

New Fairfield Zoning Board of Appeals New Fairfield, Connecticut

MINUTES July 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, July 20, 2023, **via Zoom Web Conference (Meeting ID: 950 8544 7629)**. Secretary Joanne Brown took the Minutes.

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

ZBA Members not in attendance: John Apple, Vice Chairman; Christine Garabo and 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, 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. Ann Brown made a motion to adopt the agenda, duly 2nd, approved 4-0.

Continued Application # 16-23: Schaefer, 9 Pettit Street, for variances to Zoning Regulation 3.2.5A, 3.2.6A Front Setbacks to 15.9' and 18.2', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a second floor, kitchen, and wrap-around porch addition. Zoning District: R-44; Map: 31; Block: 4; Lot: 18/19.

Glenn Smith, Project Architect and Engineer, sent in an email requesting a continuance until next month.

Continued Application # 17-23: Hilderbrand, 5 Buck Mountain Court, for variances to Zoning Regulations 3.0.5A,B&C Private Permanent Detached Garage, 3.1.6B Side Setback to 21' and 7.1.1.1A&B for the purpose of constructing a detached garage. Zoning District: R-88; Map: 12; Block: 3; Lot: 1.12.

James Billet, Project Manager, presented the proposal to construct a three-car garage. The property has significant ledge and chose a location with the least disturbance to the area and neighbors. Wetlands is aware of the proposal and does not have any issues. Joe DePaul noted that his biggest issue is that the applicant already has a garage and there is no hardship for a second garage. Mr. DePaul reiterated that the board could not take any personal reason into account; the hardship has to be connected to the

land. The applicant is requesting a 21' side setback. Bob Jano noted that a three-car garage was pretty big for the area. Ann Brown questioned whether the applicant would consider reducing the size to a two-car garage to fit within the setbacks. Jennifer Hilderbrand stated a two-car garage would still need to be pulled too close to the house to be within the setback and would not work with the rock ledge. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Ann Brown stated that there is no hardship since they already have a garage and that a two-car would be smaller and not encroach into the setbacks as much and may not need a variance. Bob Jano noted that given the slope of the property, the garage would not be able to be seen from the street. John McCartney agreed and saw no issue with the proposal. Joe DePaul made a motion to grant a side setback to 21' to allow construction of a three-car garage per the plans as submitted; the hardship being the ledge on the property, duly 2nd, denied 2-2. Variance denied.

While in the Business Session, John McCartney made a motion to accept the Minutes as presented, duly 2nd, approved 4-0.

Application # 20-23: Pedrani (Vivien Francis Trust), 10 Heritage Island Road, for variances to Zoning Regulations 3.0.6A&B Swimming Pools, 3.0.9A,B,C,D&E Pergolas, 3.2.6C Rear Setback to 35', 7.1.1.1A&B and 7.2.3A,B&E for the purpose of installing an inground pool and pergola. Zoning District: R-44; Map: 3; Block: 3; Lot: 20.

Erich Diller, Evolve Design Group, gave a brief overview of the previously approved variance with a 35' rear setback. Mr. Diller explained that the previous owners of the property pursued the variance to show potential buyers that a pool was allowed but never filed the variance. The applicant would like to keep the 35' setback but change the plans for the pool. The prior variance was based off the distance from the 440 line which has changed over the years and moved 3-6' closer to the house. The proposed pool will be moved closer to the house and be smaller in size than what was granted previously which will not increase nonconformity. The applicant would like to construct a pergola that is 20' deep to provide shade which will be attached to the house. The height will be 11', under the 15' height allowance. The house addition, which is not part of the variance request, will create an L-shape that will block the pergola from the neighbors. No variance is needed for the house addition since it lies within the setback. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Joe DePaul noted that it was a terrific proposal with no increase in nonconformity. Bob Jano noted that it was a beautiful setup and had no problems with the application. Joe DePaul made a motion to grant a rear setback to 35' to allow construction of a pool and pergola per the plans as submitted; the hardship being the size and shape of the lot, noting no increase in nonconformity, duly 2nd, approved 4-0. Variance granted.

Application # 21-23: Walsh, 79 Lake Drive North, for variances to Zoning Regulations 3.2.5A, 3.2.6C Rear Setback to 31', 3.2.7, 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: 15; Block: 1; Lot: 56/58.

Erich Diller, Evolve Design Group, representing Tom and Nancy Walsh presented the proposal for a vertical expansion, which will remain in the same footprint. A master bedroom will be added to the existing attic level with two dormers and there will be no increase in ridge height. The front elevation will not change. Joe DePaul noted that the board was concerned over protecting the neighbor's views. Mr. DePaul spoke with the neighbors at 66 Lake Drive North and 70 Lake Drive North. A letter was read into the record from 66 Lake Drive North in support of the proposal. Mr. Diller provided photos of the front of the property and noted that four large evergreen trees would be removed in front of the house. Joe DePaul asked the public for comment. None given. John McCartney questioned how many bedrooms there were and noted that the applicant was adding another bedroom. Mr. Diller explained that one bedroom would become a den and two other small bedrooms would be joined to create one bedroom. The current owners live at the property. Bob Jano noted his concern over the number of bedrooms. Ann Brown saw no issue with the application and thought that removing the trees would enhance the view. The board entered into the Business Session. Joe DePaul noted that it was a great proposal and removing the trees would improve the view. John McCartney and Ann Brown agreed. Joe DePaul made a motion to grant a rear setback to 31' to allow construction of a vertical expansion, per the plans as submitted, noting no increase in nonconformity; the hardship being the size, shape and topography of the lot, duly 2nd, approved 4-0. Variance granted.

Application # 22-23: Donohue, 22 Fleetwood Drive, for variances to Zoning Regulations 3.0.4A,C,D,E&F Minor Accessory Buildings and Structures for the purpose of constructing a 20'x36' shed. Zoning District: R-44; Map: 19; Block: 1; Lot: 1.39.

Tom and Connie Donohue presented their proposal to construct a shed on the property for storage of outdoor furniture and lawn equipment. The applicants currently have multiple smaller sheds on the property. Joe DePaul asked the applicant if they would be open to reducing the size of the proposed shed and removing all the other sheds on the property. The applicant stated that they would be agreeable to a 14'x28'x10' shed and they would remove all the other sheds. John McCartney noted that it would be good to get rid of all the smaller sheds. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Joe DePaul made a motion to grant a variance to allow the construction of a 14'x28'x10' shed placed in the position of the existing rear shed; contingent upon the permanent removal of all the other sheds on the property; the hardship being the size and shape of the lot and noting the decrease in nonconformity, duly 2nd, approved 4-0. Variance granted.

Application # 23-23: Melton (Johnson Family Trust), 60 Saw Mill Road, for variances to Zoning Regulations 4.1.4B,C&D Minimum Building and Structure Setbacks Rear

Setback to 5', Side Setback to 5' for the purpose of expanding a parking lot which abuts residential properties. Zoning District: BC; Map: 19; Block: 12; Lot: 21.1.

Joe Reilly, representing applicant Jennifer Melton, gave an overview of the proposal seeking expansion of the parking lot. Mr. Reilly is the contract purchaser of the property. He explained that the Johnson family is looking to clean up the property, remove the trailers and containers and sell the property to him. Mr. Reilly is not looking to expand the building. The property will be used for storage. Mr. Reilly is seeking additional parking in the rear of the property. The building is situated so vehicles pull into the garage on the southside. The building will be repaired, not torn down, and the roof replaced. Joe DePaul questioned if the sale of this property is contingent upon the variance. Mr. Reilly stated that it is. Joe DePaul noted that he is leery of this situation with the residential properties abutting a commercial property. John McCartney asked about the environmental impact after the fire. Jennifer Melton stated that her water well at 58 Saw Mill Road was the most affected but shows continual improvement and that soil testing from the DEP shows no contamination. Mr. Reilly stated that he plans to use the building for storage, renting out 4 bays with garage doors to landscapers, excavators, etc. A brief discussion ensued about the regulations for parking between commercial and residential properties and whether special permits are required from Zoning. It was noted that Grass Roots currently has a special permit to park outside the building. Ann Brown noted the many sheds on the building. Jennifer Melton stated that they were all to be removed. John McCartney noted that the property is an eyesore and, if the property were to be cleaned up, he was inclined to support it. Joe DePaul agreed and noted that there needs to be restrictions on how it would be used. Joe DePaul suggested that the board take time to visit the property and think about how best to go about this proposal. Bob Jano noted his safety concerns over the driveway access for firetrucks on the neighboring property. Joe DePaul asked the public for comment. Charles Lichtenauer, Chipman Mazzucco Emerson LLC, representing abutting neighbor, Scott March, 3 Escape Drive, presented their limited opposition to the proposal; noting that they have no issue with renovation but are seeking neighborly respect in its future use. The present issues include processing of wood products at all hours, stockpiling wood materials producing bad odors, encroachment of their property and no screening of the property in the rear. Mr. March is requesting that if a variance is granted, certain conditions be contingent upon the variance including, the screening of the property with a double row of green giant trees, 6' high fencing, town approved containers for trash and limited operating hours taking into account the public health and safety and property values of the neighbors. Another abutting neighbor, Mr. Tinos, echoed the sentiments of Mr. March and requested screening and restricted use. Joe DePaul noted these concerns and suggested that the abutting neighbors send a list of requests to Evan White, ZEO, so the board can figure out how best to move forward. Joe DePaul asked if there was any further public comment. None given. The board suggested that the applicant continue the application to next month. Mr. Reilly agreed.

John McCartney asked the board to also look at the GIS map to clearly see the property lines. John McCartney made a motion to continue Application # 23-23 to next month, July 2nd, approved 4-0. Application continued.

Application # 24-23: Banker, 23 Crestway, for variances to Zoning Regulations 3.2.5A, 3.2.6C Rear Setback to 47', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a wood landing and stairs to dwelling. Zoning District: R-44; Map: 10; Block: 3; Lot: 49 & 50.

Samantha Banker presented her proposal seeking a staircase and safe egress from her newly constructed house requiring a 47' rear setback. Ms. Banker explained that during the construction and permit process, the setback was originally 50' and they did not want to delay the construction any further. The lot is small and narrow with most of the living space on the second floor. They are seeking a safe rear egress with a small staircase. Joe DePaul asked the public for comment. None given. The board saw no issue with the application since there was a safety issue. The board entered into the Business Session. Joe DePaul made a motion to grant a rear setback to 47' to allow construction of a staircase as per the plans as submitted; the hardship being the narrow size and slope of the lot, July 2nd, approved 4-0. Variance granted.

Application # 25-23: Maturro, 5 Pondfield Road, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 25.5', 3.2.11, 7.1.1.2 and 7.2.3A&B for the purpose of constructing a 6'x4' portico over the existing entry. Zoning District: R-44; Map: 23; Block: 5; Lot: 7.

Joseph Maturro presented his proposal seeking a 6'x4' portico over the front entrance to his house for relief from snow and ice. The property is preexisting nonconforming with an existing 30' setback. The applicant is requesting a front setback to 25.5'. The board saw no issues with this application. 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 25.5' to allow construction of a 6'x4' portico per the plans as submitted; the hardship being the narrow shape of the lot, July 2nd, approved 4-0. Variance granted.

Application # 26-23: Crawford, 20 Lake Drive South, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 1.3566', 3.2.11, 3.2.7, 3.2.8, 7.1.1.2 and 7.2.3A,B&E for the purpose of relocating an existing 5'x21' catwalk 9' to center of the house and bump out gable roof above existing doorway. Zoning District: R-44; Map: 20; Block: 1; Lot: 68.

Caren Carpenter, representing the Crawford family, presented the proposal seeking a front setback to 1.3' to relocate an existing catwalk 9' to the center of the house and to bump out the gable roof above the existing doorway to create a covered area. The existing catwalk has a front setback to 2.5' with a slate walk in front. A brief discussion ensued. The applicant agreed to keep the existing front setback to 2.5' and the portico

would not protrude more than 29" from the roof gutter. The board saw no issues with the proposal. 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 2.5' to allow the relocation of a catwalk, and construction of a portico and an addition; per the revised plans as submitted, the portico not to exceed 29" from the roof gutter, the hardship being the severe slope and narrowness of the lot, duly 2nd, approved 4-0. Variance granted.

Application # 27-23: Magoon, 19 Southview Road, for variances to Zoning Regulations 3.0.9A,B,C,D&E Pergolas, 3.2.5A&B, 3.2.6A Front Setback to 22.8', 3.2.6B Side Setback to 15.2', 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: 10; Block: 3; Lot: 19&20.

Michael Carpanzano, Agent, gave a brief overview of the previously approved variance noting that the owner was unable to pursue it. The applicant is seeking a one-story addition instead of the granted two-story addition and to eliminate the garage in favor of habitable living space. Nonconformity is reduced by eliminating the second floor and the applicant will extend the driveway an additional 30' to get the cars off the road. Joe DePaul noted that the previously approved variance contained a garage and that the board most likely voted in favor to get the cars off the road. Mr. DePaul also noted that the applicant was not looking to exceed what they were given in the prior variance, just a change of plans to eliminate the garage and second floor, reducing 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 22.8' and a side setback to 15.2' to allow construction of an addition per the revised plans as submitted, noting the one-story expansion eliminating the garage; the hardship being the location of the house on the lot and the size and shape of the lot, duly 2nd, approved 4-0. Variance granted.

Application # 28-23: Langham, 26 Shortwoods Road, for variances to Zoning Regulations 3.0.5A,B&C Private Permanent Detached Garage, 3.1.5A, 3.1.6B Side Setback to 10', 7.1.1.1A&B and 7.2.3A,B&E for the purpose of constructing a 31'x32' detached garage. Zoning District: R-88; Map: 19; Block: 1; Lot: 51&52.

Ralph Langham presented his proposal to construct a 31'x32' garage on his property. The property is preexisting nonconforming. Mr. Langham is a stone mason and licensed general contractor and seeks storage for various equipment to clean up his property. Mr. Langham noted that he was granted a special permit in 1989 to run a business from his residential property (Volume 239, P. 639). Joe DePaul noted his issue is that the applicant already has a two-car garage, and the new garage violates the setbacks. A lengthy discussion ensued over the zoning regulations for garages and right of use. Ann Brown noted that there is no hardship for a second garage. John McCartney questioned whether the garage could be moved toward the house. Mr. Langham stated that he would like to place it where it can be blocked from the road. Mr.

Langham stated that if it were to be moved closer, the orientation of the doors would have to face the road. Bob Jano asked if a variance could be contingent upon cleaning up the property in a designated time frame. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Joe DePaul noted that there is no hardship for a second garage 10' from the property line and that it should not be used to house commercial equipment in a residential zone. The board suggested the application be continued to document and investigate the details of the special permit granted in 1989 and to consult with Town Attorney Neil Marcus. John McCartney made a motion to continue Application # 28-23, July 2nd, approved 4-0. Application continued.

Ann Brown made a motion to adjourn the meeting at 9:32 p.m., July 2nd, approved 4-0.