

**New Fairfield Zoning Board of Appeals
New Fairfield Connecticut 06812
MINUTES
Meeting
December 15, 2011**

The New Fairfield Zoning Board of Appeals (ZBA), held a public hearing followed by a business session at 7:00 pm on Thursday, December 15, 2011, in the New Fairfield Public Library. Secretary Laurie Busse took the minutes.

ZBA members in attendance: Joe DePaul, Chairman, John Apple, Vice Chairman, Peter Hearty, and Vinny Mancuso

ZBA members absent: Jack Michinko and 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 for a 4 member Board. Joe DePaul gave the definition of a recusal.

Secretary Laurie Busse read the proposed agenda. Joe DePaul made a motion to add the 2012 meeting dates onto the Agenda, duly 2nd, approved 4-0. Joe DePaul asked if there were any additional changes or amendments to the Agenda—None Heard. Joe DePaul made a motion to adopt the Agenda as amended, duly 2nd, approved 4-0. Secretary Laurie Busse read the Call of the Meeting.

Application # 28-11 TANM Irrevocable Trust, Anthony Sarro, Trustee, 21A Woods Road, for variances to zoning regulations for the purpose of legalizing pergola.

Joe DePaul read a letter from Anthony Sarro dated 12/15/2011 stating he is unable to attend tonight's meeting and would like the case to be heard at the January 19, 2012 meeting. He also requested a 35 day extension in which to open the application. Joe DePaul stated the application will remain unopened.

Application # 32-11: Fucito, 1 Ridgeway, for variances to zoning regulations for the purpose of revising a previously approved variance.

Peter Hearty made a motion to bring Application # 32-11 to the floor, duly 2nd, approved 5-0.

Agent Tammy Zinick approached the Board. On July 21, 2011 the Board approved Variance # 23-11 to construct a 2nd story addition over the existing 3 season porch. During the process of obtaining a building permit it was discovered that the State had varied the setback from the septic system to the 3 season porch, noting this is something that only the State can do. The stipulation in the State's variance is that the 3 season porch can never be used as living space, thus including the space above it. Therefore, the applicant would like to flip flop the plans and construct the 2nd story addition over the other side of the house away from the septic system. Discussion followed. The change in plans will not encroach any further on the Ridgeway front

setback than Variance # 23-11 allows. All other setbacks from the prior variance will remain the same. The Board discussed a variance is granted per plans submitted and any changes must come back in front of the Board.

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 4-0.

In the business session the Board discussed this is a vertical expansion. There is no increase in nonconformity from the prior variance. The hardship comes from the State's stipulation that there cannot be living space above the 3 season porch.

Joe DePaul made a motion to grant the Variance for a Ridgeway front setback to 19.72' for the purpose of constructing a 2nd story addition, subject to the plans as submitted. The hardship is septic location and size of the lot duly 2nd, approved 4-0.

Minutes: Vinny Mancuso made a motion to approve the Minutes to the October 20, 2011 meeting as submitted, duly 2nd, approved 3-0-1 John Apple abstained. John Apple made a motion to adopt the Minutes to the November 15, 2011 meeting which did not have a quorum, duly 2nd, approved 2-0 2. Joe DePaul and John Apple were in favor. Vinny Mancuso and Peter Hearty abstained.

2012 Meeting Dates: John Apple made a motion to adopt the 2012 meeting dates as submitted, duly 2nd, approved 4-0.

Application # 33-11: First Black Ink, LLC, 7 Candlewood Isle Causeway, for variances to zoning regulations for the purpose of raising the roofline.

Peter Hearty made a motion to bring Application # 33-11 to the floor, duly 2nd, approved 4-0.

Stacey Keaney, agent approached the Board. The work is almost completed and needs to be legalized. She explained back in February 2011 a portion of the roof collapsed due to the snow. A structural engineer recommended they repair that portion of the roof and tear down and shore up the undamaged portion of the roof because of the way it was constructed it was susceptible to collapsing. The structural engineer indicated they must do away with the valley in the roof where snow collected which was the cause of the collapse. The roof was demolished in May and June 2011. During the demolition and construction additional square footage was removed from the footprint. Approximately 473sqft was removed from the footprint reducing the existing 60% lot coverage down to 58%. An additional 4,200sqft had been lost for storage space but this does not affect lot coverage or the footprint on the ground. Drawings of the new roof design were submitted into the record and discussed. The work had been done without permits and a variance. Christopher Baldwin, the Building Inspector had come to inspect the damage early on. It was at his recommendation the repairs begin immediately to prevent further collapse of the building. The ZBA received a letter from Christopher Baldwin on 11/21/2011, which was read into the meeting. This letter indicates that due to safety reasons work had to commence as quickly as possible and state statutes permitted him to allow this.

Maria Horowitz stated this is a commercial business in a residential zone. They are no closer to the setbacks than existing.

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

John McCartney, 6 Coves End, stated he is the Treasurer for the Coves End Association. He has concerns that there is debris and boats in the right of way and those residents are no longer able to have access to that road.

Reggie Lembrach, 6 Bayview Dr. stated her concerns are that there are docks built without permits. The right of way is consistently blocked with logs, boats and other debris deeming it unusable to the residents in that area. The owners of this property are not good neighbors.

Discussion followed on putting stipulations in the variance if the Board was to approve the application. It was determined that while the Board understands the neighbors' concerns they must focus on what is in front of them and look only at the roof. The neighbors may have a civil matter with the owners and that is outside the jurisdiction of the ZBA. Further discussion focused on this being a commercial business in a residential area.

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

Vinny Mancuso made a motion to enter the business session, duly 2nd, approved 4-0.

In the business session the Board discussed there is no increase in nonconformity. The changes to the footprint on the ground reduced lot coverage from 60% to 58%.

Joe DePaul made a motion to grant a variance for a rear setback to 12' and lot coverage to 58% not subject to the plans as submitted but rather to the construction all ready in place. The hardship is the irregular size and shape of the lot, duly 2nd, approved 4-0.

Application # 34-11: Kathleen Knox, 3 Claredal Avenue, for variances to zoning regulations for the purpose of raising the roofline and constructing a deck.

John Apple made a motion to bring Application # 34-11 to the floor, duly 2nd, approved 4-0.

Jeff Knox approached the Board, stating his mother Kathleen Knox was not able to attend tonight's meeting. He explained the plans to raise the middle of the roofline by 2' and extend the deck 3' out to the side and 3' out to the rear. The roof is in disrepair and raising the middle of the roofline by 2' will help with drainage. Currently the deck is 6' X 6' and they are proposing a 9' X 9' deck. Extending the deck out to the side will encroach on the side setback by approximately 3'. The Board discussed their position on increasing nonconformity. The existing setback is 7.9' and he is proposing a 5' setback. The existing rear setback is 9.2' and the deck extension will be 12' away from the rear setback. Discussion followed. The applicant stated he is willing to extend the deck 3' towards the rear setback and not extend to the side. Therefore there will be no increase in nonconformity. He revised the survey to show the new location of the deck.

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

John Apple made a motion to enter the business session, duly 2nd, approved 4-0

In the business session the Board discussed by raising the roofline there is no increase in nonconformity, there is no change to the footprint on the ground, and there is no impact on the neighbors. The Board discussed the applicant's willingness to not increase nonconformity by expanding the deck to the side. The deck expansion will not increase nonconformity. The side setback will remain at 7.9'.

Joe DePaul made a motion to grant a variance for two side setbacks. One to 7.9' and one to 19' and a rear setback to 12' for the purpose of raising the roofline and constructing a deck, not subject to the plans as submitted but rather subject to the plans as modified and discussed at tonight's meeting. The hardship is the irregular shape and size of the lot, duly 2nd, approved 4-0

Application # 35-11: Linda and Robert Cioffoletti, 58 Fairfield Drive for variances to zoning regulations for the purpose of constructing a new home and detached garage.

Vinny Mancuso made a motion to bring Application # 35-11 to the floor, duly 2nd, approved 4-0.

Dainius Virbrickas PE approached the Board. The proposal is to build a 3 bedroom 1,500sqft cape style house. The lot is 1.6 acres with ledge and steep slopes in excess of 20%. There is a considerable amount of wetlands on the property as well. The Inland/Wetland Commission will not allow them to fill in any of the wetlands. There is an existing foundation on the property, but it appears this foundation does not have a permit. A letter from the Director of Health, Tim Simpkins, was read into the meeting. The Board discussed the letter and would like clarification regarding the distance the septic system needs to be from a wetland. The applicant has not yet submitted an application to the Inland/Wetland Commission, noting that Ralph Gallagher had gone to the Inland/Wetlands Commission with this property a few years ago.

Maria Horowitz explained the subdivision for this property was created in the 1950's and if the property had not been developed he could have dropped down to the 1950's zoning regulations, however, since there is a foundation on the property it is considered developed and the applicant must adhere to today's zoning regulations.

The Board requested if a topography map was available. It was not and the applicant stated he would be able to get one. The North West portion of the lot abuts Dale Road which is a paper road.

An email from Mr. & Mrs. Keenan was read into the meeting regarding their concerns over development of the lot. Mr. Keenan was present as well. The Board asked if Dainius Virbrickas was able to address any of Mr. Keenan's concerns. Dainius Virbrickas stated that water will be diverted away from his property when the driveway is built. The driveway will be approximately 7' away from the Keenan's property. Dainius Virbrickas requested a continuance to the January 19 2012 meeting so that clarification can be obtained from Tim Simpkins.. The applicant also needs to obtain a letter from the Town Sanitarian, Mike McCarthy, stating that the well and septic are in the only possible location as well as a topography map.

Peter Hearty made a motion to continue the meeting to the January 19, 2012, meeting date, duly 2nd, approved 4-0.

Application # 36-11: Gussie Tipper, 20 Great Meadow Road, for variances to zoning regulations for the purpose of constructing an addition and a porch.

An email from Gussie Tipper was read into the meeting stating she is withdrawing her application and will reapply in the spring. The Board discussed this application was ready for disposition at the November 15, meeting and due to a lack of quorum it could not be heard. The applicant will not be able to attend any ZBA meetings until the spring. Joe DePaul stated the application fee will be waived when she reapplies in the spring.

Vinny Mancuso made a motion to adjourn the meeting at 8:40pm, duly 2nd, approved 4-0.