

**New Fairfield Zoning Board of Appeals  
New Fairfield Connecticut 06812  
MINUTES  
Meeting  
August 16, 2010**

The New Fairfield Zoning Board of Appeals held a public hearing followed by a business session at 7:00pm on Monday August 16, 2010 in the New Fairfield Community Room. Secretary Laurie Busse took the minutes.

ZBA members in attendance: John Day, Chair, Joe DePaul, Vice Chair, Jack Michinko, and Vinny Mancuso

ZBA members absent: Peter Hearty and John Apple

Town Officials in attendance: Maria Horowitz, CZEO

Chair John Day called the meeting to order at 7:03pm introduced the Board members and explained the meeting process and voting procedures of a 4-member Board. John Day gave the definition of a recusal.

Secretary Laurie Busse read the proposed agenda. John Day proposed to change the order of the Agenda so the Discussion on the September Meeting Date would be first. John Day made a motion to adopt the Agenda as amended, duly 2<sup>nd</sup>, approved unanimously. Secretary, Laurie Busse, read the Call of the Meeting.

**Discussion on September Meeting Date:** The September 16 meeting date may need to be cancelled due to lack of a quorum. The Chairman asked if there were any conflicts with the following Thursday September 23, none heard. John Day made a motion to reschedule the meeting date from September 16 to September 23 approved unanimously.

**Continued Application # 20-10:** Thomas and Janeane LaMonte, for variances to zoning regulations for the purpose of demolishing the existing house and detached garage and constructing a new house with an attached garage.

Vinny Mancuso made a motion to bring Continued Application # 20-10 to the floor, duly 2<sup>nd</sup>, approved 4-0.

Thomas and Janeane LaMonte approached the Board. Chairman Day stated per the last meeting he contacted Attorney Jack Keating for his interpretation of the zoning regulations and although the correspondence is protected under attorney client privilege he is able to summarize some of the correspondence as follows. Zoning regulation 1.5.4 Effective Impervious Coverage refers to zoning regulation 3.2.9, Maximum Effective Impervious Coverage which the ZBA does not have jurisdiction over. It does not refer to zoning regulation 3.2.8, Maximum Impervious Surfaces which is within the ZBA's jurisdiction. The Board is not expressing a view one way or the other if a Variance can be granted for zoning regulation 3.2.9 and will only accept arguments on zoning regulation 3.2.8. There was a brief discussion on applicants maintaining and repairing their home.

The applicants stated both their contractor and architect were on vacation and wanted to discuss the 65 day time limit as they were not comfortable going forward without either one of them present. The September 23 meeting will put them outside of the 65 days. The applicants were also concerned with upcoming Zoning Commission meetings which were going to possibly change the zoning regulations. Maria Horowitz discussed the upcoming Zoning Commission meetings would not effect their application as well as the process to change the zoning regulations. The Board discussed how to move forward with the application. The applicants requested a 5 minute break.

John Day made a motion for a 5 minute break, duly 2nd, approved 4-0

Back from the break the applicants stated they would like to withdraw their application and re-file, noting they understand the application fee will be waived less the cost of the Legal Notices which is \$75.00.

**Application # 21-10:** Robert and Donna Frichette, 13 Candlewood Road for variances to zoning regulations for the purpose of varying a previously approved Variance for a deck

Vinny Mancuso made a motion to bring Application # 21-10 to the floor, duly 2nd, approved 4-0.

John Denise of Solimine Contracting approached the Board. He stated the application for Variance # 05-10 showed an incorrect rear setback of 22'. The correct rear setback is 11'. The deck will be in the rear of house running along the old house wall and extending sideways. It is not going past the original house line and it will not increase nonconformity. This is the same deck they had proposed back in May, however they simply wrote the wrong setbacks on the prior application.

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

Jack Michinko made a motion to enter the business session duly 2<sup>nd</sup> approved 4-0.

In the business session the Board discussed although there is a large difference in the requested rear setback, the proposal does not increase nonconformity and the scope of the project hasn't changed from the prior application.

John Day made a motion to grant a rear setback to 11' subject to the revised plans as submitted incorporating by reference the hardship in Variance # 05-10, duly 2nd, approved 4-0.

**Minutes:** Vinny Mancuso made a motion to adopt the minutes as presented to the June 14 meeting, duly 2nd, approved 3-0-1. Joe DePaul abstained.

**Application # 22-10:** James Gainfort & Hayden McKay, for variances to zoning regulations for the purpose of extending the pergola.

Joe DePaul made a motion to bring Application # 22-10 to the floor, duly 2nd, approved 4-0.

James Gainfort and Hayden McKay approached the Board. Maria Horowitz stated that a variance is only needed for the rear setback and not for zoning regulation 3.0.9 Pergolas. Discussion followed. The applicants explained the sun is incredibly strong on the east side of the home and a sun study showed that they would need the equivalent of a 70' tree to help block the sun. Therefore, they would like to extend the existing pergola trellis on the east side of the home to help cut back on the sun. The pergola will be 42' from the rear setback, and does not increase nonconformity noting the house is closer to the rear setback at about 22'. Variance # 45-05 for a 2<sup>nd</sup> story addition was previously granted in October 2005.

John Day asked for any further public comment—none heard

Joe DePaul 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 and zoning regulation 3.0.9 is not in front of them. There is no impact on the neighbors.

John Day made a motion to grant a rear setback to 42' subject to the plans as submitted and incorporating by reference the hardship in the prior Variance # 45-05, noting this Variance does not increase dimensional nonconformity duly 2nd, approved 4-0.

**Appeal # 23-10:** Caperton Company LLC/Hugh Bilecky 50 Route 39, to appeal a Cease & Desist Order dated June 29, 2010 regarding storage of construction equipment and vehicles as well as violations of building permits, certificates of occupancy and zoning regulations.

Correspondence was received from the applicant's attorney requesting the appeal remain unopened.

John Apple made a motion to adjourn the meeting at 8:28pm, duly 2nd, approved 4-0.