

**New Fairfield Zoning Board of Appeals  
New Fairfield Connecticut 06812  
MINUTES  
May 21, 2009**

The New Fairfield Zoning Board of Appeals held a regular public hearing followed by a business session at 7:00pm on Thursday May 21, 2009 in the New Fairfield Free Public Library. Secretary Laurie Busse took the minutes.

ZBA members in attendance: John Day, Chair, Maureen Walker, Vice Chair, John Apple, Jack Michinko, and Bob Jano

ZBA members absent: Michelle Rhyce and Joe DePaul

Town Officials in attendance: None

Chair John Day called the meeting to order at 7:03pm introduced the Board members and explained the meeting process and voting procedures.

Secretary Laurie Busse read the proposed agenda for the meeting. John Day added a discussion on changing the Application Deadline Dates to the Agenda. Bob Jano 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.

**Continued Appeal # 12-09:** Thomas and Janet Gibbons, 5 Glen Way to appeal a Verification of Non-Compliance issued by the Zoning Enforcement Officer.

John Apple made a motion to bring Continued Appeal # 12-09 to the floor, duly 2<sup>nd</sup>, approved 5-0.

John Day stated correspondence from the applicant's attorney, was received requesting to continue to the next meeting. John Day made a motion to continue the appeal to the next meeting duly 2<sup>nd</sup> approved 5-0.

**Application # 13-09:** Edward and Stacey Kreinik, 14 Bogus Hill Road for variances to zoning regulations for the purpose of legalizing and raising the roofline.

Bob Jano made a motion to bring Application # 13-09 to the floor, duly 2<sup>nd</sup>, approved 5-0.

Stacey Kreinik approached the Board and explained prior to her purchasing the house in 2000, a 2<sup>nd</sup> story had been added with out permits. She would like to legalize this room and also increase the height. Currently the room's height is on a slant. It starts at 7'4" and slants down to 6'1". The floor in this room also slants. Her contractor stated they need to fix the floor and when they get done doing this; the height of the room will be approximately 5'7", which will not meet zoning regulations. The room also needs new windows. She is proposing to increase the height of the roof by 1 ½ '. The Board explained since the addition is a building and is more than 3 years old, it is grandfathered. Further discussion focused on there will be no change in the overall

height of the home, no change to the footprint on the ground, and no impact on the neighbors.

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 there is no increase in nonconformity no impact on the neighbors, and no change to the footprint on the ground. The addition is legally grandfathered.

John Day made a motion to grant the Variance for two side setbacks of 15'; and 5' and a rear setback to 10' subject to the plans as submitted. The hardship being the irregular size and shape of the lot further noting this Variance does not increase nonconformity on the ground duly 2nd approved 5-0.

**Minutes:** John Day made a motion to adopt the Minutes to the March 19, 2009 meeting as submitted, duly 2nd, approved 4-0-1, Maureen Walker abstained. John Day made a motion to adopt the Minutes to the April 16, 2009 meeting as submitted, duly 2nd, approved 5-0

**Application # 14-09:** Richard and Joyce Dardia, 56 Lavelle Avenue, for variances to zoning regulations for the purpose of legalizing and enclosing a deck.

John Day made a motion to bring Application # 14-09 to the floor, duly 2nd, approved 5-0.

Richard Dardia approached the Board and explained the northwest side setback of 6.5' is not correct. The correct setback is 7.9'. The deck was built without permits in 1981. The applicant would like to legalize the deck and enclose a portion of it. The Board explained unlike the previous application a deck is a structure and not a building and therefore is never grandfathered, noting they look at the application as though the deck had never been constructed. Discussion focused on lot coverage. The survey submitted does not give the lot coverage, however Maria Horowitz's Letter of Noncompliance indicates lot coverage is exceeded. It was determined the applicant must reduce the lot coverage by 184sqft. There is a shed that was built without permits; Mr. Dardia will remove the shed, which leaves 70sqft to be removed from the deck. The Board discussed the northwest side of the deck increases nonconformity by 1.2'. The south side of the deck increases nonconformity by 1.1'. The Board discussed the deck has a large wing on the other side of the house. The stairs indicated on the survey are not part of the deck. John Day explained how to move forward with the application. Mr. Dardia would like to continue to the next meeting so he can look for ways to reduce nonconformity and lot coverage.

Jack Machinko made a motion to continue to the next meeting duly 2nd, approved 5-0.

**Application # 15-09:** Joseph Reilly, 8 Muller Street, for variances to zoning regulations for the purpose of revising a previously approved Variance to construct a single family home.

Maureen Walker made a motion to bring Application # 15-09 to the floor, duly 2nd, approved 5-0.

Tom Biglin an employee of Joseph Reilly approached the Board. The Board discussed there is an advertising issue regarding zoning regulation 3.2.3a&b and cannot vote on the application tonight. The required information must be received by the application cut off date of May 28.

Jim Kulp of 6 Muller Street was present to protest this application, the Board explained they are not hearing this tonight and he must come back to the June meeting.

Jack Machinko made a motion to continue the application to the next meeting, duly 2nd, approved 5-0.

**Application # 16-09:** Robert and Kelly Zurzola, 57 Gillotti Road, for variances to zoning regulations for the purpose of constructing a 2<sup>nd</sup> floor addition.

Maureen Walker made a motion to bring Application # 16-09 to the floor, duly 2nd, approved 5-0.

Robert Zurzola and his contractor Rory Languth approached the Board. The house is in the R-88 zone and is preexisting nonconforming. The house is a corner lot therefore having 2 front setbacks, and 2 rear setbacks, and no side setbacks. They are proposing to increase the height of the home by 12 or 13' and the new height of the house will be 29'. A height Variance is not required. There will be no change to the footprint on the ground. There is a wooded area between the applicants' house and the neighbors' house which will give the neighbors privacy. The house has 3 bedrooms and after the addition there will be 4 bedrooms. They have approval from the Health Dept. for a 4 bedroom septic.

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 there is no increase to the footprint on the ground, there is no impact on the neighbors, and a height Variance is not required.

John Day made a motion to grant the Variance for a front setback to 30' subject to the plans as submitted. The hardship is the irregular shape and 2 front setbacks and 2 rear setbacks, duly 2nd, approved 5-0.

**Application # 17-09:** Grace Scalera, 1 Glen Holly Road for Variances to zoning regulations for the purpose of constructing a 2<sup>nd</sup> story addition and expanding and partially covering the existing deck and constructing a landing.

John Day made a motion to bring Application # 17-09 to the floor, duly 2nd, approved 5-0.

Tammy Zinick, agent for the applicant approached the Board explaining the existing house is 36' 1 $\frac{3}{4}$ " high. Although they are putting on a 2<sup>nd</sup> story addition, the way it will be constructed is so that the house will be brought into conformity and the new height

will be 34' 3 $\frac{3}{4}$ " high. The 2<sup>nd</sup> story addition is for storage purposes only and will be sheet rocked and have electric but it will not have heat.

The northerly, northeast corner of the house was literally built into the ledge and pictures were submitted. The house is a corner lot and has 2 front setbacks and 2 rear setbacks. The applicant proposes to increase the size of the deck which will change the Oak Drive rear setback from 42.4' to 36'. The Board discussed their position on increasing nonconformity and looked for ways to expand the deck without increasing nonconformity by extending the deck towards and flipping the stairs of the deck so they face the Glen Holly Road front setback. John Day explained how to move forward with the application. Tammy Zinick would like to bifurcate the application and have the Board vote on the vertical expansion tonight and continue the deck to the June meeting.

John Day made a motion to bifurcate the application so the Board will vote on the vertical expansion tonight and continue the deck to the June meeting, July 2nd, approved 5-0.

John Day asked for any further public comment—None Heard

John Day made a motion to enter the Business Session for the vertical expansion portion of the application, July 2nd, approved 5-0.

In the Business Session the Board discussed the vertical expansion decreases nonconformity as it changes the height of the house to conform to the current zoning regulations. The vertical expansion does not change the footprint on the ground and there is no adverse impact on the neighbors, as the height of the home is decreased.

John Day made a motion to grant a Variance for only the 2<sup>nd</sup> story addition stipulating it may not exceed the existing setbacks subject to the plans as submitted. The hardship is the significant slope and ledge and the 2 front setbacks and 2 rear setbacks, July 2nd, approved 5-0.

**Application # 18-09:** Michael Sumrow, 3 Shad Blow Road, for Variances to zoning regulations for the purpose of constructing a detached garage.

John Day made a motion to bring Application # 18-09 to the floor, July 2nd, approved 5-0.

Michael Sumrow approached the Board and explained there was an illegal hoop house garage on his property which has been torn down. The house has never had a garage. The existing rear setback is 40'. He is proposing to construct a 3 car garage 10' away from the rear setback. Mr. Sumrow discussed a hardship exists because there is significant slope on his property and he is required to reserve another part of his property in case his septic system needs to be replaced. The Board discussed their position on increasing nonconformity. Mr. Sumrow stated he has a Plan B which changes the rear setback to 32  $\frac{1}{2}$ ' and would increase nonconformity by 8  $\frac{1}{2}$  '; however this would require about 200 yards of fill. Discussion followed although this plan does not increase nonconformity as much as the original plan; there is still a significant increase in nonconformity. Discussion followed if the 3 car garage was reduced to a 2 car garage there would be less of an impact on the rear setback and it would be possible to not increase or minimally increase nonconformity. Mr. Sumrow stated a 2 car garage

is not feasible. John Day explained how to move forward with the application. Mr. Sumrow would like the Board to vote on Plan B as a 3 car garage. John Day explained the 6 month rule.

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

John Day made a motion to enter the Business Session, July 2nd, approved 5-0.

In the Business Session the Board discussed although Plan B does not increase nonconformity as much as Plan A, there is still a significant increase in nonconformity noting a 3 car garage is too large for the property.

John Day made a motion to grant the Variance for a rear setback to 32 ½' for a 3 car garage not subject to the plans as submitted, but rather for the plans as revised and discussed at tonight's meeting. The hardship is the shape and slope of the property, July 2nd, denied 0-5.

**Application Deadline Dates:** Laurie Busse explained for the past several months applications have been coming in either incorrectly or partially filled out. Laurie Busse explained that when she types the legal notice she is only supposed to take what is on the application and not view the plans or the Letter of Noncompliance, however she does so in an effort to minimize the number of continued cases, which significantly reduces advertising and mailing costs. With the current application deadline, she does not have enough time to resolve any issues that may come up from an incorrectly filled out application and would like to move the application deadline up by 2 days. In other words the existing deadline is exactly 3 weeks prior to the meeting date; the new proposal would be 3 weeks and 2 days prior to the meeting date. John Apple made a motion to adopt the revised application deadline dates effective with the July 2009 deadline date, July 2nd, approved 5-0.

Jack Machinko made a motion to adjourn the meeting at 9:35pm July 2<sup>nd</sup> approved unanimously.