

New Fairfield Zoning Board of Appeals
New Fairfield Connecticut 06812
MINUTES
Meeting
August 16, 2012

The New Fairfield Zoning Board of Appeals (ZBA), held a public hearing followed by a business session at 7:00 pm. on Thursday, August 16, 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, Jack Michinko, Peter Hearty, and Alternate John McKee

ZBA members absent: Vinny Mancuso

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 proposed Agenda. Joe DePaul stated he would like to add a discussion on future meeting dates to the end of the Agenda and asked if there were any additional changes or amendments to the Agenda—None Heard. Vinny Mancuso made a motion to adopt the Agenda as amended, duly 2nd, approved 5-0. Secretary Laurie Busse read the Call of the Meeting.

Application # 22-12: Philip Kraska, 34 Windmill Road, for variances to zoning regulations for the purpose of legalizing a 2nd story garage addition on a previously approved Variance.

John Apple made a motion to bring Application # 22-12 to the floor, duly 2nd, approved 5-0.

Mr. Kraska was not present. Peter Young approached the Board stating he is the applicant's agent and submitted a letter of authorization. He explained in 1987 Variance # 73-87 was granted to construct a 20' X 20' garage with a 4' X 6' breezeway, noting the garage and breezeway were never constructed. His client recently obtained a building permit to construct a 15' X 20' garage without a breezeway within the same footprint of Variance # 73-87. During the construction process he realized there would not be enough room for storage and without obtaining a building permit constructed dormers for a 2nd story, noting the height of the dormers do not exceed the height of the garage which is 16' high. There will be no heat or electric in the 2nd story, it will strictly be used for storage. Maria Horowitz, Certified Zoning Enforcement Officer has not issued a Cease & Desist Order, but told him he cannot continue on the project until he either removes the dormers or receives ZBA approval. The Minutes to the 1987 variance were discussed. Mr. Young noted he just started working on this application and he is not sure if he needs to be in front of ZBA or if his problem lies strictly with Zoning. Discussion focused on that a variance is good forever and is subject to the plans as submitted. According to the 1987 variance only a one story garage with a breezeway

could have been constructed. The Board discussed zoning regulation 7.2.3E which indicates that all vertical expansions outside of the building envelope require a variance. Since the original variance was for a single story garage, he is building outside of the scope of the original variance and a variance is required for the 2nd story and dormers. Some members of the Board had gone out to view the site and pictures were submitted into the meeting via an iPad. It was noted that fill had been brought in to bring up the ground level of the garage by as much as 4'. The Board discussed that perhaps in 1987 the Board approved a single story garage at a much lower elevation would not effect any of the neighbors; now that the garage is 2 stories and starting at a higher elevation, perhaps it would not have been approved. Further discussion focused on that prior Boards were more lenient to grant variances for garages to get cars off the street, but did not believe this warranted the garage being so close to the road. The Board discussed Variance # 34-08 granted in August 2008 for a front porch and 2nd story addition on the house. It was their belief that in 2008 the Board was not aware of this variance or they would not have had such a lengthy discussion on increasing nonconformity.

Peter Young stated that he would like to have some more time to review the application and would like to continue to the September 12 meeting.

Peter Hearty made a motion to continue the application to the September 12 meeting, July 2nd, approved 5-0.

Application # 24-12: Anthony and Cindy Perri, 2 Perri Hill Drive, for variances to zoning regulations for the purpose of legalizing and extending a deck.

Jack Michinko made a motion to bring Application # 24-12 to the floor, July 2nd, approved 5-0.

Anthony Perri approached the Board. He explained he has an odd shaped lot. The existing deck is 12' X 20' and he would like to enlarge it to 17' X 20'. Maria Horowitz's Letter of Noncompliance was read into the meeting, which indicated the original deck was 10' X 8' and a 1991 Field Card shows the deck as 12' X 20' and was enlarged without permits. Mr. Perri stated he purchased the home in 1993 with a 12' X 20' deck. The Board stated their position on legalizing work that was done without permits. Discussion focused on both the illegal increase and the proposed increase in the deck will encroach on the rear setback. The Board stated their position on increasing nonconformity and looked for other ways to enlarge the deck. The deck could extend along the length of the home and not encroach any further on the rear setback than the original 10' X 8' deck. Mr. Perri did not want to extend the deck this way as it would go in front of windows. There is a lower deck that is attached to the 12' X 20' deck. Mr. Perri stated this deck used to go to an above ground pool that has since been removed; and the lower deck will also be removed. He had constructed the deck and the pool without permits. Pictures from a Board member's iPad were submitted into the record and discussed. The lower deck is not on the survey that was submitted. Mr. Perri was not sure of the size of the lower deck.

The Board discussed the survey submitted is not to scale and is missing a lot of information. They would like an A2 survey showing all buildings and structures that are on the property, proposed construction and structures that will be eliminated. The Board

explained how to move forward with the application. Mr. Perri stated he would like to continue to the September 12 meeting.

Peter Hearty made a motion to continue the application to the September 12 meeting, July 2nd, approved 5-0.

Peter Hearty made a motion to go into the Business Session, July 2nd, approved 5-0.

In the Business Session the Board discussed the many illegal structures on the property. They also discussed different setbacks such as sheds vs. homes, vs. decks, and pools.

Minutes: John Apple made a motion to adopt the Minutes to the July 19 meeting as presented, July 2nd, approved 4-0-1. John McKee abstained.

Meeting Dates: Secretary Laurie Busse reported that earlier this evening she spoke with the Library Director, Linda Fox. The Library will be starting their renovation project soon and the Community Room may no longer be available starting with the October meeting. This is not definite, however Linda Fox wanted us to have a "heads up" as to the possibility of losing our meeting place. The Community Room above the Senior Center is not available as the BOS, BOF, & BOE usually meet there on Thursdays. Discussion followed on possible meeting places and possibly changing the date of the meetings. Laurie Busse indicated that coordinating the meeting date with the application deadline date, the Citizen News deadline date, and Maria Horowitz's deadline date is a very carefully balanced act and if the meeting dates were to change, it could possibly impact all of the other deadline dates. The consensus of the Board is for the secretary to locate a venue that is available on our regular meeting dates.

John Apple made a motion to adjourn the meeting at 8:30pm, July 2nd, approved 5-0.