



**CITY OF DANBURY**  
155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

ZONING BOARD OF APPEALS  
(203) 797-4525  
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MINUTES – REGULAR MEETING  
**May 8, 2008**  
COMMON COUNCIL CHAMBERS  
7:00 PM

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Chairman Jowdy called the meeting to order at 7:25 pm. He explained the Public Hearing procedure to the audience and applicants, and Jowdy discussed going ahead with a four man board.

Present were Jowdy, Herbert Krate, Joseph Hanna, Alt. Rodney Moore.  
Absent were Michael Sibbitt, Gary Dufel, Alt. Jack Villodas, Alt. Rick Roos. Krate made a motion to hear the applications below. Hanna seconded the motion and it carried unanimously.

CONTINUATION OF PUBLIC HEARINGS:

**#08-19** – Pavilion Holdings, LLC, 41 East Pembroke Road (H09134), Sec.4.A.4.a.(4).(a)., to reduce front yard setback from 50 ft. to 20 ft.; Sec.4.A.4.a.(4).(b), to reduce **west** side yard setback from 50 ft. to 35.9 ft.; to reduce **east** side yard setback from 50 feet to 36.9 feet for church (RA-40 Zone). Preliminary site and interior plans received 5/5/08 from engineer Russell T. Posthauer, Jr. Jowdy said comments have been received from City Traffic Engineer Abdul Mohammed and Chief Al Baker, with no objections. Jowdy introduced this at 7:26 pm. Engineer Posthauer came forward and signed in. Jowdy reviewed what the Commission had asked for at the last meeting. We have Abdul Mohammed's answer. Krate also read the approvals from the Al Baker and Abdul Mohammed with six conditions, sidewalks, curbing, ingress, egress, signage, markings, dumpster area, and off-street parking. Jowdy said we will add to that: that zone allows a church; it does not allow social clubs. If the Zoning Enforcement Officer finds that this is a club, he has the authority to close it down. Posthauer introduced himself and his firm, CCA, LLC. He said it is a church. Most of those conditions are really site plan issues. Fourteen spaces are suitable for 56 participants. The congregation is roughly 30. And we can expand that if we had to, Posthauer said. The Commissioners reviewed the parking plan. We also gave you the building layout plan. They spend the day, Posthauer continued, men and women separate, and then they spend some time together. In many of these locations, Jowdy said, the church population grows. Posthauer said I know it happens, but it is not right to presume that it will. I agree with you, Posthauer said. Krate said if this is granted, these six provisions are going to be conditioned with the variance. Posthauer said I wish you would not condition the egress/ ingress on this site (condition #2). We will discuss this with the Traffic Engineer. I'd like to have the ability to create a better site plan, Posthauer said. Krate said we will leave a condition open, to be negotiated with the Traffic Engineer. Moore said it looks like you have considered the ingress and egress. Posthauer concurred. Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal? Church members seated in the audience raised hands in favor. Thank you, Jowdy said. In the voting session at 8:13 pm, Jowdy reviewed the request, including the favorable input from the City Traffic Engineer. It will be approved subject to a discussion with the Traffic Engineer regarding ingress and egress. Krate made a motion to approve the requests to allow a

church in an RA-40 zone. Krate said it is **approved** with the following **conditions**, which he read from the 5/8/08 letter from Abdul Mohamed, and condition #2 will be revised in accordance with agreement with our Traffic Engineer and the Zoning Enforcement Officer. The off-street parking spaces will be determined with the ZEO, Sean interjected. Krate said I withdraw the phrase per plan submitted. Jowdy reiterated this is for a church not a social club. Hanna seconded the motion, and it carried unanimously.

**#08-20** – His Vineyard, Inc., 22 Shelter Rock Lane (L15006), **USE** Variance, Sec.6.A.2.a., & Sec. 11.B.2.d., to permit a church use in the IL-40 Zone. Attorney Peter Scalzo identified himself and his Bethel address. We have consented to an extension for the Planning and Zoning Commission referrals, and I'm told on 5/13 and 5/21 they will meet. Ben Doto, PE, identified himself next, and responded to the handicapped parking space issue; I just want to clear that up. Six is required. He'd prefer ten. We sent you a revised copy last week. We still have enough parking for future growth, Doto concluded. See you June 12<sup>th</sup>.

#### NEW BUSINESS:

**#08-25** – Anthony J. & Vivian Chiappinelli, 22 Shore Road (K02112), Sec.4.A.3., to reduce minimum required side yard setback from 15 ft. to 5.5 feet; Sec.8.B.1.(3)., to allow 15% driveway grade for portion of driveway (RA-20 Zone). Jowdy introduced this at 7:37 pm. Anthony Chiappinelli signed in. Krate announced I do have a letter here from the Fire Marshal indicating that the grade would not pose a detriment for fire safety. Chiappinelli identified himself and said we're seeking to build a garage and an addition to the home. Because of the topography, we located it where we require a variance to the allowed slope. During the last several years, we gave the City an easement on the easterly property line and the driveway curb cut was approved at that time by the city, so now we'd like to have our garage if it's possible. A slope of 15% is required. Krate said I have two questions: what is grade at road level, and ten feet from the road level? Chiappinelli replied 473.5, a rough grade since the City had to come in through that driveway cut. Krate asked what is the grade level near the house? Chiappinelli said 459.0 grade out in front of the house entrance. Krate said there's very little difference; I have no other questions. Jowdy said our concern is the welfare, health and safety of the neighborhood, and we have a letter. Chiappinelli said the property owner at 26 Shore Road got a variance from you in 2005, to reduce his side yard from 15 feet to two feet, so they are really closer to the property line than we are going to be, and he discussed the maintenance of the drainage pipe. Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal at 7:22 pm. A man came forward, Gene Banucci, the next door neighbor on the north side. I want clarification as to which side of the building is that on, Tony. Chiappinelli replied away from Banucci's side; Chiappinelli showed a copy of the plan to Banucci at the podium, and explained the proposal. Again, Banucci said, I had not seen the plan. The two neighbors discussed the layout and location at the microphone. Krate said I have a question for Sean: this garage will be built partially on that City easement. So we don't have to concern ourselves with that, Krate asked Hearty. Banucci said I withdraw my objection. At 7:45 pm Jowdy said we'll inform you of our decision. Jowdy reviewed this in voting session at 8:16 pm. Hearty said, after reviewing the plan further, said it is my understanding that the garage intrudes into the easement; my opinion would be to get an opinion from Engineering about the location of that pipe, and notify the applicant that it's been **continued**.

**#08-26** – Jorge & Maria Couto, 56 Golden Hill Road (H1103), Sec.4.A.3., to reduce minimum required side yard setback from 15 feet to 8 feet for open deck addition (RA-20 Zone). I'm Maria Couto, applicant said at the mic, and my husband was supposed to be here, but he's self employed. We'd like to put an open deck there on our corner lot. I have pictures; just a little deck. Krate said it's 8 feet by 7 feet on the plans. Jowdy said that's a

small deck. It's more of a landing type of deck, Jowdy said. The hardship is that's the only place you can put it. Jowdy asked are there any questions? At 7:47 pm Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal? I was nervous. Couto said. Jowdy reviewed this at 8:19 pm in the voting session. Krato made a motion to **approve** this request per plan submitted. Hanna seconded the motion, and it carried unanimously.

**#08-27** – Williams 429 Main Street, LLC, 429 Main Street (H12188), Sec.5.H.1.B., to vary requirement for a continuous perimeter 20 foot planting strip along front yard; Sec.8.B.1.b.(4)., to reduce the required two-way driveway width from 20 feet to 9 feet for conversion of one residential unit to an office use (CG-20 Zone). Attorney Peter Scalzo and Dainius Virbickas, PE, and the applicant Jacob Williams came forward. Peter Scalzo identified himself and Virbickas and one of the owners Mr. Williams. Scalzo discussed the vicinity; it's pretty close to the I-84 entrance ramp; one of the multi-family houses on the right. It's the first one closest to Gulliver's, and it's currently being used as a four family, in a CG-20 zone. It's a pre-existing, nonconforming structure. Jacob Williams and Joe Williams would like to convert one of the units into an office. Scalzo continued we sat down with Sean and Jennifer, about converting it to a commercial use; what do we need to do? We discussed dressing up the front yard, mainly because we don't have enough room; and also the driveway going in. It's a pre-existing driveway with a 9 foot width. We'll bring the property more into conformity, as it's currently being used as a home. Krato asked Sean, about asking for a dual use; creating a mixed use. Hearty replied it's bringing it more into compliance. Krato said OK. Jowdy had a question on the amount of parking; how will you provide adequate parking for a commercial use? Virbickas came forward and identified himself. We did analyze the property and we met with Staff regarding that. Currently it has 8 spaces on it, which is what is needed for three residences and two for the office use. It's a very small unit, less than 600 sq.ft. Sean Hearty said it's based on square footage for an office use. Krato confirmed so you have your two. Moore said so three residences will remain, and one will become an office. Virbickas explained the variances requested, the 20 foot landscaped strip; this home has been here for more than a century, and the other challenge is that the existing home is elevated up above the road, so we propose a handicapped ramp in the front of the house, and landscaping to what degree we can. Krato asked can you flare that driveway out to the property line? Virbickas brought the plan to the panel saying the property actually flares a little across the property line already. Virbickas said this is similar to other variances granted in the City. Jowdy said a real estate office does not create a lot of ingress and egress. If another type of office use might be a bigger generator, getting in and out could be a safety issue; so we can stipulate the type of office. Scalzo said real estate slash mortgage. Krato referred to Ann's Place which became Elmer's Diner, and Corporation Council told us we can limit it to that use, real estate slash mortgage. Scalzo said no law office. Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal at 7:58 pm. Krato said we are on television. In the voting session at 8:20 pm, Jowdy reviewed the requests and stated we can stipulation that the office use be stipulated as presented. Moore asked is there any fire review of this nine foot driveway width? Jowdy explained that if you feel we should get the Fire Marshal's opinion, than we can postpone it. Krato said this sits funny with me: the mixed use just bothers me, that's beyond my point. It's a minimal generator and it's not an intensive use. I will vote for it, but it's troublesome to me, Krato concluded. Moore and Krato discussed mixed uses. Krato made a motion to **approve 08-27** two requests. As a point of information from you, Sean, can we require that the present landscape strip remain? Hanna said but that's the handicapped entrance. Krato said okay; forget about what I said. Krato restated the variance petitions, adding that the office use shall be **restricted** to mortgage and real estate only, per plan submitted. Hanna seconded the motion. The motion carried unanimously at 8:25 pm.

**#08-28** – Carol Nicklaus, 35 Alan Road (H22021), Sec. 3.G.3.a., to allow detached accessory use in front yard; Sec.4.A.3., to reduce minimum side yard setback from 6 feet to 3 feet for a detached accessory (greenhouse) use (RA-20 Zone). Nicklaus signed in and said you're all familiar with Lake Waubeeka, and the house location is currently pre-existing, nonconforming, as most of those houses are. The back yard is occupied by septic system and the reserve space for septic. This is a detached glass sided shed, actually, Nicklaus said. Jowdy stated the regulations do not allow any type of building in the front yard. Nicklaus brought the photo of the proposed greenhouse forward to show the Commissioners. Hanna had a question on the back yard. Nicklaus said I have the septic plan with me. She showed the panelists the septic and alternate area. It's a one-bedroom home. Hanna said so you still have a lot of backyard; a one bedroom septic should be small. Krate said we have one problem: you submitted your application on 4/21/08. On March 16<sup>th</sup>, Krate continued, a regulation was put in place that reads: no swimming pool or building may be located between the dwelling and the front lot line, except for detached garages accessory to the dwelling, provided said garages are not located within the front yard setback. Nicklaus asked could I put a car in it? Krate explained that precludes you even doing it. Moore explained the new regulation. Krate asked would you postpone this to our next meeting, to see if Corporation Council says we have the right to vary that? Hearty said it is under your purview, but what was the date of application? There's no sun, Nicklaus said. It's in the middle of the woods. Jowdy said cut some trees down. Nicklaus said they are not my trees. Mr. Nicklaus stood up and discussed the bowl-like topography, so the house was located very far front on the lot. It takes the sun away, and pushes the use on the house all to the front, and we had to stay away from the septic in the back. I gave this to my wife as a present. Carol Nicklaus said to protect the plantings from the elements and the animals. Mr. Nicklaus said it's only place we figure we can put it. We appreciate your consideration. Hearty said I recommend you **continue** this since the new regulation is not cited or advertised. Nicklaus asked how would I have known about the new regulation? Commissioners and Nicklaus discussed the regulation change. For the minutes, it should be advertised as 3.G.3.a., Krate said, so that correction will have to be made, and re-advertised, so the hearing will be June 12th. Krate concluded to Mr. Nicklaus: next time buy her a car.

**#08-29** – Scott M. & Lisa A. Provino, 6 West Lake Shores Road (D13037), Sec.4.A.3., to reduce minimum required side yard setback from 25 ft. to 11 ft. for residential expansions (RA-40 Zone). Scott and Lisa Provino came forward and signed in. Krate asked this is right in line with your present house? Scott replied yes. I have no questions on this one; it's easy, Krate said. Jowdy said it's pretty self explanatory, as Mr. & Mrs. Provino came to the panel with their plan. Moore asked what is the distance with the existing corner: Scott said it's a slight taper. Lisa Provino said Paul Hiro said it's 11.8 feet. We have pictures. (Tape #1 flipped to side B). Jowdy said, okay, we have the new tape. We don't need the pictures. Krate said to the applicants sit down, relax. Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal at 8:12 pm. Jowdy reviewed the request for expansion of the house that's there during the voting session. It's pretty close to what's there now. Krate made a motion to **approve 08-29** to reduce the side yard setback, per plan submitted. It really is the same setback that existing house sits at. It will not prove a detriment to the welfare, health and safety of the neighborhood. Hanna seconded the motion and the motion carried unanimously.

ACCEPTANCE OF MINUTES: April 24, 2008, Meeting. Motion to accept the minutes as presented by Krate. Second by Hanna. The motion carried unanimously.

NOTE: Commissioners should print out the amended City Zoning Regulations from the City website, UPDATED 5/6/08, at [www.ci.danbury.ct.us](http://www.ci.danbury.ct.us).

THE NEXT REGULAR MEETING IS SCHEDULED FOR **June 12, 2008**.

ADJOURNMENT:

Motion to adjourn by Krate. Second by Moore and Hanna. The motion carried unanimously at 8:27 pm.

Respectfully submitted,

Patricia Lee, Secretary