

**Zoning Board of Appeals
City of Danbury
Minutes**

March 13, 2008

Common Council Chambers 7 pm

Members Present: Acting Chairman Herb Krate, Michael E. Sibbitt, Joseph C. Hanna, Gary A. Dufel, Alt. Rodney S. Moore.

Members Absent: Chairman Richard S. Jowdy, Alt. Jack Villodas, Alt. Richard Roos.

Acting Chairman Herbert Krate called the meeting to order at 7:03 pm, and explained the procedure for Public Hearing, for those wishing to speak in favor or in opposition. You must have four votes in favor to pass a variance, Krate said. Sibbitt motioned to hear the agenda. Moore seconded the motion, and the motion carried unanimously. We expect a 5th commissioner so we hope to have a full board tonight, Krate said to the audience.

CONTINUATION OF PUBLIC HEARINGS:

#07-77 – CONTINUED - Antonio A. Ramos & Antonio C. Narciso, 2 Broad Street (K12270), Sec.6.A.3.a., to reduce rear yard setback from 30 ft. to 10 ft., to reduce side yard setback from 20 ft. to 12 ft., to reduce front yard setback from 30 ft. to 27.7 ft.; Sec.8.C.1.c., to allow continued parking in front yard, for ironworks operation (IL-40 Zone). Gregg A. Brauneisen, Attorney at Law, said we'll wait till the end of the agenda (for the fifth Commissioner). At 7:05, Krate said okay: we now have five commissioners. Krate read the petition. You did say Sean's coming? Secretary Lee said yes. Gregg A. Brauneisen identified himself at the microphone and said he represents Antonio Ramos and Antonio Narciso. They operate an ironworks business on this property. The hardship is that this is an undersized lot in the IL-40 Zone. It currently is a residential dwelling for a small ironworks business. If you've been to the property, because of the way the property is construed; what they want to do is to make the property a little neater, a little cleaner. Last time we were here we discussed the parking. The big intention of this proposal is to get all the materials inside, Brauneisen said. The Commissioners found the current plans with two vehicles parked inside the building footprint. To get the building on the undersized lot is why we need the side yard and front yard setback variances. Brauneisen said I did contact Risdon, but they are not selling any part of that piece of real estate. We have two letters from neighbors in the file stating they have no objection. Chairman Jowdy last time talked about what about the parking later if the use was changed with a new owner, and under Section 10.B. of the regulations, they would have to come back before the Commission. Krate had questions on the new plan regarding parking and size of the building. The original plan was 43 feet; this is 42 feet, slightly narrower. They came back twice, and this one is yet smaller, Krate said. Sean, do you have anything to tell us from Corporation Counsel? Hearty answered you can dictate and specifically mention that this parking variance is granted for this use only. You are well within your authority to do so, Hearty said. Rod Moore said I have read the minutes from the previous meetings. In the voting session later, Krate reviewed the request. Dufel said I have no questions. Hanna made a motion to **approve** ZBA #07-77 per NEW plan submitted with the stated setbacks. They have scaled the building down, and increased the parking, and this is **for this use only**. Sibbitt seconded the motion, and the motion carried unanimously. Brauneisen said the rear yard is now from the required 30 feet to 10 feet.

#08-08 – CONTINUED - Pamela Equities Corp., Candlewood Pines, Lots 1 – 5, Winnebago Trail (H03069), Sec.4.G.1., to permit parking in required front yard (RA-80 Zone). Steve Sullivan, PE, said we'll wait till the end (for a fifth Commissioner). Dufel recused himself, as Krate introduced this item at 7:14 pm. Steve Sullivan set up his easel with the plan revised 8/2 and 8/7/07. Sullivan identified himself at mic and gave his firm's name, CCA, LLC. He described the petition for a front yard clearance. We first started work on this property before the Environmental Impact Commission (EIC). The use of the property is a proposed canoe / kayak storage building with docks on Candlewood Lake. There are 15 proposed crushed stone parking spaces for seasonal use.

Sullivan said EIC suggested moving the development farther away from the Lake edge, and they actually suggested that we look into getting a variance, so we can pull back further from the Lake. There's a letter from Daniel Baroody, RS, MPH, in the Health Department. The parking surface is crushed stone, and just for seasonal use. Krate said okay; that's essentially the jist of the application. Sullivan said the Candlewood Lake Authority (CLA) reviewed this project. Their issue is with the number of docks, which is before FirstLight Power and FERC. I have an e-mail from Larry Marsicano, Sullivan said, and I can submit this for the record; it states I hope you got our comments, and he read the e-mail recommending using Sean Hayden's recommendations, with the exception of the twenty slips. Krate said the docks are not our purview. Krate said I have no questions; anyone else? Krate said you can come back now to Gary Dufel. Krate reviewed the request later in the voting session: CLA has no objection to it; it's in keeping with the City's requests.

Moore made a motion to **approve** the petition. It's a minimal impact based on a gravel parking area, as our Chairman pointed out. CLA has no issues with that part of the proposal, and this is per plan submitted, Moore said. Note that the EIC is in concurrence with the plan. Sibbitt seconded the motion. The motion carried by four votes with Commissioner Dufel recused.

NEW BUSINESS:

#08-09 – Richard Rizzo (Agent for Colonial Ford), 126 Federal Road (L08024), Sec.8.E.3.a.(3)., to very requirement allowing only 1 free-standing sign for each 300 ft. of street frontage for proposed 2nd sign (CG-20 Zone). The Chairman introduced this issue at pm. Rizzo said we'll wait till the end.

AT 7:20 pm, Krate introduced this item. Richard Rizzo introduced himself and said David Beylouni, President of the Colonial Automobile Group, is with me for any questions you might have. Rizzo signed in. What we're asking to do is install a second ground sign to identify Lincoln Mercury, a second product line, and also give guidance to passers-by that this is now a Lincoln Ford Mercury location. You have a copy of that location: it's right in front of the dealership, and he showed the plan to the Commissioners at the dais. A little further south, yes, correct, Rizzo said. Krate asked the existing sign is going bye-bye? Rizzo said that temporary sign will come down. Krate asked Beylouni is the Ford sign coming down? No, Beylouni replied; they are two separate products. It would be a brand new standing sign. It's a requirement. Rizzo said in addition, to level the playing field, I took photos of Action Motors signs. Krate said but there's a lot more frontage there. Rizzo said, yes, there is; I paced it out. Krate said the last guy who did that got shot. Beylouni said he had a couple of statements. We purchased Mercury from the Pamby operation. It will draw more customers into the City with this brand. We are the only Lincoln Mercury dealer from here to Mahopac, and we are also a substantial tax payer, and we employ over 140 employees in the City. Krate said if this site gets completely overhauled, will the signs change then too. We got burned big time up there with signs, Krate said. Beylouni said when you do look from the road, it does not block the line of sight. Dufel said within our zoning regulations we have maybe eight to ten different conditions that allow us to grant

you a variance. Do me a favor and tell me what is the hardship? Have you read our requirements for granting you a variance? Please tell me what your hardship is? It does not say to identify another product line, Dufel said. Krate explained to the petitioners about a particular hardship, and it cannot be of an economic nature, and that should be identified at the time of application. Am I correct, Neil? Particular to the use of the parcel, there has to be a hardship other than economics. We have a couple of choices, Krate continued. We could go forward this tonight, or we could **continue** this to March 27th so your attorney can present this in a different way. Beylouni and Rizzo opted to continue this discussion at the next ZBA meeting.

#08-10 – Elizabeth Ryder, 47 Westville Avenue (G14152), Sec.4.C.3., to reduce minimum required lot width from 75 ft. to 66 ft.; to reduce min. **E** side yard from 15 ft. to 10.9 ft.; to reduce min. **W** side yard from 15 ft. to 12 ft.; Sec.8.B.1.b.(4)., to reduce 2-way driveway width from 20 feet to 8 feet to legalize two-family residence (R-3 Zone). Krate introduced this variance at 7:29 pm and read the requests. Neil Marcus, Attorney at Law, took the mic and identified himself and his firm's address. I'm here before you tonight on sort of a unique application. In this case, we want to do nothing to change the configuration of this property. We want to legalize it. My client thought she was buying a legal two family. It was built in 1893, it's in very good shape; the rear façade tells you the picture: there's an entrance to the second floor apartment and there's a kitchen up there, Marcus said. It was purchased in January, 2007, Elizabeth Ryder spoke up. The tax assessor considered it a single-family house. We did our research and went back to the 1976 field cards, where it was a legal two-family house. Then we went back to the 1953 field card and it talks about this being a two-family. Around 1953, therefore, we think it became a two family house. Krate had questions for Marcus. Marcus said somebody took out the stove when it was being re-evaluated. Marcus said the two Leonard's that lived there were sisters, which would lead us to believe it was a two family. The assessor went through the house and said there's no stove up here, so I don't blame the assessor as taking it as a single-family. Krate said you know, if you stop a certain use you lose that classification. Marcus corrected him: if you intend to stop a use. All the houses on the street are multi-family. We amended the zoning regulations and changed the dimensions of the lot. Krate said the lot dimension change is very recent. Marcus read to the Commissioners the footage that is short and said nothing changes. It doesn't affect the neighbors; it merely takes the house out of limbo. Also, the City could use good affordable housing; it would be nice to be able to rent the upstairs. Krate had a question on the amount of parking. Ryder said there's a lot of room in the back. Krate asked Hearty if it was a two family prior to our change in our regulations; the house has been sitting there forever, and it's 9 feet short on the width, but it goes back into the fifties. Hearty said if it was a legal two family in the fifties, we would not be here. They are coming to the Board for relief. Krate asked Hearty does the City have a position on this? Hearty replied that's why they are before the ZBA. Marcus said it has all the appearances of a two-family, and was taxed as a two-family. Hearty said the burden of proof is on the owner. We use 1960 usually as the rule. If you can't meet that burden of proof, we then go before the ZBA, Hearty said. Moore asked is this your primary residence? Ryder replied it was intended to be; we are from NY State, and our buyer was a no show. Moore asked was it occupied or vacant? Ryder said it was sold by a nephew, and it certainly looked like a two family: plenty of length and parking room. The house you see in the picture is as it is, Marcus said. Dufel asked Marcus did you represent them at the sale? Marcus answered no. This house is in excellent shape. Hearty said everything will be looked at again by the City in the legalization process. Krate reviewed the petition at 7:50 pm during the voting session. (Tape flipped to side B). Hanna made a motion to **approve** the request for variances to legalize the home as a two family. Krate and Hearty discussed the driveway width. Hanna said a driveway must be 9 feet wide minimum. The house existed before zoning regulations. The evidence was there for long time, and this will not be

a detriment to the welfare, health and safety of the area, per plan submitted. Krate added there is significant evidence that this house was a two family prior to changes in the zoning regulations, as this comes up often. Sibbitt seconded the motion. The motion carried unanimously with five aye votes.

#08-12 – Victorian Associates, LLC / Robert Botelho, 24 Granville Avenue (I13227), Sec.4.B.3., to reduce min. req'd. front yard setback from 20 ft. to 16 ft. for architectural entrance overhangs (Moore F-4 Zone). Robert Botelho identified himself as Krate introduced this petition. I have a hand-out that gives basically a background of the property. Botelho signed in and Commissioners reviewed his file. Yes, it's 24 Granville, and stated the Section in question, to reduce the front yard setback, 4.B.3. I did want to be sure during construction, Botelho said, so I asked for the four feet. The architectural covers will provide protection from the elements. One of my tenants is in her seventies, so getting in and out of the building is a hardship. These are some covers I have done to other buildings that I own, and both abutting neighbors have sent letters with their feelings for the situation. Botelho handed the supportive letters to Krate. They feel it would definitely be an advantage, Botelho said. Krate said let it be shown that adjoining neighbors have no objection to the variance. Krate asked is there anyone who wishes to speak in favor or in opposition to this proposal? We will let you know of our decision at 7:45 pm. Krate reviewed the request. It does not really affect things much, as I see it. Dufel made a motion to **approve** the request for the arched overhangs as safety enhancements, per plan submitted. This will not be a detriment to the welfare, health and safety of the community. Hanna seconded the motion. The motion carried unanimously with five aye votes.

Hanna made a motion to approve the minutes of the February 14, 2008, meeting. Moore seconded the motion. The motion carried unanimously.

ADJOURNMENT: Motion to adjourn by Krate. Second by Moore. The motion carried unanimously at 7:56 pm.

NOTE: THE NEXT REGULAR MEETING IS SCHEDULED FOR **March 27, 2008**.