

New Fairfield Zoning Board of Appeals New Fairfield, Connecticut

MEETING MINUTES October 17, 2024

The New Fairfield Zoning Board of Appeals (ZBA) held a public hearing followed by a business session at 7:00 p.m. on Thursday, October 17, 2024, in the Community Room at the New Fairfield Public Library. Secretary Joanne Brown took the Minutes.

ZBA Members in attendance: Joe DePaul, Chairman; Christine Garabo; Jennifer Hilderbrand and Alternates Ann Brown and Vinny Mancuso.

ZBA Members not in attendance: John Apple, Vice Chairman; Olivia Micca and Alternate Peter Hearty.

Town Officials in attendance: Evan White

Chairman Joe DePaul called the meeting to order at 7:00 p.m. Secretary Joanne Brown read the agenda. Christine Garabo made a motion to accept the agenda, duly 2nd, approved 5-0.

Continued Application # 22-24: DeNoia, 315 State Route 39, for variances to Zoning Regulations, 3.0.5C Private Permanent Detached Garages, 3.2.5A&B, 3.2.6A Front Setback to 10', 3.2.6B Side Setback to 4.1', 3.2.6C Rear Setback to 0', 3.2.11, 7.1.1.1A&B and 7.2.3A,B&E for the purpose of constructing a storage loft above an existing garage. Zoning District: R-44; Map: 6; Block: 6; Lot: 16.2+16.3.

Attorney Ray Lubus appeared with applicant Eugene DeNoia seeking to construct a vertical expansion on an existing garage with no increase to the footprint. Attorney Lubus gave a brief history of the property detailing the drainage easement which limited the building area and resulted in the change of the 440-elevation contour line. A lengthy discussion ensued over the change of the 440-line. Mr. Lubus stated that the applicant did not lose property rights with the change in the 440-line and has the right to a vertical expansion. Mr. Lubus explained that the property is unique with steep slopes and has a valid hardship since the drainage was mandated by the state. Joe DePaul stated that he went through the file at Town Hall and noted that there was a cease and desist from 2018 along with a note written on a survey in 2012 that the shed is not conforming and built without permits. Somewhere along the line the illegal shed was approved by a building permit in 2013 without a variance. Christine Garabo questioned when the 440 line was moved. Joe DePaul noted that a permit and certificate of occupancy was issued for a shed, not a garage. Mr. DePaul also noted that the applicant was compensated by the state for the drainage pipe going through the

property and that the shed was too nonconforming to make any additions to make it more nonconforming. Joe DePaul asked the public for comment. None given. Ray Lubus noted that previous applications # 19-24 and # 21-24 were granted for storage over existing garages. The board entered into the Business Session. Joe DePaul stated that the shed has a 0' and 4' setback and to add another story would increase nonconformity. Ann Brown noted that the applicant has use of the shed and does not see a hardship for additional storage. Joe DePaul made a motion to grant a rear setback to 0' and a side setback to 4.1' to allow construction of a second story on an existing shed; the hardship being the size and shape of the lot and location of the 440 line, duly 2nd, denied 0-5. Variance denied.

While in the Business Session, Christine Garabo made a motion to approve the August 15, 2024 minutes, duly 2nd, approved 5-0.

Continued Application # 23-24: Maffei, 34 Rita Drive, for variances to Zoning Regulations 3.0.6A&B Swimming Pools, 3.1.5B, 3.1.6C Rear Setback to 36', 3.1.11, 7.1.1.1A&B and 7.2.3A,B&E for the purpose of installing an above-ground pool and constructing a deck. Zoning District: R-88; Map: 23; Block: 17; Lot: 1.

Albert Maffei returned to the board and revised his proposal to respond to comments suggested by the board at the last meeting to keep the pool within the 36' rear setback granted in a previous variance. Mr. Maffei's modified proposal to install a round above-ground pool and deck will stay within the 36' rear setback. Joe DePaul asked the public for comment. None given. The board entered into the Business Session. The board saw no issues with the modified application because the applicant was not increasing nonconformity. Joe DePaul made a motion to grant a rear setback to 36' to allow construction of a deck and installation of an above-ground pool per the revised plans as submitted; the hardship being the size and shape of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 24-24: Town of New Fairfield Squantz Pond Fire House, 255 State Route 39, for variances to Zoning Regulations 6.3 Signs, 6.3.8E Maximum Sign Area, 6.3.11C Location of Signs, 7.1.1.1A&B and 7.2.3A,B&E for the purpose of constructing a permanent sign for the Squantz Pond Fire House. Zoning District: R-44; Map: 10; Block: 16; Lot: 54.

Christian Eklund appeared before the board seeking to build a permanent road sign for the Squantz Pond Fire House as his Eagle Scout Community project. No setbacks are needed. A brief discussion ensued over the size of the sign and the fact that the variance is dictated by plans as submitted. Ann Brown questioned where the sign would be located and that it would not obstruct any vehicle line of site of the road. It was determined that the size would be 4'x4' with two 4"x4" posts and would be placed 21' from the shoulder which would not obstruct any views. Joe DePaul asked the public for comment. First Selectman, Melissa Lindsay, fully supported the application. Milton Craven supported the Eagle Scout and asked the board to grant the proposal. The board entered into the Business Session. Vinny Mancuso thanked Christian for his work on the project. The board had no objections. Joe

DePaul made a motion to grant a variance to allow construction of a 4'x4' wooden sign with 2 4"x4" posts per the revised plans as submitted; the hardship being the size and shape of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 25-24: Lynch, 4 Lakeshore North, for variances to Zoning Regulations 3.2.5A&B, 3.2.6B Side Setback to 18', 3.2.6C Rear Setback to 27', 3.2.8, 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a 15'x15' addition. Zoning District: R-44; Map: 40; Block: 1; Lot: 33.

Joe Coelho, JC Contracting, presented the proposal to construct a 15'x15' addition on the nonconforming odd-shaped lot. Mr. Coelho noted that there is an existing bump out which would be expanded over an existing flagstone patio. The roof line would be lowered by 1'. A brief discussion ensued over what setback would be required. Joe DePaul noted the illegal sheds on the property and suggested that their removal be a condition of the variance. Joe DePaul asked the public for comment. Joanna Lewick, 5 Candlewood Knolls Road, voiced her concern over the maintenance of the property and the height over the bushes which block her view of the lake. Joe DePaul suggested that the maintenance of the bushes be a condition of the variance. Jennifer Hilderbrand did not agree with placing conditions on the variance and abstained from the vote. Joe DePaul explained that by adding reasonable conditions the variance can satisfy both the homeowner and the neighbors. The board entered into the Business Session. Joe DePaul made a motion to grant a side setback to 18' and a rear setback to 27' to allow construction of a 15'x15' addition per the plans as submitted contingent upon the removal of the shed and other items in violation of the Zoning Regulations and that the bushes and other vegetation be maintained not to exceed 20' in height; the hardship being the size and shape of the lot, duly 2nd, approved 4-0-1, Jennifer Hilderbrand abstaining. Variance granted.

Application # 26-24: White, 30 Windmill Road, 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, 7.1.12 and 7.2.3A,B&E for the purpose of raising the roof to convert a 2 bedroom into a 3 bedroom. Zoning District: R-44; Map: 10; Block: 1; Lot: 21.

Applicant Rob White and agent, Joe Coelho, appeared in front of the board seeking a vertical expansion of an existing home. Joe Coelho stated that the primary bedroom would be moved to the new addition upstairs and one of the lower bedrooms would be used as a new stairway. There would be no changes to the footprint. The roof would be raised 7'. Joe DePaul asked if this was the same proposal that was withdrawn due to issues with the neighbors and noted that there were still issues as the board had received several opposition letters. Joe DePaul asked the public for comment. Steve and Denise Males, 32 Windmill Drive, voiced their strong opposition to the proposal noting the applicant's continued Airbnb violations to the Zoning Regulations, noisy and threatening guests, excessive garbage and congestion and lack of hardship to the land. Similar opposition emails were received from Emily Hanson, 34 Windmill Road, and Rob and Kim Kraska, 28 Windmill Road. Eileen Fitzpatrick noted that the owners advertise the house as a 4 bedroom

house and construction of another bedroom would only accommodate more guests causing more congestion, noise and burdens to the community. Heidi Seaman stated that her father, Ronald Kearns, lives at 19 Windmill Road. A vertical expansion would obstruct his view and cause more parking issues. Mike Seaman noted the constant flux of people in the neighborhood. Rob White noted that the neighbors are quoting misinformation and that he has mostly his friends and family use the property. Joe DePaul noted that the applicant has no hardship and is creating his own hardship by the construction. Mr. DePaul noted that the board cannot grant a variance for a self-created hardship especially when there are so many neighbors in opposition. Christine Garabo noted that the vertical expansion would obstruct lake views and that would affect the neighbor's property values. Ann Brown noted that there is no hardship. The board entered into the Business Session. The board discussed the lack of hardship and the opposition of not one but several neighbors. Joe DePaul made a motion to grant a front setback to 23', side setbacks to 14' and 13' and a rear setback to 47' to allow construction of a vertical expansion per the plans as submitted; the hardship being the irregular shape and size of the lot, duly 2nd, denied 0-5. Variance denied.

Application # 27-24: Jachym, 35 Rita Drive, for variances to Zoning Regulations 3.1.5A, 3.1.6B Side Setback to 25.4', 3.1.11, 7.1.1.1A&B and 7.2.3A&B for the purpose of constructing a 24'x16'x10' carport attached to an existing garage. Zoning District: R-88; Map: 23; Block: 16; Lot: 37.

Jakub Jachym appeared in front of the board. Mr. Jachym was unaware that he needed a variance for the carport he had already constructed on his property. He is seeking to legalize the carport. Mr. Jachym has a two-car garage which he uses for storage and a workspace. Joe DePaul noted that the board should approach the proposal as if it weren't already constructed. Christine Garabo noted that the applicant already has a two-car garage and that she doesn't believe that the board would approve an additional carport if it had not already been constructed. The applicant stated that there is a large oak tree on the property and the cars are damaged by the falling acorns. The board suggested cutting down or trimming the tree. Joe DePaul asked the public for comments. None given. The board entered into the Business Session. The board discussed that if a structure is constructed illegally, it should not be rewarded by granting a variance. Joe DePaul made a motion to grant a side setback to 25.4' to legalize an already built carport constructed in place; the hardship being the size and shape of the lot, duly 2nd, denied 0-4-1, Jennifer Hilderbrand abstaining. Variance denied.

Application # 28-24: Begley, 48 Ridge Road, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 38.2', 3.2.6B Side Setback to 8.4', 3.2.8, 3.2.11, 7.1.1.2A&B and 7.2.3A,B&E for the purpose of bringing into compliance a previously granted variance on a vertical expansion which exceed the setbacks by 5" and 4" after construction. Zoning District: R-44; Map: 15; Block: 6; Lot: 129-130.

Connor Roscoe appeared in front of the board to request a variance to legalize a previously approved variance which exceeded the setbacks granted by 4" and 5". Mr. Roscoe noted that he did not realize until after the as-built survey that the roof soffits and overhangs exceeded the granted setbacks by 4" and 5". A brief discussion ensued over the correct setbacks. 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 38.2' and a side setback to 8.4' to legalize construction as completed; the hardship being the size and shape of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 29-24: Radcliffe, 4 Buck Mountain Court, for variances to Zoning Regulations 3.0.9A,B,C,D&E Pergolas for the purpose of constructing a 18'x18'x8' pergola over an existing deck. Zoning District: R-88; Map: 12; Block: 3; Lot: 1.14.

Jennifer Hilderbrand recused herself from this application. Deborah Radcliffe and Ed Pirraglia appeared in front of the board to present their proposal to construct an 18'x18'x8' pergola over an existing deck. The area faces west with constant sun and wind. The pergola requires a variance because it exceeds the size allowed in the Zoning Regulations. Joe DePaul noted that the deck was private and did not impact any of the neighbors. Joe DePaul asked the public for comments. None given. The board entered into the Business Session. They saw no issues with the application. Joe DePaul made a motion to grant a variance to allow construction of an 18'x18'x8' pergola per the plans as submitted; the hardship being the constant sun and noting no increase in structural nonconformity, duly 2nd, approved 4-0. Variance granted.

Application # 30-24: LFTP Interests, LLC, 49 Knollcrest Road, for variances to Zoning Regulations 3.2.5A&B, 3.2.6B Side Setback to 15', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a garage addition and demolition of an existing detached garage. Zoning District: R-44; Map: 10; Block: 3; Lot: 86.4.

Deborah VanderHeyden and Guy de Chimay appeared in front of the board noting that they were approved for a variance for a detached garage in July 2024. Subsequently, a neighbor expressed their concerns with the plan and the loss of seasonal water views. The applicant revised their proposal and relocated the garage to a point closer to the house at a lower elevation that would address the neighbors' concern about losing lake views and decrease nonconformity by only needing a rear setback to 15'. Trees were also removed which opened up the neighbor's views. It was noted that the advertisement would have to be revised and readvertised with a 15' rear setback. Joe DePaul asked the public for comment. David Bennet, Attorney for Jesse Rogers, 47 Knollcrest, complimented the applicant on their revised proposal and noted that his client's litigation would be withdrawn if the previous variance were rescinded. A brief conversation ensued over whether the setback needed was a side or rear. Evan White read the Zoning Regulations and determined that the applicant needs a rear setback to 15'. The application will be continued to next month to correctly advertise the setbacks. Christine Garabo made a motion to

continue Application # 30-24 until next month, duly 2nd, approved 5-0. Application continued.

Application # 31-24: Bermudez, 11 Meadow Drive, for variances to Zoning Regulations 3.1.5B, 3.1.6A Front Setback to 19.3', 3.1.6B Side Setback to 24.8', 3.1.6C Rear Setback to 45', 3.1.8, 3.1.11, 7.1.1.1A&B and 7.2.3A,B&E for the purpose of rebuilding a house in the same footprint with a vertical expansion. Zoning District: R-88; Map: 30; Block: 6; Lot: 7&8.

The applicant, Carlos Bermudez, appeared in front of the board with an interpreter. The applicant acquired the abandoned house "as is". The applicant is seeking to reconstruct the house with a vertical expansion. A retaining wall was constructed in the front of the house to prevent more damage, and the applicant would like to use that retaining wall as part of the proposed foundation. The Zoning District is R-88. The deck on the proposed plans exceeded the advertised rear setback. The applicant agreed to make the deck smaller to meet the requested 45' rear setback. The applicant is also working with Tim Simpkins regarding the septic system. 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 19.3', a side setback to 24.8' and a rear setback to 45' to allow reconstruction of a house with a deck which does not exceed the 45' rear setback per the plans as submitted; the hardship being the size and shape of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 32-24: Roscoe, 2 Woodcreek Road, for variances to Zoning Regulations 3.0.10A&C Barns for the purpose of constructing a new 2800 sq. ft. barn. Zoning District: R-44; Map: 24; Block: 1; Lot: 7.

Rob Roscoe and Connor Roscoe presented their proposal to construct a barn. The property is a corner lot with 2 sides. Joe DePaul noted that the definition of a Barn in the Zoning Regulations contains no bedrooms or kitchens and is meant for horses or animals. A lengthy conversation ensued over whether another structure could be constructed on the property such as a garage. It was determined that the applicant could remove the existing house and construct a new house within the setbacks and not require a variance. The applicant agreed to withdraw his application.

Christine Garabo made a motion to adjourn the meeting at 10:11 p.m., duly 2nd, approved 5-0.