

New Fairfield Zoning Board of Appeals
New Fairfield, Connecticut 06812
MINUTES
January 16, 2020

The New Fairfield Zoning Board of Appeals (ZBA) held a public hearing followed by a business session at 7:00 p.m. on Thursday, January 16, 2020 in the Community Room of the New Fairfield Library located at 2 Brush Hill Road. Secretary Joanne Brown took the Minutes.

ZBA members in attendance: Joe DePaul, Chairman; John Apple, Vice Chairman; Vinny Mancuso; John McCartney; and Alternate Ann Brown.

ZBA members not in attendance: Dan McDermott and Alternate Bob Jano.

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

Chairman Joe DePaul called the Meeting to order at 7:00 p.m. and introduced the Board Members. Joe DePaul explained the meeting process and voting and appeal procedures. Secretary Joanne Brown read the Agenda. Joe DePaul made a motion to adopt the agenda as presented, duly 2nd, approved 5-0.

Continued Application # 65-19: Fructus Holdings LLC, 9 Roseton Road, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 22', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a 24'x24' addition with an attached two-car garage. Zoning District: R-44; Map: 37; Block: 4; Lot: 5.

Tammy Zinick, Permit Me Please, returned to the board with revised plans which considered the board's recommended change to move the stairs parallel to the house. The existing front setback will remain at 22'. Ms. Zinick commented that the homeowner appreciated the suggested revision which made more sense for the stairs to face the driveway. Joe DePaul asked the public for comment. None given. Vinny Mancuso noted that the applicant modified the proposal as the board suggested. The board saw no problem with the application. Vinny Mancuso made a motion to enter into the Business Session, duly 2nd, approved 5-0. Joe DePaul made a motion to grant a front setback to 22' to allow construction of an addition per the revised plans as submitted noting no increase in dimensional nonconformity; the hardship being the size and shape of the lot, duly 2nd, approved 5-0. Variance granted.

While in the Business Session, Vinny Mancuso made a motion to accept the minutes as written, duly 2nd, approved 3-0-2, John Apple and Vinny Mancuso abstaining.

Continued Application # 67-19: McDonough, 69 Lake Drive South, for variances to Zoning Regulations 3.0.4C,E&F Side Setback to 5' for the purpose of constructing a garden shed with work deck. Zoning District: R-44; Map: 25; Block: 1, Lot: 1-4 (25-18).

Joe DePaul read an email into the record from Mr. McDonough requesting a continuance to the March 2020 meeting. John McCartney made a motion to continue Application # 67-19, duly 2nd, approved 5-0. Application continued.

Continued Application # 69-19: Troncale, 26 East View Road, for variances to Zoning Regulations 3.0.9C Pergolas, 3.2.5A&B, 3.2.6A Front Setback to 25.4' 3.2.6B Side Setbacks to 6" and 27.8', 3.2.6C Rear Setback to 42', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a masonry fireplace, pizza oven, countertop, overhead wooden structure, lattice screening and railings on an existing patio. Zoning District: R-44; Map: 11; Block: 3; Lot: 1.

Ellen Hines returned to the board and gave a brief overview of the proposal. At the last meeting, the board suggested that the applicant move the proposed outdoor kitchen to the other side of the patio area where it would not require a variance. Ms. Hines modified the proposal reducing the size of the structure and height of the fireplace to 5'. The new proposal locates the structure 3' from the property line and requires a side setback to 1.9' for the pizza oven, eliminates all trellises and incorporates green space. Ms. Hines explained that the outdoor area could not be moved to the location suggested by the board because it would be in conflict with the location of the septic and utility lines. The fireplace height was reduced to 5' with no raised hearth. The existing wall would be repaired with storm water management drainage. Joe DePaul saw no problem with the application. Joe DePaul asked the public for comment. None given. John McCartney made a motion to enter into the Business Session, duly 2nd, approved 5-0. Joe DePaul made a motion to grant a side setback to 1.9' to allow construction of an ornamental outdoor kitchen structure per the modified plans as submitted, noting that the pizza oven and fireplace height will not exceed 5'; the hardship being the slope of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 01-20: HKMQ LLC, 42 State Route 39, for variances to Zoning Regulations 4.1.1A Uses or Buildings Permitted As of Right and 4.1.2A&F Special Permit Uses or Buildings for the purpose of constructing a 102'x50' 8-family duplex building. Zoning District: B/C; Map: 19; Block: 13; Lot: 12.

Dan Reilly, agent for HKMQ LLC, approached the board seeking approval for an 8-family duplex on the footprint of a previously approved office retail space. Joe DePaul noted that this application is seeking a change of use variance from business commercial (BC) to residential which is of great concern. Mr. Reilly explained that there would be 4 entrances in the front and 4 entrances in the rear of the building. The rental apartments would be 2 bedrooms, approximately 1300 square feet. The proposal could be used for 55 and above or low-income housing. A lengthy discussion ensued concerning the lack of detailed information about the proposed building. Without information on the building, entrance, height and architecture, the board was concerned about approving the application. The board asked if the applicant considered a different building footprint. A discussion ensued about wetlands, required parking spaces and the septic system. The board was not opposed to the change in use but requested additional information on the proposal. Ann Brown inquired if there would be garages for the tenants; Mr. Reilly said that there were no garages in the proposal. Joe DePaul suggested that the applicant investigate other options and requested that the existing green garage be removed as part of any further variance. Joe DePaul asked the public for comment. Hugh Bilecki asked if the board had

approved changes in zoning from commercial to residential. Joe DePaul stated that the board had not and questioned whether this should be taken up by Zoning and not the ZBA. Carl Krug asked about how the development would affect the Ball Pond Brook. Vinny Mancuso suggested the application be continued for the applicant to obtain more detailed plans. Vinny Mancuso made a motion to continue Application # 01-20, duly 2nd, approved 5-0. Application continued.

Application # 02-20: Guerra, 168 Shortwoods Road, for variances to Zoning Regulations 3.0.4C&F Minor Accessory Buildings and Structures for the purpose of installing a 12'x16' shed. Zoning District: R-88; Map: 10; Block: 16; Lot: 12.1.

Arnoldo Guerra came in front of the board. Mr. Guerra has an existing shed situated in the front yard. Joe DePaul noted that he visited the property and there were other places that the shed could be moved to. A brief discussion ensued about where the shed could be placed. Vinny Mancuso noted that the board typically did not allow sheds in the front yard and that the board should be consistent in their rulings. The board agreed that the shed could be moved within the setbacks and suggested that the applicant withdraw the application and move the shed behind the rear plane of the house. Mr. Guerra withdrew the application. Application withdrawn.

Application # 03-20: Schneider, 16 Oswego Road, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 1.6', 3.2.11, 7.1.1.1A&B and 7.2.3A,B,E for the purpose of revising a previously approved variance. Zoning District: R-44; Map: 32; Block: 6; Lot: 63.

Susan Schneider returned to the board requesting a modification of a previously approved variance. The original variance granted a front setback to 2.6' and the construction of the portico overhangs resulted in a front setback to 1.6'. Joe DePaul did not see a problem with the application and asked the public for comment. None given. Vinny Mancuso made a motion to enter into the Business Session, duly 2nd, approved 5-0. Joe DePaul made a motion to grant a front setback to 1.6' to legalize construction of an existing portico; the hardship being the closeness of the house to the front of the property, duly 2nd, approved 5-0. Variance granted.

Application # 04-20: Welsh, 8 Fox Run Road, for variances to Zoning Regulations 3.0.6B Swimming Pools, 3.2.5A&B, 3.2.6B Side Setback to 14', 3.2.6C Rear Setback to 30' 3.2.8 Maximum Impervious Coverage, 3.2.11, 7.1.1.2 and 7.2.3A&B for the purpose of installing an in-ground swimming pool and deck. Zoning District: R-44; Map: 15; Block: 1; Lot: 244.

Aran Weiner, Agent for Alisha and Eric Welsh, gave the board a brief overview of the pre-existing nonconforming house situated on a lot containing extremely steep slopes. The applicants also own adjacent properties containing easements which eliminated areas to place the proposed pool. The proposal would remove an existing deck and place a pool with a new deck to the rear of the pool. A brief discussion ensued about topography and pre-existing nonconforming lots and the lack of hardship. Joe DePaul stated that the applicant's proposal would increase nonconformity and the lower deck should be removed from the proposal. The board examined the area and suggested that if the lower deck is kept under 24" in height, it would not be considered a structure and not need a variance. Joe DePaul asked the public for comment. None given. John McCartney made a motion to enter into the Business Session, duly 2nd, approved 5-0. Joe DePaul made a motion to grant a rear setback to 41' and a side setback to

14' to allow construction of a swimming pool and side deck per the modified plans as submitted; the hardship being the severe slope of the lot, duly 2nd, approved 4-0-1, John Apple abstaining. Variance granted.

Application # 05-20: Havira, 16 Candlewood Road, for variances to Zoning Regulations 3.2.5A&B, 3.2.6B Side Setback to 17.1', 3.2.6C Rear Setback to 16.8', 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: 39; Block: 5; Lot: 56-59.

Robert Havira and Christine Tirado presented the board with their proposal for a vertical expansion on the existing footprint of the house. The house was severely damaged in the May 2018 macroburst and is currently uninhabitable. A brief discussion ensued about setbacks. Ann Brown noted that the 2' roof overhangs were not included in the dimensions shown on the plans. The house would have a basement, two-stories and an attic with 35' height maximum. Evan White saw no problems with the proposal. Vinny Mancuso made a motion to enter into the Business Session, duly 2nd, approved 5-0. Joe DePaul made a motion to grant a side setback to 17.1' and a rear setback to 16.8' to allow a vertical expansion per the plans as submitted, noting no increase in dimensional nonconformity; the hardship being the severe slope of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 06-20: Montelione, 96 Gillotti Road, for variances to Zoning Regulations 3.0.6B Swimming Pools, 3.1.5A&B, 3.1.6B Side Setback to 21', 7.1.1.2 and 7.2.3A&B for the purpose of installing an in-ground swimming pool. Zoning District: R-88; Map: 23; Block: 16; Lot: 91.

Thomas NeJame and Michael Montelione came in front of the board with their proposal to construct a swimming pool. Mr. NeJame gave a brief overview of the proposed 16'x30' free form pool which they wished to place on the left side of the property. The area was approved by Wetlands. The placement would allow for excavation and over dig without impacting the footings of the wood deck. Mr. Montelione noted that he had a small area to place the pool on his property due to wetlands and the well placement. Joe DePaul noted that the placement was too close to the neighbors and there was a large enough area away from the side setback to move the pool as to not require a variance. Mr. DePaul noted that a pool is not a hardship. Mr. NeJame questioned whether the nonconforming R-88 lot could be used as hardship. Mr. DePaul countered that by state statute, one cannot increase nonconformity without a hardship to the land and a pool is not a hardship. John McCartney suggested that the pool be moved in 9' within the setbacks where the pool would not require a variance. The board suggested the applicant withdraw the application. Mr. Montelione withdrew the application. Application withdrawn.

Application # 07-20: Hollister, 25 Candlewood Road, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 28'8", 3.2.6C Rear Setback to 28', 3.2.7, 3.2.8 Maximum Impervious Coverage, 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: 39; Block: 1; Lot: 64/69.

Agent Keith Aragi returned to the board to modify a previously approved variance to add a shed dormer across an existing house, staying within the footprint and not exceeding the existing roof height to construct a room upstairs. Joe DePaul asked the public for comment. None given.

John McCartney made a motion to enter into the Business Session, duly 2nd, approved 5-0. Joe DePaul made a motion to grant a front setback to 28'8" and a rear setback to 28' to allow a shed dormer roof per the plans as submitted, noting no increase in structural nonconformity; the hardship being the size and shape of the lot, duly 2nd, approved 5-0. Variance granted.

Vinny Mancuso made a motion to adjourn the meeting at 9:06 p.m., duly 2nd, approved 5-0.