

## **New Fairfield Zoning Board of Appeals New Fairfield, Connecticut**

### **MINUTES May 19, 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, May 19, 2022, **via Zoom Web Conference (Meeting ID: 995 0922 1573)**. Secretary Joanne Brown took the Minutes.

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

ZBA Members not in attendance: Alternate Peter Hearty

Town Officials in attendance: Evan White, ZEO

Chairman Joe DePaul called the Meeting to order at 7:00 p.m. Network Administrator, Paul Gouveia, 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 2<sup>nd</sup>, approved 5-0.

**Continued 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.

As requested by the board at last month's meeting, Joe Coelho returned to the board with letters of support from neighbors at 14 Candlewood Knolls Road (O'Brien) and 3 Candlewood Knolls Roads (Valentin). Evan White read the letters into the public record. Joe DePaul noted that there was no increase in 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 29.2', side setback to 10.9' and a rear setback to 3.6' to allow construction of a vertical expansion per the plans as submitted; the hardship being the small size and shape of the lot, duly 2<sup>nd</sup>, approved 5-0. Variance granted.

While in the Business Session, Christine Garabo made a motion to accept the Minutes as presented, duly 2<sup>nd</sup>, approved 4-0-1, John McCartney abstaining.

**Continued 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.

Continued Application # 16-22 has been withdrawn by the applicant.

**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 21.9', 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 returned to the board. Application # 17-22 was continued to correctly advertise the rear setback from the 440 line. The board saw no issue with the application to square off the rear deck. 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 19.7' and a rear setback to 21.9' to allow construction to square off a deck per the plans as submitted, noting no increase in nonconformity; the hardship being the shape of the lot, duly 2<sup>nd</sup>, approved 5-0. Variance granted.

**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', 3.2.6C Rear Setback to 11', 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, Agent for the Imhoffs, returned to the board with an amended rear setback to 11' from the 440 line and letters of support from their neighbors at 64, 77 and 71 Lake Drive North. Joe DePaul asked for comment from the public. Jean Schofield Cosgrove, 60 Lake Drive North, strongly opposes the tear down and rebuild of 73 Lake Drive North due to the consequential loss of view from the increase in roof height and massive increase in structure. Ms. Cosgrove provided several pictures from her property including her bedroom window on the side of the house. Ms. Cosgrove stated that she did not want to lose her view or lose value to her property due to the loss of lake view. Owner Mike Imhoff also presented photos from the front porch of 60 Lake Drive North and noted the expansive lake view even with the proposed construction. John McCartney asked the Administrator to pull up the GIS from the town website to see a satellite view of the properties and how they sit on the lake. John Apple clarified that the board does allow vertical expansions on Candlewood Isle. Joe DePaul stated that every property owner does have the right to expand their house when it does not impact other people's views. Joe DePaul noted that this application was unacceptable in scope, covering the lot with a massive house and stated that tear downs are supposed to be more conforming to the zoning regulations instead of less conforming. John McCartney stated that he did not believe the applicant was increasing

nonconformity as they were staying in the same footprint and were removing a portion of a smaller area. Mr. McCartney noted that most Candlewood Isle homes were built as summer homes in the 1930s and now getting larger to accommodate year-round residents. Stacey Keaney noted that the 650 square foot cottage is being removed. Joe DePaul noted that a vertical expansion is an increase in nonconformity and the impervious coverage on the lot was increased. John Apple noted that previous applications were revised to keep the current roof height by excavating and using flat roofs that would not affect the neighbor's views. Christine Garabo questioned the height of the basement ceiling which was not addressed. The board was confused over the existing configuration of the property and asked for two surveys: one existing and one proposed with color coding of proposed and existing structures. Bob Jano noted that there is no hardship on this application. Joe DePaul asked the public for comment. None given. Christine Garabo made a motion to continue Application # 18-22 to next month for the applicant to produce color coded surveys as requested by the board, duly 2<sup>nd</sup>, approved 5-0. Application continued.

**Application # 21-22:** Astoria Enterprises, 7 Astoria Drive, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 22', 3.2.6C Rear Setback to 31', 3.2.11, 7.1.1.1A&B, 7.2.3A,B&E for the purpose of constructing a new single-family four-bedroom house. Zoning District: R-44; Map: 32; Block: 8; Lot: 3&4.

Applicant Dale Halas presented his proposal to construct a single-family home on a preexisting nonconforming vacant lot. A brief discussion over setbacks ensued. It was determined that a front setback to 23.1' and a rear setback to 31.8' was required. A variance was granted on the property in 2007 for a 2100 square foot 3-bedroom ranch per the plans as submitted. A new variance is needed since the owner would like to change the building plans. Joe DePaul asked the public for comment. None given. The board did not see any issues with the application. The board entered into the Business Session. Joe DePaul made a motion to grant a front setback to 23.1', a side setback to 25.8' and a rear setback to 31.8' to allow construction of a single-family house per the plans as submitted; the hardship being the narrow shape of the lot, duly 2<sup>nd</sup>, approved 5-0.

**Application # 22-22:** Staszak, 1 Shad Blow Road, for variances to Zoning Regulations 3.2.5A, 3.2.6B Side Setback to 12', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a vertical expansion and adding a screen-covered porch on to an existing rear deck. Zoning District: R-44; Map: 6; Block: 3; Lot: 9.2.

Caren Carpenter presented the proposal to construct a vertical expansion on the existing footprint and raise the roof 8' noting the hardship of a nonconforming lot too close to the side setbacks. The current side setback is 12.6' and 12' is needed to accommodate a change in direction of the roof with overhang. The proposal would not block any neighbor's views. Joe DePaul noted that there is a hoop house garage on the property. The owner stated that the hoop house is his neighbors, and he would ask them to remove it. Christine Garabo noted that she wished the survey was more

legible. 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 12' to allow for construction of a vertical expansion per the plans as submitted; the hardship being the slope of the lot, duly 2<sup>nd</sup>, approved 5-0. Variance granted.

**Application # 23-22:** Lynch, 2 Crestway, for variances to Zoning Regulations 3.2.5A, 3.2.6A Front Setback to 35.5', 3.2.6B Side Setback to 16.1', 3.2.6C Rear Setback to 22', 3.2.11, 7.1.1.2 and 7.2.3A,B& E for the purpose of enlarging the front porch and steps, building a 3-season room on part of an existing deck and raising the roof over part of the house to build a roof deck. Zoning District: R-44; Map: 10; Block: 2, Lot: 45.

Caren Carpenter presented the proposal to add a ½ story to an existing 1 ½ story house, adding 4.4' in height to raise the roof to 24.11' and enclose an existing deck into a 3-season room with a roof deck. When discussing setbacks, it was discovered that there was an error with the front setback requested and the application would need to be continued and readvertised with a front setback to 28.6', side setback to 16.1' and rear setback to 22.9'. John McCartney made a motion to continue Application # 23-22 until next month to correctly advertise the setbacks, duly 2<sup>nd</sup>, approved 5-0. Application continued.

**Application # 24-22:** Winter & Polos, 3 Twin Ponds Court, for variances to Zoning Regulations 3.0.6A&B Swimming Pools for the purpose of constructing a 20'x40' in-ground swimming pool. Zoning District: R-88; Map: 13; Block: 3; Lot: 20.2.

Michaella Winters presented their proposal to construct an inground swimming pool on their property. Joe DePaul noted that he visited the property, and the pool would not be visible from Warwick Road. The property is situated on the lot so the front yard faces Warwick. John McCartney noted that he agreed and had no issue with the application. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Joe DePaul made a motion to grant a variance to allow construction of an inground pool per the plans as submitted, noting that the hardship is that the property front of the is situated on Warwick Road, duly 2<sup>nd</sup>, approved 5-0. Variance granted.

**Application # 25-22:** Shade, 117 State Route 39, for variances to Zoning Regulations 3.0.4A,C,E&F Minor Accessory Structures, 3.0.6A&B Swimming Pools, 3.1.5A&B, 3.1.6A Front Setback to 10' (shed) and 20" (pool), 3.1.6B Side Setback to 10' (pool), 3.1.11, 7.1.1.1A&B and 7.2.3A&B for the purpose of constructing a shed and installing an above-ground pool. Zoning District: R-88; Map: 19; Block: 1; Lot: 26.

Justin Shade appeared in front of the board with two variance requests; a 12'x24' shed and an above-ground pool. Joe DePaul suggested that the application be bifurcated, and each request dealt with separately. The applicant has a shared driveway with three other neighbors. Joe DePaul noted that he does not like to approve sheds in the front yard. A lengthy discussion ensued over the placement of the shed and alternatives.

Joe DePaul noted that the shed could be placed within the fenced area. The owner stated that due to septic placement, rock ledge and sloping, there were no other feasible areas to place the shed. Ann Brown noted that there appeared to be other places to put the shed behind the rear plane of the house. Joe DePaul noted that the owner did have alternatives and the board was not supposed to take issues like cost into account. The placement of the pool was discussed. It was noted that the applicant was creating his own hardship by constructing a pool. The setbacks for a R-88 lot are a rear setback to 60' and a side setback to 35'. An above-ground pool must be placed at least 10' from the septic. The board suggested that the applicant continue the application to revisit alternative locations for the shed to be placed behind the rear plane of the house and pool to fit best within the setbacks. Joe DePaul asked the public for comment. None given. John McCartney made a motion to continue Application # 25-22 until next month, July 2<sup>nd</sup>, approved 5-0. Application continued.

**Application # 26-22:** Magoon, 19 Southview Road, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 22.8', 3.2.6B Side Setback to 15.2', 3.2.7, 3.2.11, 7.1.1.2, 7.2.3A,B&E to construct an attached two-car garage addition, entry stairs and second floor addition to an existing house. Zoning District: R-44; Map: 10; Block: 3; Lot: 19&20.

Daniel Lamb, Architect, presented the proposal for a garage addition with a vertical expansion over an existing house and stairway requiring a 22.8' front setback and 15.2' side setback with no increase in nonconformity. Joe DePaul asked the public for comment. None given. The board did not have an issue with the application. The board entered into the Business Session. Joe DePaul made a motion to grant a front setback to 22.8' and a side setback to 15.2' to allow construction of a garage and vertical expansion per the plans as submitted; the hardship being the small size of the lot, July 2<sup>nd</sup>, approved 5-0. Variance granted.

**Application # 27-22:** DeBellis, 45 Rita Drive, for variances to Zoning Regulations 3.0.6A&B, 3.1.5A&B, 3.1.6B Side Setback to 32', 3.1.11, 7.1.1.1A&B and 7.2.3A&B for the purpose of installing an above-ground pool. Zoning District: R-88; Map: 23; Block: 16; Lot: 42.

Owner Scott DeBellis presented the proposal to install an above-ground pool on his property. Joe DePaul noted that he had a conversation with Sanitorium Tim Simpkins over the placement of the pool. The applicant stated that they are now requesting a side setback to 33' to keep the pool in line with the house and not increase nonconformity. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Joe DePaul noted that there is no increase in nonconformity. Joe DePaul made a motion to grant a variance to allow installation of an above-ground pool per the revised plans as submitted noting no increase in structural nonconformity; the hardship being the narrowness of the lot, July 2<sup>nd</sup>, approved 5-0. Variance granted.

**Application # 28-22:** Dernavich, 85 Lake Drive North, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 13.7', 3.2.6B Side Setbacks to 4.2' and 15.1', 3.2.6C Rear Setback to 24.3', 3.2.7, 3.2.8, 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of increasing the roof ridge by 4', adding three 8' dormers and two 4' dormers and deck addition. Zoning District: R-44; Map: 15; Block: 1; Lot: 62.

Erich Diller, Evolve Design, presented the proposal to increase the roof ridge by 4' to create two office spaces to the attic of an existing house. The property is preexisting nonconforming with a significant slope. The vertical expansion would add dormers and increase the roof pitch to increase the headroom in the attic from 4' to 9'. The chimney height would need to be increased. There are no view issues as the house is situated low on the lot. 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 13.7', side setbacks to 4.2' and 15.1' and a rear setback to 24.3' to allow construction of dormers and a deck addition per the plans as submitted; the hardship being the small size of the lot, duly 2<sup>nd</sup>, approved 5-0.

John McCartney made a motion to adjourn the meeting at 9:53 p.m., duly 2<sup>nd</sup>, approved 5-0.