

**New Fairfield Zoning Board of Appeals
New Fairfield Connecticut 06812
MINUTES
Meeting
October 18, 2012**

The New Fairfield Zoning Board of Appeals (ZBA), held a public hearing followed by a business session at 7:00 pm. on Thursday, October 18, 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 Vinny Mancuso.

ZBA members absent: Alternate John McKee

Town Officials in attendance: Maria Horowitz, CZEO

Chairman Joe DePaul called the meeting to order at 7:00 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 read an email dated 10/15/2012 into the meeting from Peter Young stating he is withdrawing Application # 22-12, 34 Windmill Road. Joe DePaul asked if there were any other additions or corrections 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.

Continued 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.

Withdrawn

Continued 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.

Vinny Mancuso made a motion to bring Continued Application # 24-12 to the floor, duly 2nd, approved 5-0.

Mr. Perri was present and submitted the updated A-2 survey the Board requested. All of the other illegal structures such as the pool, deck, and shed have been removed. The existing rear deck is 12' X 20' and Mr. Perri is proposing a 17' X 20' rear deck. This would increase nonconformity on the rear setback by 5'. The Board discussed their position on increasing nonconformity and looked for other ways to expand the deck which included expanding the deck along the line of the house instead of going straight back. Mr. Perri stated this was not feasible because the cover to the septic system is located on one side and the other side has a bathroom window and the deck would be in front of the bathroom window. Mr. Perri has wetlands approval and approximately a half acre of land. There is a small slope on the lot.

Joe DePaul asked if there was 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 applicant already has a rear deck and could not find a hardship to justify an expansion that would increase nonconformity by 5'.

Joe DePaul made a motion to grant the variance for a rear setback to 26' for the purpose of enlarging the rear deck, subject to the plans as submitted. The hardship is the wetlands and the shape of the lot, duly 2nd, denied 1-4.

Minutes: Joe DePaul made a motion to approve the Minutes to the September 12 2012 meeting as presented, duly 2nd, approved 3-0-2. Peter Hearty and Vinny Mancuso abstained.

Application # 25-12: Vjoica & Ilmih Kurti, 51 Ball Pond Road East, for variances to zoning regulations for the purpose of constructing a 2nd story addition.

Vinny Mancuso made a motion to bring Application # 25-12 to the floor, duly 2nd, approved 5-0.

Ilmih Kurti and Jusufi Spendi approached the Board. There is a deck that is outside of the Zoning Board of Appeals' jurisdiction which they have already started construction on. The reason they are in front of ZBA tonight is for the 2nd story addition over the existing home and garage. They are going to increase the height of the home by approximately 10'. The existing front set back is 31.3' and he is requesting a 33' front setback. There will be no increase in nonconformity. The 2nd story will not go over the entire home, just the portion that is currently a single story.

Joe DePaul asked if there was 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.

Joe DePaul made a motion to grant a Variance with a front setback to 33' for the purpose of constructing a 2nd story addition subject to the plans as submitted. The hardship is the size and shape of the lot duly 2nd, approved 5-0.

Application # 26-12: Camille Casaretti and Jeffrey Feola, 19 Lavelle Avenue, for variances to zoning regulations for the purpose of enlarging an enclosed porch and relocating the stairs.

Joe DePaul made a motion to bring Application # 26-12 to the floor, duly 2nd, approved 5-0.

Camille Casaretti and Jeffrey Feola approached the Board and explained their plans to enlarge their existing enclosed porch and convert it to living space. The stairs will be relocated to the other side of the enclosed porch. By relocating the stairs the side setback will be reduced from 10.4' to 7.5'. Enlarging the enclosed porch will increase nonconformity on the rear setback by 6'. The proposed rear setback is 32' and the existing rear setback is 38'. The Board discussed their position on increasing nonconformity and looked for other

ways to enlarge the enclosed porch without increasing nonconformity. Some of these ways included putting the stairs back on the other side or keeping them in the proposed location but pulling them back so as not to increase nonconformity. The applicants are willing to reduce the size of the proposal so that it would increase nonconformity on the rear setback by 4' instead of 6'. The proposed new rear setback will be 34'. The Board discussed the proposed changes noting they would like to see the proposed changes on an updated survey.

Joe DePaul made a motion to continue the application to the November 15, 2012 meeting, duly 2nd, approved 5-0.

Application # 27-12: Anthony J. Rippo, 36 Indian Trail for variances to zoning regulations for the purpose of constructing a shed.

Vinny Mancuso made a motion to bring Application # 27-12 to the floor, duly 2nd, approved 5-0.

Mr. and Mrs. Rippo approached the Board. They explained they are on a corner lot with a steep slope. Pictures were submitted into the meeting. According to the zoning regulations they have 2 front setbacks and 2 side setbacks; however the zoning regulations do not provide them with a rear yard. They are proposing to construct a 10' X 12' shed behind the rear line of the house. The front of the house faces Indian Hill Road, so aesthetically the shed will appear to be in the back yard. The zoning regulations require sheds to be at least 10' away from the property line and they will be 18' away from the Gillotti Road front setback noting aesthetically it looks like a side setback. Some Board members believed the shed was too close to the Gillotti Road setback and argued that sheds cannot be in the front yard. A lengthy discussion followed. The only way to push the shed back further would be to excavate the steep slope. Maria Horowitz stated because the applicants are on a corner lot the zoning regulations do not allow them to have a back yard and the steep slope on the property offers a hardship that is outlined on our applications and on the ZBA's website. These same hardships are also discussed at the beginning of the meeting during opening statements. Additionally the zoning regulations only require a 10' setback from the property line and they are 18' away from the property line. Several Board members agreed with Maria Horowitz. The applicants are requesting a variance for zoning regulation 3.0.4C only; there are no other zoning regulations involved. Maria Horowitz read zoning regulation 3.0.4C into the meeting. The area for the proposed shed is staked out on the property. Due to the steep downward slope behind the house the septic system is located in the front of the house on Indian Trail. The shed cannot encroach on the septic system. Maria Horowitz stated she has no issues with this application and would support the Board voting in favor of a variance and suggested the Board can stipulate the applicants plant trees to buffer the shed from the view of the road. Further discussion followed. Joe DePaul stated he would like to continue to next month's meeting to allow other Board members to view the property & the applicants will see if it is possible for them to move the shed back.

Vinny Mancuso made a motion to continue to the November 15 2012 meeting duly 2nd, approved 5-0

Application # 28-12: Thomas Riggs, 36 Ridge Road, for variances to zoning regulations for the purpose of revising previously approved plans and variance.

Peter Hearty made a motion to bring Application # 28-12 to the floor, duly 2nd,

approved 5-0.

Thomas Riggs approached the Board and explained a few months ago Variance # 09-12 was granted for the construction of a 2nd and 3rd story addition with a balcony. However, during construction he realized there was not adequate headroom. He is proposing to construct 5 dormers. On the south side of the addition there will be 1 long dormer and 2 short dormers on the north side of the addition. The other 2 dormers will be constructed over the portion of the house that was not included in Variance # 09-12. He is requesting a 10' setback on the south side of the home because this part of the house was not included in the original variance. The height of the home will not increase.

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 change to the footprint on the ground and no increase in nonconformity.

Joe DePaul made a motion to grant a variance for a north side setback to 7.2', a south side setback to 10', and a rear setback to 40' for the purpose of constructing dormers, subject to the plans as submitted. The hardship is the severe slope and narrowness of the lot, duly 2nd, approved 5-0.

Application # 29-12: Mack and Gayle Gabrielescu, 54 Ridge Road for variances to zoning regulations for the purpose of constructing a 1st story addition, a 2nd story addition, and a deck.

Jack Michinko made a motion to bring Application # 29-12 to the floor, duly 2nd, approved 5-0.

Tom Westlake, agent and contractor for the property owners approached the Board. He explained the plans to construct a 2nd story addition over the existing house. The overhangs will exceed the existing setbacks by 2". He is also planning to construct a 2 story addition which will not go any closer to the setback than the existing home. There will be a balcony deck in the rear of the home. The deck will not increase nonconformity. The secretary stated she believes there is an advertising issue. The legal notice reads that there is a 1 story addition and a 2nd story addition. This indicates that there are two types of additions taking place and that the 1st story addition will be 1 level and not 2. Discussion followed. It was decided that there was not an advertising issue.

Joe DePaul asked for any further public comment—None Heard.

The Board discussed the 2 inch increase in nonconformity is *de minimus*.

Joe DePaul made a motion to grant a variance for a north side setback to 9' and a south side setback to 9.4' for the purpose of constructing a vertical expansion subject to the plans as submitted. The hardship is the narrowness and length of the lot. Further stipulating the increase in nonconformity is *de minimis duly 2nd, approved 5-0*

Application # 30-12: Bernhard Christ and Richard Christ, 7 Flak Lane for variances to zoning regulations for the purpose of constructing a 2nd story addition.

Jack Michinko made a motion to bring Application # 30-12 to the floor, duly 2nd, approved 5-0.

Bernhard Christ and Irving Amber approached the Board. Mr. Christ stated the property originally belonged to his parents and that initially there was less than one acre of land and his parents purchased property to make the nonconforming lot conforming. His parents constructed a single story addition which is 37.3' from the front property line. He is proposing to construct a 2nd story addition over the entire home and add a bedroom. There will be 2 new decks however they do not require a variance. There will be 2 dormers on the front of the roof but no increase in height. Mr. Christ stated that because of the way Flak Lane jogs in, he needs a variance for the dormers otherwise he would be within the required front setback.

Joe DePaul asked if there was 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 no change to the footprint on the ground.

Joe DePaul made a motion to grant a variance for a front setback to 37.3' for the purpose of constructing a 2nd story addition subject to the plans submitted, further stipulating there is no increase in dimensional nonconformity. The hardship is the unusual shape of the lot duly 2nd, approved 5-0

Vinny Mancuso made a motion to adjourn the meeting at 8:48pm, duly 2nd, approved 5-0.