

**New Fairfield Zoning Board of Appeals**  
**New Fairfield, Connecticut 06812**  
**MINUTES**  
**October 15, 2020**

The New Fairfield Zoning Board of Appeals (ZBA) held a public hearing followed by a business session on **Thursday, October 15, 2020** at 7:00 p.m. via **Zoom Web Conference (Meeting ID: 934 5861 8248.)**. Secretary Joanne Brown took the Minutes.

ZBA members in attendance: Joe DePaul, Chairman; John McCartney; and Alternates Ann Brown and Bob Jano.

ZBA members not in attendance: John Apple, Vice Chairman; Vinny Mancuso and Dan McDermott.

Town Officials in attendance: Evan White, Zoning Enforcement Officer.

Assistant Broadcast Coordinator, Quintin Flower, from the Town of New Fairfield, gave an overview of how the Zoom Web Conference would proceed. Chairman Joe DePaul called the Meeting to order at 7:14 p.m. and introduced the Board Members. Secretary Joanne Brown read the Agenda. Joe DePaul made a motion to adopt the agenda, duly 2<sup>nd</sup>, approved 4-0.

**Continued Application # 29-20:** Marandi, 31 Inglenook Drive, for variances to Zoning Regulations 3.0.6B Swimming Pools, 3.2.5A, 3.2.6A Front Setback to 20', 3.2.6B Side Setback to 8', 3.2.11, 7.1.1.1A&B and 7.2.3A&B for the purpose of installing a 6.8'x6.8' hot tub. Zoning District: R-44; Map: 41; Block: 8; Lot: 38.

No one was present for the application. John McCartney made a motion to move Continued Application # 29-20 to the end of the agenda, duly 2<sup>nd</sup>, approved 4-0.

**Continued Application # 30-20:** Fugelsang, 5 Old Farm Road, for variances to Zoning Regulations 3.2.5A, 3.2.6B Side Setback to 11.2', 3.2.8, 3.2.11, 3.2.8, 7.1.1.1.A&B and 7.2.3A&B for the purpose of constructing a master bath addition. Zoning District: R-44; Map: 23; Block: 6; Lot: 3.

Eric Fugelsang returned to the board after investigating another location for the addition as suggested by the board last month. Town Sanitarium, Tim Simpkins, reviewed the property and septic, and Artel Engineering produced a new A2 survey. It was discovered that due to the increase in impervious surfaces, there was no suitable place for a storm water management system because of the size of the lot, septic placement and drainage. Mr. Fugelsang stated the original proposal on the patio was his only option for the addition because there would be no increase in impervious surfaces. Joe DePaul asked the public for comment. None given. Bob Jano stated that he looked at the property and agreed with the placement of the addition and noted he saw no problem with the application.

Ann Brown asked for elaboration on why the applicant could not install the storm water management system. Evan White stated that the property is a corner lot and is compromised by the septic system and footing drains. The engineers could not come up with a place to put the storm water management system. The only acceptable placement for an addition is over the existing patio in order not to increase impervious coverage. Joe DePaul noted his issue with the property being on a corner lot with two fronts and two sides which already gave the homeowner a setback smaller behind the house than his neighbors. Mr. DePaul stated that the applicant benefits from already having the existing 20' setback and, in asking for an additional setback to 11.2', is asking for a great increase in nonconformity with no hardship. Mr. DePaul noted that the applicant could construct a vertical expansion without increasing nonconformity. The board entered into the Business Session. Bob Jano noted again that he had no objections although the proposal was close to the property line. John McCartney agreed with Bob Jano stating that the lot is a corner lot and that fact poses a particular situation. Ann Brown stated that 11' is close to the property line and seemed a lot to ask for. Joe DePaul made a motion to grant a side set to 11.2' to allow construction of an addition per the plans as submitted; the hardship being that the lot is a corner lot with two fronts and two sides and that a storm water management system is not possible, duly 2<sup>nd</sup>, denied 2-2. Variance denied.

**Continued Application # 33-20:** Lee and McKensie, 5 Candlewood Road, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 19', 3.2.6C Rear Setback to 32', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of demolishing an existing house and constructing a new single family house with vertical expansion. Zoning District: R-44; Map: 39; Block: 1; Lot: 15.

Stacey Keaney, Keaney & Co., returned to the board with revised plans to reduce the front setback as suggested by the board last month. Unfortunately, the application requesting an 18' front setback was not received in time for the advertisement in the newspaper. Ms. Keaney was given the choice to continue again or proceed with the advertised front setback to 19'. Ms. Keaney did not want to continue and accepted the front setback to 19'. The new setback would allow for an increase in square footage on the right-hand side of the house. Joe DePaul noted that no neighbors' views are affected. A brief discussion of the height and design ensued. It was agreed that the variance would be specific due to the vagueness of the plans as submitted. Bob Jano noted that the board should be sure of what they are voting on. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Mr. DePaul saw no problems with the application. Ann Brown noted that with the clarifications the application is fine. Joe DePaul made a motion to grant a front setback to 19' to the porch, front setback to 22' to the façade of the house, front setback to 27' to the right corner of the house, a side setback to 70' to the rear corner of the house, a side setback to 64' to the rear corner of the deck and a rear setback to 32' to reconstruct a house per the plans as submitted; the hardship being the size and shape of the lot and noting the decrease in nonconformity, duly 2<sup>nd</sup>, approved 4-0. Variance granted.

**Application # 35-20:** Buchwald, 29 Sail Harbour Drive, for variances to Zoning Regulations 3.0.6B Swimming Pools and 3.2.6C Rear Setback to 36.7' for the purpose of installing an 18'x24' in-ground gunite swimming pool. Zoning District: R-44; Map: 2; Block: 1; Lot: 04.

Laurie Potter from Scott Swimming Pools presented the application to install an 18'x42' in-ground gunite pool requiring a rear setback to 36.7'. The board questioned the placement of the pool. Ms. Potter stated that the pool was placed away from the well and septic which was difficult to ascertain from the plans. Joe DePaul asked why the pool could not be moved closer to the house. Ms. Potter stated that pools are not positioned close to the house for safety reasons. Bob Jano noted that he saw no hardship for a pool. The board asked for the dimensions of the proposed patio. It was not clear from the drawings. The board recommended the applicant continue the application to acquire a more precise and readable A2 survey. Evan White noted that the rear setback for R-44 properties is 50'. The board suggested moving the pool closer to the house to decrease nonconformity. Bob Jano made a motion to continue application # 35-20, duly 2<sup>nd</sup>, 4-0. Application continued.

**Application # 36-20:** Jordan, 76 Lake Drive South, for variances to Zoning Regulations 3.0.4C, E&F Minor Accessory Buildings & Structures for the purpose of constructing a 10'x5.4'x5' garbage enclosure. Zoning District: R-44; Map: 20; Block: 1; Lot: 18-23.

Peter Coffin, Doyle & Coffin, presented the proposal to construct a garbage enclosure noting the placement away from the house and garage to reduce issues with the smell and animals. Joe DePaul questioned why an enclosure was necessary when a garbage company could come directly to the house. Joe DePaul noted his dislike of sheds in the front yard and asked if this enclosure was hidden from the street. A brief discussion on placement and landscaping ensued. The enclosure would be placed on the right-hand side of the driveway facing the property (not the street) surrounded by shrubs which, when mature, would stand 4'-5' tall. Mr. Coffin was confident that the enclosure would blend into the surroundings. John McCartney and Ann Brown noted that the architect did a great job on the proposal. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Bob Jano stated his support for the enclosure noting that many residents are away from the property for 4-5 days at a time and it seemed like a good idea. Joe DePaul had confidence that the architect would make sure it would not be noticeable from the street. John McCartney stated that he liked the word "enclosure" rather than shed. Evan White stated that whatever it was called it fell under the same Zoning Regulations. Joe DePaul made a motion to grant construction of a 10'x5.4'x5' garbage enclosure per the plans as submitted; the hardship being the slope of the lot, duly 2<sup>nd</sup>, approved 4-0. Variance granted.

**Application # 37-20:** Ramesh and Dash, 5 Sylvan Road, for variances to Zoning Regulations 3.2.6B Side Setback to 7.6', 3.2.6C Rear Setback to 0', 7.1.1.2 and 7.2.3A, B&E for the purpose of constructing wooden steps with landing to the 440 line. Zoning District: R-44; Map: 25; Block: 2; Lot: 9.1.

Joe Reilly, agent for the homeowners, explained to the board that the owners asked if the stairs to the lake could be constructed before acquiring the certificate of occupancy. Mr. Reilly stated he had a building permit and did not believe he needed a variance for the stairs due to the steep slope for safe passage to the rear of the property. Joe DePaul questioned the placement of the stairway. Mr. Reilly noted that the area has steep slopes and large boulders, and the stairs went down the only path they could navigate. Mr. Reilly noted that the stairs end before the 440' line, giving the owners some way down to the lake to put kayaks in the water. Photos were shown

and it was determined that the stairway is 8' from the 440 line. Evan White noted that the area has extreme ledge and terrain, and a stairway is the only way to gain access. Joe DePaul stated that he visited the property and felt much safer on the stairway due to the incredibly steep slopes. Mr. DePaul questioned if it is a fundamental right of a landowner to have a right to access his property and noted, in his opinion, it was.


Joe DePaul asked the public for comment. Caryn Angelson, adjacent property owner at 4 Glen Holly Road, noted her vehement opposition to the proposal. Ms. Angelson stated that Mr. Reilly misrepresented himself on building the stairway which lies 4' from their property line. Ms. Angelson stated that the structure overwhelms their property, has concerns about the safety and stability of the rock face which was built without an engineer and which was built with blatant disregard to follow any town rules or protocol, especially when the applicants had already been through the process to get a previous variance. Ms. Angelson noted that she and her husband followed all the rules of the town regarding their property and worry about setting a precedent for others not to follow the rules. Ms. Angelson noted that 5 Sylvan was bought with the owners knowing that there was no lake access and have enlarged their property rights at their expense. Ms. Angelson's husband, Bill Topf, noted that the property is an eyesore and a safety hazard and noted his opposition.

Bob and JoAnn Caputo, 1 Oak Drive, also sent a letter stating their strong opposition noting the unsightly structure, safety concerns, blatant disregard to Town codes and worry that this sets a precedent for others to construct illegal structures along the shoreline. Joe DePaul noted his personal dislike of the situation. Mr. DePaul noted that even though a homeowner has built something illegally, it does not exclude him from proceeding to get a variance. Engineering, safety, permitting, and enforcement are not under the jurisdiction of the Zoning Board of Appeals. Mr. DePaul noted the stairway is an eyesore but questioned the fundamental right of a homeowner to have access to his property. Mr. DePaul stated that is a question for our Town Attorney and suggested that he be contacted to deliberate further. A brief discussion ensued over rights and access and the right to get a variance. John McCartney asked Evan White for his opinion and noted that he would like the opinion of the Town Attorney.

Neighbor, Laurent Xatart, questioned if additional stairs were to be built, noting that the stairs end 300 feet from the water. Mr. Xatart stated that he would have purchased the property himself but believed there was no lake access. Bob Jano noted that the stairway is a hazard, especially in the bad weather. The board suggested the application be continued to confer with the Town Attorney. John McCartney made a motion to continue Application # 37-20, duly 2<sup>nd</sup>, approved 4-0. Application continued.


**Application # 38-20:** Havira, 16 Candlewood Road, for variances to Zoning Regulations 3.2.5A,B&C, 3.2.6B Side Setback to 19.1', 3.2.6C Rear to 40', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a deck under the existing deck. Zoning District: R-44; Map: 39; Block: 5; Lot: 56-59.

Mark Havira came in front of the board requesting to construct a deck under an existing deck with no increase in nonconformity. The deck above was destroyed in the storm and would stay in the



existing footprint. A brief discussion ensued over the direction of the stairway. The location of the stairs would not require a setback. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. The board had no problem with the application. Joe DePaul made a motion to grant a side setback to 19.1' and a rear setback to 40' to allow construction of a deck; the hardship being the size and shape of the lot, duly 2<sup>nd</sup>, approved 4-0. Variance granted.


**Application # 39-20:** 20 Overlook Road LLC, 20 Overlook Road, for variances to Zoning Regulations 3.2.5A, 3.2.6A Front Setback to 27', 3.2.6B Side Setback to 11', 3.2.6C Rear Setback to 39', 3.2.11 and 7.1.1.2 to legalize construction of home per as-built survey. Zoning District: R-44; Map: 45'; Block: 5; Lot: 49-51.



Roberta Anderson, owner of 20 Overlook Road, gave a brief overview of the previously granted variances on the house that was destroyed in the macroburst of 2018. An as-built survey showed that the front and side setback exceed what was granted by 2' each. Ms. Anderson is seeking to legalize construction with a front setback to 27' and a side setback to 11'. Ms. Anderson explained that the original house had a fieldstone foundation and the new house has a poured concrete foundation and possibly the original survey was off since the home is the exact same square footage and did not increase in size. Evan White stated that he visited the house, and it was the same size, and the original survey must have been off. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Joe DePaul noted that there was no malice involved on the part of the homeowner. Joe DePaul made a motion to grant a variance to legalize the construction with a front setback to 27', a side setback to 11' and a rear setback to 39'; the hardship being the size and shape of the lot, duly 2<sup>nd</sup>, approved 4-0. Variance granted.

**Application # 40-20:** Brown, 27 Candlewood Drive, for variances to Zoning Regulations 3.2.5A&B, 3.2.5A Front Setback to 19', 3.2.6C Rear Setback to 17', 3.2.11, 7.1.1.2 and 7.2.3A&B for the purpose of constructing a 20'x22' deck. Zoning District: R-44; Map: 39; Block: 7; Lot: 17.

Gordon Brown gave a brief overview of his request to construct a 20'x22' deck off the rear of the house. The lot is a corner lot. Mr. DePaul suggested that the applicant modify his proposal to reduce nonconformity by keeping the deck within a side setback of 20' and keeping the front setback to 20.2'. The applicant agreed to modify the size of the deck and not increase nonconformity. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. The board saw no problems with the application. Joe DePaul made a motion to grant a front setback to 20.2' and a side setback to 20' to allow construction of a deck per the plans submitted and modified noting no increase in nonconformity; the hardship being the shape of the lot, duly 2<sup>nd</sup>, approved 4-0. Variance granted.



**Application # 41-20:** Kraska, 9 Knollcrest Road, for variances to Zoning Regulations 3.2.5A, 3.2.6A Front Setback to 11', 3.2.6C Rear Setback to 26.6', 3.2.8, 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of demolishing and rebuilding a single family house with an addition. Zoning District: R-44; Map: 10; Block: 4; Lot: 4.

Jonathan Kost, Architect, gave a brief history of the existing house. The house was bought in foreclosure and was partially gutted and in need of revamping due to structural issues. It was discovered that the slope of the garage allowed water to enter into the house. The proposal would raise the house 3' from the existing structure diverting the water away. The current portico would be removed reducing nonconformity. Joe DePaul noted that the house was very close to the road. Mr. Kost noted that with the removal of the portico the front setback would be moved further back. Bob Jano questioned the height of the roof and a brief discussion ensued about how to measure roof height. The 11' front setback requested is from the easement line and 19.5' from the property line with the existing rear setback to 26.6'. The existing square footage is 3,475 sq. ft. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. Joe DePaul noted that the removal of the portico would push the house back. Joe DePaul made a motion to grant a front setback to 11' and a rear setback to 26.6' to allow reconstruction of a house per the plans as submitted noting no increase in nonconformity; the hardship being the size and shape of the lot, duly 2<sup>nd</sup>, approved 4-0. Variance granted.

While in the Business Session, Joe DePaul made a motion to accept the Minutes as presented, duly 2<sup>nd</sup>, approved 3-0-1, John McCartney abstaining.

**Application # 42-20:** Savoia, 50 Hudson Drive, for variances to Zoning Regulations 3.0.10 Mechanical Equipment for the purpose of installing a whole-house generator. Zoning District: R-44; Map: 37; Block: 11; Lot: 4.2.

Mark Savoia presented his application to install a whole-house generator. After deliberating with Deep Electric, the side location was deemed unsuitable due to the number of doors and windows close by. It was decided that the best area for the generator would be in the rear of the property close to the propane tanks. The lot is a corner lot, and the generator would be surrounded by woods and boulders. Bob Jano noted that he has the same generator, and it runs fairly quiet. A brief discussion ensued concerning the placement and it was determined that the generator will be placed 5' from the rear property line and 7.5' from the side property line. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. The board saw no problem with the application. Joe DePaul made a motion to allow placement of a generator 5' from the rear property line and 7.5' from the side property line per the plans as submitted and modified; the hardship being that the lot has two fronts, duly 2<sup>nd</sup>, approved 4-0. Variance granted.

**Continued Application # 29-20:** Marandi, 31 Inglenook Drive, for variances to Zoning Regulations 3.0.6B Swimming Pools, 3.2.5A, 3.2.6A Front Setback to 20', 3.2.6B Side Setback to 8', 3.2.11, 7.1.1.1A&B and 7.2.3A&B for the purpose of installing a 6.8'x6.8' hot tub. Zoning District: R-44; Map: 41; Block: 8; Lot: 38.

No one was present for the application. John McCartney made a motion to continue Application # 29-20 until the next meeting, duly 2<sup>nd</sup>, approved 4-0. Application continued.

Ann Brown made a motion to adjourn the meeting at 10:14 p.m., duly 2<sup>nd</sup>, approved 4-0.