

**New Fairfield Zoning Board of Appeals  
New Fairfield, Connecticut 06812**

**MEETING MINUTES  
January 17, 2019**

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 17, 2019, in the Community Room of the New Fairfield Public Library located at 2 Brush Hill Road. Secretary Joanne Brown took the Minutes.

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

ZBA members not in attendance: Vinny Mancuso; 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. John McCartney made a motion to adopt the agenda, duly 2<sup>nd</sup>, approved 5-0. Secretary Joanne Brown read the Call of the Meeting.

**Continued Application # 41-18:** Martino, 7 Woods Road, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 38.1', 3.2.6B Side Setbacks to 6.9' and 5.6', 3.2.6C Rear Setback to 29.7', 3.2.11, 7.1.1.2A&B and 7.2.3A,B&E for the purpose of rebuilding an existing house with additions on the northeast and southwest corners. Zoning District: R-44; Map: 45; Block: 1, Lot: 10.

John McCartney made a motion to hear Continued Application # 41-18, duly 2<sup>nd</sup>, approved 5-0. Applicants Thomas and Elizabeth Martino and Agent, Bruce Hickey, returned to the board with a new survey showing revised setbacks as requested by the board last month. The application was continued to re-advertise the correct setbacks. The side setback was changed from 7.3' to 6.9' and the rear setback from 28.6' to 29.7'. The proposal would not increase nonconformity and remain in the existing footprint of the house. Joe DePaul asked the public for comment. None given. John Apple made a motion to enter into the Business Session, duly 2<sup>nd</sup>, approved 5-0. The board saw no problem with the application. Joe DePaul made a motion to grant a front setback to 38.1', side setbacks to 6.9' and 5.6' and a rear setback to 29.7' for the purpose of rebuilding an existing house with additions per the plans as submitted, noting no increase in nonconformity; the hardship being the narrow size and shape of the lot, duly 2<sup>nd</sup>, approved 5-0. Variance granted.

While in the Business Session, John McCartney made a motion to accept the minutes as written, duly 2<sup>nd</sup>, approved 4-0-1, John Apple abstaining.

**Continued Application # 42-18:** Pogmore, 64 Inglenook Road, for variances to Zoning Regulations 3.2.5A, 3.2.6A Front Setback to 8', 3.2.6B Side Setback to 5' and 3.2.6C Rear Setback to 25.4", 3.2.11, 7.1.1.1A&B and 7.2.3A,B&E for the purpose of constructing a 24'x26' detached garage. Zoning District: R-44; Map: 41; Block: 1; Lot: 1.

Dan McDermott made a motion to hear Continued Application # 42-18, duly 2<sup>nd</sup>, approved 5-0. Maryann and Andrew Pogmore returned to the board taking into account the board's suggestion to move the garage back and keep it within the setbacks. They explained that they tried to keep the garage within the setbacks but, due to the town's well regulations, the garage needs to be 25' from the well. Their revised proposal places the garage in a wooded area with a 10' side setback. The applicants produced a letter from neighbors Larry Colombo and Aneta Mocarska, 62 Inglenook Road, who supported the application and the 10' setback, favoring the placement aesthetically. Joe DePaul stated that although the current neighbors supported the application, a variance is for the life of the property and he did not favor a 10' side setback when other alternatives, such as placing the garage next to the house or building a smaller garage, could be implemented. A lengthy discussion ensued over the placement and size of the garage. The applicants stated they do not want the garage next to the house. Joe DePaul asked the public for comment. None given. Joe DePaul suggested the applicant continue to reconsider the ideas presented. John Apple made a motion to continue, duly 2<sup>nd</sup>, approved 5-0. Application continued.

**Application # 51-18:** Song, 4 Cotton Tail Road, for variances to Zoning Regulations 3.0.9C Pergolas, 4.1.3A Minimum Lot Area & Frontage, 4.1.4C Minimum Building and Structure Setbacks Rear Setback to 14.2' and 4.1.1.4B&E Outdoor Eating for the purpose of constructing an outdoor pergola enclosed on two sides and roof over the bar. Zoning District: B/C, Map: 24; Block: 15; Lot: 8 & 10.

John McCartney made a motion to hear Application # 51-18, duly 2<sup>nd</sup>, approved 5-0. Scott Haines approached the board seeking approval for a steel roof over the outdoor bar. Mr. Haines noted that he had a letter from a neighboring commercial property owner, Pat Toth, 3 Dunham Drive, supporting the application. Joe DePaul produced photos and a brief discussion ensued over the correct zoning regulations and difference between a pergola and gazebo. It was determined that the structure was a gazebo and not a pergola, therefore, the correct zoning regulation should be 3.0.8C&D Gazebos, not 3.0.9C Pergolas, and 4.1.1.4E should be withdrawn. The application will be continued to re-advertise the correct regulations. John McCartney made a motion to continue Application # 51-18, duly 2<sup>nd</sup>, approved 5-0. Application continued.

**Application # 52-18:** Adamchak, 4 Penny Lane, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 34', 3.2.6B Side Setback to 17' and 7.1.1.2 for the purpose of constructing a master bedroom and bathroom addition. Zoning District: R-44; Map: 10; Block: 10; Lot: 4, 8 & 9.

Dan McDermott made a motion to hear Application # 52-18, duly 2<sup>nd</sup>, approved 5-0. Tammy Zinnick of Permit Me Please gave a brief history of the 1956 pre-existing nonconforming house and current setbacks. The addition would not increase nonconformity. The constructions would

be between the existing house and garage and toward the rear of the house. The proposed addition would not go higher than the existing house. Joe DePaul saw no problem with the application and asked the public for comment. None given. Dan McDermott made a motion to enter into the Business Session, July 2<sup>nd</sup>, approved 5-0. Joe DePaul made a motion to grant a front setback to 34' and a side setback to 17' for the purpose of constructing an addition per the plans as submitted, noting no increase in nonconformity; the hardship being the narrow shape of the lot, July 2<sup>nd</sup>, approved 5-0. Variance granted.

**Application # 53-18:** D'Costa, 6 Hewlett Road, for variances to Zoning Regulations 3.2.5A, 3.2.11 and 7.1.1.2 for the purpose of constructing a 8'x12' deck. Zoning District: R-44; Map: 38; Block: 2, Lot: 8.

John Apple made a motion to hear Application # 53-18, July 2<sup>nd</sup>, approved 5-0. Jay Barbuto and Ronnie D'Costa approached the board requesting a variance to construct an 8'x12' deck off the back of the house. No setbacks are required; the variance is needed because the lot is undersized. A brief discussion ensued over the concrete slab and placement of the deck. Joe DePaul produced photos of the back of the house. Joe DePaul asked the public for comment. None given. John Apple made a motion to enter into the Business Session, July 2<sup>nd</sup>, approved 5-0. Joe DePaul made a motion to grant a variance to allow construction of an 8'x12' deck per the plans as submitted, noting there are no setbacks needed; the hardship being the size and shape of the lot, July 2<sup>nd</sup>, approved 5-0. Variance granted.

**Application # 54-18:** New Outlook Homes LLC, 52 Possum Drive, for variances to Zoning Regulations 3.2.5A, 3.2.6A Front Setback to 30', 3.2.11 and 7.1.1.1A&B for the purpose of adding a 4'x9' section to an existing deck. Zoning District: R-44; Map: 24; Block: 6; Lot: 12.

John McCartney made a motion to hear Application #54-18, July 2<sup>nd</sup>, approved 5-0. Richard Goldenberg approached the board requesting a variance for a 4'x9' area to access the deck from the kitchen and dining room. The deck currently can only be accessed through the master bedroom. The variance is needed because the lot is undersized. Evan White, ZEO, stated that the lot is a corner lot with two front setbacks. Joe DePaul asked the public for comment. None given. John McCartney made a motion to enter into the Business Session, July 2<sup>nd</sup>, approved 5-0. Joe DePaul saw no problem with this application. Joe DePaul made a motion to grant a front setback to 30' to allow construction of a 4'x9' rear deck per the plans as submitted, noting no increase in nonconformity; the hardship being a corner lot and having two fronts, July 2<sup>nd</sup>, approved 5-0. Variance granted.

**Application # 55-18:** New Fairfield Falcons Pop Warner Inc., 54 Gillotti Road, for variances to Zoning Regulations 3.0.4C,D,E&F Minor Accessory Buildings and Structures and 3.1.5B for the purpose of placing an additional Storage Container between Stadium Turf and Rebel Turf near the other storage containers. Zoning District: R-88; Map: 23; Block: 16; Lot: 11.

John Apple made a motion to hear Application # 55-18, July 2<sup>nd</sup>, approved 5-0. Frank Moore, Commissioner of Pop Warner, appeared before the board requesting an additional storage container placed off the end of the parking lot between Stadium turf and Rebel turf. John Apple and Joe DePaul both commented on the unsightly condition of the existing storage containers

located there. A brief discussion ensued over who owns the existing containers and how Homeland Security mandated their removal from the back of the school due to new regulations. There was a discussion as to who moved the containers and who owns the property at 54 Gillotti; either the town or the Board Of Education. Joe DePaul suggested that the containers be rotated 90 degrees and lined up away from the parking lot with a fence installed to screen the containers from the parking lot. Evan White agreed to act as liaison to find out who owns the containers and how to best handle the situation. Evan White stated that since the structures were recently moved, they would not be grandfathered in under any updated regulations. The board discussed that a more permanent structure would be preferable. It was decided that the application be continued as Mr. Moore did not have a letter of authorization allowing him to represent the owner. John Apple made a motion to continue Application # 55-18, duly 2<sup>nd</sup>, approved 5-0. Application continued.

**Application # 56-18:** Wilk, 5 Brookside Road, for variances to Zoning Regulations 3.0.4C&E Minor Accessory Building & Structures for the purpose of placing a Stand-Alone Generator in the front yard of their property. Zoning District: R-44; Map: 37; Block: 5; Lot: 5-8.

John Apple made a motion to hear Application # 56-18, duly 2<sup>nd</sup>, approved 5-0. Applicant Amy Wilk and Shane Pawlikowski appeared before the board requesting a variance for their generator. Ms. Wilk gave a brief history of how she applied for a permit, had the generator installed and inspected only to find out that the generator was approved in error due to a data software glitch. The applicant explained that there was only one location for the propane generator due to regulations regarding carbon monoxide. The applicant plans to fence in and landscape the generator. Joe DePaul asked the public for comment. None given. Joe DePaul stated that he would not approve this application normally but due to the inspection and permitting error he would make an exception. Joe DePaul noted that there was an error in the address in the legal notice and stated the application needed to be continued to next month to re-advertise the address correctly. John McCartney made a motion to continue Application # 56-18, duly 2<sup>nd</sup>, approved 5-0. Application continued.

**Application # 57-18:** Chila/118 Lake Drive LLC, 118 Lake Drive South, for variances to Zoning Regulations 3.2.5A&B, 3.2.6C Rear Setback to 0', 3.2.11, 7.1.1.2A&B and 7.2.3A,B&E for the purpose of constructing a family room and master bedroom addition over existing foundation and patio. Zoning District: R-44; Map: 25; Block: 1; Lot: 50.

John Apple made a motion to hear Application # 57-18, duly 2<sup>nd</sup>, approved 5-0. Steven and Tiffany Chila and Roger Provey came before the board requesting an addition over an existing foundation and patio. The applicant gave a brief history of the two-building property which has ledge and deep slopes and discussed septic placement. The proposal would not need any setbacks. A brief discussion ensued about existing setbacks and property lines, closing lines and the 440 line. It was determined that the applicant should find out if the deed indicates the property line is the 440 line or some other boundary. The 2<sup>nd</sup> floor balcony was not shown on the survey by the surveyor. The applicant stated the rear setback is 7.1'. Joe DePaul said that he needed to see on the survey the balcony at 7.1' making sure there was no increase in nonconformity. Joe DePaul also noted that on the legal notice the address was left off. He stated that the

application would have to be continued to correctly re-advertise. John McCartney made a motion to continue Application #57-18, duly 2<sup>nd</sup>, approved 5-0.

**Application # 58-18:** Partelow, 14 East Lane, for variances to Zoning Regulations 3.2.5A&B, 3.2.6B Side Setback to 6.8', 3.2.11, 7.1.1.2A&B and 7.2.3A&B for the purpose of building a one car garage addition to the front of the home. Zoning District: R-44; Map: 11; Block: 3; Lot: 34.

Dan McDermott made a motion to hear Application # 58-18, duly 2<sup>nd</sup>, approved 5-0. Applicant John Partelow came to the board requesting a one-car garage. Mr. Partelow gave a brief description of the pre-existing nonconforming narrow lot and the placement of the proposed garage. The garage would require a side setback to 6.8'. The septic would not be an issue. The one-car tandem garage would not have storage. Joe DePaul asked the public for comment. None given. John McCartney made a motion to enter into the Business Session, duly 2<sup>nd</sup>, approved 5-0. The board saw no problem with the application. Joe DePaul made a motion to grant a side setback to 6.8' for a one-car garage addition, noting no increase in nonconformity, per the plans as submitted; the hardship being the narrow shape of the lot, duly 2<sup>nd</sup>, approved 5-0. Variance approved.

**Application # 59-18:** Moore, 7 Birch Drive, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 9.5', 3.2.6B Side Setback to 7.2', 3.2.11, 7.1.1.1A&B and 7.2.3A,B&E for the purpose of constructing a two car garage with finished 2<sup>nd</sup> floor and an addition for a mudroom to connect the house and garage. Zoning District: R-44; Map: 2; Block: 3; Lot: 18.

John Apple made a motion to hear Application # 59-18, duly 2<sup>nd</sup>, approved 5-0. Applicant Frank Moore gave a brief history of the property which was built in 1950. Setbacks were discussed. No rear setback is needed. Joe DePaul suggested that the proposed garage be relocated so it was outside the existing front setback and suggested that the applicant rework the proposal. The two-car garage would measure 32'x35' with room for a staircase. Joe DePaul asked for the height of the garage which would be connected to the second floor. Joe DePaul suggested that the proposal be continued to next month. Ann Brown made a motion to continue Application # 59-18, duly 2<sup>nd</sup>, approved 5-0. Application continued.

**Application # 60-18:** Schwam, 22 Lake Drive South, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 27.4', 3.2.6B Side Setbacks to 8' and 14.8', 3.2.6C Rear Setback to 19.1', 3.2.11, 7.1.1.2A&B and 7.2.3A,B&E for the purpose of a home expansion. Zoning District: R-44; Map: 20; Block: 1; Lot: 67.

John Apple made a motion to hear Application # 60-18, duly 2<sup>nd</sup>, approved 5-0. Applicant Jillian Schwam and Dainius Virbickas of Artel Engineering gave a brief overview of the 0.19 acre property which has been used as a vacation home since 2004. There is no garage on the property. The applicant proposes an addition to the front of the house which would require a 27.4' front setback, a two story addition to the southwest corner of the house which requires an 8' side setback and a deck replacement to the rear and side of the house which requires a 14.8' side setback. Joe DePaul noted that this proposal is a massive 50 percent increase in square footage. A lengthy discussion ensued over the placement of the retaining walls, stairways and septic. Mr. Virbickas stated that the other homes in the area were much closer to the property

line. Joe DePaul stated that they were grandfathered in and not relevant to this proposal. Joe DePaul saw no hardship in this application and reminded the applicant that personal hardship could not be taken into account. Mr. Virbickas noted that the impervious surfaces would be slightly decreased. No neighbor's views would be impacted due to the slope of the lot. Joe DePaul expressed his concern that the proposal would increase nonconformity. John McCartney suggested that the applicant use the existing building and deck footprint for the additions which would not encroach into the front setback. Joe DePaul suggested a 3 floor vertical expansion since no neighbor's views would be impacted. John Apple remarked that the regulation for height is 35'. Joe DePaul suggested that the applicant have a stone patio or a roof top deck. The board suggested the application be continued for the applicant to explore the suggestions presented and not increase nonconformity. John McCartney made a motion to continue Application # 60-18, duly 2<sup>nd</sup>, approved 5-0. Application continued.

Dan McDermott made a motion to adjourn the meeting at 9:53 p.m., duly 2<sup>nd</sup>, approved 5-0.