

**New Fairfield Zoning Board of Appeals**  
**New Fairfield Connecticut 06812**  
**MINUTES**  
**Meeting**  
**April 11, 2011**

The New Fairfield Zoning Board of Appeals (ZBA), held a public hearing followed by a business session at 7:00 pm on Monday, April 11, 2011, in the New Fairfield High School Library. 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: None

Town Officials in attendance: None

Chairman Joe DePaul called the meeting to order at 7:02 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. Secretary Laurie Busse read the Call of the Meeting.

Chairman Joe DePaul stated there were several Appeals on the Agenda regarding Cease & Desist Orders (C&D's) he understands that a lot of the appeals will be disposed of in rapid order because the Town has made some settlements while other applicants have asked for extensions. Joe DePaul invited Attorney Richard Smith who is representing Maria Horowitz Certified Zoning Enforcement Officer (CZEO) to come forward and each Appeal will be discussed one at a time and see where we stand on these and dispose of whatever we can in short order.

**Appeal# 09-11:** Robert and Linda Petereit, 26 Pine Island, to appeal a Cease & Desist Order dated February 3, 2011 regarding to construction of structures with individual rooms, showers, chemical toilets, sinks. Lean-tos with refrigerators, platforms for tents, truss platforms, canopy platforms, decks and privies. There are a number of old heating oil tanks with the tops of the tank cut off and the pieces of the tank cut off is then hinged and attached back to the tank for a storage container. The tank doors have locks and bungee cords to secure them. The island also has a few large areas being used as an island community dumping ground. They are spread over several properties. There are abandoned docks, rotting wood and general junk and garbage being thrown in it. Individual properties also have smaller dumping areas with similar debris. While an individual property may not have all of the violations listed above, all properties have a majority of them.

Joe DePaul asked if any one was present to represent Appeal # 09-11, Petereit—No Response. Joe DePaul stated the Appeal will remain unopened.

Attorney Richard Smith representing Maria Horowitz, (CZEO) approached the Board. Attorney Smith stated he had spoken to Attorney Harbunuk representing this Appeal and

they had come to an agreement to extend the time in which to open this appeal for 35 days. Joe DePaul stated normal procedure at this time would be to have the applicant sign a form requesting an extension and that he is trusting Attorney Smith will get the extension form for ZBA. If the applicant chooses to change their mind, then we will deal with that situation if and when we come across it and we will assume the applicant has requested an extension in which to open. The Appeal will remain unopened.

**Appeal# 10-11:** Joseph, Nancy, Lydia, & Philip DeRienzo, 16 and 18 Pine Island, to appeal a Cease & Desist Order dated February 3, 2011 regarding to construction of structures with individual rooms, showers, chemical toilets, sinks. Lean-tos with refrigerators, platforms for tents, truss platforms, canopy platforms, decks and privies. There are a number of old heating oil tanks with the tops of the tank cut off and the pieces of the tank cut off is then hinged and attached back to the tank for a storage container. The tank doors have locks and bungee cords to secure them. The island also has a few large areas being used as an island community dumping ground. They are spread over several properties. There are abandoned docks, rotting wood and general junk and garbage being thrown in it. Individual properties also have smaller dumping areas with similar debris. While an individual property may not have all of the violations listed above, all properties have a majority of them.

Joe DePaul asked if there was any one present to represent Appeal # 10-11, DeRienzo—No Response. Joe DePaul stated the Appeal will remain unopened.

Attorney Smith stated the DeRienzo's were represented by the same counsel in Appeal # 09-11 and there was a request for an extension in which to open the appeal and that he would follow up with the required paperwork.

**Appeal# 11-11:** Robert Underhill, 5 Pine Island, to appeal a Cease & Desist Order dated February 3, 2011 regarding to construction of structures with individual rooms, showers, chemical toilets, sinks. Lean-tos with refrigerators, platforms for tents, truss platforms, canopy platforms, decks and privies. There are a number of old heating oil tanks with the tops of the tank cut off and the pieces of the tank cut off is then hinged and attached back to the tank for a storage container. The tank doors have locks and bungee cords to secure them. The island also has a few large areas being used as an island community dumping ground. They are spread over several properties. There are abandoned docks, rotting wood and general junk and garbage being thrown in it. Individual properties also have smaller dumping areas with similar debris. While an individual property may not have all of the violations listed above, all properties have a majority of them.

Attorney Smith stated this Appeal is represented by Attorney Neil Marcus and the Town is going to withdraw this Cease and Desist Order without prejudice.

Joe DePaul stated he was going to open the Appeal. The secretary indicated that she had a letter in the file from Attorney Marcus stating he is requesting the Appeal remain unopened as well as a request for an extension in the time to open the Appeal. Attorney Smith stated that correspondence is dated prior to him speaking with Attorney Marcus this afternoon and that he is aware the Town is going to withdraw the Cease and Desist Order and that it would be OK to go ahead and open the Appeal.

John Apple made a motion to open Appeal #11-11, duly 2nd, approved 5-0.

Attorney Smith stated the Town would like to withdraw this Cease and Desist Order without prejudice. No vote was taken to withdraw the Appeal.

**Appeal# 12-11:** Thomas F. Sheehan III, 24 Pine Island, to appeal a Cease & Desist Order dated February 3, 2011 regarding to construction of structures with individual rooms, showers, chemical toilets, sinks. Lean-tos with refrigerators, platforms for tents, truss platforms, canopy platforms, decks and privies. There are a number of old heating oil tanks with the tops of the tank cut off and the pieces of the tank cut off is then hinged and attached back to the tank for a storage container. The tank doors have locks and bungee cords to secure them. The island also has a few large areas being used as an island community dumping ground. They are spread over several properties. There are abandoned docks, rotting wood and general junk and garbage being thrown in it. Individual properties also have smaller dumping areas with similar debris. While an individual property may not have all of the violations listed above, all properties have a majority of them.

Joe DePaul asked if any one was present to represent Appeal # 12-11, Sheehan—No Response. The Appeal will remain unopened.

Attorney Smith stated he spoke to both Thomas Sheehan and his Attorney Pasquale Salvatore and they will extend the time in which to open the Appeal. Attorney Smith will follow up with the necessary paperwork. The secretary indicated a letter of authorization was required from the property owner authorizing Attorney Pasquale to represent him. Mr. Smith stated he will follow up with that as well.

**Appeal# 13-11:** Marilyn A., Caroline A., and Rodney L. Salvati, 13 Pine Island, to appeal a Cease & Desist Order dated February 3, 2011 regarding to construction of structures with individual rooms, showers, chemical toilets, sinks. Lean-tos with refrigerators, platforms for tents, truss platforms, canopy platforms, decks and privies. There are a number of old heating oil tanks with the tops of the tank cut off and the pieces of the tank cut off is then hinged and attached back to the tank for a storage container. The tank doors have locks and bungee cords to secure them. The island also has a few large areas being used as an island community dumping ground. They are spread over several properties. There are abandoned docks, rotting wood and general junk and garbage being thrown in it. Individual properties also have smaller dumping areas with similar debris. While an individual property may not have all of the violations listed above, all properties have a majority of them.

Attorney Smith stated he spoke with Attorney Rodney Salvati, who is also representing Appeal # 14-11 and the Town is going to withdraw both of the Cease and Desist Orders without prejudice.

Vinny Mancuso made a motion to open Appeal # 13-11 duly 2nd, approved 5-0.

Attorney Smith stated the Town is going to withdraw the Cease and Desist Order without prejudice. No vote was taken.

**Appeal# 14-11:** Frank and Gladys McQuaid et al, C/O John Medini, 19 Pine Island, to appeal a Cease & Desist Order dated February 3, 2011 regarding to construction of structures with individual rooms, showers, chemical toilets, sinks. Lean-tos with

refrigerators, platforms for tents, truss platforms, canopy platforms, decks and privies. There are a number of old heating oil tanks with the tops of the tank cut off and the pieces of the tank cut off is then hinged and attached back to the tank for a storage container. The tank doors have locks and bungee cords to secure them. The island also has a few large areas being used as an island community dumping ground. They are spread over several properties. There are abandoned docks, rotting wood and general junk and garbage being thrown in it. Individual properties also have smaller dumping areas with similar debris. While an individual property may not have all of the violations listed above, all properties have a majority of them.

John Apple made a motion to open Appeal # 14-11 duly 2nd, approved 5-0.

Attorney Smith stated the Town will withdraw the Cease and Desist order without prejudice. No vote was taken

**Appeal# 15-11:** Terrance and Gayle Hill, 17 Pine Island, to appeal a Cease & Desist Order dated February 3, 2011 regarding to construction of structures with individual rooms, showers, chemical toilets, sinks. Lean-tos with refrigerators, platforms for tents, truss platforms, canopy platforms, decks and privies. There are a number of old heating oil tanks with the tops of the tank cut off and the pieces of the tank cut off is then hinged and attached back to the tank for a storage container. The tank doors have locks and bungee cords to secure them. The island also has a few large areas being used as an island community dumping ground. They are spread over several properties. There are abandoned docks, rotting wood and general junk and garbage being thrown in it. Individual properties also have smaller dumping areas with similar debris. While an individual property may not have all of the violations listed above, all properties have a majority of them.

Attorney Smith stated that he spoke with the applicants counsel, Attorney Ed Walsh and they are going to extend the time in which to open the Appeal. The Appeal will remain unopened and Attorney Smith will follow up with the required paperwork.

**Continued Application # 04-11:** Alphonso and Patricia Pacheco, 15 Sunset Trail, for variances to zoning regulations for the purpose of constructing a detached garage.

John Apple made a motion to bring Continued Application # 04-11 to the floor, duly 2nd, approved 5-0.

An email dated March 25, 2011 was read into the meeting requesting the application be continued to the next meeting on May 19, 2011.

Joe DePaul made a motion to extend the meeting to the May 19, 2011 meeting, duly 2nd, approved 5-0.

**Continued Application # 05-11:** Eugene and Susan DeNoia, 315 Route 39, for variances to zoning regulations for the purpose of constructing a 2<sup>nd</sup> story addition.

Vinny Mancuso made a motion to bring Continued Application # 05-11 to the floor, duly 2nd, approved 5-0.

Eugene DeNoia and Engineer Peder Scott approached the Board. They explained this is a preexisting nonconforming lot on .08 of an acre. The reason they continued was to clarify lot coverage. The correct lot coverage is 29.3%. The proposed 2<sup>nd</sup> story addition will extend out 3.6' but will not go over the existing footprint of the home and the height of the home will not change. The 2<sup>nd</sup> story is not going to go over anything that was built without permits.

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

John Apple made a motion to move into the business session, duly 2nd, approved 5-0.

In the business session the Board discussed the small lot size and the 2<sup>nd</sup> story does not increase nonconformity nor is it being constructed on top of the structures that were constructed without permits. There is no impact on the neighbors.

Joe DePaul made a motion to grant the Variance subject to the plans as submitted with a front setback to 2.9', a side setback to 1.5' and a rear setback to 5' with lot coverage not to exceed 29.3%. The hardship is the size and shape of the lot duly 2nd, approved 5-0.

**Minutes:** The location of last month's meeting needs to be changed. Vinny Mancuso made a motion to adopt the Minutes as amended, duly 2nd, approved 5-0.

**Continued Application # 06-11:** Nassir & Lisa Al-Agha, for variances to zoning regulations for the purpose of constructing a new home.

Peter Hearty made a motion to bring Continued Application # 06-11 to the floor, duly 2nd, approved 5-0.

Sandro Bucci approached the Board. The reason for the continuation was the deck had not been included in the rear setback. The correct rear setback of 15.8' has been advertised. The property has a single family home and a small cottage on it. Both buildings are being demolished and they propose to rebuild one single family 2 story home. The rear deck will not have stairs to grade and there will be a patio underneath it. The proposed deck does not come any closer to the rear setback than the existing rear deck. By demolishing the cottage the right side setback goes from nonconforming to conforming, thus having two conforming sides. The existing height of the home is 20' and the proposed is 33' 5 ½". The front of the home will come right out to the stone retaining wall, noting it is well within the 40' required setback. The detached garage is currently 16' from the front setback and the front setback will remain at 16'. The proposal will either reduce or remove nonconformity from what is currently in place. The lot is less than 1 acre in size and has a very steep slope, noting the top of the property is roughly 60' higher than the rear setback which is the 440 Contour Line.

Joe DePaul asked if there was any further public comment—none heard.

John Apple made a motion to move into the business session duly 2nd, approved 5-0.

In the business session the Board discussed there is no increase in nonconformity but rather a decrease in nonconformity and a nonconforming side will become conforming. The steep slope was also discussed.

Joe DePaul made a motion to grant a Variance for the construction of a new home with a rear setback to 15.8' subject to the plans as submitted further stipulating this Variance decreases nonconformity. The hardship is the unusual size and slope of the lot duly 2nd, approved 5-0.

John Apple made a motion to adjourn the meeting at 8:50 pm, duly 2nd, approved 5-0.