



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

ZONING BOARD OF APPEALS  
(203) 797-4525  
(203) 797-4586 (FAX)

MINUTES  
**September 25, 2008**  
COMMON COUNCIL CHAMBERS  
7:00 PM

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Acting Chairman Herb Krate called the meeting to order at 7:01 pm. Present were Krate, Alt. Rod Moore, Joseph Hanna, Gary Dufel. Absent were Michael Sibbitt, Chairman Richard Jowdy, Alt. Rick Roos, Alt. Jack Villodas. Staff present was Secretary Patricia Lee. (Zoning Enforcement Officer Sean P. Hearty is in Hartford Hospital). Joe Hanna made a motion to hear tonight's agenda. Gary Dufel seconded the motion, and it carried unanimously. Herb Krate explained the procedure for Public Hearing to the audience; those in favor, those in opposition, the voting session. Tonight we are sitting with a four man board, and Krate explained we must have four positive votes. You do have the option of waiting for the October meeting; you have the right to a five man board.

NEW BUSINESS:

**#08-41** – Frank Tavolacci, 31 Waterview Drive (I07055), Sec.8.B.1.b.(3)., to allow a portion of driveway grade to increase from 12% to 15%; Sec.8.A.2.a., to allow embankment slope to exceed 1 feet of vertical rise in 2 feet of horizontal space (RA-20 Zone). We'll put this one to the back, see if they show up, Krate said when no one came forward. (This application was heard second at 7:13 pm.) Krate read the requests to vary the two regulations sections. (Tape speed adjusted to 4.8 at 7:14 pm.) Dufel said should I just ask questions? Krate said to Tavolacci, you have to do the presentation, so go for it. Tavolacci said this Board had granted a previous variance for a 15% grade. Krate said we have the incorrect maps. Hanna asked are we going for 31 Waterview Drive? Krate said wait; these are the right maps. Tavolacci continued this driveway is now in place, with an existing house over here; he's the one that came before you before. He's using it now, but eventually it's going to go to these two houses. So the driveway that's here now is a 15% grade. I'm trying to do the drainage on the second lot, and Tavolacci explained why he is asking for these variances. Dufel said so you have a variance. Is the second variance just for this property? Krate answered, yes, it's in there. Tavolacci said I'm asking for that tonight. Dufel and Tavolacci discussed the two separate lots and where the variances requests are on the lot. Tavolacci explained the two-pronged requests for the grade, and the issues with the drainage, and now the requirement for the two to one slope. All of the front is pretty steep. Dufel asked where are you asking for the two to one variance? There's no drawing showing it. Is there a drawing in it? Tavolacci replied,

yes, I think there is. Dufel said this is over a year old. All right, where are the contours? This looks pretty challenging. I'll keep looking, Dufel said. Krate explained off to the side where you can see the grade lines. Dufel said it's looking like they did not address it. Tavolacci said I am trying to avoid blasting on the second lot. Dufel said this means you are changing the grades between the existing and the new. Why do you need a variance? Krate interjected because he's putting drainage in. Tavolacci echoed because I'm putting drainage in. Dufel said it's not on the drawing of what you are asking the variance for. Where is the two to one? Tavolacci said the drainage is all in here? It's not going to create it; it's going to be dropped a little bit. Dufel said but you are not showing us what you will end up with. You are asking us on faith. Tavolacci disagreed. Dufel asked where are the contours? There's no change anywhere. If you want to take the time, I'll read it. You're putting tanks here. Tavolacci explained I'm trying not to drop it. Moore said so basically as it already exists; you are two to one. Tavolacci said you could see it's aesthetically pleasing. Krate asked didn't we ask for guardrails on this drive? Tavolacci explained the path of the drive and the rails and boulders to be put in place. Krate said the grade does not matter now because there's no home there. So he has to get relief from us because he's going to work that land. Tavolacci clarified my intention is not to build a house right now; not in this market. Eventually there's going to be a house there, Krate said. Moore said so, without a scale, we don't know the ratio you are going for. Moore, Tavolacci, Krate, and Dufel discussed the slope, and why there are two tanks. Krate asked this is just water retention? Tavolacci explained the slow release of water in a rain event. Dufel said you're insulting me, sir. Tavolacci said it's like hieroglyphics. Dufel said not at all. Where do you think the 15% is going to stop? Krate said you're not going to get that from us. We're not going to give you that, historically. I can't tell you. I suggest you postpone this and come back to us with a plan. We are not going to tell you what to do, but I would suggest you don't have 15% coming into the house. It's still too steep. You have got to do something. Dufel suggested have the engineer design this. Why can't it stay that way? If you had a plan at 12%, what's changed that you're making 15%, Dufel asked. Hanna asked would you have to blast it? Tavolacci said I would have to blast it. Hanna added, if you have to blast it, you would have better drainage under the house. Krate said you should come back in October. I'd like to see the contours. What I might suggest you do take a few photos so we can better get a grip on what's going to happen. This is going to be **continued** to the 10/23/08 meeting.

Neighbor Jonathan Pease took the mic, saying I live at 24 Wondy Way, and my wife is here too. I have two primary concerns. Someone described this lot as challenging. In the back of the property we have a large retaining wall holding up our back yard. I'm concerned that if there is blasting, the drainage, how it will effect my property. Pease said we look right down on to this. Krate said to Pease he's not raising it up. He is trying not to blast to lower the house. How he attains that will make me personally happy with this, if he has to manipulate that grade. If he blasts and there is damage, he's liable for that, and the blaster is liable for that. Pease said I understand one can develop their lot, but we were told this lot was unbuildable. If we could have, we would have bought it, in response to Krate suggestion. Krate said he's well within his setbacks. He's a considerable distance away from you. Dufel said but there's nothing we can deal with the septic here. Krate explained the ZBA purview, and said he's far enough away that no damage should be done. I cannot guarantee it. But that's what you have insurance for. Pease and Tavolacci agreed to cooperate and talk about this, and they exchanged business cards.

**#08-46** – Casali Construction, LLC, 30 Tamarack Avenue (I11126), Sec.4.A.3., to reduce south side yard setback from 8 feet to 5 feet; to reduce rear yard setback from

35 feet to 12.9 feet; to increase maximum building coverage from 30% to 31.3% for new single-family dwelling (RA-8). Robin Kahn, Attorney at Law, from Cohen & Wolf, 158 Deer Hill Avenue, signed in and identified herself. This property is a pre-existing nonconforming lot adjacent to the highway, and there's another piece that will be before you in the next application. This is bounded by Interstate 84 on one side and another property owned by my client on another, and the Housing Authority in the back. We are requesting these variances in order to fit a home on this small narrow lot. Krate and Kahn confirmed the hardship: the pre-existing nonconforming lot. Dufel asked can we put the two applications together for discussion? Krate said fine; let's do 28 Tamarack Avenue at the same time. Kahn said on this lot the existing house will be removed at 28 Tamarack Avenue. Krate said on #28, you are actually increasing the setbacks on the lot. Krate asked the Commissioners are there any questions on either of these, gentlemen? Dufel said just don't go too fast; let me study it, and Dufel asked clarifying the variances being asked. Kahn said I will defer to Pat O'Rourke in answer to Dufel's question about the topography. Dufel said so this whole site is reasonably flat. The rear yard variance is needed for what reason? O'Rourke replied because behind this lot is property owned by the City of Danbury. Dufel asked why isn't the house shorter? Dufel said you're a better multiplier than I, Herb. O'Rourke said the lower level will be unfinished. Dufel said all right, on the other one. Krate read the second variance request at 30 Tamarack Avenue (**08-46**). Dufel said, alright, I'm not seeing the five; I see an 8.5. Okay, now I see it. This one has more of a rear variance. Will these houses look identical? O'Rourke confirmed identical. Dufel said this is where you have Interstate 84. O'Rourke explained the bridge overpass at Interstate 84. Dufel concluded so it would be really hard to find someone to speak against your side yard setback. O'Rourke said that behind is just flat land owned by the Housing Authority. Kahn said my understanding is that the Housing Authority land will not be developed as it's in the floodplain. Krate asked are there any other questions on these, gentlemen? Is there anyone who wishes to speak for or in opposition to these proposals?

During the voting session, Krate suggested we view these (**08-46** and **08-47**) together. I try your minds. Hanna made motion to approve the variances as stated for 30 Tamarack Avenue; it's a pretty small, reasonable house, and will not be a detriment to the welfare, health and safety of the neighborhood. Krate said the hardship is the pre-existing nonconforming lot. Moore seconded the motion. The motion carried unanimously for 30 Tamarack Avenue.

**#08-47** - Casali Construction, LLC, 28 Tamarack Avenue (I11127); Sec.4.A.3., to reduce minimum rear yard setback from 35 ft. to 29.6 ft. for new SF dwelling (RA-8 Zone). On **08-47**, Dufel motioned to approve the 28 Tamarack Avenue rear yard variance request; the location really has no impact to any neighbor. Hanna seconded the motion. The motion carried unanimously at 7:45 pm.

**#08-48** – Linda & Gary Storhoff, 28 Waterview Drive (I07015), Sec.4.A.3., to reduce minimum side yard setback from 15 ft. to 5.3 feet for proposed rear deck addition (RA-20 Zone). Thomas Janesky said they (the Storhoff's) could not make it. They had an emergency and asked me to come in. The builder Thomas Janesky signed in. Krate said, looking at the plan, this is 2005; it was drawn in. Janesky said I put it on the surveyor's map. Krate said that does not fly. The Commissioners and Janesky discussed the map needing to be dated as a revision. Janesky said I've got to take the staircase out too. Dufel said you're giving me a headache. They discussed what is existing: the steps, and the sliding door going off into no man's land. Dufel said give me 32 seconds. Janesky said I couldn't infringe on the septic system. Dufel asked

what is the hardship? Why do they need a deck? Janesky said there is a door there already. Dufel noted they have a pavilion. Will they take that out? Janesky said he's a Ridgefield guy. They want to move into the house fulltime. Krate said these are basically old summer homes. Janesky said this is a big house and it's ugly; it needs a deck to break it up. She (Linda Storhoff) was supposed to take care of this and she had an emergency and she called me up. Janesky said I would have brought a grade map. They are far enough from the Lake. In the voting session at 7:45 pm, Krate described the request. Moore made a motion to approve the request for a variance for a rear deck addition. The hardship is the pre-existing nonconforming lot; per plan submitted. Hanna seconded the motion. The motion carried unanimously.

Acting Chairman Krate said let's go into voting, folks.

**#08-49 – CONTINUE** TO 10/23/08: Joaquin Granja, Meadowbrook Rd. (J09004 & J09011), Sec. 4.A.3., reduce min. lot area from 20,000 sq.ft. to 14,331 sq.ft., min. square from 100 ft. to 85 ft., and Sec. 3.H.3., reduce minimum lot frontage from 50 ft. to 9 feet (RA-20 Zone).

ACCEPTANCE OF MINUTES: 8/14/08 Meeting. Commissioners CANNOT APPROVE MINUTES AS ONLY 3 MEMBERS ARE HERE FROM THE LAST MEETING.

ADJOURNMENT: Motion to adjourn by Moore. Second by Hanna. The motion carried unanimously at 7:47 pm.

NOTE: THE NEXT REGULAR MEETING IS SCHEDULED FOR **October 23, 2008.**