

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

### **MINUTES September 21, 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, September 21, 2023, **via Zoom Web Conference (Meeting ID:933 9594 9538)**. 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, 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 2<sup>nd</sup>, approved 5-0.

**Continued 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 returned to the board with a revised plan to plant 57 trees and construct 302 feet of fencing to the rear and side of the property to buffer the residential neighbors. Joe DePaul questioned the height of the trees and what kind of fencing would be installed. Mr. Reilly stated that the trees would be 5'-6' in height and that a 6' white privacy fence would be installed. Abutting neighbors, Scott March and Tino Punturiero, had previously requested four contingency issues to the board prior to granting a variance including installing fencing, trees, removal of trash and trailers from the property and a request that the property not be used for processing or manufacturing of any materials. The applicant agreed to a 7' side setback and a 12' rear setback. A brief discussion ensued regarding Business Commercial zoning regulations and parking. John McCartney thanked Joe Reilly and the neighbors for coming together to work this situation out. Joe DePaul asked the public for comment. Caren Carpenter noted that this was an awesome win for the town. The board entered into the Business Session. Joe DePaul made a motion to grant a side setback to 7' and a rear setback to 12' to

allow expansion of a parking lot per the revised plans submitted and subject to the following contingencies: installation of a 6' white privacy fence on the south and east sides; planting of a double row of 5'-6' (at time of planting) Thuja Green Giant Arborvitae as laid out on the presented property boundary map; removal of trailers and trash from the property and that no processing or manufacturing of any material be allowed on the property; the hardship being the size and shape of the lot, duly 2<sup>nd</sup>, approved 5-0. Variance granted.

While in the Business Session, Christine Garabo made a motion to accept the minutes as presented, duly 2<sup>nd</sup>, approved 5-0.

**Continued 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.

The applicant requested a continuation until next month. Christine Garabo made a motion to continue Application # 28-23 until next month, duly 2<sup>nd</sup>, approved 5-0.

**Continued Application # 29-23:** McEvoy, 32 Overlook Road, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 36.4', 3.2.6B Side Setback to 10', 3.2.11, 7.1.1.2A&B and 7.2.3A,B&E for the purpose of constructing a bump out and deck addition. Zoning District: R-44; Map: 45; Block: 5; Lot: 57.

Joe Coelho returned to the board. The application was continued to correctly advertise the side setback. The applicant is requesting a front setback to 36.4' and a side setback to 10' to construct a deck and bump out. The board had no issue with the 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 36.4' and a side setback to 10' to allow construction of a vertical expansion and bump out per the plans as submitted; the hardship being the slope and irregular shape of the lot, duly 2<sup>nd</sup>, approved 5-0. Variance granted.

**Continued Application # 31-23:** Dunleavy and Szyszka, 8 Glenn Holly, for variances to Zoning Regulations 3.2.5A&B, 3.2.6B Side Setbacks to 13.1' and 9.5", 3.2.6C Rear Setback to 43.1', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of enlarging the second floor and changing the roof line from a gable roof to a flat roof with cantilever. Zoning District: R-44; Map: 39; Block: 1; Lot: 73A.

Matthew Cordone presented his client's proposal to change a gable roof to a flat roof with a matching ridge height of 27'. The existing footprint would remain and the roof changed to achieve proper ceiling heights of 8' and allow for adequate insulation. A brief discussion of the required setbacks and overhangs ensued. It was determined that the side setback includes the overhangs. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Joe DePaul made a motion

to grant side setbacks to 13.1' and 9.5' and a rear setback to 43.1' to allow the roof to be raised and a vertical expansion noting no increase in nonconformity; the hardship being the size and shape of the lot, duly 2<sup>nd</sup>, approve 5-0. Variance granted.

**Continued Application # 32-23:** Prestinario and Atchue, 14 Lake Drive South, for variances to Zoning Regulations 3.0.5A,B&C Permanent Detached Garage, 3.2.5A&B, 3.2.6A Front Setback to 0', 3.2.6B Side Setback to 4.7', 3.2.7, 3.2.8, 3.2.11, 7.1.1.2 and 7.2.3A&B for the purpose of constructing a detached two car garage with an office above and storage in the basement. Zoning District: R-44; Map: 15; Block: 7; Lot: 4.

The applicant requested to withdraw the application.

**Continued Application # 34-23:** Foley, 40 Lake Drive North, for variances to Zoning Regulations 3.0.5A,B&C, 3.2.5A&B, 3.2.6A Front Setback to 40', 3.2.6B Side Setback to 17.8', 3.2.6C Rear Setback to 6.9', 3.2.7, 3.2.8, 3.2.11, 7.1.1.2 and 7.2.3A&B for the purpose of constructing an addition, garage addition and driveway reconfiguration. Zoning District: R-44; Map: 15; Block: 6; Lot: 53 & 54.

John Mastera, Architect, returned to the board with his client's proposal to renovate an existing cottage, construct a garage and breezeway. Mr. Mastera met with and gathered letters of support from the surrounding neighbors. A lengthy discussion ensued over the positioning of the garage, view lines, grade and tree removal from the property. The canopy feature was eliminated from the proposal as not to obstruct views. Setbacks were discussed. Joe DePaul stated that the existing rear setback is 9.6' measured from the house, not the shed, and the proposal increases nonconformity. Joe DePaul debated the claim that the breezeway does not block any water views. Christine Garabo questioned if any trees would be planted. Mr. Mastera stated no trees would be planted. John McCartney noted that he visited the property and walked to the Genovese property to determine if the breezeway would block the view. Mr. Mastera noted that the revised proposal lowered the roof by 6'. Joe DePaul asked the public for comment. Frank Genovese, 14 Sunset Trail, stated his many concerns with the breezeway and the fact that 80 percent of his property line would contain a structure 9.6' from the property line. Karen and Doug Jaslow, 42 Lake Drive North, noted their concerns over the water feature and requested screening to buffer the area for privacy. Gordon Pasquale, 38 Lake Drive North, wrote a letter requesting a 20' side setback instead of 17.8' for privacy. The board entered into the Business Session. Christine Garabo noted that the applicant was working with the neighbors to maintain their views and hear their concerns. John Apple noted that there is no hardship for a breezeway and suggested that the applicant might want to remove it. Ann Brown noted her concern with the breezeway. John McCartney agreed with Christine's support of the proposal. Bob Jano noted that there is no hardship. The board came out of the Business Session to ask the applicant how he wanted to proceed. The applicant agreed to remove the breezeway. The board entered into the Business Session. Joe DePaul made a motion to grant a side setback to 17.8' and a rear setback to 9.6' to allow

construction of an addition and a garage, contingent upon the removal of the breezeway, per the revised plans as submitted; the hardship being the topography and size and shape of the lot, duly 2<sup>nd</sup>, approved 5-0. Variance granted.

**Application # 30-23:** Dial, 1 Woods Road, for variances to Zoning Regulations 3.0.6A,B&C Swimming Pools, 3.2.5A&B, 3.2.6B Side Setback to 10', 3.2.6C Rear Setback to 2', 3.2.7, 3.2.8, 3.2.11, 7.1.1.2 and 7.2.3A&B for the purpose of installing a hot tub. Zoning District: R-44; Map: 45; Block: 1; Lot: 14.

John Cerqueria, Apex Horticulture, presented the proposal to install a hot tub requiring a 2' rear setback. The applicant gave an overview of the property and positioning of arborvitae to provide privacy. Joe DePaul noted that this was a tough request and a 2' rear setback was a lot to ask. The applicant noted that the placement of the septic did not allow for any other area to place the hot tub. Christine Garabo questioned if the hot tub could be placed on the porch behind the house. Ann Brown questioned where the septic tank was. Joe DePaul noted that there should be a septic map in each property's files. Bill Dial, homeowner, noted the positioning of the 440 line and septic and noted there was not any other place to put the hot tub. John McCartney stated that it was the only reasonable place to put it after walking the property. Niki Dial, homeowner, noted that the proposed area would be unobtrusive and can't be seen. Ann Brown questioned if they had a letter from the neighbors. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Joe DePaul noted there was no hardship for a hot tub with a 2' setback. John McCartney noted his support. Ann Brown noted that the property is small and that the variance is tied to the land forever and was hesitant to grant something so close to the property line. Joe DePaul made a motion to grant a rear setback to 2' to allow installation of a hot tub per the plans as submitted; the hardship being the narrow shape of the lot, duly 2<sup>nd</sup>, denied 1-4. Variance denied.

The meeting took a five minute break at 9:01 p.m. John Apple asked that Bob Jano step in for him for the next application.

**Application # 35-23:** Dawes, 4 Sherry Lane, for variances to Zoning Regulations 3.2.5A, 3.2.6C Rear Setback to 30.9', 3.2.11, 7.1.1.2 and 7.2.3A&B for the purpose of constructing a deck extension. Zoning District: R-44; Map: 24; Block: 1; Lot: 95.

Cleon Dawes presented his application noting that a previous variance was granted with a rear setback to 32' for a deck addition. After construction, it was discovered that the rear setback needed was 30.9'. The rear setback to 30.9' is needed to legalize the already built construction. Joe DePaul stated that this was an honest mistake and did not have an issue with the 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 rear setback to 30.9' to legalize an already constructed deck; the hardship

being the proximity of the house to the rear property line, duly 2<sup>nd</sup>, approved 5-0. Variance granted.

**Application # 36-23:** Roddy, 51 Knollcrest Road, for variances to Zoning Regulations 3.0.7A Tennis & Basketball Courts, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a 120'x60' sports court with viewing area. Zoning District: R-44; Map: 10; Block: 3; Lot: 85+1.

Jake Danizer presented the proposal to construct a sports court with patio and discussed its positioning on the property which would not need any setbacks. A lengthy discussion ensued over the positioning, patio size, and lighting. Bob Jano noted his concern that this was a large property and it might turn into a commercial tennis court with potential problems. Jake Danizer noted that there was no plan for any lighting of the courts. Joe DePaul asked the public for comment. Yvette Holzmier, neighbor, noted her concern over potential lighting and stated that the current lighting already impacts her property with glare from lamp posts and sensor lights. She also noted her concern that the area might be used to host youth camps and worried about the noise and lack of noise ordinances. John Apple noted that he had concerns with the tennis court being in the front yard. Ann Brown questioned if screening could be added. John McCartney suggested natural screening for both sides. Joe DePaul noted that the application should be continued to notify the neighbors. The applicant agreed to continue the application. Joe DePaul made a motion to continue Application # 36-23 to next month, duly 2<sup>nd</sup>, approved 5-0. Application continued.

**Application # 37-23:** Scott, 42 Ridge Road, for variances to Zoning Regulations 3.2.5A&B, 3.2.6B Side Setback to 11.5', 3.2.8, 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of extending the gable roof over part of the rear deck to make a screened-porch. Zoning District: R-44; Map: 15; Block: 6; Lot: 135-136, 143-144.

Caren Carpenter presented the proposal to extend a gable roof over an existing deck to make a screened-in porch continuing the ridge of the roof at the same height with no increase in nonconformity. A side setback to 11.5' is required. Joe DePaul asked the public for comment. None given. The board saw no issues with the application. The board entered into the Business Session. Joe DePaul made a motion to grant a side setback to 11.5' to allow construction of a roof over an existing deck per the plans a submitted, noting no increase in nonconformity; the hardship being the shape of the lot, duly 2<sup>nd</sup>, approved 5-0. Variance granted.

**Application # 38-23:** Lynch, 6 Glenway, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 22', 3.2.6B Side Setback to 10.1', 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: 45; Block: 5; Lot 72&73.

Caren Carpenter presented the proposal for a vertical expansion on a portion of an existing house which would require raising the roof line higher than the existing second

story by 4.8'. Ms. Carpenter noted that there was a letter from the neighbors noting their opposition to the proposal. The addition would not contain any windows that face the neighbors. Joe DePaul asked the public for comment. Jennifer and Rob Rondano, 8 Glenway, noted their opposition and concern over the proposed addition so close to their home. They stated that the property had received four previous variances and that the addition would cause them to lose their water and mountain views which would devalue their property. Mr. Rondano stated that there was no communication from the homeowner alerting them to either this proposal or past construction. Susan and Mark Green, 4 Glenway, also voiced their opposition over such a massive house which had been expanded multiple times and noted the lack of hardship. Caren Carpenter suggested that the application be continued until next month to facilitate communication between the neighbors. John McCartney made a motion to continue Application # 38-23, duly 2<sup>nd</sup>, approved 5-0. Application continued.

**Application # 39-23:** DeNoia, 319A Rte 39, for variances to Zoning Regulations 3.0.4A,B,C,D,E&F, 3.1.5A&B, 3.1.6B Side Setbacks to 7.5' and 8', 3.1.6C Rear Setback to 0', 3.1.11, 7.1.1.1A&B and 7.2.3A&B for the purpose of constructing a storage loft above an existing shed. Zoning District: R-44; Map: 6; Block: 6; Lot: 17.1A.

Gene DeNoia presented his proposal to expand an existing 12' shed to 15'. The property is unique, with steep grade and the shed is built into the slope of the property. The shed predates the zoning regulations. The applicant would like to add 3' for more storage by raising the roof. A brief discussion ensued over this unusual situation. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Joe DePaul made a motion to grant side setbacks to 7.5' and 8' and a rear setback to 0' to allow the roof of an existing shed to be raised 3' to a total height of 15'; the hardship being the narrow shape of the lot, duly 2<sup>nd</sup>, approved 5-0. Variance approved.

**Application # 40-23:** White, 30 Windmill, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 23', 3.2.6B Side Setbacks to 14' and 13', 3.2.6C Rear Setback to 47', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of raising the roof to move a bedroom and bathroom to a new level. Zoning District: R-44; Map: 10; Block: 1; Lot: 21.

Joe Coelho presented the applicant's proposal to raise the peak of the roof 4' for better use of the top floor. Joe DePaul questioned the existing square footage and what square footage would be added with the construction. Mr. Coelho noted that the current house is 800 sq. ft, with a finished basement of 500 sq. ft. The new level would add 600 sq. ft. of living space to the property. The existing footprint would remain. Joe DePaul asked the public for comment. Steve and Denise Males, next door neighbors, voiced their strong opposition to the proposal. The Males explained that the property is being used as an Air B&B and VRBO and the increase in space would allow for more people causing parking, noise and other issues. The Males noted that the homeowner is not

compliant with the zoning regulations regarding short term rentals. John Apple asked if a cease and desist was issued. Evan White noted that a cease and desist was recently issued. Joe DePaul noted that it was the board's practice not to grant a variance to someone who is violating the zoning regulations. Rob and Kim Krasko, 28 Windmill, also noted the issues with the property being rented with noise, pollution, and disruption. Michael and Heidi Seaman, 1 Southview Road, stated that there is an uptick in parking problems, garbage, danger to wildlife and pollution already and a larger space will create more problems. The Seaman's also noted that the view from 19 Windmill will be negatively impacted. They also have concerns over the septic system. The applicant withdrew the application.

John Apple made a motion to adjourn the meeting at 11:06 p.m., duly 2<sup>nd</sup>, approved 5-0.