

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

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

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

ZBA members absent: Joe DePaul, Vice Chair

Town Officials in attendance: None

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. Vinny Mancuso made a motion to adopt the Agenda as read, duly 2<sup>nd</sup>, approved unanimously. Secretary, Laurie Busse, read the Call of the Meeting.

**Continued Application # 15-10:** William and Catherine McGough, 14 Candlewood Road for variances to zoning regulations for the purpose of constructing a rooftop deck with stairs to grade.

Peter Hearty made a motion to bring Continued Application # 15-10 to the floor, duly 2nd, approved 5-0.

Bill McGough approached the Board and explained this is a small cottage that is 562 sq ft. His original plan was to construct a 3 season porch in the front of the home. This would significantly increase nonconformity in the front of the home. Therefore he is proposing to construct a deck on his roof with stairs to grade. The deck cannot be accessed from inside the home. The deck will not come any closer to the side or front setbacks than the existing house. The stairs which will be about 3' wide will encroach on the rear setback by 4 or 5'. The stairs will only be as wide as the minimal building code allows. The requested setback of 25' includes the construction of a 2' landing pad. If the building code does not require a landing then he will not construct it and nonconformity will be less than 4'. The net increase in the height of the home is about 5' but that is only for a 10' wide area. The Board discussed their position on increasing nonconformity. Mr. McGough explained the steep slope on the property, at the front of the house on the street level; you are almost at the roofline and the property goes straight up in the rear. The 3' wide stairs are the only portion of the proposal that will increase nonconformity. The Board discussed the deck itself is not increasing nonconformity just the stairs are and the applicants' willingness to change their original plans to reduce nonconformity.

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

Vinny Mancuso made a motion to enter the business session duly 2<sup>nd</sup> approved 5-0.

In the business session the Board discussed the de minimus increase in nonconformity is just for the stairs and not the deck itself, noting the entire house is not within the setbacks. There is no impact on the neighbors, who are up much higher on the slope.

John Day made a motion to grant a side setback to 12 ½' and a rear setback to 25' subject to the condition the deck and stairs be code compliant with the minimum width and that the stairs extend no closer to 25' to the rear setback. The hardship is the severe slope and size of the lot, duly 2nd, approved 4-1. John Day was opposed.

**Minutes:** Vinny Mancuso made a motion to adopt the minutes as presented to the June 14 meeting, duly 2nd, approved 4-0-1. John Apple abstained.

**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.

John Apple made a motion to bring Application # 20-10 to the floor, duly 2nd, approved 5-0.

Sean Condon, Scott Yates, Thomas, Janeane, and Tom LaMonte approached the Board. The Chairman explained Impervious and Permeable Surface Coverage zoning regulations 3.2.8 and 3.0.2 are not within the ZBA's jurisdiction, however we can hear the matter for all of the other zoning regulations. A lengthy discussion followed as the applicants did not understand why zoning regulations 3.2.8 and 3.0.2 were not within the ZBA's jurisdiction especially when they were reducing the amount of existing impervious coverage. Only the Zoning Commission can grant a waiver of those regulations. More discussion followed. John Day stated he would not hear any matter regarding pervious or impervious surface coverage without the advice of legal counsel. The applicants requested legal counsel attend the next ZBA meeting. The chair explained Town Counsel may submit written documentation, but it would be too costly to have the Town attorney sit in on a meeting. The Board suggested ways of moving forward with the application. The applicants read zoning regulations 8.8.1 B9 into the meeting to show that this was within the ZBA's jurisdiction. John Day made clear that those were not the zoning regulations on the application. John Day again explained how to move forward with the application and he would check with legal counsel on this matter. Maria Horowitz's letter of Non-Compliance was read into the meeting.

The applicants requested a 10 minute break. John Day made a motion to take a 10 minute break duly 2nd, approved 5-0.

Back from the break the property owner stated he was still confused and perhaps he shouldn't be here at all because even if ZBA did grant a Variance for all of the other zoning regulations he still wouldn't be able to construct his house with out some sort of approval from the impervious and pervious surface coverage. He would like to continue to the next regularly scheduled meeting. The applicant also wanted to state for the record that all setbacks will be further away than existing and the front setback that is currently nonconforming will become conforming. The lot coverage is also reduced.

Vinny Mancuso made a motion to continue the application to the August meeting, which will be held in the Senior Center Community Room July 2nd, approved 5-0.

John Apple made a motion to adjourn the meeting at 9:35pm, July 2nd, approved 5-0.