

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

**MINUTES  
May 17, 2007**

The New Fairfield Zoning Board of Appeals held a regular public hearing followed by a business session at 7:00pm on Thursday, May 17, 2007, in the New Fairfield Free Public Library. Secretary, Laurie Busse, took the minutes.

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

ZBA members absent: John Day, Chairman

Town Officials in attendance: John Hodge, Phil Ross, Joe Castagnola, Phil Camarano, Alicia Roy

Vice Chairman, Croix Sather called the meeting to order at 7:08pm, introduced the Board members and explained the meeting process and voting procedures.

Secretary, Laurie Busse read the proposed agenda for the meeting. Joe DePaul made a motion to adopt the Agenda duly 2<sup>nd</sup> approved 5-0.

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

**Continued Application # 11-07:** Virginia Garvey, 24 Knolls Road, for variances to zoning regulations for the purpose of constructing an addition with garage.

Bob Jano made a motion to bring Continued Application # 11-07 to the floor, duly 2nd, approved 5-0.

Virginia Garvey and her architect Charles Reppenhagen approached the Board. They recapped on last month's meeting noting they would look for ways to reduce nonconformity. The setback requests have been modified as follows:

- The requested rear setback will remain at 44.2'
- The requested front setback will change from 7.9' to 11'
- The requested side setback will change from 9.8' to 12' 6"

The Board commented although they reduced nonconformity; there is still a very large increase in nonconformity. The Board also noted that it does not matter if the Knolls Association owns the property to the rear or if it is a private homeowner, the rules are the same. The garage can be located in another area. The Board discussed several options for relocating the garage. Mr. Reppenhagen noted the garage should have easy access to the road and would not be aesthetically pleasing in the middle of the property. The Board noted that aesthetics are not a hardship. Croix Sather explained how to move forward with the application. The applicants requested a 5-minute break to discuss their options.

Croix Sather made a motion to take a 5-minute break, duly 2nd, approved 5-0.

Back from the break the applicant stated if they cannot have a garage in the location they desired, then they will withdraw the application. The appropriate form was signed and completed.

**Continued Application # 16-07:** Robert A. and Randall S. Smalley, 38 Lake Drive South for variances to zoning regulations for the purpose of raising and changing the roofline, constructing a screened in deck and a rear deck.

Bob Jano made a motion to bring Continued Application # 16-07 to the floor, duly 2nd, approved 5-0.

Attorney Ward Mazzucco and architect Peter Coffin approached the Board. They recapped on last month noting there was confusion regarding the way the plans were drawn and Attorney Mazzucco was not able to answer the Board's questions. Mr. Coffin is the architect who will be able to answer those questions. This is a small nonconforming lot of 4/10<sup>th</sup> of an acre and is the result of combining 2 lots together. The boundary is the 440 Contour line, although aesthetically it appears the seawall is the boundary line. This property is a trapezoid shape and has a steep slope. The elevation starts at 490 drops down to 460 on the side and drops down further to 450 in the rear. The roofline will change to a gabled roof and will not increase the square footage of the home although the height of the home will increase from 23' 8" to 27' 8". The existing side setback is 6' 4" and they are requesting a new side setback of 6' even. The existing rear setback is 31' 6" and they are requesting a new rear setback of 26' 9". The patio in the rear has existing pillars on it and the applicants discussed how these pillars most likely were supports to a deck or other structure. The existing deck is not safe as it is nailed into a roof and is a narrow 8'. The applicants propose to push the deck out as far as the stone pillars and will use the stone pillars as the support for the extended deck. The porch will be screened in and will not have heat or insulation and will be open underneath. The Board discussed the pillars looked newer than the rest of the home and that structures are never grandfathered. The applicants noted there are 2 sets of pillars on the patio and they are going out as far as the closest set of pillars. The Board compared this application to the previous application noting the previous application had a significant yard and a level lot to use.

Croix Sather asked for any further public comment—none heard.

John Apple made a motion to move to the business session, duly 2nd, approved 5-0.

In the business session the Board discussed they are neither thrilled nor offended by the application. Due to the steep slope of the property, the increase in height will not have an adverse impact on the neighbors. The 4 inch increase of nonconformity on the side is insignificant to them and although there is almost a 5 foot increase of nonconformity in the rear, there is a steep slope and 2 lots have been combined to help reduce nonconformity. The odd shape of the lot was also discussed.

Croix Sather made a motion to grant a variance with a side setback to 6' and a rear setback to 26' 9" the hardship is the significant severe slope, the size of the lot and the location of the home subject to the plans submitted stipulating the porch is screened in and remains unheated and uninsulated and the area underneath the porch remains open, duly 2nd, approved 5-0.

Bob Jano made a motion to approve the Minutes to the April 19, 2007 Minutes, duly 2nd, approved 4-0-1. Croix Sather abstained from the vote.

**Application # 17-07:** Jeffrey and Lillian Brown, 1 Bay Drive for variance to zoning regulations for the purpose of constructing an in ground pool.

Bob Jano made a motion to bring Application # 17-07 to the floor, duly 2nd, approved 5-0.

Jeffrey Brown and Tom NeJame of NeJame Pools approached the Board and explained their plans to build an 18' x 50' in ground pool. The home is on a corner lot and therefore is considered to have 2 fronts and 2 rears with a significant slope. CL&P owns the land to the rear of the property. Due to the severe slope when there is a heavy rain storm a swale appears in Mr. Brown's yard. In addition, Mr. Brown has medical conditions which would warrant a pool. The Board discussed health issues are not relevant hardships; a variance goes with the home forever and therefore the hardship must arise from the land. The Board also discussed the home is conforming and adding the pool will make the property nonconforming and looked for other possible locations for the pool as well as reducing the size of the pool. Mr. NeJame said this is the only size pool safe enough for a diving board and relocating the pool would either cause it be too close to the CL&P substation, would interfere with the swale, the slope, or it would be in the side or front yards. There was discussion on what constitutes a rear yard and is only the property directly behind the walls of the home considered the rear yard and the rest considered front and side yards? The applicants will have to confer with Maria Haussherr-Hughes, ZEO on what constitutes a legal rear yard.

Croix Sather made a motion to continue the application to the June 21, 2007 meeting, duly 2nd, approved 5-0.

**Application # 18-07:** Timothy and Juli Aylesworth 147 Short Woods Road, for variances to zoning regulations for the purpose of constructing a shed in the front yard.

Maureen Walker, made a motion to bring Application # 18-07 to the floor, duly 2nd, approved 5-0.

Mr. & Mrs. Aylesworth approached the Board and explained the severe slope and rock on their property. They would like to construct a 10' x 12' shed in the front of the home off to the side as this is the only level spot on the property. The shed will be more than 20' from the side setback. Currently they do not have a shed and the shed will be used to store a lawn mower, gardening tools, snow blower etc. They will surround the shed with nice trees so it will not be as conspicuous. Croix Sather reviewed the zoning regulations on accessory buildings. The applicants submitted pictures of the rock and ledge and they have an Inland/Wetlands Permit. Some of the Board members felt that sheds are not a necessity.

Croix Sather asked for any 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 this is a unique property with an unusual amount of ledge and although they would prefer the shed to be in the backyard, it is evident from the pictures submitted it would be virtually impossible to put one in the backyard and looking at lawn equipment would be more of an eye sore than looking at a shed.

Croix Sather made a motion to grant the variance for a 10' x 12' shed to be constructed in the front yard subject to the plans submitted, the hardship is the severe slope and ledge behind the home, duly 2nd, approved 4-0-1. Joe DePaul abstained from the vote.

**Application # 19-07:** Maplewood Development LLC 15 Peralta Street, for variances to zoning regulations for the purpose of constructing a single family home.

John Apple made a motion to bring Application # 19-07 to the floor, duly 2nd, approved 5-0.

Joe Reilly and Tom Bigland of Reilly Construction approached the Board. They did not have the required letter from Rich Jackson, Town Sanitarian or a copy of their closing papers showing they purchased the property from Maplewood Development. They will have to continue to the June meeting before the Board can vote on their application. They are requesting a 24' front setback and a 24' rear setback. The applicants have combined lots 13 and 14 to help reduce nonconformity. The home will be a 50' x 30' raised ranch with a 2 car garage. The Board discussed flipping the house sideways to help reduce the amount of nonconformity on the sides of the property. The home will still require a variance however; the potential of getting the home on the property with less of variance exists. The home is on a corner lot with one of the roads being a paper road. The Board discussed a road is a road regardless if it is on paper or not. A paper road can be developed into a regular road at any point in time. The applicants stated keeping the house in the proposed location would be in line with the other houses in the neighborhood and would not interfere with the septic system.

Croix Sather made a motion to continue to next month's meeting so the applicants can bring in the required information and think about turning the home sideways, duly 2nd, approved 5-0.

Croix Sather made a motion to take a short break duly 2nd, approved 5-0.

**Application # 20-07:** New Fairfield Board of Education, 54 Gillotti Road, for variances to zoning regulations for the purpose of changing the existing electrically lighted information sign to a digital display sign.

Croix Sather made a motion to bring Application # 20-07 to the floor, duly 2nd, approved 5-0.

John Hodge, 1<sup>st</sup> Selectman, Phil Ross, Director of Buildings & Grounds, Joe Castagnola, Superintendent of Schools, Phil Camarano, Town Treasurer, and Alicia Roy, Principal of New Fairfield High School approached the Board. Phil Ross explained the Board of Education received a variance # 14-03 in May of 2003 to put up a 4' x 8' message board that lights up at night. The applicants propose to replace the existing sign with a digitally lighted sign. This will allow them to put more information on the sign and would take less manpower to do so. Currently, someone must go to the sign manually take the

plexiglass out and manually put in or take down each letter of every word. The digital sign can be remotely accessed. The size and location of the sign will not change and it will be within the framework of the existing fixture that is up right now. Basically the existing center piece which is the 4' x 8' lighted section will be replaced with a 4' x 8' digitally controlled lighted sign. The posts, the dimension, the height, the width everything stays exactly the same. The New Fairfield Lion's Club has offered to pay for the sign so the Town will not bear the cost. The Board discussed this is a fire safety issue, a security issue, and they are not changing the existing footprint of the sign, while other Board members discussed their positions on the sign stating the hardship given is not a hardship arising from the land.

Croix Sather asked for any 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 nothing is changing except the lighted display and this is a fire and safety issue, while other Board members felt there was no need to change the sign.

Croix Sather made a motion to grant the variance for a digital display sign subject to the plans submitted stating the hardship is the safety and welfare of the community, duly 2nd, approved 5-0.

Croix Sather asked if there was any other business before the Board—none heard.  
Maureen Walker made a motion to adjourn at 9:20pm duly 2nd, approved 5-0.