

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

**MINUTES**

**Special Meeting  
April 24, 2008**

The New Fairfield Zoning Board of Appeals held a special public hearing followed by a business session at 7:00pm on Thursday, April 24, 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, Bob Jano, Joe DePaul, and Jack Michinko.

ZBA members absent: John Apple

Town Officials in attendance: Maria Horowitz, Zoning Enforcement Officer

Chairman, John Day called the meeting to order at 7:03pm, introduced the Board members and explained the meeting process, voting procedures, 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 made a motion to adopt the Agenda duly 2<sup>nd</sup> approved 5-0. Secretary, Laurie Busse, read the Call of the Meeting.

**Application # 10-08:** Robert and Debra Farney, 8 Cecelia Lane, for variances to zoning regulations for the purpose of constructing a gabled roof deck with stairs to grade.

Bob Jano made a motion to bring Application # 10-08 to the floor, duly 2<sup>nd</sup>, approved 5-0.

The applicants and their contractor, Ron Walker approached the Board and explained their plans to build a porch with a gabled roof directly over an existing concrete patio, which is on grade, 2 ½' away from the 440 Contour Line. The existing house is 13.7' away from the 440 Line. There is 100' of property from the property line to the Lake which is owned by 1<sup>st</sup> Light. Aesthetically this property appears to be the applicants and they have been maintaining this property, therefore, the deck will have the appearance of being 100' away from the property line. The deck will also be used as a 2<sup>nd</sup> means of egress from the home in case of a fire. Discussion followed the patio is on grade and is therefore not considered a structure within the zoning regulations. The covered porch would significantly increase nonconformity. John Day explained how to move forward with the application. The applicants requested a short break.

Back from the break, the applicants stated they would like the Board to vote on their plans as submitted; the Chairman reminded them of the 6 month rule.

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

Bob Jano made a motion to move into the Business session, duly 2nd, approved 5-0.

In the Business session the Board discussed the increase in nonconformity from 13' to 2½'.

John Day made a motion to grant the variance for a rear setback to 2 ½' subject to the plans as submitted, the hardship is the shape, size, and slope of the lot, duly 2nd, denied 0-5.

**Application # 11-08:** George and Catherine Keith, for variances to zoning regulations for the purpose of constructing a 2<sup>nd</sup> story addition with an overhang

Maureen Walker made a motion to bring Application # 11-08 to the floor, duly 2<sup>nd</sup>, approved 5-0.

George Keith and architect John McGuirk approached the Board. They explained their plans to build a 2<sup>nd</sup> story addition with an overhang in between the existing building and the addition in the rear of the home. There is a steep slope on the lot so the front of the home appears to be one story and the rear of the home appears to be 2 stories. The 2<sup>nd</sup> story addition in itself will not exceed the existing footprint of the home and will not increase nonconformity. The applicant proposes to put a 2' roof overhang on the rear of the home because the existing home appears to be 2 stories and the addition will make it appear to be 3 stories. The purpose of the overhang is to soften the look of the 3 story facade and make it more aesthetically pleasing. The existing roof overhang is at 49.4' and the proposed overhang will be at 48', which will increase nonconformity however, the overhang will not go any further to the boundary than a legally grandfathered existing deck. Discussion followed on increasing nonconformity and if buildings should be viewed differently than structures. The Board also discussed decks are structures and are only grandfathered under specific circumstances.

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

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

In the business session the Board discussed where the line of nonconformity starts and if buildings should be viewed differently than decks. The overhangs are decorative and not adding living space.

John Day made a motion to grant the variance with a rear setback to 48' subject to the plans as submitted the hardship is the significant slope and size of the lot, noting that we are not considering tonight the deck accepting so far as that bears on whether or not there is an increase in nonconformity duly 2nd, approved 4-1. John Day voted to deny the variance.

**Application # 12-08:** David R. Willis, 130 Route 37, for variances to zoning regulations for the purpose of changing Zoning Districts from R-88 to NB.

Maureen Walker made a motion to bring Application # 12-08 to the floor, duly 2<sup>nd</sup>, approved 5-0.

The applicant and Attorney Ray Lubus approached the Board. The applicant would like to change his zoning district from Residential to the Neighborhood Business District {NB} however; before he can do this he needs a variance for some of the requirements in the proposed new zone. Looking at the shape of the property the road frontage is very small relative to the interior space. There is 111' feet of road frontage and 150' of road frontage is required. Discussion followed, the property is in a residential zone; it is surrounded by local businesses and is stuck between 2 zoning districts, neither of which are residential. There is an existing barn, a 2 family home which will have an office in the lower level and a 2<sup>nd</sup> residential home on the property. Also located on the property is a Right of Way for the New Fairfield Land Trust to pass and repass. Further discussion focused on the amount of traffic using the property and an additional accessway will not be created. The original purpose of the zoning regulations was to create a buffer to a residential zone and a buffer isn't necessary because none of the abutting properties are residential.

The language in the NB District is site specific to Candlewood Corners. The applicant's property does not fall within this zone. In addition to varying the road frontage, ZBA would be varying any other language that limits the geographic location of that zone. It was noted the proposal is that the variance be granted for the specific project as opposed to being generic and making it possible to apply those regulations any where in Town.

Maria Horowitz noted that if a variance is granted, it is still up to the Zoning Commission to change the district and if it fails in the Zoning Commission, then the property will remain residential and should be noted on the variance.

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

Bob Jano made a motion to move into the business session, duly 2nd, approved 5-0.

In the business session the Board discussed the odd shape of the property, the surrounding businesses and the applicant is not creating an additional accessway.

John Day made a motion to grant the variance noting for those purposes that subject to the plans as submitted and to subsequent approval by the Zoning Commission of the zoning change and any special permits necessary and also noting that the change is not only for the road frontage but with respect to any appellations in the special zoning regulations that refer to another address in the Town. The hardship is the irregular shape of the property duly 2nd, approved 5-0.

**Application # 13-08:** Jonathon and Rosetta Rhodes, 35 Bogus Hill Road, for variances to zoning regulations for the purpose of constructing a 2 story addition.

Maureen Walker made a motion to bring Application # 13-08 to the floor, duly 2nd, approved 5-0.

Mr. Rhodes and his architect Karen Silva approached the Board and explained their plans to build a 2 story addition 8.5' away from the side setback. The applicants explained the property has a steep slope and an unusually narrow triangular shape. The existing side setback is 22.7' and the addition will, make the conforming side nonconforming. The Board looked for ways to reduce nonconformity by going straight

up or “squaring off” the house in the rear. The applicant stated this could not be done because the house is a split level and the slope in the rear is too steep for an addition. The applicant submitted a letter dated April 10, 2008 from Bozidar Lazarevic, 37 Bogus Hill Road indicating that he is OK with the addition. The Board explained their position on increasing nonconformity. The applicant wanted all Board members to walk his property. The Board explained that this is not required and the request will be duly noted. John Day explained how to move forward with the application. The applicant requested a break.

Back from the break the applicant stated he wanted to continue to the June 19<sup>th</sup> meeting as he would be out of Town on the May 15<sup>th</sup> meeting and signed a form indicating this. John Day made a motion to continue to the June 19<sup>th</sup> meeting, duly 2nd, approved 5-0.

**Application # 14-08:** Town of New Fairfield, 31 and 33 Route 37, for variances to zoning regulations for the purpose of revising a previously approved variance for the construction of a senior center/municipal building.

Joe DePaul made a motion to bring Application # 14-08 to the floor, duly 2nd, approved 5-0.

Steve Merullo, Director of Buildings and Grounds, and John Hodge, 1<sup>st</sup> Selectman approached the Board. They explained that they received a prior variance # 09-07 in March 2007. Since then the plans for the proposed new senior center have been revised from 2 stories to a single story building. When the survey came back for the new proposal, it was determined the building would come a few feet closer to the front setback than originally planned. Originally the proposed front setback was to 45.8’ and the new setback will not exceed 41’. The other municipal building on the property has a variance to 3.9’ and there is no change to that building or that setback. The Board discussed the senior center will not be any closer to the front setback than the other building and nonconformity would not increase.

John Day asked for any further public comment.

Joe DePaul made a motion to enter the business session, duly 2<sup>nd</sup>, approved 5-0.

In the business session the Board discussed that while they do not approve of increasing nonconformity, there is another building on the property that comes significantly closer to the front setback than the proposed senior center and therefore it would not be considered increasing nonconformity.

John Day made a motion to grant the variance for the proposed senior center with a front setback of 41’ subject to the plans as resubmitted and incorporating the hardship statement adopted in the 2007 proceeding, duly 2<sup>nd</sup>, approved 5-0.

John Apple made a motion to adjourn the meeting at 9:00pm duly 2nd, approved 5-0.