

New Fairfield Zoning Board of Appeals
New Fairfield Connecticut 06812
MINUTES
Meeting
June 14, 2010

The New Fairfield Zoning Board of Appeals held a public hearing followed by a business session at 7:00pm on Monday June 14, 2010 in the New Fairfield Public Library. Secretary Laurie Busse took the minutes.

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

ZBA members absent: .John Apple

Town Officials in attendance: None

Chair John Day called the meeting to order at 7:02pm 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 2nd, approved unanimously. Secretary, Laurie Busse, read the Call of the Meeting.

Continued Application # 11-10: Kevin and Donna Van Vlack, 2 Mill Pond Road, for variances to zoning regulations for the purpose of constructing a detached garage.

Joe DePaul made a motion to bring Continued Application # 11-10 to the floor, duly 2nd, approved 5-0.

Mr. and Mrs. Van Vlack approached the Board reminding them the reason for continuing was an advertising error and the merits of the case were not heard. The plans are to replace a 10' X 12' shed with a 24' X 24' X 22' (H) garage. The garage will not be higher than the house. The property is an odd shaped corner lot with a steep slope and two fronts. The garage conforms to the Mill Pond Road front setback but will encroach on the Quaker Road front setback, which is currently conforming. Quaker Road is aesthetically the rear of the home. The advertised front setback is 40', and the survey submitted shows 44.4'. The reason for this is because the garage will have 2' overhangs and they would like a little bit of playroom in case they hit rock during construction. The idea is to keep the garage in line with the existing house. Currently there is a 20' X 20' 2 car garage under the existing residence. Mr. Van Vlack's truck is 22 ½' long, which is why he would like to construct another garage. There is also a wood shop in the existing garage which would be moved to the new garage. Pictures of the proposed project and letters of support from abutting and neighboring homes were submitted into the record as follows:

- Steven Roe, 10 Mill Pond Rd
- Carol & Tom Harkins, 7 Quaker Rd.
- Daniel Gerow, Route 37 & Quaker Rd.
- Kurt Anderson, 4 Mill Pond Rd.
- Marylouise Marion, 5 Quaker Rd.
- Mike Iadarola, 6 Jeremy Dr.

The Board discussed this is a conforming lot and their position on making a conforming lot nonconforming. Discussion followed on moving the garage to the end of the paved area and reducing the overhangs to 1'. The Board also discussed the zoning regulations for this zone is 75' for the front and 60' for the rear. Since the Quaker Road boundary is aesthetically the rear of the home, the Board would be willing to grant them a 60' rear setback. The applicants felt the slope was too steep to move the garage and that there may not be enough turn around room for larger vehicles. The Board discussed that there is already a garage on the property and the new garage will make a conforming lot nonconforming. The existing 20' X 20' garage will remain a garage and not be converted into living space if the new garage is approved. The Board further discussed that larger vehicles are a man made hardship. To be clear, John Day verified the Board would vote on the proposal as submitted. The applicants agreed. John Day reminded them of the 6 month rule. The applicants submitted additional areal pictures of the property to show the slope. The Board discussed moving the garage over to have less of a Variance. The applicants did not want to do this. They wanted to keep the garage aesthetically pleasing and wanted enough turn around space for larger vehicles.

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

Peter Hearty made a motion to enter the Business Session, duly 2nd, approved 5-0.

In the Business Session the Board discussed the hardships of topography and 2 fronts, noting the applicants could get by with less of a Variance and already have a 2 car garage. The Board also discussed manmade or self created hardships are not grounds for a Variance.

John Day made a motion to grant the Variance for a Quaker Road front setback to 40' subject to the plans as submitted, the hardships are the 2 fronts, the topography, and the irregular shaped lot, duly 2nd, denied 0-5. John Day reminded the applicants of the 6 month rule.

Minutes: Peter Hearty made a motion to approve the Minutes to the May 20, 2010 meeting as presented, duly 2nd, approved 5-0.

Continued Application # 12-10: Michael Camporeale, 272 Route 39 or variances to zoning regulations for the purpose of legalizing a deck and stairs.

Peter Hearty made a motion to bring Continued Application # 12-10 to the floor, duly 2nd, approved 5-0.

Michael Camporeale and Los Campos approached the Board. The reason they continued is because the Board wanted to know exactly how much of the 10' X 10' deck was nonconforming. The front corner of the deck is 35' from the front setback and the stairs are 34' to the front setback. The bottom stair is on a concrete pad on grade. There is a triangle area that covers about 10% of the deck with the further most corner being 35' from the front setback. It is this corner that encroaches on the front setback by approximately 5' and as the triangle area widens, the setback becomes more conforming. This is the area that needs to be legalized. Joe DePaul stated he viewed the property and it is incredibly steep. Further discussion focused on the odd shaped lot which is 35' wide and 500' long. The house was built in the 1940's. The Board discussed their position on legalizing structures.

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

Peter Hearty made a motion to enter the business session, July 2nd, approved 5-0.

In the business session the Board discussed the house is legally grandfathered, but not the deck. There is a pencil lot with an incredibly steep slope. The Board discussed if the deck had never been constructed, would they have granted it.

John Day made a motion to grant the Variance for a front setback to 34.5' subject to the construction already in place, the hardship is the irregular size, shape, and slope of the lot, July 2nd, approved 5-0.

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, July 2nd, approved 5-0. No one was present to represent this application. John Day made a motion to move this application to the end of the meeting, July 2nd, approved 5-0.

At 9:55pm Joe DePaul made a motion to bring Continued Application # 15-10 to the floor, July 2nd, approved 5-0. There was still no one present to represent this application. The Board discussed how to move forward as this will be the 2nd continuation for this application. John Day made a motion to continue the application to the July 15, meeting July 2nd, approved 5-0.

Application # 16-10: Beck, 14 Great Meadow Road, for variances to zoning regulations for the purpose of varying a previously approved Variance to construct a detached garage.

Vinny Mancuso made a motion to bring Application # 16-10 to the floor, July 2nd, approved 5-0.

Curtis Beck and his architect Peder Scott approached the Board. They explained back in June 2001 Variance # 24-01 was approved to construct a detached garage, however the garage was not built in the correct place. Variance # 24-01 allowed for a side setback to 5' and a rear setback to 5.9'. Tonight he is requesting to vary the Variance for a side setback to 4.6' and a rear setback to 6'. Due to issues the owner had with the prior builder only the foundation of the garage was constructed and the building permit has expired. The total square footage of the garage is 751.9sqft. Since the building permit expired they must now apply under the new zoning regulations. Zoning regulations 3.0.5A states that a detached garage cannot be over 750sqft. The applicant owns the abutting property. The reason the garage is going over the square footage is because it will have a gambrel roof and building codes require soffits to vent this type of roof, therefore, the overhangs are larger than if the applicant had a different roof style. The Board discussed that while the applicant is encroaching on the side setback by 6 inches, he is moving further away from the rear setback by 3 inches and it is a wash. The 1.9sqft over the total allowed square footage is de minimus.

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

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

In the business session the Board discussed the increase in nonconformity is de minimus and doesn't warrant the cost of moving the garage. A prior Board found hardship to allow a garage this close to the setbacks. The applicant owns the abutting land so there is no impact on the neighbors.

John Day made a motion to grant the Variance for a side setback to 4.6' and a rear setback to 6' incorporating by reference the hardship found in the prior Variance #24-01, noting the only increase in nonconformity is 5" on the side setback and less than 2sqft in the garage, duly 2nd, approved 5-0.

Application # 17-10: Rolando and Evelyn Abraham, 4 Oxford Road, for variances to zoning regulations for the purpose of converting a deck into living space, constructing a 1 story addition and a covered deck.

Vinny Mancuso made a motion to bring Application # 17-10 to the floor, duly 2nd, approved 5-0.

Rolando and Evelyn Abraham along with their builder, Zach, Wrapp, approached the Board. There will be no increase in nonconformity on the Gallagher side boundary. There will be no increase in nonconformity to the rear of the property. The front will have about a 4' increase in nonconformity. The reason for the front addition is to move the front door away from the kitchen and open up into the new family room. A hallway will be constructed. The reason for this layout is so that the existing chimney and kitchen can stay intact. If the door to the addition could not be moved it would open up into the existing kitchen cabinets which would add a tremendous cost to the project. It did not make sense to disassemble the kitchen and or the chimney to put in a door. The walls will be left in tact, but there will be significant changes internally. The rear of the property has a rock outcrop. The Board discussed interior design work is not the ZBA's concern, while some members thought the extensive work did not justify not moving the door. John Day explained how to move forward. The applicants stated they would like the Board to vote on the plans as a package. John Day explained the 6 month rule.

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

Peter Hearty made a motion to enter the Business Session, duly 2nd, approved 5-0.

In the Business Session the Board discussed an increase in nonconformity in the front of the home. This 1'3" increase was really a 5% increase overall. The Board discussed the only way not to increase nonconformity is to rearrange the kitchen for a de minimus increase in nonconformity. The extensive ledge was discussed.

John Day made a motion to grant the Variance for a front setback of 22.3' and a rear setback to 36.4' subject to the plans as submitted noting there is a 1'3" increase in nonconformity. The hardship is the size, shape and ledge on the lot duly 2nd, approved 4-1. Jack Michinko, Joe DePaul, Peter Hearty, and Vinny Mancuso were in favor. John Day was opposed.

Application # 18-10: Anne Cleary, 9 Rocky Hill Road, for variances to zoning regulations for the purpose of legalizing an above ground pool.

Peter Hearty made a motion to bring Application # 18-10 to the floor, duly 2nd, approved 5-0.

Anne Cleary and Caren Silva approached the Board. Anne Cleary explained she lives next door at 11 Rocky Hill Road. In 2004 she purchased the home at 9 Rocky Hill Road for her mother. In 2002 the prior owners asked her if she minded if they put up a pool. Last fall the pool, which is located in the front yard needed to be repaired, and the deck had to be removed. When she went to the Town to apply for her permit, she discovered the pool was built without permits. The pool is 210' from the road and hidden by pine trees. The lot is long and skinny, 82' wide by 290' long. It is not possible to put the pool behind the home due to the extensive ledge. The rear of the property is very steep. Ms. Cleary's mother is in poor health and uses this pool for her therapy. John Day explained the Board's position on legalizing structures. The Board discussed the significant slope and odd shaped lot. There is not a lot of impact on the front view, but if you cut the trees down, there maybe a different view, noting they could stipulate maintaining the pine trees as part of the Variance. Some members stated they would like to see the property and how hidden the pool is hidden from the road. The Board discussed the zoning regulations state the pool needs to be in the rear of the house so you don't see the pools from the road. The applicants discussed the pool is 210' from the road and the pine trees act as a barrier. There is extreme ledge in the rear of the house and the front is the only place to put it. The Board discussed continuing until next month so members can view the property to get more information on the privacy issues. John Day explained how to move forward. The applicants did not want to take a break and did not want to continue to next month. John Day reminded them of the 6 month rule

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

Peter Hearty made a motion to enter the Business Session, duly 2nd, approved 5-0.

In the Business Session the Board discussed pools in the front yard and some members wished they had more information on the privacy issue, and some members were comfortable granting the variance stipulating the tree barrier be maintained. The slope and shape of the lot were discussed.

John Day made a motion to grant the Variance subject to the present location of the pool further stipulating maintaining the evergreen barrier in front of the house to protect the pool from being seen from the road. The hardship is the irregular slope and shape of the lot and not based on anyone's medical condition. Duly 2nd, denied 3-2. John Day, Peter Hearty, and Vinny Mancuso were in favor. Joe DePaul and Jack Michinko were opposed.

Application # 19-10: John and Nancy Hyland for variances to zoning regulations for the purpose of constructing a roof over a patio.

Jack Michinko made a motion to bring Application # 19-10 to the floor, duly 2nd, approved 5-0.

Tammy Zinick, agent for the applicants approached the Board. There is a 13' X 35' existing deck that is in ill repair. The applicants propose to replace this deck with a 12.6' X 33' patio with a roof overhang extending alongside the wall of the home. They will go no closer to the existing setbacks. They are just filling in a square. There will be no increase in nonconformity. The roof overhang will not be higher than the existing house. A coverage Variance is not required. Nonconformity will decrease as the patio is smaller than the existing deck, noting only the roof overhang is in front of ZBA as the patio is on grade.

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

Peter Hearty 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, but actually a decrease in nonconformity. The roof will not be higher than the existing house, and there is no impact on the neighbors.

John Day made a motion to grant the Variance for a front setback of 27' and a rear setback to 40' subject to the plans submitted, noting the Variance will not increase dimensional nonconformity. The hardship is the irregular size and shape of the lot, duly 2nd, approved 5-0.

John Apple made a motion to adjourn the meeting at 9:58pm, duly 2nd, approved 5-0.