

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

### **MINUTES September 15, 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, September 15, 2022, **via Zoom Web Conference (Meeting ID: 988 8497 9442)**. 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: Alternate Peter Hearty

Town Officials in attendance: None

Chairman Joe DePaul called the Meeting to order at 7:00 p.m. Assistant Broadcast Coordinator, Benjamin Levine, 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 2<sup>nd</sup>, approved 5-0.

**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.

Applicant David Flynn returned to the board and gave a brief overview of the proposal. Mr. Flynn presented a letter of support from his rear adjoining neighbors, John and Kathy O'Farrell, 19 East Lake Road, and a revised survey changing the angle of the pool to increase the rear setback of the pool from the previously proposed 25' to 33'. Mr. Flynn noted the difficulty keeping the 25' setback from both the septic tank and leeching fields. Mr. Flynn stated that he believed that the 33' setback was in line with other applications that have been approved by the ZBA. Joe DePaul noted that each application is different and that there is no precedent. Joe DePaul asked the public for comment. None given. Christine Garabo questioned the distance between the pool and patio. Mr. Flynn stated that it was 5'. The board entered into the Business Session. Christine Garabo noted that the applicant had only one option to place the pool to keep it within the 25' setback from the septic and tank and that there was no other place to go. John Apple stated that the lot was ½ acre and a 33' setback would be feasible before it was up zoned. John McCartney agreed with Christine and saw no problem with the application. A lengthy discussion ensued over whether the hardship was

considered an exceptional difficulty or a self-created hardship. Joe DePaul stated that he had a different interpretation. Joe DePaul made a motion to grant a rear setback to 33' to allow construction of an inground pool per the plans as submitted; the hardship being the Zoning Regulations and the size and shape of the lot, duly 2<sup>nd</sup>, approved 5-0. Variance granted.

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

**Continued Application # 39-22:** Holzmaier, 45 Knollcrest Road, for variances to Zoning Regulations 3.0.4A-F Minor Accessory Buildings and Structures for the purpose of installing a 11'x14' shed with a Side and Rear Setback to 0'. Zoning District: R-44; Map: 10; Block: 3; Lot: 86.2.

Richard and Yvette Holzmaier returned to the board. An A2 survey was presented. It was noted that the requested survey was not received and posted online from the ZEO in the required 24 hours before the meeting so the application could not be voted on and had to be continued until next month. The survey noted a 25' easement to allow access to a community water well. The board noted that when there is an easement on the property, the setback is from the easement line. The applicant proposes to place the shed within the easement. A brief discussion ensued. Ann Brown noted if trees and shrubs were not allowed to be planted, a structure would not be allowed either. Joe DePaul noted that he would get further clarification from Evan White or the Town Attorney. The board suggested a 5' setback from the easement line. The applicant agreed to continue the application to get clarification on the easement and explore other placement options. John McCartney made a motion to continue Application # 39-22, duly 2<sup>nd</sup>, approved 5-0. Application continued.

**Application # 40-22:** Thomas, 10 Bantam Road, for variances to Zoning Regulations 3.2.5A, 3.2.6A Front Setback to 17', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a bedroom, bathroom and laundry room addition. Zoning District: R-44, Map: 35; Block: 7; Lot: 6.

Pam Vanderheyden presented the proposal to construct an addition to 10 Bantam Road. Joe DePaul noted that the area is in a private community with close houses and one lane roads. The addition would be placed to the left of the house. The lot contains two fronts. The ZBA secretary noted that she did not have an authorization letter on file. Ms. Vanderheyden read the letter into the record and promised to email one to the ZBA. The application would require a front setback to 17' and go no higher than the original house. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. The board saw no issues with the application. Joe DePaul made a motion to grant a front setback to 17' to allow construction of an addition; the hardship being the size and shape of the lot, duly 2<sup>nd</sup>, approved 5-0. Variance granted.

**Application # 41-22:** Sheerin, 16 Knolls Road, for variances to Zoning Regulations 3.2.5A&B, 3.2.6B Side Setbacks to 12.5' and 12.6', 3.2.6C Rear Setback to 25.6', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of legalizing an existing rear screened-in porch which was built over an existing stone patio. Zoning District: R-44; Map: 40; Block: 4; Lot: 39

Joe Coelho, JC Contracting, presented the proposal to legalize an existing rear screened-in porch which was built over an existing concrete and flagstone patio without permits. Mr. Coelho read an authorization letter into the record and promised to email it to the ZBA. Joe DePaul noted that the rear setback should be 50' and the applicant is asking for 25'. Christine Garabo questioned how high the roof was. Mr. Coelho stated about 13.2' from the patio to the roof. The existing patio was 13'x22'. Joe DePaul advised the board to regard the application as if the structure was not built and is being proposed. Christine Garabo stated that the structure was too big and would have liked to see a decrease in size. Bob Jano noted his concern over impervious coverage. Mr. Coelho stated that the screened-in porch was within the footprint of the existing patio. Mr. Coelho stated that Tim Simpkins from the Health Department dug test holes and required a B100 to allow room for a future septic. John McCartney noted that since the patio was existing, there was no change in impervious coverage. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Bob Jano noted that the lot was too small and was built without permits. Christine Garabo noted that she would ask for a smaller area with a lower roof line. Ann Brown agreed with Christine. John Apple noted that he would like to see it torn down. John McCartney noted that the Knolls is small, and the addition is too large for the property. Joe DePaul made a motion to grant a variance to legalize an existing screened-in porch; the hardship being the size and shape of the lot, duly 2<sup>nd</sup>, denied 0-5. Variance Denied.

John Apple made a motion to adjourn the meeting at 8:29 p.m., duly 2<sup>nd</sup>, approved 5-0.