

New Fairfield Zoning Board of Appeals
New Fairfield, Connecticut 06812
MINUTES
February 18, 2021

The New Fairfield Zoning Board of Appeals (ZBA) held a public hearing followed by a business session on **Thursday, February 18, 2021** at 7:00 p.m. **via Zoom Web Conference (Meeting ID: 92632694647)**. Secretary Joanne Brown took the Minutes.

ZBA members in attendance: Joe DePaul, Chairman; John Apple, Vice Chairman; Vinny Mancuso; John McCartney, Dan McDermott and Alternates Ann Brown and Bob Jano.

Town Officials in attendance: Evan White, Zoning Enforcement Officer

Broadcast Coordinator, Paul Gouviea, from the Town of New Fairfield, gave an overview of how the Zoom Web Conference would proceed. Chairman Joe DePaul called the Meeting to order at 7:00 p.m. and introduced the Board Members. Joe DePaul gave a brief overview of how the meeting would be conducted. Secretary Joanne Brown read the Agenda. Vinny Mancuso made a motion to adopt the agenda, duly 2nd, approved 5-0.

Continued Application # 53-20: Reif, 16 Keplers Way, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 8', 3.2.6B Side Setback to 10', 3.2.8, 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing an 16'x27.6' addition to extend the family room and master bedroom with storage above and install (2) 5' dormers on existing. Zoning District: R-44; Map: 45; Block: 5; Lot: 18.

Agent Joe Coelho, JC Contracting, returned to the Board with a B100 Survey showing the septic placement and the reserve septic areas as requested by the Board last month. A letter from adjacent neighbors, Nicole and Jason Jakacic, 17 Keplers Way, was read into the record supporting the proposal. The grassy area to the right of the property contains the existing septic tank and leaching fields rendering it unbuildable. Mr. Coelho explained that the rear of the yard was predominately ledge with very steep slopes which would require extensive blasting and making it difficult to bring equipment in. Joe DePaul noted that the rear area could be built on and noted that the cost involved was not an issue to the Board. Vinny Mancuso questioned whether the addition could be placed on the existing stone patio. Due to health regulations, a 10 feet buffer to the septic is required; therefore, the patio area was not a viable option. John Apple noted that the applicant was asking for a radical increase in nonconformity. A lengthy discussion ensued about placement of the addition and setbacks. The applicant modified the proposal to remove the deck. John McCartney said that he had no issue to the proposal without the deck and discussed a compromise lessening the side setback to 15'. The applicant and Board agreed to accept the 15' side setback without the deck. Bob Jano stated that he had an issue if the addition added more bedrooms. Mr. Coelho stated that the addition was to enlarge the family room and master bedroom with no additional bedrooms. Mr. DePaul asked the public for comment. None given. The Board entered into the Business Session. Joe DePaul stated that he was not happy with the application being so close to the property line but accepted the compromise. Joe DePaul made a

motion to grant a front setback to 15.5' and a side setback to 15' to allow construction of an addition, per the plans as modified, the hardship being the ledge in the rear, duly 2nd, approved 5-0. Variance granted.

Joe DePaul stated that he was asked to publicly address the issue of construction sites in The Knolls with debris and portable toilets being placed and left in the street. The Candlewood Knolls Community has issued new guidelines to address the problem and contractors need to adhere to the regulations.

While in the Business Session, John McCartney made a motion to accept the Minutes as presented, duly 2nd, approve 4-0-1, John Apple abstaining.

Application # 01-21: Saccente, 119 State Route 39, for variances to Zoning Regulations 3.0.6A&B Swimming Pools, 3.1.5A, 3.1.6A Front Setback to 20', 3.1.6B Side Setback to 10', 3.1.11, 3.2.8, 7.1.1.2A&B and 7.2.3A&B for the purpose of installing an above-ground swimming pool. Zoning District: R-88; Map: 19; Block: 2; Lot:1.

Frank Saccente came in front of the Board with his request to install a swimming pool. Zoning regulations do not allow a swimming pool to be placed in the front yard. Evan White, ZEO, explained that the front yard of the property faces Route 39. The front of the applicant's house is situated facing the side property line and he did not realize the area where the pool was to be placed was the front yard and not the side. Mr. DePaul noted that the Board rarely, if ever, granted pools in the front yard of a property and noted that there is no hardship. After a brief discussion, the applicant withdrew the application.

Application # 02-21: DeFeo, 19 Crestway, for variances to Zoning Regulations 3.2.5A&B, 3.2.6C Rear Setback to 35.7', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a single-family house. Zoning District: R-44; Map: 10; Block: 3; Lot: 46-47.1

William and Gail DeFeo presented their proposal to construct a single-family home. A previous variance was granted in 2009. The DeFeo's have revised their house plans and added a master bedroom on the first floor requiring a rear setback to 35.7'. The previous variance granted a front setback to 28.3' and rear setback to 39'. Vinny Mancuso saw no issue with the proposal. Joe DePaul asked the public for comment. Mark Cronk, 24 Crestway, objected to the previous granted variance, noting that they were not notified and had issues with the front setback and concerns with the size of the second-floor bedrooms. Lauren Seidl, 17 Crestway, stated that the applicant was already granted a variance and objected to the increase of the rear setback. Joe DePaul sympathized with the objectors but noted that the front setback variance was granted and there was nothing that the Board could do to change that. Applicant William DeFeo noted that the property has been an empty lot for many years. Mr. DeFeo stated that he has been paying taxes on the lot and has taken great care to keep the garage within the side setback. Mr. DeFeo noted that in 2009 all the proper procedures and paperwork were filed and there was nothing inappropriate with the application. The Board entered into the Business Session. The Board discussed that the increase in the rear setback was de minimis. Joe DePaul made a motion to grant a rear setback to 35.7' per the plans as submitted to allow construction of a single-family home; the hardship being the small size of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 03-21: Kepping, 51 Ball Pond Road East, for variances to Zoning Regulations 3.2.5A, 3.2.6A Front Setback to 31', 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: 22; Block: 5; Lot: 28-29.

Architect Caren Carpenter presented the proposal to construct a second-story vertical expansion over an existing footprint with a slight increase in nonconformity from 31.3' to 31' due to a roof over an entrance. Ms. Carpenter noted the hardship being a nonconforming, shallow lot. Vinny Mancuso asked what the height of the new roof would be. Ms. Carpenter stated the new height would be 29'. Joe DePaul asked the public for comment. None given. The Board did not see an issue with the application. The Board entered into the Business Session. Joe DePaul made a motion to grant a front setback to 31' to allow a vertical expansion per the plans as submitted; the hardship being the shape of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 04-21: Sedlak, 18 Lake Drive North, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 36.23', 3.2.6B Side Setbacks to 11.5' and 9.9', 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: 15; Block: 6; Lot: 71.

Architect Caren Carpenter presented the application for a vertical expansion. Joe DePaul and John Apple both noted that the house is 11' from the property line and the garage is only 0.9' from the property line. Mr. DePaul noted to add a second story would greatly impact the neighbor. A brief discussion ensued about increasing nonconformity, setbacks, placement of the garage and the open deck over the garage. Mr. DePaul noted that the applicant could use the area in front of the house instead of the side. Homeowner, Michael Sedlak, noted that the well was located in the rear of the house and the septic was located in the front requiring a special dispensation from the state since there was not adequate space. John McCartney noted that the size of the lot represented a challenge. Dan McDermott noted it was better to go up than out. The Board noted that the vertical expansion should be contained to the one-story frame house currently existing. Joe DePaul asked the public for comment. None given. Caren Carpenter was asked if the applicant would like to modify the proposal or continue to next month. The applicant agreed to continue the application to explore redesign. Vinny Mancuso made a motion to continue Application # 04-21, duly 2nd, approved 5-0. Application continued.

Application # 05-21: Dapolite, 6 Lakeshore South, for variances to Zoning Regulations 3.2.5A&B, 3.2.6A Front Setback to 26.1', 3.2.6B Side Setbacks to 7.2' and 11', 3.2.6C Rear Setback to 43.4' for the purpose of demolishing an existing house and reconstructing a new house on same footprint. Zoning District: R-44; Map: 45; Block: 3; Lot: 32.

Applicant Michael Dapolite presented his proposal to demolish an existing house and reconstruct a new house on the same footprint. The lot is a shallow, preexisting nonconforming. The existing house is currently an eyesore and the applicant would like to construct a more usable house in conformity with the community. Joe DePaul asked the public for comment. James Joyce, 4 Lakeshore South, noted his support for the proposal. Dave Clegg, 5 Lakeshore South, also noted his support. Joe DePaul noted that he would like the other adjacent neighbor and the neighbor behind have the opportunity to voice their concerns. Mr. DePaul suggested the ZBA Secretary

notify John Delaney and Ellen Lamberti at 8 Lakeshore South and Janet and Michael Stoller at 3 Meadoway via certified mail of the application and continue it until next month. Vinny Mancuso made a motion to continue Application #05-21 until next month so the neighbors can be notified, duly 2nd, approved 5-0. Application continued.

Application # 06-21: Loy, 106 Lake Drive South, for variances to Zoning Regulations 3.0.6B Swimming Pools, 3.2.5A&B, 3.2.6C Rear Setback to 36.8', 3.2.11, 7.1.1.2 and 7.2.3A&B for the purpose of installing a 15'x15' spa, a 6'x16' jacuzzi pool with planters and steps to the lake. Zoning District: R-44; Map: 20; Block: 7; Lot: 4&5.

Anthony Yorio gave a brief history of the property and noted that the original house had a 25.3' front setback. Mr. Yorio noted the decrease in nonconformity in both the front and rear setbacks with the construction of the new house with only the front steps encroaching into the front setback. Mr. Yorio explained that the original house had existing decks in the rear setback and noted that new construction is still less nonconforming even with the rear setback requested for the spa than it was previously. Mr. Yorio noted the homeowner's desire to keep a 200 year-old oak tree to the side of home which provides privacy and character. A brief discussion ensued over the slope of the property and steps on grade. The proposed planter would serve as a retaining wall and the size of the spa has been reduced. Vinny Mancuso noted that he had no issue with the application. Joe DePaul noted that the applicant's original proposal was less nonconforming when compared to the previous house on the property. Mr. DePaul noted that they had decreased nonconformity in both the front and the rear. Joe DePaul asked the public for comment. None given. The Board entered into the Business Session. The board saw no issues with the application given the original setbacks of the previous house and decrease in nonconformity. Joe DePaul made a motion to grant a rear setback to 36.8' to allow construction of a spa and planter per the plans as submitted; the hardship being the irregular shape of the lot and noting the decrease in nonconformity, duly 2nd, approved 5-0. Variance granted.

Application # 07-21: Terminelle, 21 Fox Run, for variances to Zoning Regulations 3.0.5C Private Detached Garages, 3.2.5B, 3.2.6A Front Setback to 20', 3.2.6C Rear Setback to 28', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a one-story 20'x20' two-car garage. Zoning District: R-44; Map: 15; Block: 1; Lot: 218.

Attorney Ward Mazzucco presented the proposal to construct a one-story 20'x20' garage. Mr. Mazzucco gave a brief history of the property, noting the house is preexisting nonconforming sitting on 1/3 acre in a R-44 zone. Mr. Mazzucco was not involved in the previous requests but noted that this proposal is for a residential garage with no storage above or below. The owner currently rents the property but is moving back in full-time and would like the garage for personal use to keep the cars off the street. The garage would only be used by the occupants of the house. Joe DePaul noted that the previous proposals concerns were that the garage would be used to store construction equipment on residential property. Evan White noted that a contingency of the variance could be an affidavit that the garage would only be for personal use. Joe DePaul stated that he had a conversation with Town Attorney, Neil Marcus, and, on his recommendation, the variance must be voted on based on the land and not the personal circumstances of the owner. Vinny Mancuso noted that the Town Attorney's comments shed a different light on the proposal. Bob Jano questioned if the garage would be built into the slope like the previous application. It

was determined that the one-story garage would have a concrete slab foundation and no storage above or beneath. The Board entered into the Business Session. Joe DePaul made a motion to grant a front setback to 20' and a rear setback to 28' to allow construction of a 20'x20' one-story garage with no storage per the plans as submitted with the contingency that no construction equipment be stored in the garage; the hardship being the slope and shape of the lot, duly 2nd, approved 5-0. Variance granted.

Application # 08-21: Wood, 5 High Trail, for variances to Zoning Regulations 3.2.5A, 3.2.6A Front Setback to 24', 3.2.6B Side Setback to 3.9', 3.2.6C Rear Setback to 23', 3.2.11, 7.1.1.2 and 7.2.3A,B&E for the purpose of constructing a 24'x40' addition. Zoning District: R-44; Map: 15; Block: 4; Lot: 3.

Alain Courtaud, agent for Jason Wood, came in front of the Board seeking guidance to construct an addition to the home. The applicant did not have an A2 Survey. The Board suggested that the applicant acquire an A2 Survey and meet with Evan White, ZEO, to discuss what was acceptable. The Board advised the applicant to keep within the existing 23' front setback and 35.5' rear setback, possibly with a vertical expansion, and not to increase nonconformity. The applicant agreed to continue the application until next month. Vinny Mancuso made a motion to continue Application # 08-21 until next month, duly 2nd, approved 5-0. Application continued.

Vinny Mancuso made a motion to adjourn the meeting at 9:59 p.m., duly 2nd, approved 5-0.