

New Fairfield Zoning Board of Appeals New Fairfield, Connecticut

MINUTES April 20, 2023

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 20, 2023, **via Zoom Web Conference (Meeting ID: 927 9544 5268)**. 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, Erik Muhlenberg, 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 # 02-23B: Noren, 85 Lake Drive South, for variances to Zoning Regulations 3.2.5A,B&C, 3.2.6A, 3.2.6B Side Setback to 10.7', 3.2.6C Rear Setback to 0', 3.2.7, 3.2.8, 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose installing a permanent roof and screened porch on an existing patio. Zoning District: R-44; Map: 25; Block: 1; Lot: 22.

No one was present for the application. Christine Garabo made a motion to move the application to the end of the agenda, duly 2nd, approved 5-0.

Continued Application # 04-23: Trepiccione (Castro), 67 State Route 37, for variances to Zoning Regulations 3.0.6B Swimming Pools, 3.1.5A, 3.1.6B Side Setback to 24', 3.1.6C Rear Setback to 27', 3.1.1.1, 7.1.1.1A&B and 7.23A&B for the purpose of installing an inground pool. Zoning District: R-88; Map: 18; Block: 3; Lot: 62A.

Wendy Trepiccione Castro returned to the board with a revised proposal rotating the pool to eliminate the need for a side setback. The rear setback was decreased from the previous proposal from 27' to 30'. John McCartney noted the applicant's improved proposal. John Apple stated that he was not at the previous meeting and was trying to get up to speed on the proposal but thought the pool was too close to the rear property line. Ann Brown questioned if the fence on the plan was existing or proposed. Ms.

Trepiccione Castro stated that it is the existing fence on the plan which would be replaced by a 6' solid fence and pushed back further to allow more space by the pool. The gate by the driveway will be removed and there will be no access from the driveway. Joe DePaul asked if the shed would be moved to a more appropriate space. The applicant agreed to move the shed to a more conforming location. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. The board agreed that the applicant did a good job in removing the side setback. Joe DePaul stated that a 30' rear setback was still was a massive increase in nonconformity, especially with the driveway next to it. Christine Garabo agreed that it was a large increase in nonconformity and stated that it was unfortunate that the applicant could not use another area. John McCartney noted that the applicant did an excellent job meeting the side setback and tried to get as far away from the rear setback as they could. Mr. McCartney stated that this application showed an exceptional difficulty since there were no other areas to place the pool. Ann Brown stated that 30' was a lot to ask for since the rear setback is 60' and was glad the applicant eliminated the side setback. Joe DePaul made a motion to grant a rear setback to 30' to allow construction of an inground pool per the revised plans as submitted, noting the stipulation that the shed must be moved to a conforming area; the hardship being the size and slope of the lot, duly 2nd, denied 1-0-4. Variance denied.

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

Continued Appeal # 05-23: Kramer, 20 Cloverleaf Drive. Appeal of Notice of Violation from the Zoning Enforcement Officer of Zoning Regulations 3.1.1F Uses Permitted as of Right, 1.5.2I Prohibited Uses, 1.5.3E Specific Uses Prohibited in All Districts, 1.5.14 Unregistered Motor Vehicles, 3.0.8 Gazebos, 8.5.1 Zoning Permit Requirements, 3.0 General Provisions (Residential Zones), Possible Notice of Violation (PNOV) - 3.1.3 Accessory Uses, PNOV - 3.1.2K Accessory Apartments. Zoning District: R-88; Map: 13; Block: 4; Lot: 23.10.

Joe DePaul noted that the ZEO, Evan White, was not available for the meeting and that Appeal #05-23 would be continued to next month. Christine Garabo made a motion to continue Appeal # 05-23, duly 2nd, approved 5-0. Appeal continued.

Application # 06-23: Mega Tron Builders LLC, 8 Hewlett Road, for variances to Zoning Regulations 3.2.5A, 3.2.6A Front Setback to 22', 3.2.11, 7.1.1.2, and 7.2.3A,B&E for the purpose of constructing a new single family house. Zoning District: R-44; Map: 38; Block: 2; Lot: 7.

Agent Joe Reilly presented the proposal for Mega Tron Builders to construct a single-family house. The property contains wetlands to the rear, allowing for only one area suitable for the septic and house placement. A brief discussion ensued over the distance the house and deck can be built from the wetlands. Mr. Reilly stated a 14'x12' deck would be built across the center portion of the rear of the house. Joe DePaul

asked if the house could be moved back to decrease the front setback to 25'. The applicant stated the house could be moved back 3'. No side setback is needed. Joe DePaul noted that the house size was consistent with the other houses in the neighborhood. Bob Jano questioned if there would be a basement. Mr. Reilly stated that there would not be a basement in the raised ranch. Bob Jano asked if the number of bedrooms could be reduced from 3 to 2. Joe DePaul asked what the proposed square footage would be. Mr. Reilly stated that the square footage would be 1400. A brief discussion ensued over flooding, windows and whether the road was a private road or town maintained. Joe DePaul asked the public for comment. Mark Frey, 4 Hewett Road, commented that the road was a private road, close to New York and near wetlands. Mr. Frey is concerned that Hewlett Road narrows and cannot handle the weight of trucks needed for the construction. Mr. Frey is concerned over the environmental impact the construction would have on the animal population and water management. Joe DePaul noted that the ZBA does not have command over these matters and referred Mr. Frey to the Town Sanitarium, Tim Simpkins at Town Hall. Mr. DePaul explained to Mr. Frey that if the applicant has a legal building lot, the board must approve some variance otherwise the town would have to buy the property. It becomes a "taking" under the law if the town, through its zoning regulations, prevents a property owner from building on his property. The board entered into the Business Session. The board thought it was a fair proposal. Joe DePaul made a motion to grant a front setback to 25' to allow construction of a single-family house per the plans as submitted and modified; the hardship being the wetlands on the property, duly 2nd, approved 5-0. Variance granted.

Application # 07-23: Hurwitz, 9 Candlewood Road, for variances to Zoning Regulations 3.2.5A, 3.2.6A Front Setback to 18.7', 3.2.6.B Side Setback to 0.2', 3.2.6C Rear Setback to 45.1', 3.2.8, 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a screened porch, den, and roof deck addition. Zoning District: R-44; Map: 39; Block: 1; Lot: 31-36.

Stacey Keaney, Keaney & Co., gave an overview of the proposal to construct a den, screened porch and deck addition. The hardship is the steep sloping property. Ms. Keaney stated that the proposal does not increase nonconformity. John McCartney asked where the generator will be moved to. A brief discussion ensued over the placement of the generator and differing regulations for generators. It was noted that the applicant could return to the board at a later date if an additional variance is needed for the relocation of the generator. Ms. Keaney noted that the existing rear setback is 44.2' and proposed setback 45.1' decreasing nonconformity. 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 rear setback to 45.1' to allow construction of an addition per the plans as submitted, noting no increase in structural nonconformity; the hardship being the slope of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 08-23: Hertell, 24 Hilldale Road, for variances to Zoning Regulations 3.2.5A, 3.2.6B Side Setback to 15.7', 3.2.6C Rear Setback to 36.5', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing double decker decks with a staircase. Zoning District: R-44; Map: 44; Block: 4; Lot: 46.

Jan Terban-Hertell presented the proposal to replace an existing deck with a double decker deck with new footings. Joe DePaul noted the steep drop off on the property. The size of the deck will be decreased from 12' to 10' on the bottom deck and 8' on the upper deck. The existing rear setback is 36.5' and the proposed rear setback is 38.5' decreasing nonconformity. The existing side setback to 15.7'. No front setback is needed. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. The board noted there were no issues since the applicant is decreasing nonconformity. Joe DePaul made a motion to grant a rear setback to 38.5' and a side setback to 15.7' to allow construction of a two-story deck per the plans as submitted, noting the decrease in nonconformity; the hardship being the slope of the lot, duly 2nd, approved 5-0. Variance granted.

Continued Application # 02-23B: Noren, 85 Lake Drive South, for variances to Zoning Regulations 3.2.5A,B&C, 3.2.6A, 3.2.6B Side Setback to 10.7', 3.2.6C Rear Setback to 0', 3.2.7, 3.2.8, 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose installing a permanent roof and screened porch on an existing patio. Zoning District: R-44; Map: 25; Block: 1; Lot: 22.

No one was present for the application. John McCartney made a motion to continue Application # 02-23B until next month, duly 2nd, approved 5-0. Application continued.

John Apple made a motion to adjourn at 8:00 p.m., duly 2nd, approved 5-0.