

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

**MINUTES**  
**September 15, 2014**

The New Fairfield Zoning Board of Appeals (ZBA) held a public hearing followed by a business session at 7:00 p.m. on Monday, September 15, 2014, in the Community Room above the New Fairfield 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 Patrick Hearty.

ZBA members absent: Vinny Mancuso and Alternate John McKee.

Town Officials in attendance: Tom Gormley, Zoning Enforcement Officer.

Chairman Joe DePaul called the meeting to order at 7:01 p.m. and introduced the Board Members. He 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 as read, duly 2<sup>nd</sup>, approved 4-0. Secretary Joanne Brown read the Call of the Meeting.

Attorney Neil Marcus approached the board stating that his clients, the Underhills, **Application # 23-14**, were not present and requested that the application not be heard until the next meeting. The board agreed not to open the application.

**Continued Application # 19-14:** Gengel, 112 Lake Drive South (CI), for variances to zoning regulations 7.2.3 A, B & E, 3.2.6A Front Setback to 10.8' for the purpose of increasing the height of the existing garage.

John Apple made a motion to bring Application # 19-14 to the floor, duly 2<sup>nd</sup>, approved 4-0.

Paul Russo of Lakeview Development and homeowner Gary Gengel approached the board regarding the height of garage to be constructed. Joe DePaul asked Mr. Russo to state the proposed height of the roof. A discussion followed how to measure the roof. The roof height was stated to be 20'. Mr. Russo presented photos to the board of the

existing garage and elevation of the road into the garage. The condition of the road was discussed, stating that the power lines from a new construction were run in a trench in front of the garage. The trench would be restored. The new garage elevation will be raised 2' to make it level with the road. Two letters from neighbors were presented to the board and read into the record. Kevin Jordon, 63 Lake Drive South, stated in his September 2, 2014, letter that he was fine with the attached garage plans. Martina Hund-Mejean, an adjoining neighbor, stated in an August 19, 2014, letter that she would be happy if the garage looked more in the style of the house and that they do not oppose the variance.

Joe DePaul discussed that the footprint of the garage was not to be changed; the garage would be raised with some storage space and a higher roof. Total height increase will be 9' above the existing garage. Joe DePaul asked for any comment from the public. Tom Gormley, Zoning Enforcement Officer, remarked that he had seen the property and had no issues with the application.

Joe DePaul made a motion to enter into the Business Session, July 2<sup>nd</sup>, approved 4-0. Joe DePaul made a motion to approve the plans as submitted to replace the existing garage with a higher roof, the hardship being the unusual shape and slope of the lot, July 2<sup>nd</sup>, approved 4-0. Variance granted.

Joe DePaul asked for comments on the minutes while in the Business Session. John Apple asked if we need to mention town officials in the minutes if they did not make a statement. It was agreed that Town officials in attendance at the meeting should be stated in the minutes. Patrick Hearty made a motion to adopt the minutes from August 21, 2014, July 2<sup>nd</sup>, approved 4-0.

**Continued Application # 20-14:** Carley, 60 Wood Creek Road, for variances to zoning regulations 7.2.3A, B & E, 3.2.5A, 3.2.6B Side Setback to 20.8' and 3.2.10 Maximum Building Height for the purpose of waiving the 35' height restriction on one corner of the home from 35' to 35.9'.

Patrick Hearty made a motion to hear Application # 20-14, July 2<sup>nd</sup>, approved 4-0. Timothy and Mary Jane Carley approached the board. The Carleys stated that the application was continued due to an advertising exclusion of the correct zoning regulation. Joe DePaul asked Tom Gormley, Zoning Enforcement Officer, if just one corner of the house was over 35'. Mr. Gormley recalled that there was a mistake in the advertisement but could not recall the exact details without the paperwork in front of him. A lengthy discussion ensued regarding the measurement of the roof height and how the measurement should be taken; on one corner of the house or an average measurement. Mr. Carley stated that 35.9' was the average height of the house. Joe DePaul relayed his confusion and stated that one side must be higher than 35' for 35.9' to be an average. John Apple stated that it was his understanding that it was just the one side that was higher and that it had to be properly advertised. Joe DePaul asked what the highest peak was. Zoning Regulation 9.4 was read into the record. "Unless specified elsewhere in these regulations, building height shall be the vertical distance

measured from the averaged finished grade of the ground surrounding the building and measured from within five (5) feet of the exterior walls of said building to the highest point of the roof for A-frame, dome and flat roofs (including the top of the parapet); to the deck-line of for mansard roofs and to the mean height between the eaves and ridge for gable, gambrel roofs, hipped, salt-box or shed-roofs. Chimneys shall not be included in computing the height limitations providing that the height of said projections shall not exceed fifty (50) percent of the maximum permissible building height.” Joe DePaul questioned what type roof it was. It was ascertained that the roof resembled a gambrel roof or gable roof. Joe DePaul clarified that the board was voting on the average measurement, stating that one side could be 36’ to 41’; 35.9’ being the average height. Joe DePaul asked if there were any comments from the public; none given. Joe DePaul asked Tom Gormley if he had any issues with this application. He had none.

Jack Machinko agreed with the Chairman that the measurements were higher on one side. Patrick Hearty stated that the applicants fulfilled what the board requested of them.

John Apple made a motion to enter into the Business Session, July 2<sup>nd</sup>, approved 4-0. The board discussed raising the ground elevation on the side of the house. Joe DePaul made a motion to grant a variance to waive the 35’ height restriction to legalize the construction already in place at 60 Wood Creek Road, the hardship being the unusual slope of the lot, July 2<sup>nd</sup>, approved 4-0. Variance granted.

**Application # 23-14:** Underhill, 5 Pine Island, for variances to zoning regulations Minor Accessory Buildings & Structures 3.0.4E and 3.0.4.G1 and Uses Permitted as of Right 3.2.1 to maintain deck and enclosure (cottage). Application was unopened as stated above.

**Application # 24-14:** Vitolo, 53 Rocky Hill Road for variances to zoning regulations 3.1.6B Side Setback to 25’, 3.1.5A Minimum Lot Area and 7.2.3A&B for the purpose of constructing a deck.

John Apple made a motion to bring Application # 24-14 to the floor, July 2<sup>nd</sup>, approved 4-0.

Mike and Kerry Vitolo approached the board and explained that the house was positioned with the rear of the house facing a side yard. The applicants provided plans to build a deck off the rear of the house requesting a side setback. The proposed deck would be 12’ which will bring the side setback to 25’. Violet Schoepp, 55 Rocky Hill Road, an adjacent neighbor wrote a letter indicating her support of building the deck. Photos were presented to the board showing the backyard and views from the neighbor’s house. Joe DePaul asked the Vitolos how long they lived in the house. Joe DePaul looked over the A2 surveys and said that if a deck was located in the backyard, the applicants would not need a variance. The Vitolos said that they would like to have the deck positioned off the kitchen and not the bedrooms which are off the back of the house. Joe DePaul suggested that they move the location of the deck and not increase the non-conformity. Mike Vitolo said that there was a basement entrance door that

would be in the way of a deck because of the slope of the property. The height of the deck was ascertained to be 5.8' off the ground.

Joe DePaul questioned the applicants on an apparent illegal structure attached to their existing garage that he noticed when he visited the property. The structure seems to violate the front setback. Joe DePaul showed the Zoning Enforcement Officer, Tom Gormley, the structure which did not appear on the plans. Joe DePaul discussed how difficult it is to grant a variance when there is an illegal structure presently on the property. Mike Vitolo stated that they were there to do the right thing. Joe DePaul discussed the increase in non-conformity, the height of the deck and suggested the applicants reconsider the design and location of the deck. The applicants stated that the engineer drew the plans and that is why they were there. Joe DePaul explained that granting a variance for a deck was hard to do considering there were other options for building the deck on the property that would not increase the non-conformity. The applicants decided to withdraw the application and filled out the withdrawal form. They thanked the board for their time and ideas.

**Application # 25-14:** LaChance, 2 Beaver Bog, for variances to zoning regulations 3.1.6A Front Yard Setback to 65.7' and 7.2.3A&B for the purpose of constructing a two car garage.

John Apple made a motion to bring Application # 25-14 to the floor, duly 2<sup>nd</sup>, approved 4-0. John Weiss, Northwoods Builders, agent for the LaChances, approached the board. An authorization letter was previously filed. It was explained that the property is located on a corner lot and therefore the property has two fronts. The applicants are requesting a 65.7' front setback on Beaver Bog Road. Mr. Weiss showed the A2 Survey to the board. It was ascertained that no variance was need on Route 37. The variance is needed to remove cars parking on the street and to move the driveway entrance to a less treacherous location on Beaver Bog Rd. The construction of the garage was discussed. There will be a small covered area between the garage and the house. There will be no storage or stairs inside the garage. The height of the garage roof will be 15.6' and the roof of the existing house is 21'. Joe DePaul asked for public comment. Tom Gormley, Zoning Enforcement Officer, stated that he had no issue with the application; it would be taking cars off the street and only affecting one of two fronts.

Jack Machinko made a motion to enter into the business Session, duly 2<sup>nd</sup>, approved 4-0. Joe DePaul made a motion to grant a front variance to 65.7' to construct a two car garage per the plans as submitted, the hardship being the fact there are two fronts with no increase in non-conformity, duly 2<sup>nd</sup>, approved 4-0. Variance granted.

John Apple made a motion to adjourn the meeting at 8:08 p.m., duly 2<sup>nd</sup>, approved 4-0.