

New Fairfield Zoning Board of Appeals New Fairfield, Connecticut

MINUTES October 20, 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, October 20, 2022, **via Zoom Web Conference (Meeting ID: [967 4168 2897](#))**. 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: Evan White

Chairman Joe DePaul called the Meeting to order at 7:00 p.m. Assistant Broadcast Coordinator, Quintin Flower, 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 # 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 noting a continuation since their survey was not posted to the website 24 hours prior to the meeting. The applicants are requesting that a 10'x14' shed be placed in an easement. Evan White had consulted with town attorney Neil Marcus on the easement. Mr. Marcus sent in a letter dated September 22, 2022, which stated:

“Paragraph 2 of the Agreement precludes the current property owner from planting trees or shrubs within the 25' right-of-way which would obstruct the entrance by vehicles if required. Essentially, it appears that the property owner can plant whatever he or she wants in the 25' right-of-way provided that vehicular access is not precluded. The survey shows that there are some plants and shrubs located along the easterly line of the easement, but they appear to allow approximately 15' of passage. The easement does not preclude the construction of any buildings or sheds within the easement, but it would be prudent to place those structures in a

position on the easement which would still allow vehicular access to the well. The construction of a shed in the easement would not appear to create any zoning violation as long as it is properly located with respect to side and rear yard setbacks.”

Joe DePaul noted that he did not think it was a good idea to put any structure in an easement. The applicant stated that there was plenty of room to access the well from all sides. Christine Garabo noted that the letter stated there already plants and shrubs in the easement which allowed for 15’ of passage, less than the requested 25’, and it would be prudent to keep it. Ann Brown stated in her experience as a Professional Engineer, she would not recommend constructing a shed in an easement as it would block access and defeat the purpose of an easement. Joe DePaul read the easement into the record. Richard Holzmaier stated that the well only contains the pump and three baffles which would be easily accessible by a vehicle. John McCartney questioned what size shed was proposed. Mr. Holzmaier stated 10’x14’. John McCartney asked the applicant if they would consider flipping the shed so it would lie outside the easement. A lengthy discussion ensued, and the applicants stated that placing the shed on the other side of the easement would block the view from two rooms of the house. Richard Holzmaier noted that he consulted his own attorney who did not see an issue with placing the shed in the easement. Bob Jano noted the large size of the vehicles that may need to access the easement. John Apple stated his objection that nothing should be placed in an easement. Joe DePaul asked the public for comment. None given. Yvette Holzmaier stated that she did not know how else to convey to the board that there was plenty of room for vehicles to access the easement from all directions and that she felt it would be unfair if they were not granted a variance when other unpermitted sheds were all through the Knolls. Richard Holzmaier stated that two attorneys did not have an issue with the shed in the easement.

The board entered into the Business Session. Joe DePaul stated that the easement asked for 25’ and it was reduced to 15’ with existing planting. Christine Garabo noted that John McCartney had asked them if they would be willing to move it out of the easement and stated that the shed did not appear to be to scale. Ann Brown stated that it would be bad practice to place anything in an easement. John Apple disagreed with the town attorney’s interpretation of the easement. Joe DePaul made a motion to grant a variance to allow placement of shed inside an easement per the plans as submitted, the hardship being the placement of water lines on the property and the size and shape of the lot, duly 2nd, 0-5 denied. Variance denied.

While in the Business Session, Christine Garabo made a motion to approve the minutes from the Special Meeting on August 31st, duly 2nd, approved 5-0. Ann Brown made a motion to approve the minutes from the September 15th meeting, duly 2nd, approved 5-0.

Application # 42-22: Sypher, 33 Ridge Road, for variances to Zoning Regulations 3.2.5A&B, 3.2.6B Side Setback to 8.5', 3.2.7, 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: 15, Block: 4; Lot: 13.

Kevin and Lynn Sypher presented their proposal to construct an addition. The applicants were willing to amend their proposal to maintain the existing 10.8' setback which would schew the rear end wall diagonally. Joe DePaul asked the board if they thought the 2' increase in nonconformity was diminimus and if it would be better just to keep it rectangular. John McCartney agreed that there was a minimal change in nonconformity. Ann Brown noted that she preferred a squared-off wall. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. The board agreed that the construction would look better as originally proposed. Joe DePaul made a motion to grant a side setback to 8.5' to allow construction of an addition per the plans as submitted; the hardship being the irregular size and shape of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 43-22: Kuck, 12 Brush Hill Road, for variances to Zoning Regulations 3.0.4A-G Minor Accessory Buildings and Structures, 3.1.5A, 3.1.6A Front Setback to 11', 3.1.11, 7.1.1.1A&B and 7.2.3A,B&E for the purpose of constructing a vertical expansion, garage, deck and shed addition. Zoning District: R-88; Map: 24; Block: 18; Lot: 1.

Eric Kuck presented his proposal to construct a 3-car garage addition and to raise a dormer. The property contains two fronts. The proposal would not increase nonconformity. Bob Jano questioned if the garage would be used for commercial use. The applicant stated that it would not be used commercially. A brief discussion ensued over setbacks. 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 11' to allow construction of an addition per the plans as submitted; the hardship being the size and shape of the lot, noting no increase in nonconformity, duly 2nd, approved 5-0. Variance granted.

Application # 44-22: O'Connell, 12 Oswego Road, for variances to Zoning Regulations 3.2.5A&B, 3.2.6B Side Setback to 9.2', 3.2.11, 7.1.1.2, 7.2.2A&B and 7.2.3A&B for the purpose of legally splitting 12 Oswego into two lots. Zoning District: R-44; Map: 32; Block: 6; Lot: 65.

John O'Connell, applicant, gave a brief overview of the 3 parcels (2 lots) on Oswego Road and requested a lot line revision to separate two houses. The houses were built in the 1940s and 50s legally and met the building code at that time. The applicant is requesting a variance to correct the 4.1' side setback. Evan White noted that there would be a major decrease in nonconformity by having one single family dwelling on one lot. Each house has its own septic. Joe DePaul questioned if the red truck on the

property was registered and stated that the truck would have to be removed from the property as a contingency of granting the variance. Joe DePaul noted that this is a unique situation. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. The board noted that the proposal would remove the 4.1' side setback and massively lower nonconformity. Joe DePaul made a motion to grant a side setback to 9.2' to allow reconfiguration of a lot line, changing three parcels into 2 lots per the plans as submitted; the hardship being the small size and shape of the lots, contingent upon the removal of the red truck from the property, duly 2nd, approved 5-0. Variance granted.

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