

**New Fairfield Zoning Board of Appeals
New Fairfield Connecticut 06812
MINUTES
Meeting
June 13, 2011**

The New Fairfield Zoning Board of Appeals (ZBA), held a public hearing followed by a business session at 7:00 pm on Monday June 13, 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, Vinny Mancuso and Alternate John McKee

ZBA members absent:

Town Officials in attendance: Maria Horowitz, CZEO

Chairman Joe DePaul called the meeting to order at 7:07 pm introduced the Board members, noting Alternate John McKee would not be a voting member at tonight's meeting 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 made a motion to add an Executive Session at the end of the meeting, duly 2nd, approved 5-0. Joe DePaul made a motion to adopt the Agenda as amended, duly 2nd, approved 5-0. Secretary Laurie Busse read the Call of the Meeting.

Appeal# 09-11: Robert and Linda Petereit, 26 Pine Island, to appeal a Cease & Desist Order dated February 3, 2011 regarding 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.

Vinny Mancuso made a motion to bring Appeal #09-11 to the floor, duly 2nd, approved 5-0.

Joe DePaul asked if any one was present to represent Appeal # 09-11, Petereit—No Response. Joe DePaul read correspondence dated June 10, 2011 into the record from Attorney Richard Smith indicating the Town is withdrawing the Cease & Desist (C&D) on the above property, noting if the violations are not reached new a C&D will be issued.

Appeal# 10-11: Joseph, Nancy, Lydia, & Philip DeRienzo, 16 and 18 Pine Island, to appeal a Cease & Desist Order dated February 3, 2011 regarding 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 bring Appeal # 10-11 to the floor, duly 2nd, approved 5-0

Joe DePaul asked if there was any one present to represent Appeal # 10-11, DeRienzo—No Response. Joe DePaul read correspondence dated June 10, 2011 into the record from Attorney Richard Smith indicating the Town is withdrawing the Cease & Desist (C&D) on the above property, noting if the violations are not reached a new C&D will be issued.

Appeal# 12-11: Thomas F. Sheehan III, 24 Pine Island, to appeal a Cease & Desist Order dated February 3, 2011 regarding 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.

Peter Hearty made a motion to bring Appeal # 12-11 to the floor, duly 2nd, approved 5-0.

Joe DePaul read correspondence dated June 10, 2011 into the record from Attorney Richard Smith indicating the Town is withdrawing the Cease & Desist on the above property, noting if the violations are not reached a new C&D will be issued.

Appeal# 15-11: Terrance and Gayle Hill, 17 Pine Island, to appeal a Cease & Desist Order dated February 3, 2011 regarding 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.

Peter Hearty made a motion to bring Appeal # 15-11 to the floor, duly 2nd, approved 5-0.

Joe DePaul read correspondence dated June 10, 2011 into the record from Attorney Richard Smith indicating the Town is withdrawing the Cease & Desist on the above property, noting if the violations are not reached a new C&D will be issued.

Application # 18-11: Lawrence and Marietta Schiff, 3 Coves End, for variances to zoning regulations for the purpose of constructing two additions, two new decks and a catwalk.

Peter Hearty made a motion to bring Application # 18-11 to the floor, duly 2nd, approved 5-0.

Mr. & Mrs. Schiff approached the Board. Their property is long and narrow. Due to the shape of Coves End and the way it wraps around their property the Town considers them to have a corner lot. Prior to the 2009 change in the zoning regulations the Town considered them to have 2 fronts and 2 rear boundaries. With the current zoning regulations they have 2 front and 2 side boundaries. This cleared up the confusion regarding setbacks on the prior variances. They explained they received prior Variance #'s 21-08 for a 2nd story addition and # 44-08 for a swimming pool. Before construction was completed the home caught fire in June 2010. They are proposing to expand the house where the bay window was. The expansion will be 3' x 17' at one point and 3' x 16' at another point. The total square footage is less than 100sqft. The increase in nonconformity will be approximately 1'. Discussion followed on other building projects. Maria Horowitz stated the garage and other projects are not in front of ZBA, only the 1' expansion on the home where the bay window was. The Board discussed the shed that is 6.6' away from the side setback opposite Coves End. Joe DePaul stated he would vote in favor of the Variance if the shed were moved back to be equal to the house at 10.3' from the side setback opposite Coves End, noting his own personal feelings are the shed could not have been legally built that close to the property line. Discussion followed the shed is their legally whether it was built with permits or if it has been legally grandfathered, but either way it is there legally. ZBA cannot legally make them move it. Joe DePaul stated this would be a swap an increase of nonconformity by 1.3' in the front for a 4' decrease of nonconformity on the side. Maria Horowitz reemphasized the shed is their legally. Maria Horowitz stated she did not have the entire file with her and did not know if the shed was built with or without permits, but if it wasn't then the 3 year rule applied and it is legally grandfathered. Other members stated historically ZBA has used buildings or structures closest to the setbacks as where the line of nonconformity starts.

Mr. Schiff stated that he just wanted to move forward with his project and would do what ever was necessary to do so. Joe DePaul stated again he would vote in favor of the Variance if the shed were taken down and put back to be equal with the house line.

Joe DePaul asked for any further public comment as follows:

Khris Hall, 6 Coves End: Stated she lives across the street from the Schiff's and she is in favor of the proposal.

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 this is a minimal increase in nonconformity but the applicant said he would move the shed if the Board required him to do so.

Joe DePaul made a motion to grant the Variance with a front setback to 22', and a side setback to 17' subject to the plans as submitted and revised, stipulating the shed will be moved to 10.3' from the side setback. Further noting this Variance decreases nonconformity. The hardship is the corner lot and shape of the lot, duly 2nd, approved 5-0.

Minutes: John Apple made a motion to adopt the Minutes to the May 19, 2011, meeting, duly 2nd, approved 4-0-1. Peter Hearty abstained. Everyone else was in favor.

Application # 19-11: Shoule, 46 Lake Drive South, for variances to zoning regulations for the purpose of constructing a 2nd story addition

John Apple made a motion to bring Application # 19-11 to the floor, duly 2nd, approved 5-0.

Agent Tammy Zinick approached the Board and explained the house sits on the 440 Contour Line and there is an existing deck that goes over the 440 Contour Line. The property steeply slopes down and the field card was submitted into the record showing the home sits way below the road. Currently the house has ½ of a 2nd story addition that faces Candlewood Lake and will come down during construction. The proposal is to construct a 2nd story addition. The proposed height of house from the ground to the highest point will be 33 ½'. The existing height is 28 ½'. There will be no increase in nonconformity. There will be no change to the footprint on the ground. There will be no increase in the number of bedrooms. There will be no impact on the neighbors across the street due to the steep downward slope. The existing home is approximately 2,300sqft. The addition will bring the square footage to approximately 3,100sqft. Lot coverage is 15.4%. A letter from 1st Light dated June 6, 2011 authorizing the project pending Town approvals was read into the meeting. Discussion followed, Joe DePaul was concerned the increase in square footage was more than modest and voiced concerns regarding the legality of the house and deck that close if not over the 440 Contour Line. It was explained the house has been there since 1936 and is legally grandfathered, and the applicant has an approval letter from 1st Light.

Maria Horowitz stated she realizes it is unusual for a house to be constructed on the property line, but it is legally grandfathered and she has no issues with this project as it does not increase dimensional nonconformity.

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

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

In the business session the Board discussed this is a classic vertical expansion. There will be no increase in dimensional nonconformity. There will be no expansion beyond the existing footprint of the home. There will be no impact on the neighbors due to the slope of the lot. Joe DePaul stated he was unhappy with the size of the expansion.

Joe DePaul made a motion to grant a Variance to construction a 2nd story addition with a side setback to 19'4" and a rear setback to 0' subject to the plans as submitted. The hardship is the steep slope and unusual shape of the lot. Further stipulating this Variance does not increase dimensional nonconformity, duly 2nd, approved 5-0.

Executive Session: Chairman Joe DePaul asked Maria Horowitz, CZEO to leave. At 7.20pm Vinny Mancuso made a motion to enter the executive session for the purpose of discussing legal matters, duly 2nd, approved 5-0. Town counsel Jack Keating was present. At 7:30pm Peter Hearty made a motion to exit the executive session duly 2nd, approved 5-0.

Joe DePaul made a motion to approve the settlement in the Gibbons matter via the terms in the fax dated June 3, 2011 from attorney Neil Marcus to attorney Jack Keating, per the stipulations discussed, duly 2nd, approved 5-0.

Vinny Mancuso made a motion to adjourn the meeting at 8:35pm duly 2nd, approved 5-0.