

New Fairfield Zoning Board of Appeals New Fairfield, Connecticut

MINUTES April 21, 2022

The New Fairfield Zoning Board of Appeals (ZBA) held a public hearing followed by a business session at 7:00 p.m. on Thursday, April 21, 2022, **via Zoom Web Conference (Meeting ID: 946 5705 5994)**. Secretary Joanne Brown took the Minutes.

ZBA Members in attendance: Joe DePaul, Chairman; John Apple, Vice Chairman; Christine Garabo; Ann Brown and Alternate Bob Jano

ZBA Members not in attendance: John McCartney and Alternates Peter Hearty and Christopher Wegrzyn

Town Officials in attendance: Evan White, ZEO

Chairman Joe DePaul called the Meeting to order at 7:00 p.m. Assistant Network Broadcast Coordinator, Quintin Flower, from the Town of New Fairfield, gave an overview of how the Zoom Web Conference would proceed. Joe DePaul introduced the Board Members and explained the meeting process and voting and appeal procedures. Secretary Joanne Brown read the agenda. John Apple made a motion to adopt the agenda, duly 2nd, approved 5-0. At the March ZBA meeting, Joe DePaul stated that the town's zoning regulations were not properly updated on the town's website. Even though there have been changes to the regulations, the town is unaware of the new regulations that have been passed. This has made it difficult for the town residents and members of the ZBA to understand and follow the regulations since they can't be read. Mr. DePaul stated that he found this unacceptable and that the situation needed to be corrected. After the meeting there was some feedback that the ZEO was not doing his job properly and that he was responsible for updating the website. Mr. DePaul stated that it was not the job of the ZEO to update the website with the changes to the zoning regulations and quoted the state statute which explains that the zoning secretary is responsible for supplying copies of the zoning regulations to the public. Mr. DePaul apologized for the misunderstanding and acknowledged that Evan White has done a great job as ZEO and is an asset to the town.

Continued Application # 02-22: Roscoe, 3 Woods Road, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 25.2', 3.2.6B Side Setbacks to 11.5' and 2', 3.2.6C Rear Setback to 15', 3.2.7, 3.2.8, 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of demolishing and rebuilding an existing house on same footprint with a 3' increase in height and deck addition. Zoning District: R-44; Map: 45; Block: 1; Lot: 13.

Caren Carpenter returned to the board. The board previously requested that the applicant produce one set of plans showing existing and proposed setbacks. It was determined that the previous 10'x20' deck had a rear setback to 15'. The proposed 10'x7' deck is smaller due to the new septic design with a side setback to 2' from a previously granted variance in May 2020. A brief discussion on setbacks ensued. It was determined that a 25.2' front setback, 15' rear setback, 11.9' (North) and 5' (South) side setbacks were required. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. The board noted that the proposal did not increase nonconformity. Joe DePaul made a motion to grant a front setback to 25.2', a rear setback to 15', side setbacks to 11.9' and 5' to allow reconstruction of a house per the plans as submitted; the hardship being the narrow shape of the lot, duly 2nd, approved 5-0. Variance granted.

While in the Business Session, Bob Jano made a motion to accept the minutes as presented, duly 2nd, approved 4-0-1, John Apple abstaining.

Continued Application # 07-22: Gjelaj, 56 Inglenook Road B, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 26'9', 3.2.6C Rear Setback to 34.8', 3.2.8, 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing an addition. Zoning District: R-44; Map: 41; Block: 1; Lot: 23.

John Danise, Agent, returned to the board with a revised proposal removing the garage addition while continuing with the rear addition and front bump out. Setbacks were clarified. The new requested front setback is 31.2' with a rear setback to 34.8'. No side setbacks are needed, Joe DePaul noted that the modified proposal slightly increased nonconformity. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Joe DePaul made a motion to grant a front setback to 31.2', a rear setback to 34.8' to construct an addition per the modified plans as submitted with the removal of the garage addition; the hardship being how the structure is situated on the lot, duly 2nd, approved 5-0. Variance granted.

Continued Application # 08-22: Cyganowski, 11 Lakeshore North, for variances to Zoning Regulations 3.1.10 Mechanical Equipment for the purpose of installing a generator and propane tanks in the side yard. Zoning District: R-44; Map: 40; Block: 6; Lot: 8.

No one was present for the application. Bob Jano made a motion to move Continued Application # 08-22 to the end of the agenda, duly 2nd, approved 5-0.

Continued Application # 12-22: Nezaj, 14 Bogus Hill Road, for variances to Zoning Regulations 3.0.4C,E&F Minor Accessory Structures, 3.2.5A&B, 3.2.6B Side Setback to 2.5' (fireplace) and 9.8' (shed), 3.2.6C Rear Setback to 39' (fireplace) to construct a 10'x10' shed and legalize an existing fireplace. Zoning District: R-44; Map: 10; Block: 21; Lot: 2.

Albera Nezaj returned to the board with a support letter as requested at last month's meeting from neighbor Adam Wilkins, 12 Bogus Hill, noting that he had no objections to the fireplace setback. ZEO Evan White read the letter into the record. The board had no issues since the support letter was obtained. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Joe DePaul made a motion to grant a side setback to 2.5' and rear setback to 39' to allow construction of a fireplace per the plans as submitted; the hardship being the narrow shape of the lot; duly 2nd, approved 5-0. Variance granted.

Application # 13-22: Lipka and Sherman, 29 Ball Pond Road East, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 19.9', 3.2.6B Side Setbacks to 9.4' and 4.1', 3.2.6C Rear Setback to 20.5', 3.2.8, 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of renovating an existing terrace into a three-season room in same footprint. Zoning District: R-44; Map: 22; Block: 5; Lot: 13.

Applicant Leslie Lipka gave a brief overview of the small seasonal cottage with a 6'x12' terrace and finished basement which suffered rain and snow damage resulting in the deterioration of the terrace floor and basement ceiling. The applicant would like to construct a 3-season room to shield the space from the elements. The 791 sq. ft. house was built in the 1920s with renovations after a fire in the 1970s. A brief discussion on setbacks ensued. Bob Jano questioned where the residents parked. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Joe DePaul made a motion to grant a front setback to 19.9', a rear setback to 20.5', side setbacks to 9.4' (North) and 4.1' (South) to allow construction of a 3-season room per the plans as submitted; the hardship being the small size of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 14-22: Lewick, 5 Candlewood Knolls Road, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 29.2', 3.2.6B Side Setback to 10.9', 3.2.6C Rear Setback to 3.6', 3.2.8, 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a vertical expansion. Zoning District: R-44; Map: 40; Block: 1; Lot: 27.

Agent Joe Coelho presented the applicant's proposal for a vertical expansion with a 6.5' increase in height. Mr. Coelho noted that project did not impact any of the neighbor's views. The height of the existing house measured 17' from grade to ridge with a proposed increase to 24.8'. Joe DePaul produced photos from the neighbor's house. A lengthy discussion ensued over the angles and impact on neighbor's view. Joe Coelho agreed to contact the neighbors and get letters of support. Bob Jano questioned what the hardship was. Joe Coelho noted that the house is preexisting nonconforming with a very narrow lot. Christine Garabo stated that they were not going outside of the footprint and as long as the neighbors were okay, she did not have an issue with the application. Ann Brown agreed. Joe DePaul asked the public for comment. None given. The applicant agreed to continue the application until next month to obtain support letters. Christine Garabo made a motion to continue Application # 14-22 until next month, duly 2nd, approved 5-0. Application continued.

Application # 15-22: Marsh, 44 Possum Drive, for variances to Zoning Regulations 3.0.4A,E&F Minor Accessory Buildings and Structures for the purpose of constructing a 12'x20' shed. Zoning District: R-44; Map: 24, Block: 1, Lot: 99.

Keith Marsh presented his proposal to construct a 12'x20' shed. Mr. Marsh noted that no setbacks were need, just the variance for the size of the shed since it exceeds 200 sq. ft. Mr. Marsh explained that no equipment can be brought onto the property since there are buried PVC pipes which limit his ability to construct a shed. The applicant, if approved, would remove the existing shed on the property. Joe DePaul noted that he had an issue with big sheds that exceed the regulations. The proposed placement would not be visible from the street and not block any neighbor's view. John Apple asked if the applicant would consider a 10'x20' shed. The applicant noted that due to supply chain issues and need for additional space, that size would not work. A lengthy discussion ensued about the height of the shed, windows, and removal of the existing shed. Christine Garabo noted that the removal of the existing shed should be a contingency of the variance. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Joe DePaul stated his dislike for big sheds but wanted to hear the board's thoughts. The board's consensus was that the removal of the existing shed would be an improvement. Joe DePaul made a motion to grant a variance to allow construction of a 12'x20' shed per the plans as submitted, contingent upon the removal of the existing shed; the hardship being the size and shape of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 16-22: Banks, 8 Timber Springs Road, for variances to Zoning Regulations 3.0.4C,D,E&F Minor Accessory Buildings and Structures, 3.0.6B Swimming Pools, 3.1.6B Side Setback to 25' (pool), Side Setback to 15' (pool house), 7.1.1.1A&B and 7.2.3A,B&E for the purpose of constructing a pool, pool house and gazebo. Zoning District: R-88; Map: 27; Block: 2, Lot: 14.

Board member, Christine Garabo, recused herself from this application. Brad Banks presented his proposal to construct a 20'x40' inground swimming pool, pool house and pergola. An updated survey was sent to the ZEO on the afternoon of the meeting and the board did not receive an updated survey prior to the meeting. Evan White shared the survey. The pool requires a 25' side setback due to the required 25' distance from the septic system. A lengthy discussion ensued over the size of the septic and size and shape of the pool. The board suggested that the application be continued for the applicant to get a support letter from the neighbor and give the board time to look at the survey. Joe DePaul requested that the applicant also obtain a letter from the Sanitorium, Tim Simpkins, confirming the distance from the septic. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Bob Jano noted that it was a big pool and noted there is no hardship for a pool. Ann Brown made a motion to continue Application # 16-22, duly 2nd, approved 4-0. Application continued.

Application # 17-22: Davis, 29 Deer Run, for variances to Zoning Regulations 3.2.5A&B, 3.2.6B Side Setback to 19.7', 3.2.6C Rear Setback to 22.3', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of extending an existing deck. Zoning District: R-44; Map: 15; Block: 1; Lot: 126.

Mark Davis presented his proposal to square off an existing deck on the rear of the house requiring a 21.9' rear setback which is different from what was advertised. Joe DePaul noted that the application must be continued to correctly advertise the setback. A brief discussion over the steps on grade and walkways ensued. Joe DePaul asked the public for comment. None given. Joe DePaul noted that the increase in nonconformity was de minimis. Christine Garabo made a motion to continue Application # 17-22 to correctly advertise the setbacks, duly 2nd, approved 5-0. Application continued.

Application # 18-22: Imhoff, 73 Lake Drive North, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 15.8', 3.2.6B Side Setbacks to 9.3' and 4.3', 3.2.7, 3.2.8, 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of rebuilding an existing single-family house. Zoning District: R-44; Map: 15; Block: 1; Lot: 53.

Stacey Keaney, Keaney & Co., presented the proposal to tear down and rebuild a house on the same footprint as the existing dwellings. The proposed house would be constructed on the entire footprint, including two small areas that are open space. The applicant will be removing a 600 sq. ft. cabin. The new construction would contain a basement, first and second floors with a gabled roof with an increase in heights of 11' and 14' from the existing roof height. Joe DePaul noted that there are at least three houses with view issues and stated that all the neighbors need to be contacted and given a chance to object if their views are impacted. Joe DePaul noted that the ZBA Secretary will send letters to 60, 62, 64 and 77 Lake Drive North. A lengthy discussion ensued over existing and proposed livable square footage. It was determined that the square footage would be increased from existing 1968 sq. ft. to 4250 sq. ft., The size of the basement may change depending on what conditions they find after excavation. Joe DePaul noted that was a massive increase in square footage. It was determined that the applicant used the property line instead of the 440 line for the rear setback. The applicant will revise the setbacks to advertise them correctly for the next meeting and agreed to show the existing footprint and proposed footprint on the same survey in different colors. John Apple made a motion to continue Application # 18-22, duly 2nd, approved 5-0. Application continued.

Application # 19-22: Marrero, 11 Southview Road, for variances to Zoning Regulations 3.0.6A&B Swimming Pools, 3.2.5A, 3.2.6A Front Setback to 26.9', 3.2.8, 3.2.11, 7.1.1.2 and 7.2.3A&B for the purpose of installing a 21' diameter above-ground pool and expanding an existing deck. Zoning District: R-44; Map: 10; Block: 2; Lot: 18 & 19.

Risha Marrero presented her proposal to install an above-ground pool on her property. The lot is a corner lot with two fronts. Joe DePaul stated that a pool in the front of a house is against the Zoning Regulations. Ms. Marrero explained that due to the slope of the lot and position of the septic, there was no other flat area to place the pool. Bob Jano noted the steep slope and his concern for possible flooding and unsafe conditions should the pool break. Joe DePaul again restated that the board does not grant variances for pools in the front yard especially when they also increase nonconformity. Ms. Marrero stated that she was very disheartened. Joe DePaul asked the public for comment. Eileen Fitzpatrick, 13 Windmill Road, shared her concerns about the runoff and the possible damage to her property. Philip Naryniecki, President of the Knollcrest Real Estate Corporation, stated that if the pool broke, the water would wipe out the community's water system as the pump house is located at the bottom of the hill which serves 97 homes and is already fragile after the microburst and heavy rains. The board entered into the Business Session. Joe DePaul made a motion to grant a variance to allow installation of a 21' above-ground pool and expansion of a deck per the plans as submitted; the hardship being that the property contains two fronts and the slope of the lot, July 2nd, denied 0-5. Variance denied.

Application # 20-22: Kreuter, 10 Merlin Avenue, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 33.9', 3.2.6B Side Setback to 14.1', 3.2.6C Rear Setback to 38.7' 3.2.7, 3.2.8, 3.2.11, 7.1.1.2 and 7.2.3A,B&E to construct a single-family house. Zoning District: R-44; Map: 34; Block: 4; Lot: 21 & 22.1.

Patricia Kreuter presented the proposal to build a 1,016 sq. ft. house on a concrete slab. The lot has approved well and septic. The lot contains wetlands, and the position was based on approval from the Wetlands Commission. The applicant gathered letters of support from adjoining neighbors, including Richard and Sarah Denike at 12 Merlin Road. Christine Garabo commented that the house could not go any place else. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Joe DePaul made a motion to grant a front setback to 33.9', a rear setback to 38.7' and a side setback to 14.1' to allow construction of a new single-family house per the plans as submitted; the hardship being the slope of the lot and wetlands, July 2nd, approved 5-0.

Continued Application # 08-22: Cyganowski, 11 Lakeshore North, for variances to Zoning Regulations 3.1.10 Mechanical Equipment for the purpose of installing a generator and propane tanks in the side yard. Zoning District: R-44; Map: 40; Block: 6; Lot: 8.

No one was present for the application. Ann Brown made a motion to continue this application to the next meeting, July 2nd, approved 5-0.

Bob Jano made a motion to adjourn the meeting at 10:14 p.m., July 2nd, approved 5-0.