

**New Fairfield Zoning Board of Appeals
New Fairfield Connecticut 06812**

**MINUTES
January 22, 2009**

The New Fairfield Zoning Board of Appeals held a regular public hearing followed by a business session at 7:00pm on Thursday January 22, 2009, in the New Fairfield Free Public Library. Secretary, Laurie Busse, took the minutes.

ZBA members in attendance: John Day, Chair: Jack Michinko: Bob Jano: Michelle Rhyce; and John Apple

ZBA members absent: Joe DePaul; and Maureen Walker, Vice Chair

Town Officials in attendance: Maria Horowitz, CZEO

Chair John Day called the meeting to order at 7:00pm, introduced the Board members and explained the meeting process and voting procedures.

Secretary Laurie Busse read the proposed agenda for the meeting. John Day asked if there were any amendments to the Agenda—none heard. John Day made a motion to adopt the Agenda, duly 2nd, approved unanimously. Secretary, Laurie Busse, read the Call of the Meeting.

Continued Application # 56-08: Edward and Lilouty Gerrity, 7 Whitney Drive, for variances to zoning regulations for the purpose of reconstructing a house.

Bob Jano made a motion to bring Continued Application # 56-08 to the floor, duly 2nd, approved 5-0.

Ed Gerrity approached the Board. He reminded the Board the reason for continuing was because he needed a letter from the Town Sanitarian regarding the well and septic systems. John Day read a letter dated 12/29/2008 from Sanitarian Tim Simpkins into the meeting stating the septic is in the only possible location. Mr. Gerrity's home was destroyed by a fire and the Connecticut/New York State border line ran down the middle of the house. He is proposing to move the house into a slightly different location than was discussed last month. The house has 2 rear setbacks and the rear that looks like a side will have a 70' setback, noting a variance is not needed for this. The rear setback that required a variance was advertised with a 10' setback. Mr. Gerrity would like to move the house further away from the New York Border and the requested advertised rear setback will change from 10' to 16'. Discussion followed the setback is the closest point from the building or structure to the property line. Mr. Gerrity noted he wasn't sure if the 16' was to the wall or the overhangs and would like the new setback to include the overhangs. Discussion followed, the new requested rear setback will be 14' to include the overhangs. The Board further discussed State lines are not property lines. The Board noted that while this proposal increases nonconformity on one portion of the property it also decreases nonconformity in another area of the property and therefore is a wash. The Board discussed the driveway to the home is on Fulton Drive, but the

address is Whitney Drive. Maria Horowitz did not have any further comments to add into the record.

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 the difference in increased nonconformity and decreased nonconformity is balanced, meaning there is no net increase in non-conformity.

John Day made a motion to grant the variance subject to the plans as submitted, revised and discussed, noting the rear setback will be 14' and only a dimensional setback is required. The hardship is the shape, size, and slope of the property, noting there is no net increase in non-conformity; duly 2nd, approved 5-0.

Minutes: Bob Jano made a motion to adopt the Minutes to the December 18, 2008 meeting as submitted, duly 2nd, approved 5-0.

Application # 01-09: Ball Pond LLC, 66 Ball Pond Road East, for variances to zoning regulations for the purpose of reconstructing a house and changing the roofline.

Bob Jano made a motion to bring Application # 01-09 to the floor, duly 2nd, approved 5-0.

Gladys George, owner of Ball Pond LLC and Don Olson of Olson Construction approached the Board. The home was destroyed by a fire and they propose to rebuild the house on the same footprint however they will change the direction of the roofline. The existing house has a portion of the roof that was flat then gabled; they propose to change the entire roof to a gabled roof. There will be a net height increase of 3' which will bring the new height of the home to 19' 6". The increase is due to the reverse gable meeting the other gable. The Board discussed this is a straight vertical expansion, a height variance is not required, there is no impact on the neighbors and the footprint on the ground remains unchanged. Maria Horowitz did not have any further comments to put into the record.

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

John Day made a motion to move into the Business Session, duly 2nd, approved 5-0.

In the Business Session the Board discussed this is a straight vertical expansion. There is no increase in nonconformity, no height issues, no change to the footprint on the ground, and no impact on the neighbors.

John Day made a motion that the variance be granted for a rear setback of 9.5' subject to the plans as submitted. The hardship is the size and shape of the lot noting this Variance does not increase nonconformity duly 2nd, approved 5-0.

Application # 02-09: Louis Hirshfield and Leila Larijani, 13 Candlewood Knolls Road for variances to zoning regulations for the purpose of raising the roofline, enclosing the

front porch with a 2 story addition, construct decks on the side and rear of the home and constructing a 2 story conservatory with decks.

John Apple made a motion to bring Application # 02-09 to the floor, duly 2nd, approved 5-0.

The applicants approached the Board along with their contractor Steve Retallick. They explained their plans to enclose the front covered porch, noting there will be a height increase of approximately 4'. They will add a deck to the back and side of the house for a sunroom which we labeled a conservatory in the rear of the home.

The enclosure of the front porch will come no closer to the front or side boundary than the existing porch. The roofline will increase by 4' and the new height will be 31.9'. The chimney also needs to be rebuilt and the height of the chimney will be 33.9'. A height variance is not required.

The existing rear roofline is open with gravel underneath it. The applicants propose to construct a walk out to a rear deck and the deck will continue to the side of the home and go up 3 or 4 stairs to the kitchen and narrows to the enclosed sunroom or conservatory. Below the deck on the first floor will be gravel. The existing rear setback is 35.9' and they are requesting 33' however they will not further encroach on either of the side boundaries. The rear of the property abuts common land. The conservatory will go out as far as the deck. The Board discussed their position on increasing nonconformity and discussed reducing the depth of the conservatory by 2.9'. The applicant stated the steep slope prevents the use of the underlying ground area, and if they reduced the depth of the conservatory it would only be 7' deep and that it would be too small for comfort. The Board looked for other ways to increase the conservatory without increasing nonconformity which included expanding on the sides of the conservatory to make it wider. The applicants stated this would still leave the room only 7' deep which is too small and were not willing to do this. Maria Horowitz stated she had concerns with the increase in nonconformity, but did not have any issues if they expanded on the conservatory sides to make it wider. The Board further discussed widening the conservatory; the applicants asserted their neighbors expanded much closer to the rear of the property within the last 3 or 4 years. The Board noted if they thought they could obtain evidence of this and thought it would help their application they could continue, noting that each application is evaluated individually and that just because the neighbors expanded doesn't mean they will allow them to.

John Day explained how to move forward with the application. The applicants requested a 5 minute break. John Day asked for any further public comment before the applicants went to break—none heard.

Bob Jano made a motion to take a 5 minute break, duly 2nd, approved 5-0.

Back from the break the applicants stated they would like to continue to the next regularly scheduled meeting. John Day made a motion to continue the application to the next meeting, duly 2nd, approved 5-0.

Application # 03-09: R. Timothy and M. Jane Carley, 60 Woodcreek Road, for variances to zoning regulations for the purpose of reconstructing a new 2 story home north of the existing home with side and rear decks.

Bob Jano made a motion to bring Application # 03-09 to the floor, duly 2nd, approved 5-0. Mr. Carley, Attorney Ed Hannafin, and George Zerrenner approached the Board. Their house is in ill repair due to water draining onto the foundation and currently they do not have off road parking. The proposal is to rebuild the home to the north of the existing location thus moving it out of the way of the water runoff and giving them enough room to create an off road parking area. The Board discussed the odd shape of the lot. Moving the home will increase nonconformity on the south side of the property, but at the same time equally decreasing the nonconformity on the north side of the property. The Board discussed the setbacks on the application, noting some of them did not appear correct. It was determined the correct setbacks are as follows:

Boundary	Existing	Proposed
Front (west)	19.6'	20
North Side	18.2'	14'
South Side	9.6'	13.8'

The Board discussed nonconformity and the front setback is virtually the same and the north and south setbacks are a wash. The rear boundary doesn't require a variance. Maria Horowitz stated she did not have any issues with the proposal.

John Day asked for any further public comment—as follows:

Jay Carley, 62 Woodcreek Road: stated he is the applicant's neighbor and brother and is in favor of the application.

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

In the business session the Board discussed there aren't any issues with the new deck and the increase and decrease in nonconformity on the north and south sides of the property equal out. The front boundary doesn't change by more than a few inches.

John Day made a motion to grant the variance subject to the plans as submitted with the following setbacks North Boundary is 14'. South Boundary is 13' 8" and the West Boundary is 20'. The hardship is the slope and irregular shape of the lot, noting there is no net increase in nonconformity, duly 2nd, approved 5-0.

Michelle Rhyce made a motion to adjourn the meeting at 8:53pm duly 2nd approved unanimously.