbing. The garage will be attached to the house and there will be access into the home from the garage. The Board discussed the variance was for a 24' X 24' garage. He can construct a smaller garage, but cannot exceed the 24' size. Peter Young stated the 22' X 24.8' was a typo. The garage will be 22' X 24'. The Board indicated that included overhangs. Further discussion focused on which area would be returned to the green. The Board stated since the construction of the garage, the parking area has expanded and 50% of the parking area being returned to the green, means planting grass or other vegetation and the existing area in the front of the home that is used for parking must be returned to the green. The Chairman stated to be clear, the Board does not want any parking down below at all. The applicants thought the 50% return to the green meant 50% of existing, without the garage and that they could use pervious pavers or some other form of pervious surface to park on. The Board stated their position that the words "return to the green" meant that grass or vegetation had to be planted. The applicants requested a 5 minute break.

At 8:05pm Vinny Mancuso made a motion to take a 5 minute break, duly 2nd, approved 5-0. At 8:16pm Vinny Mancuso made a motion to return to the public session, duly 2nd, approved 5-0. Back from the break the applicants stated they will agree to eliminate the entire parking area down below and return it to vegetation.

Joe DePaul asked for any further public comment—As Follows:

John Cattamaccio, 22 Sunset Trail: stated he can see the Oulvey's house from his deck and he is fine with the proposal.

Tom Cheneski, 32 Lake Dr. North: Is the neighbor directly to the north of the Oulveys. He is confused with the garage and the storage area. The plans that were originally submitted to the Building Dept. not that long ago, included a finished upper story. The testimony given at tonight's meeting is that the upper story of the garage will be unfinished with heat and

electric and will not be used for living space. Mr. Cheneski has concerns about the upper story of the garage being used for living space.

The applicant stated the garage will be 18' high and not go above the existing lower roof line. Mr. Cheneski took pictures from his yard which is right next door. The pictures showed that the garage which is in the framing stage of construction were almost as high as the existing 18' high lower level roof. The 2<sup>nd</sup> story to the garage has not yet been framed out. When it is framed out, it will add at least another 6' to 7' in height.

Ray Poole, 24 Sunset Trail: He has concerns with the 1991 variance and discussed a prior application. Discussion ensued that there was an old variance on a different property for a garage that was granted years ago. Because the variance did not say "plans as submitted," the town attorney said they had a right to construct a two story garage. He has concerns about the upper story being used as living space. Mr. Poole is opposed to the April 2010 Minutes which state there will be no impact on the neighbors. The Board explained in April of 2010, there was no documentation from the neighbors that they objected to the proposal.

A lengthy discussion followed on the height of the addition granted in April 2010 for Variance # 08-10. The variance granted was for a net height increase of 3'. Pictures were submitted stating the net height increase was more than 3'. Prior to the meeting, he had met with the ZBA secretary who said this was out of her jurisdiction and he must consult the zoning regulations as to the formula to calculate the net height of a building. Mr. Poole stated he has grave concerns with variances being granted and then no one following through on the construction. The Board explained, once a variance is granted and a building permit is issued, it would be the zoning enforcement officer's responsibility to make sure the conditions of the variance are carried out. The prior zoning enforcement officer signed off on the addition in 2012 and two days later, the building official issued a Certificate of Occupancy. The Board is not sure what recourse can be taken, but will look into it.

The Chairman explained how to move forward with the application. The applicants agreed to continue the application to the June meeting. Vinny Mancuso made a motion to continue to the June meeting, duly 2nd, approved 5-0.

John McKee made a motion to adjourn the meeting at 9:00 pm, duly 2nd, approved 5-0.