

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

**MINUTES  
September 18, 2008**

The New Fairfield Zoning Board of Appeals held a regular public hearing followed by a business session at 7:00pm on Thursday September 18, 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, Jack Michinko, and Bob Jano.

ZBA members absent: John Apple, and Joe DePaul

Town Officials in attendance: Maria Horowitz, Zoning Enforcement Officer (ZEO)

Chairman, John Day called the meeting to order at 7:05pm, introduced the Board members and explained the meeting process, voting procedures of a 4 member Board, and standards for a variance. John Day gave the definition of a recusal.

Secretary, Laurie Busse read the proposed agenda for the meeting. John Day stated prior to the meeting he was approached by Mrs. Lynch requesting Continued Application #33-08 be continued to the October 16, 2008 meeting and she completed the appropriate form. John Day made a motion to continue the application and remove Continued Application # 33-08 from the Agenda and adopt the Agenda as amended duly 2<sup>nd</sup> approved 4-0. Secretary, Laurie Busse, read the Call of the Meeting.

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

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

Rick Salem, agent approached the Board and explained the plans to construct a roof over the existing deck and screen in the sides. There will be no increase in nonconformity and the roof to the deck will not be any higher than the roof to the existing home. The closest point will be no closer than the existing setback of 16.4'. The overhangs will extend beyond the existing footprint however they are on the front and back of the house and not on the side abutting the neighbor's property and therefore do not increase nonconformity. The Board discussed there will be screened in sides, uninsulated walls and no enclosed living area, there is going to be an overhang that extends over a small area of the ground that the existing structure doesn't cover but the overhangs are not going to increase nonconformity.

John Day asked for any further public comment—none heard

John Day made a motion to move into the Business Session, duly 2nd, approved 4-0.

In the Business Session the Board discussed this is figuratively a vertical expansion there is going to be an overhang that extends over a small area of the ground that the existing structure doesn't cover but the overhangs are not going to increase nonconformity. There is no overhang on the adjoining neighbors side so there is no increase in nonconformity that way. There is no impact on the neighbors; and there is no increase in the net height of the home.

John Day made a motion to grant the Variance to 16.4' the hardship is the size of the lot subject to the plans as submitted stipulating the enclosed deck will not be used for living area and will remain uninsulated, further noting this Variance does not increase nonconformity, duly 2nd, approved 4-0.

**Minutes:** Bob Jano made a motion to adopt the Minutes of the August 21, 2008 meeting duly 2<sup>nd</sup>; approved 4-0. The Minutes to the Special Meeting of September 2, 2008 will be voted on at the October 16, 2008 meeting.

**Continued Application # 33-08:** Daniel J., Mary B. & Tricia Lynch, 31 Merlin Avenue, for variances to zoning regulations for the purpose of constructing, legalizing and/or enlarging decks.

The application was continued to the October 16, 2008 meeting.

**Application # 39-08:** Russell and Cindy Kaye, 1 Overlook Road, for variances to zoning regulations for the purpose of squaring off the corners and constructing a roof over the existing deck.

Bob Jano made a motion to bring Application # 39-08 to the floor, duly 2<sup>nd</sup>, approved 4-0.

Mr. and Mrs. Kaye approached the Board and explained their plans to construct a roof over the existing deck. They will mimic the existing roofline. There will be no increase in the net height and no increase in nonconformity. Discussion focused on the correct setback. It appeared the applicants were asking for a 37' rear setback and the application indicated a 40' rear setback. It was determined the existing stairs are to 37' and they are not going out as far as the stairs so 40' is the correct setback. The squaring off does not go past the requested 40' line.

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

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

In the business session the Board discussed there is no increase in nonconformity, no increase in height, or living area, and this is a typical vertical expansion.

John Day made a motion to grant the Variance for a rear setback of 40' the hardship is the irregular size subject to the plans as submitted further noting the Variance does not increase nonconformity, duly 2nd, approved 4-0.

**Application # 40-08:** Ann Ross, 108 Lake Drive South, for variances to zoning regulations for the purpose of enlarging a previously approved Variance to construct a 2-car garage.

Maureen Walker made a motion to bring Application # 40-08 to the floor, duly 2nd, approved 4-0.

Tasos Kokoris Architect approached the Board and requested to continue the application to the October 16 meeting in hopes of a 5-member Board.

John Day made a motion to continue the application, duly 2nd, approved 4-0.

**Application # 41-08:** Scott and Linda Roberti, 26 East Lake Road, for variances to zoning regulations for the purpose of modifying a previously approved variance for an in ground pool.

Bob Jano made a motion to bring Application # 41-08 to the floor, duly 2nd, approved 4-0.

Scott Roberti and Tom Nejame approached the Board. They explained in September 2007 they were granted Variance # 33-07 to construct a rectangular shape in ground pool. Since then the plans have changed and they would like to construct a free form pool, which is just a pool with curvy lines. Since Variances are granted per plans submitted, they have come back to revise Variance # 33-07. The pool will be the same size and in the same location, just a different shape.

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

John Day made a motion to go into the business session, duly 2nd, approved 4-0.

In the business session the Board discussed Variances are granted per plans submitted and since there is a change in the pool, the applicant needs to come back. There is no increase in nonconformity and the location of the pool doesn't change.

John Day made a motion to grant the Variance incorporating by reference the hardship stated in Variance # 33-07 subject to the plans as submitted duly 2nd, approved 4-0.

**Application # 42-08:** Candlewood Knolls Inc, 1 Camp Arden Road, for variances to zoning regulations for the purpose of constructing a shed to house gauges and water meters.

Jack Machinko made a motion to bring Application # 42-08 to the floor, duly 2nd, approved 4-0.

Bernie Neill a representative of Candlewood Knolls Water Authority approached the Board. He explained they service approximately 130 homes and they have received approval for the construction of two new wells. They are mandated by the State to monitor water and therefore, would like to construct a shed to house the gauges and protect them from the elements. Mr. Neill presented a brochure from Martins Country Craftsmen Inc., Pawling NY. The brochure indicated the shed was a prefab 10' x' 12' by 10' high "Kris" style shed.

The reason Mr. Neill is here tonight is because sheds are considered an accessory building and since this is an empty lot there isn't a principal dwelling for the shed to be an accessory to. The property predates the Planning Regulations and the discussion

focused if this was one building lot or four building lots. It was determined this is one lot. The Board discussed the possibility of a house being constructed on this lot and the steep slope.

John Day 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 this is a single lot for construction purposes also there is in theory the right to add a residence to it the only reason we're hearing the Variance is because there isn't any residence for the shed to be an accessory building to so in that sense it doesn't increase nonconformity because if a house were to be placed on the property later it would create more issues of nonconformity than the shed. Also the proposed location of the shed is centrally located.

John Day made a motion to grant the Variance subject to the plans as submitted including the specification of the shed type noting that the reason for the Variance is there's no building for the shed to be an accessory building to and that given the future legal possibility of the development of the lot in the long run this will not increase nonconformity; the hardship being the irregular size and shape of the lot duly 2nd, approved 4-0

**Application # 43-08:** Russell Fichera 1 Candlewood Knolls Road, for variances to zoning regulations for the purpose of constructing an addition.

Bob Jano made a motion to bring Application # 43-08 to the floor, duly 2nd, approved 4-0.

Russell Fichera approached the Board and explained the plans to construct a laundry room on what is aesthetically the side of the house. The addition follows the house line and follows the contour of the patio and just evened out the house. Discussion followed the requested setback is 10' 8" and the plans do not show that great of a setback, it appears the setback is much further away than 10' 8". Discussion followed on the proper setback. The property line tails away from the house so the addition will not be closer than the existing corner of the house which is 15.6'. The applicant noted the slope on the property and the roads on two sides of the house.

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

John Day made a motion to enter the Business Session, duly 2nd, approved 4-0.

In the Business Session, the Board discussed the proposal does not increase nonconformity but advertised as if it did. The addition clearly is at least 15.6' away from the side boundary.

John Day made a motion to grant the Variance subject to the plans as submitted noting that the proposal appears to be that the maximum depth of the proposed area is 10' 8" from the wall but in any event the proposal does not increase nonconformity because all construction will be 15.6' or further back from the property line. The hardship being the irregular shape and slope of the property duly 2nd, approved 4-0

**Application # 44-08:** Larry and Marietta Schiff, 3 Coves End, for variances to zoning regulations for the purpose of constructing an in ground pool.

Bob Jano made a motion to bring Application # 44-08 to the floor, duly 2nd, approved 4-0.

Mr. and Mrs. Schiff approached the Board and explained they have two front setbacks and no rear setbacks on their property. The rear front is a paper road. They propose to construct an in ground pool in what is aesthetically the rear of the property. They do not require any dimensional setbacks.

John Day asked for any further public comment—none heard

John Day made a motion to enter the Business Session, duly 2nd, approved 4-0.

In the Business Session the Board discussed the property has more than one front, there is no adverse impact on the neighborhood, and no dimensional setback.

John Day made a motion to grant the Variance subject to the plans as submitted the hardship is the irregular shape of the property and the two fronts, noting technically this increases nonconformity but does not increase nonconformity dimensionally, duly 2nd, approved 4-0.

Bob Jano made a motion to adjourn the meeting at 8:20pm duly 2<sup>nd</sup> approved 4-0.