

**New Fairfield Zoning Board of Appeals
New Fairfield Connecticut 06812
MINUTES
Meeting
August 18, 2011**

The New Fairfield Zoning Board of Appeals (ZBA), held a public hearing followed by a business session at 7:00 pm on Thursday, August 18, 2011, in the New Fairfield Public 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: Alternate John McKee

Town Officials in attendance: None

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. Peter Hearty made a motion to adopt the Agenda, duly 2nd, approved 5-0. Secretary Laurie Busse read the Call of the Meeting.

Continued Application # 20-11: Bernd Jackel, 5 Patterson Street, for variances to zoning regulations for the purpose of constructing a new home.

John Apple made a motion to bring Continued Application # 20-11 to the floor, duly 2nd, approved 5-0.

Bernd Jackel approached the board. At last month's meeting discussion focused on relocating the deck to the side of the home to help reduce the amount of nonconformity on the rear setback as well as submitting documentation that the board approved variances in that development which are closer to the rear setback than he is requesting. The applicant presented a survey indicating the house is 25' away from the septic system noting if the deck was constructed on the side of the house it would encroach on the septic system and would not be approved by the sanitarian. He reminded the board he had submitted a letter from the sanitarian indicating the septic is in the only possible location. Variance # 59-07 dated 6/30/2008 was submitted for a neighboring house on 1A Patterson Street with a rear setback to 27'. He is asking for a rear setback to 34'. The proposed plans are to construct a 30' X 54' raised ranch, 3 bedroom home with a 2 car garage underneath. There will be a 12' X 16' rear deck with stairs to grade. The stairs will be on the side of the deck. The deck will be approximately 5' from the ground and 34' from the rear setback. The board discussed their position on granting variances for undeveloped lots.

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

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

In the Business Session the board discussed their position on granting variances on undeveloped lots and that a prior board granted a Variance with a rear setback to 27' for the house next door. Due to the location of the septic the deck cannot be moved to the side of the home. This is a small lot with a steep slope.

Joe DePaul made a motion to grant the Variance for a rear setback to 34' for the purpose of constructing a new single family home, subject to the plans as submitted to the ZBA. The hardship is the slope and small sized lot, noting there is a greater variance approved 2 houses away, duly 2nd, approved 5-0.

Continued Application # 21-11: Bernd Jackel, 7 Patterson Street, for variances to zoning regulations for the purpose of constructing a new home.

Vinny Mancuso made a motion to bring Continued Application # 21-11 to the floor, duly 2nd, approved 5-0.

Bernd Jackel approached the board. At last month's meeting the board wanted more information on the access way/travel way as well as the exact location from the deck to the rear setback. The chairman read zoning regulations 7.3.2 into the meeting. Discussion followed. An updated survey was submitted indicating the travel way would be 18' wide and then narrow down to 12', noting that he is no longer requesting a Variance for zoning regulations 7.3.2B. Last month discussion focused on moving the rear deck over to the left. The survey indicated the overhangs to the deck will be 27' away from the rear setback if the deck is moved over to the left. Discussion followed. prior Variance # 59-07 is for 27' and it is still less then the 20' that he originally asked for. There is a significant amount of wetlands on this property as well as a conservation easement which prevents the house from being moved forward. The plans are to construct a 30' X 54' 4 bedroom home with a 2 car garage underneath. There will be a 10' X 16' rear deck with stairs to grade. This is a corner lot and the driveway will be on Patterson Street. The applicant will move the rear deck over to the left and flip flop the internal house plans.

Joe DePaul asked if there was any further public comment—None Heard

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

In the business session the board discussed their position regarding construction on empty lots as well as the applicant's willingness to relocate the deck to help reduce the amount of nonconformity. The travel way access way is no longer an issue. Due to the conservation easement moving the home forward would encroach on the wetlands setbacks.

Joe DePaul made a motion to grant a rear setback to 27' for the purpose of constructing a new home, subject to the plans as submitted with the exception that the rear deck will be relocated to the left. The hardship is the irregular sized lot and the amount of wetlands and the conservation easement on the property, duly 2nd, approved 5-0.

Continued Application # 22-11: Angela and John Dietrich, 14 Bay Drive, for variances to zoning regulations for the purpose of constructing an addition.

Vinny Mancuso made a motion to bring Continued Application # 22-11 to the floor, duly 2nd, approved 5-0.

Angela Dietrich, Scott Yates, architect and Sean Condon, contractor, approached the board. Last month there was an advertising issue and they have since revised their application to show the correct rear setback of 1'. The existing home cantilevers over the basement and actually goes over the 440 line by approximately 6". They propose to expand the basement level of the home to be almost equal with the first level, noting they will angle the addition in such a way so that it is 1' away from the 440 Line. Prior Variance # 16-79 dated May 2, 1979 granted a rear setback to 1.16' for an open deck and Variance #08-08 dated April 17, 2008 granted a rear setback to 4' for a 2nd story addition.

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

Peter Hearty 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 this is the reverse of a vertical expansion.

Joe DePaul made a motion to grant a variance to construct an addition under the existing 1st floor 1' away from the 440 Contour Line subject to the plans as submitted. The hardship is the shape and slope of the lot further stipulating there is no increase in dimensional nonconformity duly 2nd, approved 5-0

Minutes: Vinny Mancuso made a motion to approve the Minutes to the July 21, 2011 meeting as submitted, duly 2nd, approved 5-0.

Application # 25-11: Dean Scampone, 36 Sunswept Drive, for variances to zoning regulations for the purpose of resubdividing the property.

Joe DePaul read a letter dated 8/16/2011 from Attorney Neil Marcus requesting this application be heard at the September 19 meeting as he is out of town and will not be able to attend tonight's meeting. The application will remain unopened.

Application # 26-11: Leo and Diane Montuoro, 4 Autumn Ridge Road, for variances to zoning regulations for the purpose of constructing 2 sheds.

Vinny Mancuso made a motion to bring Application # 26-11 to the floor, duly 2nd, approved 5-0.

Leo Montuoro, approached the board and explained his plans to construct 2 sheds on the side of his home. He explained originally the plan was to put the shed in the rear of his home however after putting down gravel the lawn mower was not able to make it up the hill, noting the slope on his lot is very steep. One of the members had visited the property and agreed the incline is so steep that a tractor would just spin its wheels and that if the sheds were on the side of the house they could not be seen from the road. The sheds will be approximately 110' from the road. According to the zoning regulations he is entitled to 2 sheds and each shed will be 10' 8" X 13' 8" bringing him under the maximum shed size for 2 sheds which is 275sqft. Discussion followed on the size of the

sheds and if he would be willing to reduce the number of sheds to one. The applicant stated the zoning regulations allow him to have 2 sheds. Some members thought the applicant should cut down some trees and pave their back yard to allow the tractor & snow blower to go up and down the hill. Other members stated this would add an undo expense to the applicant. The sheds will not be seen from the road and would be more visible from the road if they were put in the rear of the house as they would be higher up on the hill. Mr. Montuoro sent his neighbors certified letters indicating his plans to put 2 sheds on the side of his home and there has been no evidence submitted into the record indicating the neighbors have any issues with the proposal. The chairman said the applicant should continue the application to the next meeting so he can drive through the neighborhood and shoot a laser to see how many sheds are more than 100' from the road, even if they were in the rear of the house, other members told him this was unreasonable. Mr. Montuoro stated he did not want to continue his application and would like the board to vote on his proposal as submitted.

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 on the property. The chairman stated that he would like more information. Other members discussed the board has granted lots of variances for slope issues and if the sheds were behind the home they would be more visible than if they were on the side of the home 110 to 120' from the road. There will be minimal impact on the neighbors as they all received certified letters and no evidence has been submitted into the record indicating they are against this proposal.

Joe DePaul made a motion to grant a variance for 2 sheds on the side of the house behind the front wall of the house subject to the plans as submitted. The hardship is the slope of the land in the rear of the home, duly 2nd, approved 4-1. Joe DePaul was opposed, all others were in favor.

Vinny Mancuso made a motion to adjourn the meeting at 8:24 pm, duly 2nd, approved 5-0.