

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

REVISED MINUTES

February 21, 2008

The New Fairfield Zoning Board of Appeals held a regular public hearing followed by a business session at 7:00pm on Thursday, February 21, 2008, in the New Fairfield Free Public Library. Secretary, Laurie Busse, took the minutes.

ZBA members in attendance: John Day, Chairman, Maureen Walker, Vice Chairman, John Apple and Joe DePaul

ZBA members absent: Jack Michinko and Bob Jano,

Town Officials in attendance: Maria Horowitz, Zoning Enforcement Officer

Chairman, John Day called the meeting to order at 7:06pm, introduced the Board members and explained the meeting process and voting procedures of a 4 member Board requesting anyone who would like to have their application remain unopened to do so prior to the application being opened. John Day gave the definition of a recusal.

Secretary, Laurie Busse read the proposed agenda for the meeting. A letter dated 2/8/2008 from Peder Scott requesting Application # 07-08 remain unopened was read into the meeting. John Day made a motion to adopt the Agenda as read with the exception of Application # 07-08, duly 2nd approved 4-0.

Secretary, Laurie Busse, read the Call of the meeting.

Application # 01-08: Thomas and Janet Gibbons, 5 Glen Way for variances to zoning regulations for the purpose of constructing a 2nd story addition and changing the roofline.

Attorney Neil Marcus approached the Board and requested that Application # 01-08 remain unopened.

Application # 02-08: Maplewood Development LLC, 7 Astoria Drive, for variance to zoning regulations for the purpose of constructing a single family home.

Joe DePaul a motion to bring Application # 02-08 to the floor, duly 2nd, approved 4-0.

Bernd Jackel approached the Board stating he did not have the required letter from the Town Sanitarian, Rich Jackson, regarding the location of the septic and well. John Day made a motion to continue the application to the March 20 meeting duly 2nd approved 4-0.

Application # 03-08: Elizabeth Charpentier and James Allwein, 21 Overlook Road, for variances to zoning regulations for the purpose of constructing a 2-story addition with deck extension, a 2nd floor balcony and a new rear deck.

John Apple made a motion to bring Application # 03-08 to the floor, duly 2nd, approved 4-0.

The applicants approached the Board and explained their plans to add a deck to the back of the house and extend the kitchen a bedroom will be on the 2nd floor. The deck will not increase nonconformity in the rear or side of the property. The number of bedrooms will not increase. The addition does not come any closer to the setback than the existing building. A portion of the project does not require a variance and this is noted on the survey. There is a slope on the property. The property is a combination of 3 lots and has a little less than half an acre.

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

John Apple made a motion to move into the business session duly 2nd approved 4-0.

In the business session the Board discussed a portion of the project is not in front of the ZBA. There is no increase in nonconformity; there is a slope on the property, and the addition is in character with the rest of the neighborhood.

John Day made a motion to grant the variance with a side setback to 15' and a rear setback to 12' subject to the plans submitted noting the project does not increase nonconformity. The hardship is the irregular size, shape and slop of the lot duly 2nd, approved 4-0.

John Day asked if there were any amendments, or revisions to the January 17, 2008 Minutes—none heard. John Day made a motion to accept the Minutes to the January 17, 2008 meeting, duly 2nd, approved 3-0-1. Joe DePaul abstained.

Application # 04-08: Sherman and Barbara Hotchkiss, 65 Lake Drive South, for variances to zoning regulations for the purpose of constructing a one story addition.

Maureen Walker made a motion to bring Application # 04-08 to the floor, duly 2nd, approved 4-0.

Attorney Neil Marcus and architect Neil Hauck approached the Board. Attorney Marcus explained the applicants previous Application # 54-06 had been denied because it increased nonconformity. The plans have been revised so that the size of the addition has been reduced. The sides of the addition have been reduced to meet the existing setbacks. The addition will be used as a home office. The home was built in approximately 1930, which makes it preexisting nonconforming.

Attorney Marcus discussed existing nonconformities. The rear patio of the house is the existing structure, which dates back to the 1930's. A letter dated 2/19/2008 from Paul Syzmanski of Arthur H. Howland Assoc. was read into the meeting. The letter stated at the back of the house is a structure supported by an above ground stone foundation, which appears to be part of the original house by virtue of the material in construction. The Board discussed the Minutes of the December 2006 meeting which indicate the Board's position as to what can be used as the line of nonconformity, noting you can compare buildings to buildings and structures to structures, but you can't compare a building to a structure and vice versa, resulting in the Board voting that the patio on this

property could not be used as the measure of non-conformity for an expansion of the house. Attorney Marcus stated his interpretation is that any existing structure may be used as the line of nonconformity regardless of what the proposal is and would like to continue to the next meeting so he can investigate his understanding of this matter further.

The applicant and the Board agreed the patio meets the zoning definition of a structure and there is no question that the patio predated the zoning regulations. The question is whether or not a structure should be treated the same as a house when it comes to determining whether there is an increase in nonconformity created by an expansion in the house. To establish the current proposal would not increase in non-conformity, the documentation continuation in March should address whether the Board was wrong as a matter of law in considering buildings and structures separately for those purposes.

Attorney Marcus signed the continuation form.

Application # 05-08: William and Carolyn Drew, 8 Lake Shore North, for variances to zoning regulations for the purpose of constructing a front porch.

Joe DePaul made a motion to bring Application # 05-08 to the floor, July 2nd, approved 4-0.

The applicants approached the Board and explained their plans to build a covered porch over an existing walkway in the front of their home. The covered porch will increase nonconformity in the front of the property by approximately 5'. The Board looked for ways to reduce nonconformity by moving the covered porch to a different area and square off the house. The Board discussed the standards for a variance. John Day explained how to move forward with the application.

The applicants stated they would like to continue to the March meeting so they can revise their plans and get the setbacks for the revised plans. Maureen Walker made a motion to continue Application # 05-08 to the March 20 meeting, July 2nd, approved 4-0.

Application # 06-08: Joseph and Sophie Amorando, 18 Fieldstone Drive for variances to zoning regulations for the purpose of constructing a 14' x 20' carport.

Maureen Walker made a motion to bring Application # 06-08 to the floor, July 2nd, approved 4-0.

The applicants approached the Board and explained their plans to put a 14' x 20' carport on the side of the house. The house used to have a garage, which was converted into a small bathroom and bedroom in 1974 for Mrs. Amorando's mother who was very ill. When the garage was converted the home went from 2 bedrooms to 3 bedrooms. Discussion followed, the carport will increase nonconformity and is it possible to convert the 3rd bedroom back into the garage. The Board discussed their position on increasing nonconformity to get back something they already had. The Board looked for ways to reduce nonconformity by scaling back the size of the carport or turning it sideways. John Day explained how to move forward with the application.

Maureen Walker made a motion to continue Application # 06-08 to the March 20th meeting, July 2nd, approved 4-0.

Application # 07-08: Peder W. Scott, 283 Route 39 for variances to zoning regulations for the purpose of demolishing the existing home and replacing it.

Application unopened

John Apple made a motion to adjourn the meeting at 8:40pm duly 2nd approved 4-0.