

New Fairfield Zoning Board of Appeals
New Fairfield Connecticut 06812
MINUTES
Meeting
April 19, 2012

The New Fairfield Zoning Board of Appeals (ZBA), held a public hearing followed by a business session at 7:00 pm. on Thursday, April 19, 2012, 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, Peter Hearty, Jack Michinko, and Vinny Mancuso.

ZBA members absent: Alternate John McKee.

Town Officials in attendance: Maria Horowitz, CZEO

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 proposed agenda. Joe DePaul asked if there were any changes or amendments to the Agenda—None Heard. Vinny Mancuso made a motion to adopt the Agenda as read, duly 2nd, approved 5-0. Secretary Laurie Busse read the Call of the Meeting.

Continued Application # 07-12: John Dietrich, 14 Bay Drive, for variances to zoning regulations for the purpose of reconfiguring the driveway.

Peter Hearty made a motion to bring Continued Application # 07-12 to the floor, duly 2nd, approved 5-0.

John Dietrich and his engineer, Dainius Virbrickas PE approached the Board. Mr. Virbrickas discussed the steep slope of the lot. The zoning regulations state the driveway grade can be no greater than 12%. The existing driveway starts at almost a 10% grade and increases to over 16% by the middle of the driveway. He is proposing to move the driveway over about 60 feet. This will decrease the grade of the starting point by 4'. The proposed driveway will have a starting grade of 2% to 8% and then it will increase to 15%, by the middle of the driveway, noting the new driveway will be 145' long which is an increase of 15' from the existing driveway. A catch basin will be constructed near the garage to collect run off and prevent the garage from flooding. They did not contact the Town Engineer, Tony Iadarola, because they were told this is a private road and that they do not need the Town Engineer's approval on private roads. Discussion followed on safety issues and although the grade would still be outside of the zoning regulations it would be less than existing thus reducing nonconformity. Maria Horowitz stated this lot is very steep and getting any type of driveway in would be a difficult task, noting she does not have any issues with the proposal.

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 the existing driveway possesses many safety concerns. By moving the driveway they can decrease some of the safety concerns and make the driveway less nonconforming.

Joe DePaul made a motion to grant the variance to zoning regulation 7.3.2 H for the driveway grade not to exceed 15% subject to the plans as submitted. The hardship is the slope of the lot, duly 2nd, approved 5-0.

Minutes: Vinny Mancuso made a motion to adopt the Minutes to the March 19, 2012 meeting as presented, duly 2nd, approved 4-0-1. Jack Michinko abstained.

Continued Application # 08-12: Kim Wiede, 24 Ridge Road, for variances to zoning regulations for the purpose of constructing a 2nd story addition, a covered front entry way, and convert a screened porch into living space.

Jack Michinko made a motion to bring Continued Application # 08-12 to the floor, duly 2nd, approved 5-0.

Tammy Zinick, agent for the property owners approached the Board. The house was built in 1935. There is an existing concrete porch she is proposing to turn into a mud room. The existing setbacks will remain the same. The 2nd story addition will not encroach on any of the setbacks. The plans to cover the front entry way will square off the house and stay within the existing footprint.

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 this is a classic vertical expansion. Enclosing the existing porch to become a mud room does not encroach on the setbacks any more than the existing home. There is no increase in nonconformity.

Joe DePaul made a motion to grant the variance for a front setback to 38' and a side setback to 13.8' subject to the plans as submitted. The hardship is the slope of the lot, duly 2nd, approved 5-0.

Application # 09-12: Thomas Riggs, 36 Ridge Road, for variances to zoning regulations for the purpose of constructing a 2nd story addition and a 3rd story attic addition with a balcony.

Vinny Mancuso made a motion to bring Continued Application # 09-12 to the floor, duly 2nd, approved 5-0.

Thomas Riggs approached the board and explained his proposal. The existing house is 985sq ft and consists of 3 bedrooms and 3 bathrooms. There is a steep slope on his lot which prevents him from constructing outwards. There is an existing 14' deck 28.9' from the rear setback that is damaged beyond repair and will be replaced. He is not requesting a variance for this deck. The proposed 2nd story will go up over half of the home and so that he can keep the cathedral ceiling over the south side of the home.

The existing height is 27'. There will be a 3rd story attic addition with a balcony. The balcony extends over the footprint of the home by 3' however it does not come any closer to the rear setback than the existing rear deck that is 28.9'. Joe DePaul read a letter into the meeting dated April 15, 2012 from Mr. & Mrs. Barnett. The letter indicates they live next door and are OK with the proposed project so long as the additions do not come any closer to the setbacks than the existing home. They do have concerns about construction equipment on their property as well as runoff from the construction. Mr. Riggs requested a copy of this letter so that he may address their concerns. Discussion followed on an advertising issue. The applicant requested a 43' rear setback and the 3rd story balcony appears to be 41' from the rear setback. Further discussion focused if the existing deck needed a variance as well. Joe DePaul explained how to move forward with the application. Mr. Riggs stated he will continue to the May 17 meeting and meet with Maria Horowitz to discuss the correct setback.

John Apple made a motion to continue to the May 17 meeting, duly 2nd, approved 5-0.

Continued Application # 10-12: Dorothy Mann, 6 Meadow Avenue, for variances to zoning regulations for the purpose of enclosing an open deck.

Peter Hearty made a motion to bring Continued Application # 10-12 to the floor, duly 2nd, approved 5-0.

Tammy Zinick, agent for the property owners approached the Board. In November 1988 Variance # 84-88 was granted for the purpose of constructing a house. In February 2005 Variance # 02-05 was granted for the purpose of constructing a deck and a sunroom. The applicants are proposing to enclose the deck granted in the 2005 variance and use it as an unheated sunroom. There will be no change to the footprint on the ground and there will be no increase in 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 there is no increase in nonconformity, there will be no change to the footprint on the ground and there will be no impact to the neighbors.

Joe DePaul made a motion to grant a front setback to 32' and a rear setback to 36' for the purpose of enclosing a deck into an unheated sun porch subject to the plans as submitted, the hardship is incorporated from the prior variances, duly 2nd, approved 5-0.

Application # 11-12: Gussie Tipper, 20 Great Meadow Road, for variances to zoning regulations for the purpose of constructing an addition and a porch.

Vinny Mancuso made a motion to bring Application # 11-12 to the floor, duly 2nd, approved 5-0.

Gussie Tipper approached the Board and explained her plans to construct a front porch and a pantry on the side of her home. The pantry on the side of the home will just square off the house and will not encroach on the existing setbacks, so there will be no increase in nonconformity. Discussion followed why a rear setback is being requested

for the front porch. Maria Horowitz explained that because this is a small lot and the entire house is within 50 of the rear setback then a rear setback must be requested even though the front porch is going further away from the rear property line, it is still within 50' of it. The front porch will not go closer to any of the setbacks than the existing home.

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 this is an unusual property and there will be no increase in nonconformity.

Joe DePaul made a motion to grant a rear setback to 36' for the purpose of constructing a front porch and side pantry subject to the plans as submitted. The hardship is the unusual size and characteristics of the lot, duly 2nd, approved 5-0.

Application # 12-12: Kenneth D. Smalley, 8 Lake Circle, for variances to zoning regulations for the purpose of constructing a swimming pool in the front yard.

Vinny Mancuso made a motion to bring Application # 12-12 to the floor, duly 2nd, approved 5-0.

Kenneth Smalley and his agent Robert Young approached the Board. Mr. Young explained the way the home is constructed aesthetically the front yard appears to be a side yard. The swimming pool will not encroach on any of the setbacks. Discussion followed on the Board's position on granting pools in the front yard and a few prior applications were discussed. The applicants stated there is significant ledge and slope on the lot and pictures were submitted into the record.

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 due to the way the home is constructed and the location of the driveway the front yard appears to be the side yard. The pool will not encroach on any of the setbacks and if the owners wanted to put a shed or garage in that location they would be able to do so. Further discussion focused on prior cases with pools in the front yard and that those cases were denied.

Joe DePaul made a motion to grant a variance for the purpose of constructing a swimming pool in the front yard subject to the plans as submitted. The hardship is the ledge and slope of the property, duly 2nd, approved 4-1. Vinny Mancuso was opposed.

Application # 13-12: Robert and Lori Gabriele, 12 Carleon Road, for variances to zoning regulations for the purpose of constructing a 2nd story addition over the garage.

Joe DePaul made a motion to bring Application # 13-12 to the floor, duly 2nd, approved 5-0.

Joe Chelso, agent for the property owners approached the Board. He explained Variance # 51-89 dated June 29, 1989 was for the purpose of constructing the garage.

The variance was for a 20' X 20' garage and they constructed 18' X 20' garage. The plans are to construct a 2nd story over this garage and use it for living space. The existing house is 1,165sqft and the garage will add an additional 360sqft of living space. The 2nd story garage addition will not encroach on setbacks any further than the existing garage. Discussion followed. The Board has granted variances for garages especially to help alleviate off the street parking, however they have always stipulated the 2nd story could not be used for living space. If this garage were to come in front of them today, that same stipulation may apply. Further discussion focused on the applicant is now varying a variance and if they had wanted living space above the garage they should have asked for it back then. The new height of the garage will be 20'.

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

April and Vincent Beauleau, 10 Carleon Road: Mr. & Mrs. Beauleau stated they live next door and the garage is about 14' away from their home and 9' away from the property line. If the 2nd story were to be constructed it would interfere with their privacy as the owners would be able to look into their bathroom window. Additionally the addition will block their view of the scenery. They received a variance for their home in 2007. They had a 1 ½ story cape and they went up a few feet to make it a full 2nd story.

The applicant explained he is dropping the roofline in order to minimize the height of the addition. The Board discussed their concerns of the neighbors' privacy as well as their position on granting living space in a garage. Maria Horowitz stated this is a classic vertical expansion and she does not have any issues with the project.

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

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

In the Business Session the Board discussed historically they don't usually grant living space in a 2nd story garage addition as well as their concerns for the neighbors' privacy. Further discussion focused on this would be modifying a previously approved variance. This is a classic vertical expansion and if the 2nd story were used for storage they may not have any issues with it. Maria Horowitz asked if she could speak. Maria Horowitz stated the Board didn't give the applicant a chance to go back to the owners to request a change of plans and perhaps they should consider doing this. Discussion followed.

John Apple made a motion to go back into the public session, July 2nd, approved 5-0.

Back in the public session the Board discussed putting the addition over the existing home instead of the garage so that it would be further away from the neighbors' home, thus giving them more privacy. Joe DePaul explained how to move forward. Mr. Chelso stated he would like to continue to the May 17 meeting. The Board indicated they wanted the property owners present.

John Apple made a motion to continue the application to the May 17 meeting, July 2nd, approved 5-0.

John Apple made a motion to adjourn the meeting at 8:58pm, July 2nd, approved 5-0.