

**New Fairfield Zoning Board of Appeals
New Fairfield Connecticut 06812
MINUTES
Meeting
May 20, 2010**

The New Fairfield Zoning Board of Appeals held a public hearing followed by a business session at 7:00pm on Monday May 20, 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 John Apple

ZBA members absent: Vinny Mancuso.

Town Officials in attendance: Maria Horowitz, CZEO

Chair John Day called the meeting to order at 7:04pm 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. Joe DePaul made a motion to adopt the Agenda as read, July 2nd, approved unanimously. Secretary, Laurie Busse, read the Call of the Meeting.

Application # 09-10: Super Stop and Shop, 25 Route 39, for variances to zoning regulations for the purpose of changing the stores name.

John Apple made a motion to bring Application # 09-10 to the floor, July 2nd, approved 5-0.

Christina Moreau approached the Board. The Board discussed the prior variances were for Shaw's Supermarket & Osco Pharmacy, noting the issues were the logos and the size of the signs. The Stop and Shop signs will be on the front and side of the store. The total square footage of the signs will be 372.05, which is a 30sqft reduction from the Shaw's signs. The signs will be illuminated. The Board discussed the predicate hardship in the prior variances. Maria Horowitz stated she was OK with the signs due to the reduction in the square footage.

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

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

In the business session the Board discussed the reduction in the square footage of the signs from the prior owners both lit and regular.

John Day made a motion to grant the Variance for the signs subject to the plans as submitted. The hardship is incorporated by reference of the prior variances, July 2nd, approved 5-0.

Minutes: John Apple made a motion to approve the Minutes to the April 15, 2010 meeting as amended, duly 2nd, approved 4-0-1. Joe DePaul abstained.

Application # 10-10: Virginia Garvey, 24 Knolls Road, for variances to zoning regulations for the purpose of constructing a 2 story addition.

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

Virginia Garvey and her architect Charles Reppenhagen approached the Board. They would like to convert the cottage to a year round home by adding a 2 story addition. There was a prior application # 11-07 for a garage, which was withdrawn in May 2007. This property is a corner lot and has 2 fronts and 2 sides. The addition will be on the north east portion of the property. Only a front setback is being requested, a side setback is not needed. The addition will not go past the existing house line. The height increase from the old ridge to the new ridge is 5' and the height from the proposed ridge to grade is 21'. Pictures were submitted into the record. Maria Horowitz stated the proposal does not increase dimensional 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 increase in dimensional nonconformity. The addition is behind the existing front setback. There is no impact on the neighbors, and no obstruction of views. There is a modest increase in height.

John Day made a motion to grant the Variance for a front setback of 28' subject to the plans as submitted. The hardship is the size, shape and 2 fronts on the lot duly 2nd, approved 5-0.

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.

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

Mr. and Mrs. Van Vlack approached the Board. They stated there is an advertising issue and the correct zoning regulation should be 3.1.6A and not the advertised 3.4.6A. John Day made a motion to continue the application to the next regular meeting on Monday June 14, duly 2nd, approved 5-0.

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 Application # 12-10 to the floor, duly 2nd, approved 5-0.

Michael Camporeale and Los Campos approached the Board. They explained the need to legalize a 10' X 10' deck with stairs to grade. The deck encroaches on the front setback to 34.5' which equals a 5 ½' increase in nonconformity. They are no closer to

the side than the existing house. The deck could not be located in the rear of the house because it is too steep. The rock and ledge start right at the house and go straight back for approximately 500'. The lot is very long and narrow. The Board discussed their positions on legalizing a structure and increasing nonconformity. Maria Horowitz stated she believed only one corner of the deck encroached on the front setback and all of the stairs, but could not be sure without the file. Discussion followed it appears that about a quarter of the deck encroaches on the front setback. The survey submitted shows the setback from the deck to the property line at a weird angle.

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 increase in nonconformity as well as how much of the deck and stairs encroached on the setback. Further discussion focused on how to measure the setback from the deck. The survey showed a perpendicular line, and perhaps a vertical line from the deck to the setback would show a closer distance. Some of the Board members wanted concrete numbers. Discussion followed on going back into the public session. John Day made a motion to go back into the public session.

Back in the public session John Day explained how to move forward. The applicant would like to continue to the next meeting.

John Day made a motion to continue the application to the June 14 meeting July 2nd, approved 5-0.

Application # 13-10: Philip Wagenheim, 1 Partridge Lane, for variances to zoning regulations for the purpose of constructing an attached 2 car garage and deck.

Peter Hearty made a motion to bring Application # 13-10 to the floor, July 2nd, approved 5-0.

Phil Wagenheim and his architect Al Sacco approached the Board. They explained they were in front of the Board in September and November of 2007 to construct a 2 car garage 1' and 10' away from the front setback. Both applications were denied. This time they are proposing to construct a 2 car garage with an attached deck on the side of the home. There will be a playroom above the garage. The requested side setback is 11'; noting the garage is built on an angle so the increase in nonconformity starts at 2.5' and increases to 9'. The side setback is currently conforming. The Board discussed their position on increasing nonconformity by 9'. The applicants offered to remove the deck from the proposal and the new requested side setback would be 14' which is a 6' increase in nonconformity. The applicants discussed the steep slope and the amount of rock and ledge on their property and the desire to keep the cars off the street in the winter. The Board discussed there is ample parking on the property and the playroom above the garage suggests the garage is not just for off street parking. Further discussion focused on constructing a 1 car garage that would not increase nonconformity or locating the 2-car garage to another area of the property that also would not increase nonconformity. The applicants stated the driveway is very steep and a garage is needed in the winter. Discussion followed on ways to widen and straighten out the driveway. The Chair reminded the Board that the driveway is not in front of the

them. Pictures were submitted into the record. There is a shed on the side property line, which is closer than the proposed garage and deck. Some members believed that the shed would start the line of nonconformity. Other members believed that sheds follow different zoning regulations and require only a 10' setback while garages are required to have a 20' setback. Maria Horowitz stated the garage significantly increases nonconformity on an otherwise conforming lot and would like to see a one car garage that does not increase nonconformity. Al Sacco stated he spoke to the neighbors and they do not have any issues with the proposed construction. To be clear, the Chair asked the applicants which proposal they would like them to vote on. The applicants would like the Board to vote on the 2 car garage with out the deck and a 14' side setback.

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 how to view the line of nonconformity. Some members believed the line of nonconformity starts with the shed. Discussion followed. This lot is one of the few conforming lots on Candlewood Lake and the proposal significantly increases nonconformity if you do not look at the shed. The Board discussed the use of the garage would be more than just a garage because of the playroom on the 2nd floor.

John Day made a motion to grant the Variance for a side setback of 11' not subject to the plans as submitted but rather the plans with the deck removed from the rear of the garage and the requested side setback will change from 11' to 14'. The hardship is irregular shape and slope of the lot duly 2nd, denied 3-2. John Apple, Jack Michinko, and Peter Hearty were in favor. John Day and Joe DePaul were opposed. The Chair reminded the applicants of the 15 day appeal period.

Application # 14-10: Quasim and Uzma Masood, 4 Muller Street, for variances to zoning regulations for the purpose of enclosing the front porch and constructing a rear deck with stairs.

Peter Hearty made a motion to bring Application # 14-10 to the floor, duly 2nd, approved 5-0.

The applicants' daughters Meta Guasim and Sobia Qureshi approached the Board. They would like to enclose the existing front porch into living space. There will be no change to the footprint on the ground, no increase in nonconformity and they will not come any closer to any setbacks than the existing house. The proposal does not alter the character of the neighborhood.

The proposal for the rear deck increases nonconformity by 8.6'. Due to the slope, portions of the deck are less than 2' off the ground while other portions of the deck are 5' from the ground. The overall height from the ground is 2 ½' to 3'. The portion that encroaches on the rear setback is more than 2' from the ground. The Board discussed their position on increasing nonconformity. Discussion followed the requested rear setback is 40'. The existing rear setback to the house is 49.6', noting this is from the eaves and not from the bilco door. Discussion followed, if you measured from the rear of the bilco door, there is a 5' increase in nonconformity. John Day explained how to move

forward with the application. The applicants stated they would like to bifurcate the application. The current proposal shows the deck extending along the wall of the home by 10' and going out 12' to the rear setback. The applicants would like to change the proposal so that the deck extends 15' along the house and going out 8' to the rear setback. Discussion followed the new proposal would increase nonconformity by about 1 ½' to 2'. There is a shed in the rear of the house that is closer to the rear boundary than the deck. Discussion followed. To be clear John Day asked the applicants which proposal to vote on and they would like the Board to vote on the 8' X 15' deck.

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

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

The Board discussed the first portion of the proposal to enclose the front porch does not increase nonconformity, and there is no impact on the neighbors.

John Day made a motion to grant the Variance for a front setback to 32.2' subject to the plans as submitted for the purpose of enclosing the front porch, the hardship is the irregular size and shape of the lot, duly 2nd, approved 5-0.

The Board discussed the deck increases nonconformity by 1 ½' to 2', noting the deck will not extend much past the bilco door, and only a portion of the deck will be over 2' high.

John Day made a motion to grant the Variance for rear setback not to exceed 43' not subject to the plans submitted but rather the deck will extend out 8' from the house and go 15' along the wall of the house, the hardship is incorporated from the prior motion duly 2nd, approved 4-1. John Day was opposed, all others were in favor.

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.

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

Catherine McGough approached the Board and explained her plans to construct a deck on her roof. The deck will not go past the existing house on the side. They are not going any closer to the front boundary. The stairs will increase nonconformity on the rear boundary by 2', not including the bottom 2 steps. The back of the property is very steep and slopes down into the house. The Board discussed their position on increasing nonconformity and looked for ways to move the stairs so they would not increase nonconformity. The Board would like to have concrete numbers for the rear setback. The applicant would like to continue the application so she can have a chance to either change her proposal and or bring in concrete numbers to the rear setback.

John Apple made a motion to continue the application to the June 14 meeting duly 2nd, approved 5-0.

John Apple made a motion to adjourn the meeting at 9:43pm, duly 2nd, approved 5-0.