

New Fairfield Zoning Board of Appeals New Fairfield, Connecticut

MINUTES July 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, July 21, 2022, **via Zoom Web Conference (Meeting ID: 993 543 02330)**. Secretary Joanne Brown took the Minutes.

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

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

Town Officials in attendance: None

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. The Chairman introduced the Board Members and explained the meeting process and voting and appeal procedures. Secretary Joanne Brown read the agenda. John McCartney made a motion to adopt the agenda, duly 2nd, approved 5-0.

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, Keaney & Co., returned to the board with a revised site plan showing reduced side setbacks of the structure to 12' and 12.2', reducing coverage by 408 sq. ft as recommended by the board last month. Side setbacks for the deck stairs are 9.3; and 4.3'. It was noted that the right stairs could be tucked into the side only requiring a 7.7' setback instead of 4.3' which the applicant was agreeable to. The current roof height is 14.4' with a proposed 13.2' increase. A brief discussion of the setbacks ensued. Joe DePaul asked the public for comment. Ward Mazzucco representing the Schofield Family, 60 Lake Drive North, discussed the lot and noted that it was comparable to those around it without any distinguishable characteristics that would represent a relevant hardship and prevent reasonable use. Mr. Mazzucco noted that the property is assessed over \$1 million dollars and worth around \$1.7 million which did not render the property unusable. He presented CT State Law 7.2.3 and noted that a variance could not be self-created or increase nonconformity. Mr. Mazzucco noted that the proposal would more than double the square footage of the house. John McCartney

noted that Mr. Mazzucco did not represent the board and was hired by the neighbors and that the board was not bound to follow his advice but appreciated his opinion and insight. Stacey Keaney noted that the square footage was closer to 3300 sq ft. and might be less if they run into ledge during construction. Ms. Keaney also noted that the lot is unique in that the applicant owns 40' beyond the 440 line. John McCartney asked the Chairman if the board was allowed to consider the value of the property. Mr. DePaul noted that he believed that it was construction costs that the board could not take into consideration. Joe DePaul noted that the board allowed vertical expansions before, and the applicant decreased nonconformity by reducing the setbacks and turning two structures into one. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Joe DePaul noted that the board allowed vertical expansions in the past and the board does not make decisions in fear of potential lawsuits. John McCartney stated that the applicant reduced the requested height from their first proposal. John Apple concurred that the board had allowed vertical expansion and this application is decreasing nonconformity by shrinking the footprint. Christine Garabo noted that the applicant did reduce the setbacks. Ann Brown appreciated the side setback reduction but noted that this was a large house. Ms. Brown also agreed that the board should not change their vote in fear of a lawsuit. Joe DePaul made a motion to grant a front setback to 15.8', side setbacks to 9.3' and 7.7' and a rear setback to 11' to allow construction of a house per the revised plans as submitted; the hardship being the narrow size and shape of the lot, duly 2nd, approved 5-0. Variance granted.

While in the Business Session, Christine Garabo made a motion to accept the Minutes as presented, duly 2nd, approved 5-0.

Application # 33-22: Glick and Gilbert, 5 Windmill Road, for variances to Zoning Regulations 3.2.5A, 3.2.6A Front Setback to 24', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of raising a roof 5'6" and constructing a roof deck. Zoning District: R-44; Map: 10; Block: 3 Lot: 5.

Agent Caren Carpenter gave a brief overview of the lot and current 1 ½ story house. The applicant would like to raise the roof 5.6' requiring a 24' front setback and staying in the current footprint. The proposal would not block any neighbors' views. The enclosed front porch would be made into a roof deck which would not increase 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 24' to allow a vertical expansion per the plans as submitted, noting no increase in dimensional nonconformity; the hardship being the size and shape of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 34-22: Romaine, 15 Southview Road, for variances to Zoning Regulations 3.2.5A, 3.2.6C Rear Setback to 42', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a rear deck. Zoning District: R-44; Map: 10; Block: 3; Lot: 15.2.

James Romaine and Rob Sherman presented their proposal to construct a 15'x30' rear deck. The lot has a significant slope noting the main level in the front and an additional level in the rear with a walk-out basement. The deck would be even with the main floor with access through the living room. A brief discussion ensued. Joe DePaul noted that he did not care for the proposed roof over the deck because it would be more obtrusive and more of a structure. The board suggested that the applicant reduce the size of the deck to 12'x30' and remove the roof. John Apple suggested an automatic retractable awning. No views would be impacted. The applicant agreed to amend the proposal to a 12'x30' deck without a roof. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Joe DePaul made a motion to grant a rear setback to 45' to allow construction of a 12'x30' deck with no roof per the revised plans as submitted; the hardship being the size and shape of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 35-22: LoGiudice, 54 Lake Drive North, for variances to Zoning Regulations 3.0.10 Mechanical Equipment for the purpose of installing an air conditioning/heat pump condensing unit. Zoning District: R-44; Map: 15; Block: 1; Lot: 83&84.

Ryan Murphy of Murphy Heating and Cooling LLC gave a brief overview of the air conditioning heat pump condensing unit placement, noting that there was only one viable location 8.2' from the property line. The unit was not wall mounted due to issues with vibration but was placed on a concrete pad. A brief discussion ensued about the unit, BTUs, cost and operation. Joe DePaul noted that he was initially concerned about the noise but noted that the unit was silent and did not need screening. 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 8.2' to legalize the current placement of the air conditioning heat pump condensing unit; the hardship being no other suitable location for it, duly 2nd, approved 5-0. Variance granted.

Application # 36-22: Bass, 19 Lakeshore South, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 31.30', 3.2.6B Side Setbacks to 7.80' and 9.40', 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 constructing a vertical expansion. Zoning District: R-44; Map: 45; Block: 1; Lot: 25.

Architect, Peter Helms, representing Patricia Bass presented the proposal for a vertical expansion. Mr. Helms gave a brief overview of the property which has been in the family since 1960. The current house is existing nonconforming. The proposal would add 810 sq. ft. to a second floor but not increase setbacks. The impervious lot coverage would be lessened from 48% to 40% by removing the asphalt and some concrete walkways on the property and using impervious paving. Mr. Helms produced drone photos of the property and noted that the neighbor's views would not be impacted due to the layout of the Knolls. Joe DePaul commented that the immediate neighbor's views were not impacted but views would be impacted from the streets on the hill, namely Overlook and Keplers Way. Mr. DePaul also stated that there are 74 houses on those hills and 14

water-front homes. He expressed a concern that if all those 14 houses vertically expanded, it would cause loss of views for the houses above and this eventuality should be considered. Mr. Helms noted that the current square footage is 2,755 sq. ft. with proposed to 3,565 sq. ft. and existing height 17.3' to proposed 27'. Mr. Helms produced support letters from the following neighbors: John Grogan, 17 Lakeshore South, John and Nancy Hyland, 20 Lakeshore South and Joan Ritter, 21 Lakeshore South. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. John McCartney stated that he was very familiar with the Knolls and most of the houses are offset from each other so the views are between houses and noted his support for the proposal stating that it would be a nice addition to the area. John Apple stated that he did not take into consideration the views from the upper streets. Christine Garabo questioned which houses could be impacted from the hills. It was determined that the application should be continued until next month to notify the following addresses: 9, 10 and 12 Overlook Road and 5 and 9 Keplers Way. The applicant agreed to a continuance. John McCartney made a motion to continue Application # 36-22 until next month to notify the addresses in question, duly 2nd, approved 5-0. Application continued.

Application # 37-22: Flynn, 8 Smoke Hill Drive, for variances to Zoning Regulations 3.0.6A&B Swimming Pools, 3.2.5A, 3.2.5C Rear Setback to 25', 3.2.11, 7.1.1.1A&B and 7.2.3A&B for the purpose of installing an inground pool. Zoning District: R-44; Map: 23; Block: 16; Lot: 42.

David Flynn, applicant, stated that he was to be joined with Tom Nejame but he was unable to make it. Mr. Flynn is requesting a variance to install an inground swimming pool requiring a 25' rear setback; the hardship being the location of the well and septic. Joe DePaul noted that there is no hardship for a pool and that the applicant is asking for a great deal. John Apple stated that the house to the rear seemed very close to the property. Joe DePaul questioned the septic pipe running through the area. Mr. Flynn stated that T.Palmer septic could reroute the line. Mr. Flynn asked if a support letter from the neighbor would help. Mr. DePaul noted that it wouldn't alleviate the 25' setback. Christine Garabo questioned if the pool could be orientated differently and moved closer the house. Ann Brown asked what the dimensions of the pool were. Mr. Flynn stated 18' wide and 30' long. The brief discussion ensued about moving the pool closer to the house inside the buildable area. The board suggested that the applicant continue the application to explore creative options within the setback. Joe DePaul asked the public for comment. None given. John McCartney made a motion to continue Application # 38-22 until next month, duly 2nd, approved 5-0. Application continued.

Application # 38-22: Horn & Foreht, 1 Satterlee Road, for variances to Zoning Regulations 2.1 Definitions, 3.0.4A-F Minor Accessory Buildings and Structures, 3.2.5A, 3.2.11, 7.1.1.2, 7.2.3A,B&E for the purpose of constructing a 10'x20' shed. Zoning District: R-44; Map: 17; Block: 3, Lot: 34.

Builder Chris Bilbao came in front of the board with the proposal to construct a shed instead of the previously approved garage on the property. Joe DePaul noted that the board was liberal with their dispensations of garages, but sheds were viewed differently. Mr. Bilbao stated that the owner had no storage and would like to make changes to the previously approved variance. The board stated that the already approved garage could be used for storage and that they were not in favor of this proposal. It was discovered that there was no authorization letter on file for Mr. Bilbao to represent the owner and that the application must be continued until next month. John McCartney made a motion to continue Application # 38-22, duly 2nd, approved 5-0.

Ann Brown made a motion to adjourn the meeting at 9:12 p.m., duly 2nd, approved 5-0.