

New Fairfield Zoning Board of Appeals
New Fairfield Connecticut 06812
MINUTES
Meeting
February 21, 2013

The New Fairfield Zoning Board of Appeals (ZBA), held a public hearing followed by a business session at 7:00 pm. on Thursday, February 21, 2013, in the New Fairfield Library located at 2 Brush Hill Road. Secretary Laurie Busse took the minutes.

ZBA members in attendance: Joe DePaul, Chairman, Jack Michinko, Peter Hearty, Vinny Mancuso, and Alternate John McKee

ZBA members absent: John Apple, Vice Chairman

Town Officials in attendance: Tom Gormley, Interim ZEO

Chairman Joe DePaul called the meeting to order at 7:05 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 as presented, duly 2nd, approved 5-0. Secretary Laurie Busse read the Call of the Meeting.

Application # 01-13: Cherick Designs LLC, 15 Lavelle Ave, for variances to zoning regulations for the purpose of constructing a 2 story addition, a 2nd story addition and two rear decks.

Vinny Mancuso made a motion to bring Application # 01-13 to the floor, duly 2nd, approved 5-0.

Patrick Reilly, Cheryl Finlay and Scott Yates approached the Board. They explained their plans to extend the rear of the home by 3' and construct a 2nd story addition over the entire house. They are proposing to construct 2 tiered decks in the rear of the home as well. The decks will be 27' X 12 ½ '. The existing front setback of 29.4' and north side setback of 11.3' will remain the same. The existing rear setback will go from 26.6' to 12.5'. There will be no change in impervious surface coverage as they will remove the front walkway. Discussion followed. Both the application and the Legal Notice show a rear setback of 13.2' so an advertising issue exists. The applicants submitted an updated survey into the record. They will eliminate the 3' rear bump out to make the rear setback comply with the advertised rear setback. The decks will increase nonconformity on the rear setback by 14'. The Board stated their position on increasing nonconformity and looked for other areas to locate the deck. The applicant wanted to keep a cat walk type deck on the rear of the home and perhaps locate the deck on the side of the home. The Board stated any construction in the rear of the property will increase nonconformity. Discussion followed on how to move forward with the application. Peter Hearty made a motion at 7:35pm to take a short break so the applicants can discuss their options. Vinny Mancuso made a motion at 7:40 to come back from the break.

Back from the break the applicants stated they would like to bifurcate the application. They would like the Board to vote on the vertical expansion tonight and continue the deck to next month's meeting. The Board stated that a new A2 Survey will be required showing any changes.

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

Peter Hearty made a motion to enter the Business Session, duly 2nd, approved, 5-0.

In the Business Session the Board discussed the deck is not included in this discussion. They will only be voting on the vertical expansion. There will be no increase in nonconformity, there will be no change to the footprint on the ground, and the existing setbacks will not change.

Joe DePaul made a motion to grant a front setback to 29.4', a north side setback to 11.3' and a rear setback to 26.6' for the purpose of constructing a 2nd story addition. The hardship is the size of the lot and the location of the house; duly 2nd, approved 5-0.

Minutes: Vinny Mancuso made a motion to approve the Minutes to the January 17, 2013 meeting as presented, duly 2nd, approved 4-0-1. John McKee abstained.

Application # 02-13: Volpe, 12 Fair Lane, for variances to zoning regulations for the purpose of varying a previously approved variance.

Peter Hearty made a motion to bring Application # 02-13 to the floor, duly 2nd, approved 5-0.

James Volpe approached the Board and explained in November of 2002 Variance # 41-02 was granted for a side setback to 9' 8" and a rear setback to 46' for the purpose of constructing a 40' 4" X 10' front deck. He constructed the deck per plans submitted. The A2 Survey submitted for the 2002 ZBA application was an old survey from the 1970's and the method of measurement was in inches. The setbacks indicated are shown in plus or minus. The new survey which was completed in November 2012 uses the decimal system and with today's technology it is more accurate than the older survey. The side setback is not 9' 8" but rather 9.1'. This is off by a few inches. It was suggested to him by the Land Use Dept. that because his property line is on a slight angle the rear setback may also be off and since he is in front of us he should request that to be changed as well. Therefore he is requesting a rear setback of 36'. The new A2 Survey submitted with this application shows a rear setback of 46.5', so an adjustment for the rear setback is not necessary. Discussion followed on the side setback. The Board also discussed the possibility of the stairs to the front deck being within the 40' front setback. This is not in front of the Board. The Chairman stated that if a variance is required for the front steps, the application fee will be waived for the next couple of months. Moving forward the Board will vote only on the side setback. The rear setback is in compliance with Variance # 41-02. The stairs are not in front of us.

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 that there is no increase in nonconformity, and no change to the footprint on the ground. The rear setback is actually less than what

Variance # 41-02 stipulates and that does not need to be changed. The front steps may be within the front setback but they are not in front of us and the fee will be waived if the applicant has to come back for that.

Joe DePaul made a motion to grant a side setback to 9.1' for the purpose of varying Variance #41-02, not subject to the plans as submitted, but rather construction already in place. The hardship is incorporated from the prior Variance # 41-02 and the small lot size, duly 2nd, approved 5-0.

Application # 03-13: Jordan Futures LLC, 40 Route 37, for variances to zoning regulations for the purpose of raising the roofline.

Peter Hearty made a motion to bring Application # 03-13 to the floor, duly 2nd, approved 5-0.

David Jordan and his architect, Scott Yates, approached the Board. They discussed this is a small house and the height of the ceiling is so low that you cannot walk up the stairs without hitting your head. They are proposing to raise the roofline by 5'. The new height of the home will be 24.6'. The lot is .29 acres. There will be no change to the footprint on the ground, there will be no increase in nonconformity, and there will be no impact on the neighbors.

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

Peter Hearty made a motion to enter the Business Session, duly 2nd, approved 5-0.

In the Business Session the Board discussed there will be no change to the footprint on the ground, there will be no increase in nonconformity, and there will be no impact on the neighbors.

Joe DePaul made a motion to grant a variance for a front setback to 25' and a rear setback to 18.7' subject to the plans as submitted. The hardship is the size and shape of the lot, duly 2nd, approved 5-0.

Application # 04-13: Gilbert Hicks, 7 Route 37 for variances to zoning regulations for the purpose of installing an above ground out door lift.

Peter Hearty made a motion to bring Application # 04-13 to the floor, duly 2nd, approved 5-0.

Gilbert Hicks approached the Board. This property is also known as "Gils Gas Station". In 1982 an outdoor under ground lift had been installed and due to safety and environmental issues they had to stop using it in the 1990's. This is a very small lot in BC District. The existing side setback to the building is 20.2' and the proposed lift will be 20.1'. Discussion followed the lift is within the setbacks, however, the lot itself is nonconforming and any construction will require a variance even if it meets setbacks.

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

In the Business Session the Board discussed they would like further clarification. Joe DePaul made a motion to go back into the Public Session, duly 2nd, approved 5-0.

Back in the Public Session discussion followed the applicant is not looking to have the setbacks varied. He is looking to have zoning regulations 7.2.3A & B and 4.1.3A & B varied. The definitions to these regulations were read into the record.

Vinny Mancuso made a motion to go back into the Business Session, duly 2nd, approved 5-0.

Back in the Business Session the Board discussed because it is such a small lot and the lot does not meet the minimum requirements for area and frontage all work requires a variance even if it is within the setbacks. There will be no increase in nonconformity.

Joe DePaul made a motion to grant a variance for an outdoor lift subject to the plans as submitted. The hardship is the shape and size of the lot, duly 2nd, approved 5-0.

Application # 05-13: Camillo M. & Gloria M. Santomero, 2 Dunham Drive, for variances to zoning regulations for the purpose of constructing a vehicle garage.

Peter Hearty made a motion to bring Application # 05-13 to the floor, duly 2nd, approved 5-0.

Peter Young, Agent for the owner approached the Board. He explained the proposal to construct a 90' X 40' five bay garage 25' away from the front setback. The required front setback is 50'. When the application was submitted a side setback to 40' was requested. He has since reduced the size of the garage by 10' and he is now proposing a 50' side setback so a side variance will not be required. A new A2 Survey was submitted into the record showing the changes. Although the property is zoned for light industrial there is a residential home behind them. Discussion followed that the proposal is very close to the road and on pushing the garage further away from the front setback may encroach on the residents whose property abuts this property. Additional parking spaces are required. Discussion followed on other locations for the garage. The Board would like to see the letter that was submitted to the abutting property owners, as only the returned receipt green cards were submitted. Additionally the Board would like the opportunity to see the property and hopefully hear from the residential home owners who live behind this property as well. The Board explained how to move forward with the application.

Jack Michinko made a motion to continue the application to the March 18, 2013 meeting, duly 2nd, approved 5-0.

Joe DePaul made a motion to adjourn the meeting at 9:05pm, duly 2nd, approved 5-0.