

New Fairfield Zoning Board of Appeals
New Fairfield, Connecticut 06812
MINUTES
May 16, 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, May 16, 2019, 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; John McCartney, Vinny Mancuso, Dan McDermott; Alternates Ann Brown and Bob Jano.

Town Officials in attendance: None.

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 amend the agenda to discuss future meeting dates, July 2nd, approved 5-0.

Continued Application # 16-19: Berrie, 3 Candlewood Road, for variances to Zoning Regulations 3.2.6A Front Setback to 28.6', 3.2.11, 7.1.1.2 and 7.2.3A&B for the purpose of converting a 3-season porch to a 4-season room. Zoning District: R-44; Map: 39; Block: 1; Lot: 2.2.

Stanley Berrie returned to the board due to an advertising issue. The existing 3-season room would be converted into a heated 4-season room with no change in footprint, roofline or exterior renovation. Joe DePaul asked the public for comment. None given. Vinny Mancuso made a motion to enter into the Business Session, July 2nd, approved 5-0. The board saw no problem with this application. Joe DePaul made a motion to grant a front setback to 28.6' for the purpose of converting a 3-season room into a 4-season room, noting no increase in nonconformity, per the plans as submitted; the hardship being the size and shape of the lot, July 2nd, approved 5-0. Variance granted.

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

Continued Application # 18-19: Landi, 3 Schermerhorn Drive, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 39', 3.2.6B Side Setback to 11', 3.2.11, 7.1.1.1A&B and 7.2.3A&B for the purpose of extending an existing deck. Zoning District: R-44; Map: 36; Block: 2; Lot: 13-4.

David Landi returned to the board with a letter from his neighbors, Iris Rainone and Gary Mummert, 5 Schermerhorn Drive, stating they had no objections to the proposed deck. Last month, the board suggested a compromise to revise the deck length from 28' to approximately 20' meeting a side setback of 12'. Mr. Landi accepted the compromise. A brief discussion

ensued over exact setbacks and dimension. Joe DePaul asked the public for comment. None given. John Apple made a motion to enter into the Business Session, July 2nd, approved 5-0. Joe DePaul made a motion to grant a side setback to 12' to allow construction of a deck, no wider than the original deck, per the plans as submitted; the hardship being the location of the house on the lot, July 2nd, approved 5-0. Variance granted.

Continued Application # 23-19: Flower, 27 Lloyd Avenue, for variances to Zoning Regulations 3.2.5A, 3.2.6A Front Setbacks to 21.4' (Roy) and 23' (Lloyd), 3.2.11, 7.1.1.1A&B and 7.2.3A,B&E for the purpose of constructing a new single family dwelling. Zoning District: R-44; Map: 34; Block: 14; Lot: 1.

Frank Scinto, Chipman and Mazzucco, and Joe Enright, Westchester Modular, returned to the board due to the re-advertisement of correct front setbacks. Mr. Scinto produced photos of the lot which had been cleaned up. Joe DePaul stated that he was pleased with the progress and would take the contingency of cleanup out of the variance if granted. The proposal would require two front setbacks, 21.4' (Roy) and 23' (Lloyd). Mr. Scinto stated the proposal decreased nonconformity by relocating the deck, removing the storage shed, chimney and bay window. Vinny Mancuso asked what the proposed roof height would be. It was determined to be 19'9 1/4". Joe DePaul asked the public for comment. None given. Vinny Mancuso made a motion to enter into the Business Session, July 2nd, approved 5-0. The board discussed that there was no increase in nonconformity. Joe DePaul made a motion to grant a front setback to 21.4' (Roy) and 23' (Lloyd) to reconstruct a fire-damaged single family house per the plans as submitted, noting no increase in nonconformity; the hardship being the size and shape of the lot, July 2nd, approved 5-0. Variance granted.

Application # 24-19: D'Ottavio, 357 State Route 37, for variances to Zoning Regulations 3.0.5A&B Private Permanent Detached Garage for the purpose of tearing down an existing 3 bedroom structure and constructing a new detached garage with upstairs living space, deck and carport. Zoning District: R-88; Map: 4; Block: 3; Lot: 1.2.

Steve D'Ottavio and Joe Reilly gave a brief history of the proposal which has a legal two family building on the property. The house in the rear is old and in disrepair. No setbacks are needed. Joe DePaul read Zoning Regulation 3.0.5 Private Detached Garages into the record. 3.0.5 Private Permanent Detached Garages. Private and permanent detached motor vehicle garage for the use of residents of the lot providing that:

- A. the building area shall not exceed 750 square feet;
- B. there may be up to 250 square feet of additional building area, up to a maximum of 1000 square feet of building area per lot, if the lot size exceeds the minimum lot size for the applicable zoning district for the lot by over 20,000 square feet.

The existing house is over 1000 square feet and the new garage will be a bit smaller. John McCartney noted that the proposal would be a substantial improvement. Joe DePaul asked the public for comment. None given. John McCartney made a motion to enter into the Business Session, July 2nd, approved 5-0. The board saw no problem with this application. Joe DePaul made a motion to grant a variance to vary 3.0.5A&B to rebuild a house per the plans as submitted, noting a decrease in nonconformity, July 2nd, approved 5-0. Variance granted.

Application # 25-19: 118 Lake Drive LLC, 118 Lake Drive South, for variances to Zoning Regulations 3.2.5A&B, 3.2.6C Rear Setback to 7.9', 3.2.8 Maximum Impervious Coverage, 3.2.11, 7.1.1.2A&B and 7.2.3A,B&E for the purpose of building a family room, master bedroom and porch addition over an existing foundation and patio. Zoning District: R-44; Map: 25; Block: 1; Lot: 50.

The Chilas returned to the board to amend a previously granted variance which omitted Zoning Regulation 3.2.8 Maximum Impervious Surfaces. A brief discussion ensued over impervious surfaces and wetland permits. Joe DePaul 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 rear setback to 7.9' and to amend the original variance to include 3.2.8 Maximum Impervious Surfaces per the plans as submitted, noting no increase in nonconformity; the hardship being the size and share of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 26-19: Schnarr, 34 Lake Drive North, for variances to Zoning Regulations 3.2.5A, 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of demolishing an existing second story and rebuilding it with a 3' height increase. Zoning District: R-44; Map: 15; Block: 6; Lot: 29-31 & 59-60.

Michael Schnarr appeared in front of the board to present his proposal to remove an existing roof and raise the height 3'. The proposed roof height would be 24' in the front and 31' in the back of the house. Mr. Schnarr produced a letter showing support of this application signed by his neighbors: John and Sally Cotumaccio, 22 Sunset Trail, Joe and Deb Oulvey, 30 Lake Drive North, Robert Baker, 19 Sunset Trail, Tom and Denise Cheneski, 32 Lake Drive North, and Christopher and Tara Molloy, 36 Lake Drive North. Joe DePaul asked the public for comment. John Cotumaccio, 22 Sunset Trail, stated that he had no objections to the proposal. Dan McDermott made a motion to enter into the Business Session, duly 2nd, approved 5-0. The board noted the roof would remain on the existing footing and had no objections. Joe DePaul made a motion to grant a variance to raise the roof height 3' per the plans as submitted, noting that there is no increase in structural nonconformity, duly 2nd, approved 5-0. Variance granted.

Application # 27-19: Johannssen, 200 State Route 39, for variances to Zoning Regulations 3.2.6A Front Setback to 14' for the purpose of a roof removal and reframing, adding bedroom and living space and front and side porch addition. Zoning District: R-44; Map: 10; Block: 8; Lot: 20.

Brian and Katie Johannssen gave a brief overview of their 250 year-old farm house. The roof leaks and is in disrepair. The proposal would replace the roof and add a bedroom and living space. The applicants are also requesting a variance to add a porch to the house. The applicants produced old photos of the house showing a front and side porch. The porch either rotted away or was previously removed before the applicants moved into the house 18 years ago. A discussion ensued over setbacks, size of the porch and safety concerns due to the closeness of Route 39. It was decided that this application be bifurcated into two separate proposals. The roof would remain on the same footprint with a change in the roofline adding a reverse dormer; the front side changing pitch with a shed roof. The new roof height will be 31' to allow for a bedroom and living space. The board saw no problem with the roof application. Joe DePaul

asked the public for comment. None given. Ann Brown asked to see the floor plan for the second floor. Setbacks were discussed including overhangs. John McCartney made a motion to enter into the Business Session, July 2nd, approved 5-0. Joe DePaul made a motion to grant a front setback to 21.9; to allow reconstruction of a roof and addition per the plans as submitted, noting no increase in nonconformity; the hardship being the closeness to the road, July 2nd, approved 5-0. Variance granted.

John McCartney produced a photo of the house showing where the porch would be placed and the rock wall. Joe DePaul stated that he had a problem with such a large increase in nonconformity. The applicants stated that they have been restoring the house over the years and would like to return the house to as it once was. Joe DePaul stated that one loses the ability to replace what was previously there after one year of it being removed. The placement of the porch was discussed. The proposed porch would be 6' wide with an overhang. Joe DePaul asked the public for comment. None given. Vinny Mancuso made a motion to enter into the Business Session, July 2nd, approved 5-0. John McCartney noted that he drives by that house often and the porch would add character to the farmhouse. Vinny Mancuso agreed. Joe DePaul stated that there was a huge increase in nonconformity. Bob Jano stated that porch was very close to the road and was a safety hazard. Joe DePaul made a motion to grant a front setback to 14' to allow construction of a 6' porch with overhang on 3 sides of the house per the plans as submitted; the hardship being the existing location of the property and the fact that the porch once existed on the house at one time, July 2nd, approved 4-1, Joe DePaul denied. Variance granted.

Application # 28-19: Creasy, 282 State Route 37, for variances to Zoning Regulations 3.1.10A&B Barns for the purpose of constructing a wood storage building. Zoning District: R-88; Map: 12; Block: 2; Lot: 2-4 & 1.2.

John Creasy gave a brief overview of his 40 acre property which lost many trees due to the microburst last year. Mr. Creasy would like to harvest this wood with intent to build a house on the property with the lumber. The barn is needed to house this wood. A brief discussion ensued about the location of the house and nearest street. Joe DePaul stated that he did not want to approve another garage that might turn into a business with tractor trailers coming in and out of the property. Mr. Creasy stated that he has spent years restoring the house and barn on the property. He has planted many fruit trees and blueberry bushes organically with the hopes of moving back to New Fairfield to start bee keeping. Mr. Creasy stated that he had no intention of a commercial garage. The proposed garage would be one story and 34'x26', under 21' height. Joe DePaul stated that a stipulation should be added to the variance stating that the barn would only house the applicants' trees harvested on the property and no outside trees could be brought onto the property. Mr. Creasy had no problem with that. Joe DePaul asked the public for comment. None given. It was determined that the Zoning Regulation was incorrectly advertised and would need to be re-advertised. The correct Zoning Regulation is 3.0.10A&B Barns. John Apple made a motion to continue this application until next month to correctly advertise the application, July 2nd, approved 5-0. Application continued.

Application # 29-19: Kornfeld TTE, 87 Lake Drive South, for variances to Zoning Regulations 3.0.4C,E&F Minor Accessory Buildings Side Setback to 3'4", 3.2.5A&B, 3.2.11, 7.1.1.2 and

7.2.3A&B for the purpose of installing an emergency generator. Zoning District: R-44; Map: 25; Block: 1; Lot: 23.

Eric Kornfeld explained to the board that his existing generator and septic system were damaged in the 2018 macroburst. In assessing the damage it was determined that his septic was situated below the 440 line and had to be moved north. The placement of the septic was constrained by the well placement causing the generator to have to be moved to the side of the house. The proposed generator would be surrounded by a fence and sound-absorbing brick. Mr. Kornfeld had a sound technician record the frequencies so the appropriate sound brick could be matched. Bob Jano commented that he has the same generator and that is not that loud and only runs 2-3 mins a day. 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 3'4" to allow placement of a generator per the plans as submitted, noting the placement of sound absorbing bricks around the generator; the hardship being the size and shape of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 30-19: Giafone, 10 Cecelia Lane, for variances to Zoning 3.2.5A&B, 3.2.7, 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of increasing the height of a proposed garage from a previously approved variance. Zoning District: R-44; Map: 10; Block: 8; Lot: 15.

John Giafone and Chad Nehring returned to the board. A previous variance was granted in December 2017. The proposed garage's footprint remains the same as the previously granted variance but the height has been increased from 17' to 21.6'. The roof would have a shed roof in the rear to allow for extra storage and have interior stairs from the garage. A brief discussion ensued about neighbors' views and it was determined that this was addressed at the previous variance's hearing. Joe DePaul asked the public for comment. None given. John Apple made a motion to enter into the Business Session, duly 2nd, approved 5-0. Joe DePaul made a motion to grant a vertical expansion to amend the roof height of a previously approved variance of a garage which had not been built yet 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.

Application # 31-19: Schneider, 16 Oswego Road, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 8'7", 3.2.11, 7.1.1.1A&B and 7.2.3A,B&E for the purpose of raising the roof line of an existing home, a portico addition and moving deck stairs to other side of house. Zoning District: R-44; Map: 32; Block: 6; Lot: 63.

Susan Schneider and Duncan Lester appeared in front of the board requesting a variance to change the roof line of an existing house. The upstairs cannot fit a standard door and, in order to replace it, the roof must be raised. The applicant would also like to add a portico over the front steps and change the direction of the stairs for better flow. Joe DePaul noted that this property might fall within 500 feet of New York State and, if so, New York must be notified of the proposal. A brief discussion ensued about setbacks and it was determined that the correct front setback is 2.6' and the proposal will need to be continued to re-advertise the legal notice correctly and determine if New York State (Town of Patterson) needs to be notified. Vinny Mancuso made a

motion to continue Application # 31-19 to next month, July 2nd, approved 5-0. Application continued.

Application # 32-19: Ruppert, 28 Fox Run, for variances to Zoning Regulations 3.2.5A&B, 3.2.6B Side Setback to 9', 3.2.11, 7.1.1.2 and 7.2.3A&B for the purpose of installing a prefab swim spa. Zoning District: R-44; Map: 15; Block: 1; Lot: 191 & 225.

Tom Ruppert and Romanita Ruppert approached the board with their proposal to install a 14.5'x8' swim spa. The lot is nonconforming and irregularly shaped and sloped in the rear. The applicants are asking for a side setback to 9' to place the spa at what they believe is the best location on the lot due to the septic and the slope. The applicant gave a brief overview of the swim spa; it was a used swim spa and the applicant thought it would be considered a minor accessory and not require a variance. Joe DePaul stated that he had a problem with a 9' setback when there was no hardship. A brief conversation ensued over other places to put the swim spa; notably the deck which the applicant said would not work due to its size. John Apple discussed a retaining wall and contacting a contractor to see if it could be placed into the slope. The applicant stated that their street had no on-street parking and the only place they could put the swim spa was in front of their garage which would cause them to lose access to it. The board discussed the lack of hardship and suggested the applicant continue the application to explore other placement options. Vinny Mancuso made a motion to continue, July 2nd, approved 5-0. Application continued.

Application # 33-19: Bernardini, 90 State Route 39, for variances to Zoning Regulations 4.1.4D Minimum Building and Structure Setbacks, Side Setback to 25', Rear Setback to 6', 4.1.12 Landscaping, 6.1.1A&B Parking Areas and 6.2.2 Layout of Parking Areas for the purpose of expanding and reconfiguring a parking lot layout from a previously approved variance. Zoning District: B/C; Map: 19; Block: 12; Lot: 19.

David Bernardini returned to the board seeking a variance to reconfigure the parking area. An island, fire tank and staircase have been removed resulting in three new parking spots. There is no change to the setbacks. A brief discussion ensued over the fence. Mr. Bernardini stated that the project is not finished yet and is waiting to install the fence and add the shrubbery after the parking lot is paved. The board verified the zoning requirements and setback for Zoning District BC. Joe DePaul asked the public for comment. None given. John McCartney made a motion to enter into the Business Session, July 2nd, approved 5-0. Joe DePaul made a motion to grant a variance to reconfigure the parking area per the plans as submitted, contingent upon building a fence and planting shrubbery; the hardship being the size and shape of the lot, July 2nd, approved 5-0. Variance granted.

While in the Business Session, Joe DePaul made a motion to move the July 18, 2019 ZBA meeting date a week later to a Special Meeting on July 25, 2019 to be held at the NF Library Community Room, July 2nd, approved 5-0.

Vinny Mancuso made a motion to adjourn the meeting at 9:31 p.m., July 2nd, approved 5-0.