

**New Fairfield Zoning Board of Appeals**  
**New Fairfield, Connecticut 06812**  
**MINUTES**  
**March 21, 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, March 21, 2019, at the Company A Firehouse, located at 302 Ball Pond Road. Secretary Joanne Brown took the Minutes.

ZBA members in attendance: Joe DePaul, Chairman; John Apple, Vice Chairman; Vinny Mancuso; John McCartney and Alternate Bob Jano

ZBA members not in attendance: Dan McDermott and Alternate Ann Brown

Town Officials in attendance: Evan White, ZEO

Chairman Joe DePaul called the Meeting to order at 7:03 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 amend the agenda to add an item to discuss procedural issues, duly 2<sup>nd</sup>, approved 5-0.

**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', 3.211, 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 Continued Application #60-18, duly 2<sup>nd</sup>, approved 5-0. Applicant Matthew Schwam and Dainus Virbickas of Artel Engineering returned to the board. Mr. Schwam recapped the timeline of the proposal, previous variance and neighbor objections. He noted that at the January meeting the board made suggestions to keep the proposal within the existing footprint. Mr. Schwam wanted to address his neighbors' concerns and objections. He stated that the Cain's objected to what they believed was a false statement or misrepresentation by the engineer that their views would not be impacted. Mr. Schwam noted for the record that their view would be partially obstructed from at least one window and clarified that the engineer's statement was based on the lake and landscaped view. Mr. Schwam also stated that there would be no difference to the view comparing the 2014 granted variance with the current proposal. Mr. Schwam presented photos from different angles to support his position. The 2014 granted variance contained a peak roof while the current proposal contains a flat roof with deck. Joe DePaul noted that the applicant is entitled to build as per the granted variance. William David, 20 Lake Drive South, voiced his concerns over the size, scope and encroachments of the first proposal. A lengthy discussion ensued over these concerns, including the height of the David's garage, sight lines and proposed roof height. Joe DePaul noted his concern over a 35' max roof height. Mr. David again stated that he would be substantially impacted over the proposal. Joe DePaul questioned "substantially" and noted that a substantial loss of view would impact property values such as taking away a lake view. The board requested he produce any photos he might

have to support his position or refer to any zoning regulations. Mr. David did not produce any photos or refer to any specific zoning regulations. Mr. Schwam reiterated that the proposal was revised to stay within the current footprint, fill in the deck area which did not increase structural nonconformity, but did increase volumetric nonconformity. Joe DePaul noted that the proposal was massive. The impervious surface percentages were discussed. Joe DePaul asked the public for comment. Joanna Pound voiced her concerns and questioned the amount of impervious surfaces and Joe DePaul responded that the town would require mitigation. Mr. Schwam stated that the proposal was revised taking into account the board's suggestions to stay within the existing footprint. Vinny Mancuso made a motion to enter into the Business Session, July 2<sup>nd</sup>, approved 5-0. Vinny Mancuso stated that the applicant conformed to what the board asked for. Joe DePaul questioned whether the views would be "substantially" impacted. Bob Jano was concerned that the building was too massive for a tiny piece of property and that it did not fit in with the neighborhood. Mr. Jano noted that the variance was forever and was concerned what the next owner might do with the property. John McCartney also noted the large size of the house for the lot. John Apple stated that Candlewood Isle was incorrectly zoned but this proposal was improving the property. The board discussed the setbacks needed. Joe DePaul made a motion to grant a front setback to 35.31', a side setback to 8.20' and a rear setback to 24.17' to allow a vertical expansion per the revised plans as submitted; the hardship being the size and slope of the lot, noting that there is no increase in setbacks, July 2<sup>nd</sup>, approved 4-1, Bob Jano against. Variance granted.

**Application # 06-19:** Porter, 1 Jewel Lane, for variances to Zoning Regulations 3.1.5A, 3.1.6A Front Setback to 34.5', 3.1.11, 7.1.1.1A&B and 7.2.3A&B for the purpose of extending an existing front porch. Zoning District: R-88; Map: 17; Block: 2; Lot: 16.

John McCartney made a motion to hear Application #06-19, July 2<sup>nd</sup>, approved 5-0. Applicant Gary Porter and Rachel and Andrew Stietzel approached the board with their proposal to extend an existing front porch. The house was damaged during the microburst of May 2018. The roof needed to be repaired and the applicant did not know that a variance was needed to cover the front porch. The property is situated on an extremely sloped lot with a steep driveway far from the road. A brief discussion ensued regarding setbacks and the height of the steps. It was determined that a 34.5' front setback was needed. Joe DePaul asked the public for comment. None given. Vinny Mancuso 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 34.5' to legalize an already existing constructed front porch; the hardship being the slope and shape of the lot, July 2<sup>nd</sup>, approved 5-0. Variance granted.

While in the Business Session, Bob Jano made a motion to approve the minutes as read, July 2<sup>nd</sup>, approved 3-0-2, John Apple and Vinny Mancuso abstaining.

**Application # 07-19:** Chiulli, 35 Deer Run, for variances to Zoning Regulations 3.2.5A, 3.2.6A Front Setback to 19.4', 3.2.6C Rear Setback to 0.8', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of a vertical expansion of an existing house. Zoning District: R-44; Map: 15; Block: 1; Lot 133-135.

John McCartney made a motion to hear Application #07-19, duly 2<sup>nd</sup>, approved 5-0. Angelo Agovino appeared in front of the board on behalf of his mother. He gave a brief history of the property which was previously used as a summer home and will be renovated to include a master suite. The vertical expansion will sit on the existing footprint, increasing height by about 9' for an average height of 33'. The roof will be changed to extend the steepness of the pitch. Joe DePaul asked the public for comment. Evan White stated that the setbacks reflect the property's position within the 440 line. Vinny Mancuso made a motion to enter into the Business Session, duly 2<sup>nd</sup>, approved 5-0. The board saw no problem with the proposal. Joe DePaul made a motion to grant a front setback to 19.4' and a rear setback to .08' to allow construction of a vertical expansion per the plans as submitted noting no increase in structural nonconformity; the hardship being the massive slope of the lot, duly 2<sup>nd</sup>, approved 5-0. Variance granted.

**Application # 08-19:** Fichera, 57 Bogus Hill Road, for variances to Zoning Regulations 3.2.5A&B, 3.2.6B Side Setback to 17.5', 3.2.6C Rear Setback to 48', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of replacing an existing deck. Zoning District: R-44; Map: 11; Block: 2; Lot: 22.

John Apple made a motion to hear Application # 08-19, duly 2<sup>nd</sup>, approved 5-0. Dainius Virbickas, Artel Engineering, gave a brief history of the existing single family home seeking to rebuild the east and south side of a deck. The rear setback for the existing deck is 47' and the proposed deck requires a rear set back of 48' reducing nonconformity. The side yard deck would increase nonconformity from 18.9' to 17.99' by squaring off a corner. Evan White stated that he had no problem with this application. Vinny Mancuso made a motion to enter into the Business Session, duly 2<sup>nd</sup>, approved 5-0. The board noted the inconsequential increase of nonconformity on the side. Joe DePaul made a motion to grant a side setback to 17.99' and a rear setback to 48.2' to grant construction of a deck per the plans as submitted, noting the inconsequential increase of nonconformity on the side; the hardship being the size and shape of the lot, duly 2<sup>nd</sup>, approved 5-0. Variance granted.

**Application # 09-19:** MacCarthy, 28 Overbrook Drive, for variances to Zoning Regulations 3.1.5A&B, 3.1.6B Side Setback to 26.9', 7.1.1.2 and 7.2.3A&B for the purpose of enclosing space under a bedroom for storage. Zoning District: R-88; Map: 43; Block: 1; Lot: 21.

John Apple made a motion to hear Application # 09-19, duly 2<sup>nd</sup>, approved 5-0. Applicant Jean MacCarthy approached the board seeking a variance to legalize enclosing an area under the house for storage. Ms. MacCarthy explained that in 2014 a variance had been granted for an addition with the condition of the removal of a shed. The applicant did not realize a variance was needed for the enclosed space. Joe DePaul asked the public for comment. None given. Vinny Mancuso made a motion to enter into the Business Session, duly 2<sup>nd</sup>, approved 5-0. Joe DePaul made a motion to grant a side setback to 26.9' to allow the space to be enclosed under the house, noting no increase in nonconformity, per the existing construction; the hardship being the shape of the lot, duly 2<sup>nd</sup>, approved 5-0. Variance granted.

**Application # 10-19:** Lynders and Sartain, 6 Lake Circle (CI), for variances to Zoning Regulations 3.0.5C, 3.2.5A&B, 3.2.6A Front Setback to 25.15', 3.2.6B Side Setback to 11.77',

3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of relocating and rebuilding existing garages and a porch and side addition. Zoning District: R-44; Map: 20; Block: 5; Lot: 12 & 13.

Bob Jano made a motion to hear Application # 10-19, duly 2<sup>nd</sup>, approved 5-0. Agent Stacey Keaney, Keaney & Company, Dainius Virbickas, Artel Engineering and applicants David Lynders and Michele Sartain approached the board with their proposal to rebuild and relocate a garage that was damaged in last year's microburst. Ms. Keaney stated that the one-car 118 sq. ft. garage will be relocated 13' back from its present position decreasing nonconformity. The existing front setback will be increased from 11.9' to 25.1'. The existing side setback is 8.5' and the proposed side setback is 11.77'. Dainius Virbickas stated that the proposal had wetlands and health department approval. Several letters of support were read into the record from neighbors, Cheneski at 3 Lake Circle, Smalley at 8 Lake Circle and Mead at 6 Lake Circle. Sara Nainzadeh at 4 Lake Circle supported the applicant's proposal to rebuild their home after the destruction but did not support the second floor addition and increase of the height of the building which would loom over her property. The board discussed the distance and positioning from the property to 4 Lake Circle. Joe DePaul asked the public for comment. None given. Stacey Keaney presented plans of the proposed house and noted the vertical expansion was in the center of the house with an 8-12' height increase. Ms. Keaney noted the decrease in nonconformity by pulling the garage back on the property. Vinny Mancuso 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 25.15', a side setback to 11.77' to allow a vertical expansion to a house and a reconstruction of a garage per the plans as submitted; the hardship being the slope and shape of the lot, duly 2<sup>nd</sup>, approved 5-0. Variance granted.

**Application # 11-19:** Skelly, 194 State Route 39, for variances to Zoning Regulations, 3.0.5, 3.2.5A, 7.1.1.2 and 7.2.3A&B for the purpose of building a 24'x24' two-car detached garage. Zoning District: R-44; Map: 10; Block: 5; Lot: 19.

John McCartney made a motion to hear Application # 11-19, duly 2<sup>nd</sup>, approved 5-0. Applicants Michael and Caitlin Skelly appeared in front of the board to replace their existing 13'x22' garage which was destroyed by a tree and demolished with a 24'x24' two-car garage. No setback are needed; the variance is for the undersized lot. Joe DePaul asked the public for comment. None given. Vinny Mancuso made a motion to enter into the Business Session, duly 2<sup>nd</sup>, approved 5-0. Joe DePaul made a motion to approve reconstruction of a garage per the plans as submitted, noting that no setbacks are needed; the hardship being the size and shape of the lot, duly 2<sup>nd</sup>, approved 5-0. Variance granted.

**Application # 12-19:** Butorac, 44 Lake Drive North, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 29.1', 3.2.11, 7.1.1.2 and 7.2.3A&B for the purpose of adding a portico over the front door. Zoning District: R-44; Map: 15; Block: 6; Lot: 49.

John Apple made a motion to hear Application # 12-19, duly 2<sup>nd</sup>, approved 5-0. Applicant Ann Butorac approached the board with her proposal to add a portico over her front door. The applicant explained how the roof was damaged in the storm and a variance is needed to rebuild. Joe DePaul asked the public for comment. None given. Vinny Mancuso made a motion to enter into the Business Session, duly 2<sup>nd</sup>, approved 5-0. Joe DePaul made a motion to grant a front

setback to 29.1' to allow construction of a portico, noting no increase in structural nonconformity, per the plans as submitted; the hardship being the size and shape of the lot, duly 2<sup>nd</sup>, approved 5-0. Variance granted.

**Application # 13-19:** Perchal and Bianco, 20 Deer Run, for variances to Zoning Regulations 3.2.5A, 7.1.1.2A&B and 7.2.3A,B&E for the purpose of constructing a 27'x21' two-car garage. Zoning District: R-44; Map: 15; Block: 1; Lot: 159&160.

John McCartney made a motion to hear Application # 13-19, duly 2<sup>nd</sup>, approved 5-0. Applicants Paul Perchal and Thomas Bianco and Abigail Adams returned to the board. The applicants were recently granted a variance for a one-car garage. There was a misunderstanding on the applicant's part with regard to imperious surfaces and the gravel driveway. No setbacks are needed and the variance would be for the undersized lot. Joe DePaul asked the public for comment. None given. Vinny Mancuso made a motion to enter into the Business Session, duly 2<sup>nd</sup>, approved 5-0. Joe DePaul made a motion to grant a variance to allow construction of a two-car garage per the plans as submitted, noting no setbacks needed; the hardship being the size and slope of the lot, duly 2<sup>nd</sup>, approved 5-0.

**Application # 14-19:** Farmer and Lynch, 4 Lakeshore Drive North, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 32.75', 3.2.6B Side Setbacks to 23.5' (North) and 18.5' (South), 3.2.6C Rear Setback to 32.3', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a rear house addition and front porch with stairs addition. Zoning District: R-44; Map: 40; Block: 1; Lot: 33.

John Apple made a motion to hear Application # 14-19, duly 2<sup>nd</sup>, approved 5-0. Chad Nehring, agent for Farmer and Lynch, appeared in front of the board requesting that the front entry of the existing home be moved, the roof ridge rotated 90 degrees and a rear addition be built. A brief discussion ensued over setbacks needed. The proposed height of the roof would be 29' with no cover over the front porch, decreasing nonconformity. The rear addition would add 6' for a rear setback to 23.5'. The positioning of the woodshed and ownership was discussed. Joe DePaul stated that he would like to see the variance contingent upon the removal or replacement of the illegal structure to conform to the zoning regulations. Joe DePaul asked the public for comment. None given. Vinny Mancuso made a motion to enter into the Business Session, duly 2<sup>nd</sup>, approved 5-0. Joe DePaul made a motion to grant a front setback to 25.25', a side setback to 18.5' and a rear setback 32.3' to construct a front porch and a rear addition, per the plans as submitted, contingent upon the removal or replacement of the woodshed to conform to the current zoning regulations; the hardship being the size and shape of the lot, duly 2<sup>nd</sup>, approved 5-0. Variance granted.

**Application # 15-19:** McCarthy, 226 State Route 37, for variances to Zoning Regulations 3.0.5A&B, 3.1.5A&B, 3.1.6A Front Setback to 40', 3.1.6B Side Setback to 20', 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a garage extension and house addition. Zoning District: R-88; Map: 13; Block: 6; Lot: 9.

John Apple made motion to hear Application # 15-19, duly 2<sup>nd</sup>, approved 5-0. Applicant Robert McCarthy appeared in the front of the board. Mr. McCarthy gave a brief history of the property

and barn structure that was destroyed in the storm and demolished. The applicant would like to construct a garage, an extension and an addition. The applicant requested a front setback to 40' and a side setback to 20'. Joe DePaul produced photos of the property. Mr. DePaul had an issue with the garbage shed and stated it was an illegal structure. Mr. DePaul asked if the applicant would remove the shed as a contingency to the variance. Joe DePaul asked the public for comment. None given. Vinny Mancuso 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 40' and a side setback to 20' to allow construction of a garage and reconstruction of the house per the plans as submitted, contingent upon the removal of the garbage shed in the front yard; the hardship being the size and shape of the lot, July 2<sup>nd</sup>, approved 5-0. Variance granted.

Bob Jano made a motion to hear the amended agenda item, July 2<sup>nd</sup>, approved 5-0. Joe DePaul suggested that the board could amend their procedure to no longer have to make a motion and vote to call up each application. This would speed up the meeting and cut down on the size of the minutes. Using the legal notice as a guide, Joe DePaul would simply call up each application in the order of the legal notice. The board agreed. Joe DePaul made a motion to amend the board's procedure to no longer require a motion and vote to hear an application, July 2<sup>nd</sup>, approved 5-0.

Vinny Mancuso made a motion to adjourn the meeting at 9:16 p.m., July 2<sup>nd</sup>, approved 5-0.