

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

**MINUTES
March 15, 2007**

The New Fairfield Zoning Board of Appeals held a regular public hearing followed by a business session at 7:00pm on Thursday, March 15, 2007, in the New Fairfield Library. Secretary, Laurie Busse, took the minutes.

ZBA members in attendance: John Day, Chairman, Croix Sather, Vice Chairman, Maureen Walker, Joe DePaul and Bob Jano

ZBA members absent: John Apple

Town Officials in attendance: John Hodge, Ron Oliveri, Bob Rawlings and Kathy Hull.

Chairman, John Day called the meeting to order at 7:05pm, introduced the Board members and explained the meeting process and voting procedures. 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 2nd approved 5-0.

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

Appeal # 01-07: David and Carter Boyajian, 3 Milltown Road to appeal a Cease and Desist Order issued on December 5, 2006.

Bob Jano made a motion to bring Appeal # 01-07 to the floor, duly 2nd, approved 5-0.

Carter and David Boyajian approached the Board. John Day explained due to timing requirements the appeal had to be opened at tonight's meeting. John Day read a letter dated 3/13/2007 from Attorney Raymond Lubus into the meeting. The letter requested the appeal be continued to the next regularly scheduled Zoning Board of Appeals meeting.

Joe DePaul made a motion to continue the appeal to next month's meeting, duly 2nd, approved 5-0.

Application # 07-07: Cynthia and Errol Arne, 23 Glen Road, for variances to zoning regulations for the purpose of constructing an in ground pool.

Maureen Walker, made a motion to bring Application # 07-07 to the floor, duly 2nd, approved 5-0.

Tom NeJame and Mr. Arne approached the Board. Mr. NeJame explained they were here less than 6 months ago and are returning because there they have substantially changed their plans. The original plans called for a 15' rear setback, the new plans are

for a 33' rear setback. The new plans relocate the pool by turning it 90 degrees. There is a steep slope on the property. The pool cannot be located on the other side because that is where the septic is located. The Board discussed several different positions on the application which included, the slope dictates where the septic is although, the location of the septic alone, does not create a hardship, as well as increasing nonconformity. Joe DePaul saw the property and did not think the slope was that steep and that the pool was increasing nonconformity. Mr. NeJame said a slope of 2' is a lot. The property abuts the City of Danbury Reservoir and there will be minimal impact on the neighbors. Mr. NeJame stated in the past the Board has granted variances for pools in similar situations.

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

Ron Oliveri, Selectman: stated that when he put his pool in, he had to conform to New Fairfield zoning regulations. However his neighbor who lives directly behind him is in Danbury and is not subject to the same zoning regulations as New Fairfield residents and was allowed to put a shed directly on the property line. This displeased Mr. Oliveri very much.

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

In the business session the Board discussed there is minimal impact on the neighbors and the location of the septic is an obstacle, although the location of the septic may be due to the grade. Discussion followed if this would allow more variances on the property perhaps a deck around the pool. There was also discussion that this was not a creeping variance because the original application called for a deck and a pool, and while the deck was legalized the pool was not approved and the applicant stated the Board blindsided him as far as denying the pool. If he saw the denial of the pool coming, he would have had the opportunity to continue.

John Day made a motion to grant the application with a rear setback of 33' subject to the plans submitted at tonight's meeting; the hardship is the slope of the lot. Duly 2nd; approved 4-1. Joe DePaul opposed the variance.

Bob Jano made a motion to accept the Minutes of the February 15, 2007 meeting. Duly 2nd, approved 5-0.

Application # 08-07: Tina Colt, 11 Ithaca Road, for variances to zoning regulations for the purpose of constructing a single family home.

Bob Jano made a motion to bring Application # 08-07 to the floor, duly 2nd, approved 5-0.

Angelo Zegarelli approached the Board and submitted a letter from the property owner authorizing him to act on her behalf and a letter dated 3/9/2007 from Rich Jackson, Town Sanitarian into the record. The letter stated the septic system was in the only possible location. Mr. Zegarelli explained the proposed home will be a 3-bedroom raised ranch and will be 44' x 28'. Front steps will be required, but Mr. Zegarelli was unsure of how big they would be, if they were more than 2' off the ground a variance would be required, in which case the front setback would be 33' if the steps do not require a variance the front setback will be 40'. The proposed plans showed a 10' x 14' rear deck.

The Board discussed if the deck was relocated from the rear of the house to the side of the house the rear setback would be reduced from 25' to 32'. Due to the angle of the home the new rear setback will be 32'. Mr. Zegarelli agreed to put the deck on the side of the home and would like to increase the size of the deck to 16' x 16' with stairs to grade. Discussion followed how much room would be required for the stairs as well as locating the stairs facing the front of the home. There are existing sheds in the front of the property which Mr. Zegarelli agreed to take down.

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

Joe DePaul made a motion to enter the business session, duly 2nd; approved 5-0.

In the business session the Board discussed the front setback would be 33' if the precast stairs exceeded 2' in height, if the stairs did not require a variance, then the front setback would be 40'. The Board also discussed the applicant's willingness to move the deck to the side of the home to reduce the amount of nonconformity. Further discussion included this is a small nonconforming lot which would require a variance for any type of improvement as well as the existing sheds on the property.

John Day made a motion to grant the variance not subject to the plans submitted, but rather as revised and discussed by moving the 10' x 14' rear deck to the north side of the home and the deck will be no larger than 16' x 16' including stairs to grade with a revised rear setback to 32' and a front setback to 33' for the purpose of constructing precast steps stipulating if the precast steps do not require a variance, then the front setback will be 40', there will be no overhangs or awnings over the stairs, and the existing sheds on the property will be moved to a conforming site or will be taken down subject to the plans revised and discussed at tonight's meeting. The hardship is the irregular size and shape of the lot, duly 2nd, approved 5-0.

Application # 09-07: Town of New Fairfield, 31 and 33 Route 37, for variances to zoning regulations for the purpose of constructing municipal buildings.

Maureen Walker made a motion to bring Application # 09-07 to the floor, duly 2nd, approved 5-0.

John Hodge, Ron Oliveri, Bob Rawlings and Kathy Hull approached the Board. Mr. Hodge explained he had a correct survey which showed the front setback of 3.9'. The 3.9' front setback is no closer to the front than the existing buildings. Mr. Hodge stated zoning regulation 2.19.9 Flood Prevention was incorrect because the distance from the middle of the streambed is 65' and not the 46' which Maria Haussherr-Hughes believed it was. Mr. Hodge stated the confusion could have come from the building will be 46' from the wetlands. John Hodge submitted for the record "New Fairfield Senior Center Space Needs dated 11/30/2005. Some of the Board members were concerned with parking and Mr. Hodge stated there are currently 75 parking spaces planned and the plans are to add an additional 35 to 40 parking spaces. Mr. Hodge noted that part of the existing building is 45'8" from the front and the plans will move it further back to 51'3", thus decreasing nonconformity. The Board discussed that although there is an increase in square footage outside the building envelope, they are not closer to the boundaries than the existing buildings. There is almost 9 acres, for the two lots. There was further discussion if the historic homes would require a variance. John Day stated the historic houses were not in front of them and if they required a variance, it would be up to Maria

Haussherr-Hughes to advise them of that. Issues have not been raised for a use variance as well. The Board discussed if the driveway would be wide enough for EMS vehicles to pass. Mr. Hodge did not have the specific width of the driveway, but stated it would be wide enough for the coach buses to get through and he has received a letter dated 3/15/2007 from Mike Gill which required a water tank at the front of the property, near the road. In addition there will be 3 entrances/exits on the property. Mr. Hodge also stated that Maria Haussherr-Hughes did not discuss any other issues with him except for the front setback and the flood prevention, and the latter turned out not to be an issue.

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

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

In the business session the Board discussed the irregular shape and extensive wetlands on the property. Although both buildings are expanding they are not coming any closer to the front setback than the existing building. The request for a variance to zoning regulations 2.19.9, flood prevention has been removed from the application.

John Day made a motion to grant a front setback to 3.9' noting the motion does not include the flood prevention subject to the plans submitted. The hardship is the irregular shape and substantial wetlands on the property. Duly 2nd, approved 5-0.

Bob Jano made a motion to adjourn the meeting at 8:35pm.