

New Fairfield Zoning Board of Appeals
New Fairfield Connecticut 06812
MINUTES
Meeting
September 16, 2013

The New Fairfield Zoning Board of Appeals (ZBA), held a public hearing followed by a business session at 7:00 pm. on Monday, September 16, 2013, in the New Fairfield Community Room located at 33 Route 37. Secretary Laurie Busse took the Minutes.

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

ZBA members absent: Peter Hearty

Town Officials in attendance: None

Chairman Joe DePaul called the meeting to order at 7:00 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 # 24-13: Michael D. & Maureen G. DAngelo, Trustees, 59 Ball Pond Road, for variances to zoning regulations for the purpose of relocating the entry porch and rebuilding the roof overhangs.

Michael DAngelo along with his architect, John McGuirk, approached the Board. The house is preexisting, nonconforming. The proposed plans are to demolish the existing closed porch and reconstruct a new open porch on the same side of the home, except the porch will be located closer to the rear of the home. There will be no increase in nonconformity and no increase to the footprint on the ground. They plan to reconfigure the roof overhangs; however they will not come any closer to the existing setback. The existing right side setback is 8.4', the existing left side setback is 13.6', and the existing rear setback is 33'. Discussion followed they are at 30% impervious surface coverage and they will replace the asphalt driveway with pervious pavers, which will reduce the impervious surface coverage to 21%, however impervious surface coverage is not in front of us.

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

John Apple 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 and no increase to the footprint on the ground.

Joe DePaul made a motion to grant a variance for a right side setback to 8.4', a left side setback to 13.6', and a rear setback to 33' for the purpose of constructing an open porch

and reconfiguring the roof overhangs. Further stipulating this variance does not increase nonconformity. The hardship is the irregular small sized lot, duly 2nd, approved 5-0.

Minutes: Jack Michinko made a motion to approve the Minutes to the August 15, 2013 meeting as presented, duly 2nd, approved 3-0-2. Jack Michinko and John Apple abstained.

Application # 25-13: Scott Watson, 18 Sunset Drive (Bogus Hill), for variances to zoning regulations for the purpose of extending the deck.

Jack Michinko made a motion to bring Application # 25-13 to the floor, duly 2nd, approved 5-0.

Peter Young, Agent approached the Board. The existing deck is long and skinny which is several feet off the ground and runs the length of the house. The proposal is to extend the deck by constructing a square deck at the rear corner of the home. A small portion of the deck will be on the side of the home with stairs to grade facing the front of the property. The rest of the deck will be in the back of the house with stairs to grade. Due to the steep slope the new deck extension will start on grade and go up to 3' off the ground. The deck extension will not come any closer to the 440 Contour Line than the existing deck. Discussion followed on the ledge and slope of the property.

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 there is no increase in nonconformity and the steep slope and ledge on the property.

Joe DePaul made a motion to grant a variance for a rear setback to 23.1' for the purpose of extending the existing deck with two sets of stairs to grade subject to the plans as submitted further stipulating there is no increase in nonconformity, duly 2nd, approved 5-0.

Application # 26-13: Sandra L. Cucci, 46 Ridge Road (CI), for variances to zoning regulations for the purpose of constructing a 2nd story addition over a detached garage.

Jack Michinko made a motion to bring Application # 26-13 to the floor, duly 2nd, approved 5-0.

Mr. & Mrs. Cucci along with their attorney Raymond Lubus approached the Board. Attorney Lubus explained in December 2012 the Board denied Application # 33-12 for a similar proposal. That proposal increased nonconformity and this new proposal for a 2nd story addition over the detached garage will not encroach on any of the existing setbacks. The front setback will remain at 18.8' and the side setback will remain at 11.4'. The new proposal will square off the existing garage with a one story addition. The 2nd story addition will be for a workshop and storage with stairs to access the lower level of the garage. There will be electric, but no plumbing. The addition will increase the height of the garage by approximately 12'. The new height of the garage will be 24'. Additionally the roof has been reconfigured from the December 2012 proposal to run the opposite way so as to alleviate any blocked views by the neighbors. Discussion followed at the December 2012 meeting one of the neighbors had objected to the 2nd story addition stating that it would block her views and the Board still has these concerns. Emails were submitted into the record from

the neighbors David Sanchioli, 43 Ridge Road, whose home is to the south east side of the Cucci residence and David Kenna, 48 Ridge Road who lives on the south side of the Cucci residence. Both neighbors say they have no objections to the proposal.

Joe DePaul asked for any public comment—as follows:

Horia Gabrielescu, 54 Ridge Road: Stated this proposal is more aesthetic than the other plans the Cucci's had discussed with him. The Cucci's other proposal would involve cutting down trees and he feels that it is better to leave the trees and have a natural looking yard.

Cynthia Taylor, 44 Ridge Road: Stated that while she does not oppose the single story addition that would square off the garage, her position has not changed since December 2012 when she objected to the height of the 2nd story addition stating it will block her views. A letter stating her objections was submitted into the record. Ms. Taylor said that her home is only 11' away from the garage and the addition will block the views she has from her great room. There are other locations on the property that can be used for storage. Her garage is very close to the property line and since her great room is above the garage she feels this would not only block her views but be an invasion of her privacy. Additionally the Cucci's have received a variance for a 2nd story addition to their home which blocks her views.

Attorney Lubus stated Mr. Cucci had given Ms. Taylor different proposals for the 2nd story addition which included stepping back the 2nd story 6'-7' and staked out the roof so that she could visualize the addition. He also proposed to make the garage deeper. Ms. Taylor received a variance back in 1988 to construct her garage and discussion followed if it had always been a 2 story garage. The applicants did not submit documentation of a variance for Ms. Taylors garage such as a copy of the Variance or Minutes from the meeting. Discussion followed on the earlier 2nd story addition the Cucci's received on their home as well as on the ZBA December 2012 Minutes and the window that Ms. Taylor states will have the view blocked. The Board was glad to hear the neighbors tried to negotiate before coming back to ZBA however they must vote on the proposal the way it is being submitted tonight.

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

Attorney Lubus reminded the Board the prior application increased dimensional nonconformity and this proposal does not increase dimensional nonconformity.

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

In the Business Session the Board discussed that although this proposal does not increase dimensional nonconformity there has been no change with regards to the height of the garage from the December 2012 meeting and the neighbor is still opposed to the height as it will block her views. Other Board members felt that this is a typical vertical expansion. Discussion followed in December 2012 the Board was concerned with the height and why didn't the applicants reduce the height of the garage? Jack Michinko made a motion to go out of the Business Session and back into the Public Session, duly 2nd, approved 5-0.

Back in the Public Session the Board questioned why were the applicants adamant on keeping the proposal the way it was and now it is feasible to change the garage addition. The applicants stated they have since talked to an architect and Attorney Lubus and are comfortable making changes. The Board inquired what the other proposals were. The

applicants stated they would have increased the size of the garage however there is a slope and the property drops about 3 ½' and a retaining wall would have been required.

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

Discussion focused that it is the Board's job to protect the neighbors' property values and if there is a decrease in their view then the property value goes down. Other Board members felt this is a classic vertical expansion.

Joe DePaul made a motion to grant a variance for a front setback to 18' 8" and a side setback to 11' 4" for the purpose of constructing an addition to square off the garage and a 2nd story addition to the garage subject to the plans as submitted. The hardship is the slope and ledge on the property. Further stipulating there is no increase in dimensional nonconformity, duly 2nd, approved 4-1. Joe DePaul was opposed.

Application # 27-13: Maritza Halas, 21 Inglenook Drive, for variances to zoning regulations for the purpose of constructing a rear and side addition.

Vinny Mancuso made a motion to bring Application # 27-13 to the floor, duly 2nd, approved 5-0.

Adam Kinkle of Lisa Lowe Associates, Agent approached the Board. He explained this is a unique situation. The entire house was built on ledge and it is on less than 1/3 acre. The run off from the ledge flows through the basement and has destroyed a portion of the home where the utilities are kept and the home owner is currently without heat and unable to use her laundry room. The proposal is to demolish a portion of the rear of the home which has been destroyed by run off and construct a small rear addition which will be used as a utility room. To help with drainage and redirect water, a shed roof will be constructed on the side of the house. The roof extension will increase nonconformity by 1'. The addition in the rear will reduce nonconformity. The existing rear setback is 16.8' and that portion of the home will be demolished. The new rear setback will be 20.7' which decreases nonconformity. The existing side setback is 9.1' and the roof overhangs will be 8.1' from the side setback. Discussion followed that although nonconformity increases on the side, it is decreasing in the rear by several feet. Further discussion focused on the steep slope and ledge on the property. The home is only 580sqft and it is not possible to relocate the mechanicals of the house to another area.

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 the steep slope and ledge as well as the room is needed to keep water out of the house. Reducing the rear nonconformity outweighs the increase of nonconformity on the side of the home.

Joe DePaul made a motion to grant a variance for a side setback to 8.1' and a rear setback to 20.7' for the purpose of constructing an addition and extending the roof overhangs subject to the plans as submitted. The hardship is the slope and ledge on the property. Further stipulating this variance decreases nonconformity in the rear of the home duly, 2nd, approved 5-0.

Application # 28-13: Matthew and Jillian Schwam, 22 Lake Drive South (CI), for variances to zoning regulations for the purpose of legalizing a 2nd story addition.

John Apple made a motion to bring Application # 28-13 to the floor, duly 2nd, approved 5-0.

Tammy Zinick, Agent approached the Board. The house was built in 1936 and is preexisting, nonconforming. Approximately 4 or 5 years ago the property owners added a 2nd story addition to the north west side of their home without permits and are moving forward to legalize the addition. The 2nd story addition increased the height of their home by approximately 5'. There is a steep slope on the lot. The Board discussed their position on additions built without a permit. Discussion on how the 2nd story addition came about was discussed. There is no increase in dimensional nonconformity.

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

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

In the Business Session the Board discussed they view this as if the construction had not been built. There is no increase in dimensional nonconformity and no change to the footprint on the ground.

Joe DePaul made a motion to grant a variance for a front setback to 38' and a rear setback to 40' for the purpose of legalizing a 2nd story addition not subject to the plans as submitted but rather subject to the construction already in place. The hardship is the slope and size of the lot.

Application # 29-13: Robert and Kathy Schaeffer, 2B Shore Drive, for variances to zoning regulations for the purpose of constructing a 2nd story addition.

Vinny Mancuso made a motion to bring Application # 29-13 to the floor, duly 2nd, approved 5-0.

Ray Walker, Contractor approached the Board. The Board inquired if he had a letter of authorization from the property owner. He did not have one with him. The Board stated they would hear the case contingent that the letter of authorization be submitted promptly. The water from East Lane flows off the road and onto the property causing a lot of damage. The existing driveway will be demolished and relocated to another area. He is proposing to construct a 2nd story addition over the attached garage. The increase in height is 4' 8" over the existing peak. The total height from the average grade to peak will be 21'. There is an addition going on the home which meets setbacks and is out of ZBA's jurisdiction. Discussion followed there is no increase in nonconformity

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

John McKee 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 and a minimum height increase. There will be no impact on the neighbors. This is a classic vertical expansion.

Joe DePaul made a motion to grant the variance for a front setback to 21.6' a side setback to 9.2' and a rear setback to 47.4' subject to the plans as submitted, further stipulating there is no increase in dimensional nonconformity, duly 2nd, approved 5-0.

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