New Fairfield Zoning Board of Appeals
New Fairfield Connecticut 06812
MINUTES
Meeting
April 15, 2010

The New Fairfield Zoning Board of Appeals held a public hearing followed by a business session at 7:00pm on Monday April 15, 2010 in the New Fairfield Public Library. Secretary Laurie Busse took the minutes.

ZBA members in attendance: John Day, Chair, Jack Machinko, Peter Hearty, John Apple, and Vinny Mancuso.

ZBA members absent: Joe DePaul, Vice Chair

Town Officials in attendance: Maria Horowitz

Chair John Day called the meeting to order at 7:07pm introduced the Board members and explained the meeting process and voting procedures. John Day gave the definition of a recusal.

Secretary Laurie Busse read the proposed agenda for the meeting. John Day stated he would like to add a discussion on procedural requirements to the end of the Agenda and asked for any additional amendments or changes, none heard. John Day made a motion to adopt the Agenda as amended, duly 2nd, approved unanimously. Secretary, Laurie Busse, read the Call of the Meeting.

John Day made a motion to take a short break to speak with Maria Horowitz, regarding procedural requirements duly 2nd, approved 5-0.

Continued Application # 03-10: Jerome J. Bielizna, for variances to zoning regulations for the purpose of constructing a garage and a breezeway

John Apple made a motion to bring Continued Application # 03-10 to the floor, duly 2nd, approved 5-0.

Andrea Anderson and Jerome Bielizna approached the Board. At last month's meeting discussion focused on 3 issues which were documentation for the location of the septic system, drawings for the proposed reduced height of the garage, and documentation on how the one story garage would fit into the neighborhood. The applicants submitted "Packet One" into the record and discussed as outlined. Packet One contains pictures of the existing house and proposed garage that would be attached to the house via a breezeway. The height of the garage has been reduced to one story and the new proposed height will be 1 or 2' above the existing roofline of the house. The pictures showed the septic is on the west side of the home. "Packet Two" was submitted into the record and discussed as outlined. Packet Two contains a map of Ridge Road and several pictures of homes on Ridge Road. All of these homes have garages that are closer to the front property line than the applicants' requested 23.8'. The Board discussed their position on increasing nonconformity in the front, noting the applicants

did a good job at reducing the height of the garage and it would still be further away from the property line than garages of the neighboring homes.

John Day asked if there was any further public comment—none heard.

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

In the business session the Board discussed the applicants did a good job of addressing all of their concerns. They have reduced the height of the garage to one story, they have submitted documentation where the septic system is located and they have proven that they will not come any closer to the front setback than existing garages in their neighborhood. Further discussions focused on there are no prior variances on this property, the irregular shape and large amount of rock.

John Day made a motion to grant the Variance for a front setback of 23.8' subject to the plans as submitted. The hardship is the slope, rock, and shape of the property, duly 2nd, approved 5-0.

Minutes: John Day made a motion to approve the Minutes to the March 15, 2010 meeting as presented, duly 2nd, approved 4-0-1. Vinny Mancuso abstained.

Application # 04-10: Richard and Patricia Korol, 43 Bigelow Road, for variances to zoning regulations for the purpose of constructing a garage and a breezeway.

John Apple made a motion to bring Application # 04-10 to the floor, duly 2nd, approved 5-0.

Richard Korol approached the Board and explained he has a 2-acre odd shaped corner lot at the intersection of Bigelow Road and Cloverleaf Drive. There is a pond and wetlands on his property which prohibits the garage from being constructed in the rear of the home. Mr. Korol discussed his plans to construct a garage and connect it to his house via a breezeway. He will not go past the existing front setback of 26.1'. Currently he has a small mudroom where the breezeway will be constructed and the addition will increase the size of the mudroom. The garage will not be taller than the existing house. There will be no increase in nonconformity. Pictures were submitted into the meeting which showed the location of the septic fields which had been replaced and moved. Variance # 34-95 was granted for a pool. Mr. Korol stated the pool is no longer there and the deck has been shortened. Maria Horowitz stated she has no issues with this proposal.

John Day asked for any further public comment—none heard.

John Day 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. There is no impact on the neighbors, and there is no net increase in the height of the home.

John Day made a motion to grant the Variance for a front setback of 26.1' subject to the plans as submitted. The hardship is the geography of the land and those outlined in Variance # 34-95 duly 2nd, approved 5-0.

Application # 05-10: Robert and Donna Frichette, 13 Candlewood Lake Road, for variances to zoning regulations for the purpose of constructing a 1st and 2nd story additions, a covered deck, and enlarging a 1st floor deck.

John Apple made a motion to bring Application # 05-10 to the floor, duly 2nd, approved 5-0.

John Danise and Tammy Zinick approached the Board. The applicants explained the rear and west side setbacks are currently nonconforming. They propose to construct a front covered porch. The west side corner of the front covered porch will go to the existing west side setback of 13'. A front setback is not required as they will be 44.5' away from the front boundary. A covered deck will be constructed on the east side of the home which is currently conforming. A Variance will not be required because they will not exceed the required 20' side setback. A rear setback is being requested. The existing rear setback is 12' and the new deck will be 15', which will decrease nonconformity by 3'. The height of the home will increase by 19' and the overall height will be 39'. Maria Horowitz stated the overall height cannot exceed 35'. The Board discussed a height variance was not requested or advertised. The applicants stated they will reduce the height of the home so it will not exceed 35'. The proposed 2nd story will go up 14'. Discussion followed on the steep slope of the property. Correspondence dated 4/15/2010 from Edmund Fraser was read into the meeting. Mr. Fraser is the neighbor to the east of the property. He stated that while he is in favor of the proposed project, he feels the survey is inaccurate by several inches regarding the east side of the property which may belong to him. His surveyor is in the process of contacting the applicant's surveyor. Discussion followed. Although the Board doesn't get involved in civil matters, if the east side setback is off by so much as one inch it will effect the covered deck that is going to the limit of 20'. The applicant agreed to reduce the size of the covered deck as necessary so that a variance will not be required, although he won't know the exact size of the deck until Mr. Fraser's surveyor completes job. The Board further stated that a variance has not been requested for the east side, therefore, one cannot be granted if the survey is off. Maria Horowitz stated she has no further comments.

John Day asked for any further public comment—none heard

John Day 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 as they are not going closer to any boundary. They are not going any closer to the 440 line in the rear than existing. The height of the 2nd story addition will be adjusted so that it will not require a height variance. The east side construction will be adjusted if necessary so that a Variance will not be required. There will be no impact on the neighbors due to the steep slope of the property.

John Day made a motion to grant the variance with a west side setback to 13', a rear setback to 22' 4". The height of the home will be adjusted so a height variance will not be required. The covered deck on the east side of the home will be adjusted so an east side variance is not required. The hardship is the irregular size, shape, and slope of the lot duly 2nd, approved 5-0.

Application # 06-10: Edmund Donnelly, 9 Ridge Road, for variances to zoning regulations for the purpose of constructing a shed dormer.

Vinny Mancuso made a motion to bring Application # 06-10 to the floor, duly 2nd, approved 5-0.

Edmund Donnelly and Tom Westlake approached the Board. They explained their plans to construct 2 dormers. The height of the home will not change; the footprint on the ground will not change. There will be no increase in nonconformity. There will be no impact on the neighbors' views. Maria Horowitz stated she has no issues with this application.

John Day 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 this is a classic vertical expansion. There is no increase in nonconformity, there is no change to the footprint on the ground, and there is no change in the height of the home. There is no impact on the neighbors.

John Day made a motion to grant the Variance for a south side setback to 15' and a rear setback to 29' subject to the plans as submitted. The hardship is the irregular shape and slope of the lot, duly 2nd, approved 5-0.

Application # 07-10: John and JulieAnn McEnery, 7 Penny Lane, for variances to zoning regulations for the purpose of constructing a 2 story addition.

Peter Hearty made a motion to bring Application # 07-10 to the floor, duly 2nd, approved 5-0.

Tammy Zinick and Mike Merrill, approached the Board. They explained the house is an "L" shape and each part of the "L" is approximately 18' wide. There is an existing concrete patio which they propose to construct the 2 story addition on. This will square off the home. There may be issues with impervious surface coverage, but this is not in front of the ZBA. There will be no increase in nonconformity. The proposed addition will be 7' taller than the existing home. The total height of the home will be 30' on the new addition. The applicants explained to preserve the roof pitch, the new roof will be higher and wider at the span. The Board discussed there are two prior variances on this property. Variance # 39-91 to construct an addition and Variance # 09-93 to legalize the roof overhangs of the addition. Maria Horowitz stated this application does not increase nonconformity.

John Day asked for 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 there is no adverse impact on the neighbors and there is no increase in nonconformity.

John Day made a motion to grant the Variance for a front setback of 24' and a rear setback to 45' subject to the plans as submitted. The hardship is incorporated from the prior Variances.

Application # 08-10: Deborah Oulvey, 30 Lake Drive North, for variances to zoning regulations for the purpose of constructing a 2nd story addition.

Vinny Mancuso made a motion to bring Application # 08-10 to the floor, duly 2nd, approved 5-0.

Deborah Oulvey, Lynn Persan, and Tammy Zinick approached the Board. They discussed prior application #02-10 was denied at the February 18 2010 meeting. Since then they have reduced the height of the home. The net height increase will be 3'. The height increase is necessary because the current head height for the staircase is 6' and 6' 8" is required. If the roof has too much of a flat pitch they will not be able to gain the proper head height for the stairs. The cathedral ceiling is not living area. Pictures that were submitted and discussed at the February 18 2010 meeting were discussed again. There will be no impact on the neighbors' views. The neighbors who are across the street are much higher up than they are and are diagonally across from them, so any impact to them would be from construction at 28 Lake Drive North. Certified letters were not sent to neighboring property owners, for the February meeting. The Board explained the new zoning regulations adopted general procedures but do not outline anything for ZBA and the application submitted for the February meeting was complete enough to be discussed.

John Day asked for any further public comment—none heard.

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

The structural issues from the prior application have been addressed. There is no impact on the neighbors' views. Additional evidence has been placed in the record. There is no increase in dimensional nonconformity.

John Day made a motion to grant the Variance for side setback to 17.20' and a rear setback to 38.73' subject to the plans as submitted. The hardship is incorporated from the prior Variance # 15-91 to construct a garage, noting there is no increase in dimensional nonconformity, duly 2nd, approved 5-0.

Procedural Requirements: The Board discussed the new zoning regulations adopted a general rule indicating the applicant must notify neighbors via certified mail 10 days prior to a public hearing. The ZBA cut off date and advertising requirements are 2 to 3 weeks prior to the hearing date. Therefore, the Board has no way of refusing to accept an application if the applicant did not follow this general rule. However this general rule states you must notify the neighbors outlined under the specific Board or Commission. Under ZBA there is nothing stated as to who has to be notified. Maria Horowitz will take this to the Zoning Commission. If need be, John Day will contact the Land Use counsel used to write the new zoning regulations.

John Apple made a motion to adjourn the meeting at 9:22pm, duly 2nd, approved 5-0.