

New Fairfield Zoning Board of Appeals New Fairfield, Connecticut

MINUTES May 18, 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, May 18, 2023, **via Zoom Web Conference (Meeting ID: 955 1972 0558)**. Secretary Joanne Brown took the Minutes.

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

ZBA Members not in attendance: Alternates Bob Jano and Peter Hearty

Town Officials in attendance: Evan White

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.

Dan Scharff, Cheridan Designs, returned to the board. Mr. Scharff gave an overview of the proposal to construct a permanent roof over an existing patio and modified the proposal to maintain the existing garage side setback to 13.6' by sliding the porch forward 7.5' from the 440 line. No front setback is needed, and the modified rear setback went from 0 to 6.5'. John McCartney noted that the applicant did a good job in responding to the board's previous comments. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Joe DePaul noted that the applicant did not increase nonconformity. Ann Brown stated that the proposal looked good. Joe DePaul made a motion to grant a side setback to 13.6' and a rear setback to 6.5' to allow construction of a screened-in porch as per plans submitted and modified, noting no increase in structural nonconformity; the hardship being the 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.

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.

Bruce Kramer withdrew this appeal.

Application #09-23: Aquarion Water Company of CT, 2 & 4 Biggs Avenue, for variances to Zoning Regulations 3.2.5A&B, 3.2.6C Rear Setback to 30', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a new 16'x22' water treatment facility. Zoning District: R-44; Map: 34; Block: 8; Lot: 21 & 18-20.

Don Synder and Stone Foster, Synder Civil Engineering, gave an overview of Aquarion's adjacent existing nonconforming properties at 2 and 4 Biggs Avenue to house their water utility well house. Aquarion proposes to construct a 16'x22' building for a water treatment facility. The structure would be constructed on 2 Biggs Avenue which is a corner lot with two fronts and two sides. A lengthy conversation ensued regarding the lot side, setbacks and placement of the facility. It was determined that the proposed placement of the building does not require a variance since it meets all the setbacks. Aquarion withdrew the application.

Application # 10-23: Bianco, 21 Deer Run, for variances to Zoning Regulations 3.0.1A Residential Districts and Applicable Overlay Districts, 3.0.4A-F Minor Accessory Buildings & Structures. 3.2.5A, 3.2.6A Front Setback to 1.7', 3.2.6C Rear Setback to 0', 3.2.11, 7.1.1.2 and 7.2.3A&B for the purpose of constructing a lift to provide access to Candlewood Lake. Zoning District: R-44; Map: 15; Block: 1; Lot: 116-118.

The applicant withdrew the application.

Application # 11-23: Nova Development LLC, 22 Rocky Hill Road, for variances to Zoning Regulations 3.1.5A, 3.1.6A Front Setback to 38.1', 3.1.11, 7.1.1.1A&B and 7.2.3A,B&E to allow for a garage roof overhang that exceeds the setback by 1.9'. Zoning District: R-88, Map: 10; Block: 19; Lot: 9.

ZEO, Evan White, noted that the applicant would be withdrawing the application but did not receive a written notification to that effect. John McCartney made a motion to move Application # 11-23 to the end of the agenda to allow time for the ZEO to receive an email withdrawing the application, duly 2nd, approved 5-0.

Application # 12-23: Laufer, 25/25A Ball Pond Road East, for variances to Zoning Regulations 3.0.1A Residential Districts and Applicable Overlay Districts, 3.2.1 Uses Permitted As of Right, 3.2.5A, 3.2.6B Side Setback to 10'3", 3.2.6C Rear Setback to 19'2", 3.2.11, 7.1.1.2 and 7.2.3AB&E to allow the merging of parcels 25A and 25 Ball Pond East to demolish and reconstruct a single-family house and garage addition. Zoning District: R-44; Map: 22; Block: 5; Lot: 9.

Attorney Richard Smith gave an overview of the two adjacent properties 25 and 25A Ball Pond Road East owned by the same party who proposes to merge the lots into one lot. The current properties are nonconforming, and the merger would reduce the setbacks. The property contains significant slope, ledge and wetlands. The new construction would allow for parking and a compliant septic system. A side setback to 10.3' and a rear setback to 19.2' are requested. John McCartney questioned the Zoning Regulations on having two structures on one lot. Evan White noted that the applicant is asking to vary both Zoning Regulations 3.0.1A Residential Districts and Applicable Overlay Districts and 3.2.1 Uses Permitted as of Right. Joe DePaul noted that the board has never granted a variance of this nature and stated that the applicant was trying to get around the imperious coverage requirements by merging the lots. Richard Smith stated that with one property, the setbacks will be improved with a code compliant septic which is a win-win for the town. A brief discussion ensued regarding the previous garage variance issued in 1959 with a 5' front setback. Frank Laufer stated that the house on 25A would keep the same building footprint and expand vertically. The septic was approved and installed in 2002. The property has been in the family since 1944 originally with three separate lots all on one deed. Lots B and C were previously combined. Joe DePaul noted that by granting this merger, the variance would take away the need to mitigate storm water management. Evan White noted that the homeowner would still need a storm water management system since the percentage exceeds 23%. John McCartney stated that the construction would improve the look of the neighborhood and clean up the septic system. Joe DePaul asked the public for comment. None given. Ann Brown noted her concern in setting a precedent for allowing two houses on one lot. A lengthy discussion ensued regarding accessory structures and regulations. It was determined that there would be two single-family houses on one lot. John McCartney suggested that the two houses be joined by a portico to create a U-shaped house. The B100 backup septic system for 25A is located on 25 Ball Pond Road East which would require an easement if the lots remained separated. The board discussed their concerns over two independent houses on one lot. Christine Garabo stated that the garage was needed to get the cars off the street. The board entered into the Business Session. Joe DePaul made a motion to grant a front setback to 10.8' and a rear setback to 19.2' to allow merger of the two lots and to demolish and reconstruct a house per the modified plans as submitted; the hardship being the size and shape of the lot, duly 2nd, approved 5-0. Frank Laufer noted that the side setback was actually 10.3'. John Apple made a motion to return to the Business

Session. Joe DePaul made a motion to override the previous motion and grant a side setback to 10.3' and a rear setback to 19.2' to allow the merger of the two lots into one and to demolish and reconstruct a single-family house as per the modified plans as submitted including the previously approved garage; the hardship being the size and shape of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 13-23: Reich, 25 Deer Run, for variances to Zoning Regulations 3.0.1A Residential Districts and Applicable Overlay Districts, 3.2.5A&B, 3.2.6A Front Setback to 1', 3.2.6B Side Setback to 1.6', 3.2.11, 7.1.1.2 and 7.2.3A&B to allow construction of a trolley and carriage to provide access to Candlewood Lake. Zoning District: R-44; Map: 15; Block: 1; Lot: 122 & 123.

Stacey Keaney, Keaney & Co., presented the proposal to install a trolley and carriage requiring a front setback to 1' and a side setback to 1.6'. The property has a significant slope and drop in elevation. Joe DePaul noted that he did not have a problem with the trolley but noted the board's policy of not approving variances when there are zoning regulation violations on the property. There are currently two sheds in the front yard in violation of the zoning regulations. The homeowners noted that they recently purchased the property and were not aware of the regulations. The board asked the homeowners if they would either remove the sheds or move them into compliance as a condition of the variance. Evan White also stated that the landings would have to meet the impervious coverage requirements. A lengthy discussion ensued over how to proceed and whether to continue the application. Joe DePaul asked the public for comment. Attorney Richard Smith, representing neighbors Mark and Susan Holden, expressed their concerns over the trolley which would be visible from their front door. They would like the applicant to provide adequate screening to block their view. The Holdens are also concerned over parking issues during construction, installation of the trolley and drainage and erosion issues. The applicant agreed to provide natural screening to block the neighbor's view of the trolley, use pervious surfaces on the landings and remove the two sheds from the front of the house. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. John McCartney thanked the board, the applicant and Richard Smith for their flexibility in working together for an agreeable compromise. Christine Garabo noted that the trolley was needed since the property was so steep. Joe DePaul noted that it was a safety issue. Joe DePaul made a motion to grant a front setback to 1' and a side setback to 1.6' to allow construction of a trolley and a carriage per the plans as submitted contingent upon the removal of the two non-compliant sheds (at the end of the driveway and by the propane tank), use of pervious surfaces on the upper and lower landings and installation of four 4' arborvitae trees planted 3' apart next to both the top and bottom platforms with natural screening plants 4' high planted along the trolley track to block the neighbor's view; the hardship being the severe slope and safety issues; duly 2nd, approved 5-0. Variance granted.

Application # 11-23: Nova Development LLC, 22 Rocky Hill Road, for variances to Zoning Regulations 3.1.5A, 3.1.6A Front Setback to 38.1', 3.1.11, 7.1.1.1A&B and 7.2.3A,B&E to allow for a garage roof overhang that exceeds the setback by 1.9'.
Zoning District: R-88, Map: 10; Block: 19; Lot: 9.

A withdrawal email was received for Application # 11-23.

John McCartney made a motion to adjourn the meeting at 9:23 p.m., duly 2nd, approved 5-0.