

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

**MINUTES
July 17, 2008**

The New Fairfield Zoning Board of Appeals held a regular public hearing followed by a business session at 7:00pm on Thursday July 17, 2008, in the New Fairfield Free Public Library. Secretary, Laurie Busse, took the minutes.

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

ZBA members absent: John Day, Chairman, and Joe DePaul

Town Officials in attendance: Maria Horowitz, Zoning Enforcement Officer {ZEO}

Vice Chairman, Maureen Walker called the meeting to order at 7:06pm, introduced the Board members and explained the meeting process, voting procedures of a 4 member Board, and standards for a variance. Maureen Walker gave the definition of a recusal.

Secretary, Laurie Busse read the proposed agenda for the meeting. Maureen Walker asked if there were any amendments or changes to the Agenda—None Heard. Bob Jano made a motion to adopt the Agenda duly 2nd approved 4-0. Secretary, Laurie Busse, read the Call of the Meeting.

Application # 26-08: Elizabeth Smith, 14 Pondfield Road, for variances to zoning regulations for the purpose of screening in an existing deck.

John Apple made a motion to bring Application# 26-08 to the floor, duly 2nd, approved 4-0.

No one was present to represent this application and the Board will bring it back to the floor at the end of the meeting. At the end of the meeting there was still no representation for this application. Maureen Walker made a motion to table the application until the August meeting, duly 2nd, approved 4-0.

Application # 27-08: Marc and Jacqueline Salzo, 25 Williams Road, for variances to zoning regulations for the purpose of constructing an above ground pool.

John Apple made a motion to bring Application # 27-08 to the floor, duly 2nd, approved 4-0.

Marc Salzo approached the Board and explained his plans to construct an 18' wide above ground pool. The original plans for the pool were within the setbacks, however due to the amount of rock and ledge on the property he had to push the pool over by the lower deck, which is considered to be on grade. A portion of the lower deck will be cut back to allow room for the pool. This will increase nonconformity by 10'. The Board discussed their position on increasing nonconformity and looked for other locations for

the pool which included pushing the pool further back beyond the lower deck and closer to the upper deck. The applicant stated that he did not want to do this as his children may be tempted to climb the railing of the upper deck and jump off into the pool, causing a safety issue. The Board also discussed keeping the pool in the original area and chipping away some of the rock and ledge.

Maureen Walker asked for any further public comment—none heard.

Bob Jano made a motion to enter the business session, duly 2nd, approved 4-0.

In the business session the Board discussed the increase in nonconformity and a pool is not a necessity.

John Apple made a motion to grant the variance with a rear setback to 40'. The hardship is the rock and ledge on the property, duly 2nd, denied 0-4.

Minutes: Bob Jano made a motion to adopt the Minutes of the June 19, 2008 meeting duly 2nd; approved 3-0-1 John Apple abstained.

Application # 28-08: Michael and Nancy Basilone, 15 Ball Pond Road East, for variances to zoning regulations for the purpose of demolishing the existing garage and replacing it with a larger garage with a 2nd story and outside stairs to grade.

Bob Jano made a motion to bring Application # 28-08 to the floor, duly 2nd, approved 4-0.

The applicants approached the Board and explained that since they submitted their ZBA application, Tim Simpkins of Inland/Wetlands had required them to move their garage further back and relocate the stairs, however the requested side setback will not change and they meet the required 50' in the rear. Maria Horowitz will give us a copy of the new plans. The applicants showed pictures of the deteriorating garage, noting it was built in 1919. The existing garage is 10' 2" x 18' 3" and is 2' 7" away from the side setback. The new garage will be 11' x 20' and will be 1' 9" away from the side setback. The new garage will be pushed forward 4 ½' and 1.2' closer to the side, which slightly increases nonconformity and they will go up for storage with stairs in the rear. The height of the garage will not exceed the height of the home and a height Variance is not required. The height of the garage will not obstruct views of the lake. Some members of the Board had concerns the 2nd story will be used for living space and not storage.

Maureen Walker 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 the garage is in ill repair and needs to be replaced, none of the members had issues with the slight increase in nonconformity and discussed the 2nd story will be only for storage.

Maureen Walker made a motion to grant the variance for a side setback to 1' 9" subject to the revised plans stipulating the garage will not have heat or plumbing and cannot be used for living space. The hardship is the size of the lot and the closeness of the lake, duly 2nd, approved 4-0.

Application # 29-08: Michael and Maura Rail, 37 Lake Shore Drive North, for variances to zoning regulations for the purpose of raising the roofline, enlarging the rear deck and constructing a covered front porch.

Bob Jano made a motion to bring Application # 29-08 to the floor, July 2nd, approved 4-0.

Maura Rail and her agent, Tammy Zinick approached the Board. They explained their plans to raise the roofline by 4' 6" on the right side of the home to even off the roofline. The overall height of the home is 24' and a height Variance is not required. A Variance was granted in 1999 for a rear deck. The applicants propose to expand this rear deck by 5' by continuing the width of the deck and not come any closer to the boundary line than the existing deck. The applicants also propose to construct a front porch. The porch will be 7' wide by approximately 7' deep and have 2 steps. Since the steps are less than 2' from the ground they are not in front of the ZBA. The existing front setback is 19.7' and the proposed overhangs of the front porch will bring the front setback to 17.7'. The Board discussed their position on increasing nonconformity and suggested the applicant reduce the depth of the porch by 2' so as not to increase nonconformity. The applicant agreed.

Maureen Walker asked for any further public comment—none heard.

Bob Jano made a motion to go into the business session, July 2nd, approved 4-0.

In the business session the Board discussed there is a minimal height increase, and there is no increase in nonconformity as the applicant agreed to reduce the depth of the front porch so it does not exceed the existing front setback.

Maureen Walker made a motion to grant the variance for a front setback of 19.7'; both side setbacks to 10' and a rear setback to 18' subject to the plans discussed and revised, noting the front porch does not exceed 19.7' and the roof line is not any higher than the existing roofline. The hardship is the shape of the land, July 2nd, approved 4-0.

Application # 30-08: Daniel Coccozza, 20 Erin Drive, for variances to zoning regulations for the purpose of constructing a 2nd story addition and an addition

Maureen Walker made a motion to bring Application # 30-08 to the floor, July 2nd, approved 4-0.

Ann Marie MacManemin, Daniel Coccozza and their contractor Ralph Sergey approached the Board stating the addition for the family room has been removed from their plans and only the vertical expansion is in front of the ZBA. The vertical expansion still requires an 18' side setback. There will be no increase in nonconformity, a height Variance is not required and there will be no impact on the neighbors.

Maureen Walker asked for any further public comment—none heard.

Maureen Walker made a motion to go into the business session, July 2nd, approved 4-0.

In the business session the Board discussed this is a vertical expansion with no increase in nonconformity.

John Apple made a motion to grant the Variance for a rear setback of 18' subject to the revised plans, noting the Variance is only for the vertical expansion. The hardship is the small lot, duly 2nd, approved 4-0.

Application # 31-08: Jonathon and Rosetta Rhodes, 35 Bogus Hill Road, for variances to zoning regulations for the purpose of constructing a 2-story addition.

Bob Jano made a motion to bring Application # 31-08 to the floor, duly 2nd, approved 4-0.

Jonathon Rhodes, architect Karen Silva, and Attorney Raymond Lubus approached the Board. They explained the original plans called for an addition that was 8.5' away from the side setback. Since then they have withdrawn the application and resubmitted revised plans for a 2-story addition that is 16' away from the side setback, noting they did investigate purchasing property from the neighbor, but he was not willing to sell any property. The property has a very unusual shape and has an extreme slope in the rear. The addition will be built on the same angle as the property line, and will start as 11' x 6' on one end and end as 14' x 6' on the other end so as not to further increase nonconformity. The Board discussed their position on making a conforming lot nonconforming and the addition will increase nonconformity by 4'. The existing home is 3,000sqft split level home and is poorly laid out and there is a lot of wasted space. The addition will add approximately 544sqft to the home. Maria Horowitz stated they have changed their plans significantly and has no issues with the proposal.

Maureen Walker asked for any further public comment—

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

In the Business Session the Board discussed this is an increase in nonconformity and making a conforming lot conforming while other members believed that if this were new construction given the odd shape of the lot, we would approve it.

John Apple made a motion to grant the Variance with a side setback to 16' subject to the plans as submitted. The hardship is the slope and narrowness of the lot, duly 2nd, granted 4-0.

Application # 32-08: Shaun and Gene Gregory, for variances to zoning regulations for the purpose of constructing a cat walk and rear deck with stairs to grade.

Bob Jano made a motion to bring Application # 32-08 to the floor, duly 2nd, approved 4-0.

Mr. & Mrs. Gregory approached the Board and explained after submitting their application they changed the location of the deck from the rear of the home to the side of the home because they realized it would increase nonconformity. The deck is now on the side of the home and touches on the rear setback, but does not come any closer to the rear setback than the existing home. The advertised rear setback of 22.8' is correct. The applicant purchased the home in March 2004 and the deck was old and rotted so they tore it down. When they went to rebuild the deck they discovered the septic tank was not in the location where the Town files said it should be; instead it was under the

deck, which is why they are proposing to change the deck to a catwalk and relocate the deck itself. The proposed plans do not increase nonconformity and meet the required setbacks from the septic tank.

Maureen Walker asked for any further public comment—none heard.

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

In the business session the Board discussed by moving the deck to the side of the home there is no increase in nonconformity and the applicant needs to have access to the septic tank.

Maureen Walker made a motion to grant a front setback to 22.8' the hardship is the nonconforming size and shape of the lot, subject to the revised plans as submitted; July 2nd, approved 4-0.

John Apple made a motion to adjourn the meeting at 9:00pm July 2nd approved 4-0.