



CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

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

DRAFT MINUTES
October 23, 2008
COMMON COUNCIL CHAMBERS
6:30 PM

The ZBA meeting was called to order by Chairman Richard S. Jowdy at 6:32 pm. Present were Jowdy, Herbert Krate, Joseph Hanna, Michael Sibbitt (late), Gary Dufel, and Alt. Rodney Moore.

Absent were Alt. Rick Roos, Alt. Jack Villodas.

Staff present were Sean P. Hearty, Zoning Enforcement Office, Secretary Patricia Lee, and Corporation Counsel Daniel Casagrande and Robin Edwards.

Motion to hear tonight's agenda was made by Krate. Second by Hanna. Motion carried unanimously. Jowdy explained that we are going into Executive Session for a special issue for a half hour. Herb Krate made a motion to move into Executive Session. Joe Hanna seconded the motion. Krate explained the subject matter for the Executive Session, His Vineyard, Inc., **ZBA 08-20**, at Attorney Dan Casagrande's prompting. Attorney Robin Edwards noted that the Commissioners should invite Sean Hearty, Casagrande and Edwards to join in the Executive Session, which the Commission then did. All went into the caucus room for the Executive Session at 6:26 pm. Tape was turned off. Commissioners returned from the Executive Session at 7:05 pm. (see below)

POTENTIAL EXECUTIVE SESSION & POSSIBLE ACTION:

#08-20 - 22 Shelter Rock Lane, His Vineyard, Inc. (L15006), USE Variance, Sec.6.A.2.a., & Sec. 11.B.2.d., to permit a church use in the IL-40 Zone. Denial by ZBA 6/12/08 appealed 6/25/08. Offer to Settle 8/11/08. Jowdy explained that we are going into Executive Session for a special issue for a half hour. Jowdy explained that we are going into Executive Session for a special issue for a half hour. Herb Krate made a motion to move into Executive Session. Joe Hanna seconded the motion. Krate explained the subject matter for the Executive Session, His Vineyard, Inc., **ZBA 08-20**, at Attorney Dan Casagrande's prompting. Attorney Robin Edwards noted that the Commissioners should invite Sean Hearty, Casagrande and Edwards to join in the Executive Session, which the Commission then did. All went into the caucus room for the Executive Session at 6:26 pm. Tape was turned off.

Commissioners returned from the Executive Session at 7:05 pm.

Reconvening the meeting, Chairman Jowdy said we decided to have a vote to hold a Public Hearing. Krate made a motion that we have a Public Hearing at our next meeting, with the terms of the settlement to be posted at City Hall seven days prior to that meeting. Hanna seconded the motion. The motion carried unanimously.

CONTINUANCES:

#08-41 – Frank Tavalacci, 31 Waterview Dr. (I07055), Sec.8.B.1.b.(3)., to allow a portion of driveway grade to increase from 12% to 15%; and 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). Chairman Jowdy introduced this item at 7:07 pm. Frank Tavalacci identified himself and signed in. Krate said, for the record, at the last meeting he did not have a great map of the grades; he has now supplied that map. Tavalacci showed the new plan at the dais. Dufel asked is your engineer here? Tavalacci replied no, he's not. Dufel said I'd like to ask a couple questions. Why are you asking for this variance? Tavalacci said the drainage that exists on this lot; there are two parts to it. I'm trying to keep the driveway grade that's in place now. That's why I brought the photographs. I'm asking for a variance to go to the second lot at 15%. I want to continue it at 15%. That's what I'm doing, I think. I'm asking for the drainage on this property. Dufel said I have no idea; why are you asking for a variance to go 15%? Tavalacci answered to prevent blasting, and for aesthetics. Dufel said is it to save money? This is one of the most ugly driveways that I have ever seen. I asked that you have your engineer here to answer questions. You are trying to save money. Tavalacci and Dufel discussed safety; pretty it up, do it the way it was. Build it the way it was; you want a variance to save money; you don't need it, Dufel said. Tavalacci said I think I've done a nice job getting to this point. At the last meeting I said I was coming for two variances. Jowdy said I was not here at the last meeting when Dufel asked if the variance was worded correctly. The Commissioners, Krate, Tavalacci, and Dufel discussed the relief he is seeking. Hanna said you have a driveway already cut, right? Tavalacci said that's why I brought these photos. Dufel said when somebody slips on the ice; build it the way it was originally; be happy; you don't need a variance. Tavalacci said what about the drainage? Jowdy and Krate and Tavalacci discussed the drainage off the driveway. Krate asked Sean Hearty, if we were to grant the drainage variance, the problem I have is the slope; I just wanted to clarify. I think what we need to do on this is to split the variances. Dufel discussed the vicinity, the undeveloped property. Sean Hearty told Krate how to identify it, using "aka". Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal at 7:16 pm. In the voting session, Jowdy said we ended up possibly approving this. Krate asked can we split the variance? Hearty said okay. Krate made a motion to deny the grade variance, but to allow the one foot vertical rise variance, per plan submitted. The driveway grade is just too dangerous. Dufel added unnecessary, I would say. Krate said he failed to present a hardship. Krate identified the lot as aka #I07055. Dufel seconded the motion, and the motion carried unanimously at 8:54 pm.

NEW BUSINESS:

#08-44 – Russell Neumann, 26 Waterview Dr. (I07016), Sec.4.A.3., to reduce required rear yard setback from 35 feet to 8.6 feet for proposed residential addition; Sec.3.G.3.a., to permit detached accessory-use in a front yard; Sec.4.A.3., to reduce front yard setback from 30 feet to 8.2 feet for (garage) detached accessory use (RA-20 Zone). Extension letter rec'd. 9/16/08. Jowdy explained the procedure for Public Hearing to the audience members: come up here and identify yourself and sign in. Jowdy introduced this application at 7:18 pm. We have a letter here. Doug MacMillan, architect, and Russ Neumann identified themselves at the podium. MacMillan explained the two-part request, putting a second floor on the house. We located the 440 line which actually follows the property line to the rear. The second part of the application is to put a garage out front. Probably over 50% of the house is in the rear yard setback. The garage would be accessed so we can park a car there. It's pretty steep; we'd like to park the car up top, because of the topography, and we'd like to get the car off the street. Front yard garages are typical in the neighborhood. Dufel said these are tough neighborhoods to build in. Does the driveway already exist in the layout that you show us?

MacMillan said yes; it's up at the top. Neumann said the intention would be to pull in my driveway. Dufel said so the garage is visible from the road. MacMillan and Neumann replied yes. Macmillan added to make it much safer. Neumann said I have a photograph if that would help. MacMillan answered why he needs such a long driveway; to negotiate the stairs on the back side; the existing has about a 22% slope on it. Neumann said he's really forced to park up on the road. Dufel explained he is not against a variance, but he wants to grant the minimum necessary. Krate said they'd need a variance anywhere they put it. MacMillan said a typical garage is 24 feet. Dufel said cars are going to get smaller. They really are. The last time you were here, you said the septic was fairly new. So you really did not do a house expansion, Dufel said. Neumann said I met with Peter Dunn. Chairman Jowdy asked is there anyone who wishes to speak for or against this application at 7:25 pm. In the voting session, Jowdy reviewed the request. Herb Krate made a motion to **approve** Neumann's request, to reduce required rear yard setback from 35 feet to 8.6 feet for proposed residential addition; to permit detached accessory use in a front yard; and to reduce the front yard setback from 30 feet to 8.2 feet for a garage, per plan submitted. It is in keeping with neighborhood and will not be a detriment to the welfare, health and safety of the neighborhood. Hanna seconded the motion. The motion carried unanimously.

#08-49 –Joaquin Granja, Meadowbrook Rd. (J09004 & J09011), Sec. 4.A.3., reduce min. lot area from 20,000 sq.feet to 14,331 sq.feet, min. square from 100 feet to 85 feet; and Sec. 3.H.3., reduce min. lot frontage from 50 feet to 9 feet (RA-20 Zone). Jowdy introduced this item as Bob Riley signed in and gave his address. I would like to say that I am here as a friend of Mr. Granja as well as his agent. I ask that you respectfully look at this appeal, in light of the following hardships: one is up-zoning. He purchased the parcel prior to up-zoning. I also ask if you would mind if I have an Official from the City speak on behalf of this appeal. Sean Hearty identified himself at the mic. Hearty explained the history of the previous variance requests. We essentially created an illegal lot, almost like a taking of the property, Hearty explained. The parcels needed to be linked. We bring it back in front of the Board. Krate said so we created the problem. Hearty said it was all done in good faith. Now we have two lots that can't pass Planning muster. Dufel said I was not around back then, but was Lot B greatly enhanced, to assist this problem that was created, given the history. Krate said I was here then; I may be able to help you. Krate explained the granting of the variance on the rear lot, unknowingly creating a problem on the rear lot. Hearty said you can see from the presentation, it was very complicated. Dufel asked how do they get to it with only 9 feet of width? Hearty said the map would need to be modified and continued; I think the current code is for 12 feet. Dufel said you can't get on the property with a 9-foot driveway; do you have any access? Hearty said here are the legal conundrums we have. I can't do either or with the lots. Dufel talked about the modest size lot; a modest house; the undersized lot; can we require a connection to the sewer, as a health concern; why can't it be demanded the sewer be used? Hearty said that could be a stipulation you could make. Dufel asked could we also stipulate only a three-bedroom house? Jowdy explained we can make a stipulation if the sewer is only for a three-bedroom. Dufel reiterated I want a small house on an undersized lot. The Commissioners discussed a modest house on a modest lot; what they can stipulate; do they have a house size in mind? Riley said it would be a very small dwelling, strictly for Mr. Granja and his wife. He's a long-time Danbury resident, and he's a disabled veteran and he's getting worse every year, and his family will be next door, and he's brain-impaired due to his terrible wounds. It would have no more than three bedrooms, Riley said. Moore asked Sean Hearty about when the lot lines were modified, and Hearty gave the history briefly. Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal? Three people in the audience raised their hands.

The first lady signed in at 7:27 pm and identified herself as Enilda Marcroft. Krate asked her to use the microphone. My mother recently passed away, Marcroft said. She owned a house

on a cul de sac. Pina is the last name. Marcroft said I don't understand; we've been here before. The point is it's going to be detrimental to our property. Nothing's changed. Marcroft discussed the driveway and the size of the house, and another house that would also be affected by it. Jowdy asked her to explain her objection: what is the distance to her property? Marcroft said I don't know that. Jowdy explained his question: how far will this be from her mother's house? Marcroft said it's hard for me to picture. The Commissioners discussed the plan, the driveway cut, using the map; the house proposal. Hanna asked about the mother's property, the sidewalk, the low stone wall. The Commissioners discussed distances: how far from the wall; 10 feet. A lady spoke up from the audience. Jowdy expanded on Marcroft's concern, and the distance of the proposed house from the mother's house. Forty feet away, you're saying, Jowdy said, is too close. There are many subdivisions that are much closer, Jowdy said. Marcroft said he's asking for a variance; for concessions. Jowdy reiterated that this was a mistake that was given; we are trying to get all the facts. Marcroft asked when was the last time we were here? The last time we were here the lawyer said they have the burden of two illegal lots. Jowdy and Marcroft concluded their discussion at 7:45 pm. Riley rebutted saying I took some photographs of the property, and where he would put this dwelling is way far from the other homes.

My name is Celeste Pina, the next speaker said. She did not sign in or state her address. I thought you did not have plans for the house. Why the frontage? Why do you have zoning regulations? You have an oversized house on an illegal lot. Krate clarified for her: it's a pre-existing, nonconforming lot. Jowdy asked the size of the mother's lot. Someone in the audience said half an acre. Jowdy and Celeste Pina discussed the distances; conforming to the neighborhood; because the Zoning Board did not do their job in the first place, Pina contended. Krate said there's no illegal lot. It's a pre-existing, nonconforming lot. That lot existed prior to that. (Tape 1 flipped to side B.) Krate explained the purpose of the Zoning Board of Appeals. The terminology you are using is incorrect, Krate said. Pina said how can they come in and ask for a variance, without a plan for the house? Frontage means nothing, Celeste Pina asked. Krate and Jowdy explained the lot size being pre-existing, nonconforming. Pina asked about using a shared driveway. Krate said they would have to have the right to pass and re-pass.

A gentleman signed in at 7:52 pm: Peter Marcroft gave his name and address. This was my mother-in-law's house. Even if you go way back to then, there was nine foot frontage. Dufel asked do these people have standing to be here? Marcroft said it is in probate. It was wrong then; and now it's wrong too, Peter Marcroft said.

Robert Wolfe, an attorney in Danbury signed in and gave his address as Juniper Ridge Drive. I represent the contiguous property owner. Our concerns are primarily based on the minimum square and the contour of the property. There is a precipitous drop in the subject property, both Parcel A and Parcel B, Wolfe continued. If you stand at bottom back of the dwelling on Parcel B, and look at the subject house, you'd be looking at the roof line. Everything slopes precipitously down to the East. With the location of the minimum square, a septic system could have a detrimental effect to the Wolfe-Gale property if it failed. Attorney Wolfe discussed the possibility of tying into the existing septic line. Wolfe discussed the water coming down; the runoff. We're concerned that if a house is developed in the minimum square, the surface water would be increased. We would require, if we could, that surface water be diffused; some sort of drainage provision on the east boundary line. The third item that we would have: there is a series of trees and shrubs, which acts as a natural boundary and probably assists in controlling the runoff. Unless those trees are dead or dangerous, we would ask that they be preserved. As to whether this is pre-existing, non-conforming, I think the problem preceded anything that was done by this Committee. If it's approvable, we want these conditions to protect the downside property. Jowdy asked Attorney Wolfe the distance from the proposed dwelling. Wolfe said approximately 40 feet. Wolfe said that's not the

issue; there will be less surface available to absorb water. Krate said to Wolfe we will certainly hear your concerns about septic and drainage.

Next, at 8:02 pm, Marilyn Gasparino gave her name and address at 5 Sylvan Road. My property is right next to this. I'll read what I wrote. My objection is not personally addressed to the property owners. Gasparino read her letter into the record, identifying her concerns, the tiers, underground draining issue, her drainage ditch along the rear line of her property. In heavy flash flooding conditions, my system is already overworked. It is my understanding that zoning requirements are to protect neighborhoods, Gasparino said. Approval for this variance would literally shred what little protection our zoning laws provide against over-development. Gasparino call this a dramatic variance request. I urge you to deny this request. I have discussed this proposed variance with my neighbors and they are in agreement with me. Krate clarified one distance she had cited.

Jowdy asked is there anyone else who wishes to speak for or in opposition to this proposal? Riley came back to the mic. I just would add, I understand, as the Granja's agent; what I heard here tonight, they probably have a point regarding septic and drainage. I know Mr. Granja and the house very well, and he would be more than happy to allow stipulations such as a three-bedroom, City sewer, and different things in there, making sure there would be no hazardous run-off. He would be more than happy to do this, Riley repeated. Jowdy said thank you at 8:07 pm.

Jowdy reviewed the request at 8:59 pm in the voting session; the opposition, the closeness of the house; the testimony from Mr. Wolfe regarding the septic, trees and drainage. We had a lot of testimony. He bought the house with the understanding that it was a lot. Krate said I think that the people who were opposed to it; it took a while to find out that this is in probate, so I think their objection is a monetary objection. Mr. Wolfe had a much more reasonable approach, and it would not affect the welfare, health and safety of the neighborhood. Dufel said if it is consistent with our past votes, that it is a legal lot, make it contingent on a modest size house, sewer access, and to be mindful of the trees and drainage. Sean Hearty said hold on. A lot of the conditions will depend on their ability to tie into the City sewer. If you don't mind, I'd like to **continue** this. Moore said there is an easement. Hearty said I'd like to contact the agent, and I can't say he cannot say he has access to that. So we come back and your approval or denial will be cast iron. Riley said thank you, gentlemen.

#08-50 – Jose Machado, 1 Beech St. (I11201), Sec.4.A.3., to reduce min. lot width from 50 feet to 47.87 feet; to reduce min. square side dimension from legally nonconforming 50 feet to 45.50 feet; to reduce min. 8000 sq.feet lot area from legally nonconforming 6,250 sq.feet to 5,782 sq.feet; Sec.3.H.3.b.(1), to reduce min. lot width of interior lot from front street line to rear yard setback from 50 feet to 45.50 feet for revisions to lot line to remove encroachment (RA-8 Zone). Jowdy introduced this item at 8:08 pm. Paul Fagan, LLS, of Surveying Associates, identified himself and his address. Both of these lots are legally nonconforming, created in 1920; the lots are already legally nonconforming. Fagan showed the vicinity on the easel; the existing lot line. Krate said we really are looking at a property swap. Fagan agreed, and said that requires four variances. Fagan explained each of the variances requested, getting out around the addition, taking 40-1/2 feet off of this lot; the lots are undersized already; and Fagan discussed a fairly new regulation about the minimum lot width of the interior lot. Dufel said every time somebody comes in they want to do something with their house. They want to make it bigger. He's giving away land that he doesn't have to give away; I don't think this falls under our authority, Dufel said. Joe Machado stood up in the audience and explained what he thought when he bought the property. Dufel reiterated I don't think it fits into our regulations. That's the other guy's hardship. He can get rid of it. You'll have to show me that one, Herb, Dufel said. They've got an easement already. Fagan said I'm not sure that's in perpetuity. Dufel said we are making a very small lot smaller. Fagan and Dufel discussed making the lot smaller. Fagan explained

there is another option, which he described. Dufel said I like options. Machado said I was blind when I bought the property. Machado explained what he tried to do, and some day if I want to sell that house. Moore asked how many exits are there from the house? Hanna asked about the porch. Dufel asked how many variances can you eliminate? Fagan explained the line, the jog; these are small lots; it's a much more desirable lot line. The lots were created in 1927, Fagan said. Dufel added I've said my peace. Since he's a surveyor; and he bragged about the straight line, Dufel said. Fagan said I wasn't bragging. Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal? We will take a two minute break. In the voting session at 9:04 pm, Jowdy reviewed the presentation. Dufel said I quizzed the people so thoroughly; from what I've heard it's a mess, and I currently do not have a problem. Krate made a motion to **approve** the requests to reduce the min. lot width from 50 feet to 47.87 feet; to reduce min. square side dimension from legally nonconforming 50 feet to 45.50 feet; to reduce min. 8000 sq.feet lot area from legally nonconforming 6,250 sq.feet to 5,782 sq.feet; to reduce min. lot width of interior lot from front street line to rear yard setback from 50 feet to 45.50 feet for revisions to lot line to remove an encroachment, per plan submitted; that whole area has always been a mess. This is not unreasonable and is in keeping with the neighborhood. Sibbitt seconded the motion, and the motion carried unanimously.

#08-51 – Dina Sturdevant & Stefan Dobiejko, 100 Forty Acre Mountain Rd. (K02014), Sec.3.G.3.a., to permit detached accessory use in a front yard; Sec.4.A.3., to reduce front yard setback from 30 feet to 4.2 feet; to reduce min. side yard setback from 15 feet to 5.7 feet to permit existing carport to be enclosed; Sec.3.G.3.c., to permit total ground floor area of accessory buildings from 50% to 71% of total ground floor area of all prin. buildings on lot for new garage (RA-20 Zone). Jowdy introduced this item at 8:24 pm when the break was over. Ralph Sergi identified himself and his firm, RCS Consultants. I called the City to see if I could meet out there with Tim Rosati to see if this was a possibility. Sergi explained what he's asking for. The carport you granted previously. The people who bought the home were going to use it as a second home, but their plans changed. With New England weather, their driveway is approximately 30%, so they want to enclose the existing carport. Sean Hearty and Krate discussed allowing a garage in a front yard, behind the front yard setback. Hearty and Sergi and Krate discussed the garage size; why don't you give up one or the other. Sergi said I was going to do that. There was concern about the trees on the property. If I could just show you the pictures; the lot is only 50 feet wide. Krate you are asking for a double bubble here, and Sergi and Krate discussed putting several buildings in the front yard. Sergi explained that the turning radius precluding getting another car in there. Krate suggested put a bigger garage door on and make it for two cars. Jowdy said that makes a lot of sense; open up the property; get rid of one of the other, Krate and Jowdy said. Dufel said I hate to see big mature trees taken down, and this is one time I'd rather you do it right. Krate asked Sergi would you like to **withdraw** this and come back with another plan? Sergi replied yes. Krate said pick one; I'm not going to tell you which to pick. Dufel said I'd prefer farther from the road; Sean is our resident genius. Sergi said thank you at 8:26 pm.

#08-52 – A. Michelle Giel-Daab, 24 Acre Dr. (I07135), Sec.4.A.3., to reduce side yard setback from 15 feet to 6.5 ft; to reduce front yard setback from 30 feet to 29.4 feet for open deck addition (RA-20 Zone). Jowdy introduced this variance request at 8:27 pm. Michelle Giel-Daab identified herself and said we do have permission from our neighbor; it is in the file. Krate said there is a letter from 22 Acre Drive indicating that there is no objection. Jowdy said it's in the record. Thank you very much. You have a portable garage on the lot right now. Michelle explained what is requested: my husband is disabled, so we want to minimize the number of steps. The couple clarified the request at the dais. The car is going to go underneath the deck. This will go away. Dufel said you've got a lot of encroachments on

your property. Michelle said I bought the property five years ago. Dufel asked do your neighbors like you? Michelle explained it is our deer fence. Dufel said you're relying on your neighbors to give you nice letters. Jowdy asked is there anyone who wishes to speak for or in opposition to this variance at 8:37 pm. In the voting session, Herb Krate made a motion to **approve # 08-52**, to reduce the side yard setback from 15 feet to 6.5 ft; and to reduce the front yard setback from 30 feet to 29.4 feet for an open deck addition, per plan submitted. The hardship is the lot is a pre-existing, nonconforming lot, and there is need for handicapped-access to the back, per plan submitted. This will not be a detriment to the welfare, health and safety of the community. Sibbitt seconded the motion, and the motion carried unanimously at 9:07 pm

#08-53 – Nemco Limited Partnership, 9 Federal Road (K12161, K12158), Sec.5.A.2., USE Variance, to permit the expansion of previously approved nonconforming use, petroleum distribution and storage, for new biodiesel tank (IL-40 / CG-20 Zones). Julia Morris, Attorney, identified herself and Norbert Mitchell with her. In this era of environmental friendly uses, it will contain vegetable oil, not diesel fuel. I have Matt Mitchell here to explain what they are trying to do. Mitchell explained it's a vegetable-based product, not a petroleum based fuel. Dufel asked are these pictures of what it's going to look like? Mitchell said the pictures are what is there now. We are going to mix it with heating oil; there's a blending that is done, so it will go in as a blended product. Mitchell discussed the plan with Dufel; it will be a heated thing. Dufel said down the road, if it does not sell, if you came in looking for a diesel tank, if you find this is not the right market, then what? Mitchell said that is an "if" that we cannot know yet. At this point, the government is encouraging it, consumers are asking for it, the technology is there, and tests show that it is working, Mitchell said. Hanna asked is it new oil or used? Matt described there are several types used. Dufel said the Danbury plant is putting in a new grease treatment plant. Moore clarified, if this were to be a petroleum tank, this would be the same request. Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal at 8:44 pm. Attorney Morris said we do have approvals on the State level. In voting session, at 9:08 pm, Krate made a motion to **approve** Nemco's use variance, to permit expansion of previously approved nonconforming use, petroleum distribution and storage, for new biodiesel tank, per plan submitted, installed next to the existing oil tanks. It will carry oil from various sources for use in oil burners, per plan submitted. This does not change the effect on the welfare, health and safety from the existing use. Sibbitt and Hanna both seconded the motion. The motion carried unanimously.

#08-54 – Jose Yock, Jr., & Nydia Yock, 31 Oakland Avenue (I11043), Sec.4.B.3., to reduce min. required lot area from 8000 sq. feet to 7421 sq. feet; to reduce front yard setback from 20 feet to 15 feet; to reduce rear yard setback from 25 feet to 16 feet to legalize a two-family residence (RMF-4 Zone). Jowdy introduced this item at 8:45 pm. Gregg A. Brauneisen, Attorney at Law, identified himself. The need for the variances is that the lot is undersized for the zone. Brauneisen gave the history of the old issue with Wayne Skelly; this Board told Mr. Yock he did not need a variance; he needed a zone change; which was granted on the neighborhood. Brauneisen gave the history of the building fire, and the contractor who absconded with the funds. Brauneisen explained what the applicant is asking for, to have the same use as all the other properties in the area. Mr. Yock is here tonight, Brauneisen continued. Granting of these variances will not affect the character of the neighborhood. Brauneisen read a letter in support from the neighbor, Romanello. Brauneisen gave the Romanello letter to the Board. Dufel asked are there any single-family homes in that area? Krate asked was this built on the identical footprint of that home? Dufel said I drove down through there. So these are all multi-family? Brauneisen showed the surrounding densities. Jowdy asked are there any questions from the Board? Jowdy asked is there anyone who wishes to speak in favor or in opposition to this variance

application at 8:49 pm. In the voting session later, Jowdy reviewed the requests. The gentleman has a building that has always been on the same foundation. Krate left his seat at the dais. Hanna made a motion to **approve # 08-54**, to reduce min. required lot area from 8000 sq.feet to 7421 sq.feet; to reduce front yard setback from 20 feet to 15 feet; to reduce rear yard setback from 25 feet to 16 feet, per plan submitted. The hardship is the pre-existing two-family house in a multi-family area; it will not affect the welfare, health and safety of the neighborhood. Sibbitt seconded the motion. The motion carried unanimously at 9:11 pm.

#08-55 – Nabeel Sabbagh, 23 Padanaram Road (H10150), Sec.5.E.3.a., to reduce min. side yard setback from 10 feet to 2.6 feet for a restaurant cooler (CN-20 Zone). Jowdy introduced this item, and Attorney Brauneisen stayed at the mic. Brauneisen said the applicant is the owner of Sal's Pizza. The applicant is seeking a variance for the side yard setback, in compliance with the Health Department requirements. The property was converted to the CN-20 Zone, and the building covers only 22%, so the placement of the building on the lot also creates the problem. The variance will not overburden the property, nor affect the comprehensive zoning plan. Dufel had questions on the vicinity, the North Ridge Condominiums; will there be any noise, any other equipment back there? Krate said it's ugly. Brauneisen said there is a little buffer there. Dufel said you said he's been in there a long time; why now do they need a new cooler? The applicant explained keeping things up 12 inches off the floor. If you didn't get this cooler, what would the Health Department do? Dufel said so you need this to maintain your business. Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal at 8:56 pm. In the voting session, Jowdy discussed the need for the new cooler, and that this should not be detrimental to the neighborhood. Krate made a motion to **approve** reducing the minimum side yard setback for a restaurant cooler, as per plan submitted, in the CN-20 zone. The hardship is the location of the building on the lot and to improve sanitary conditions. Sibbitt seconded the motion, and it carried unanimously at 9:12 pm

ACCEPTANCE OF MINUTES: 8/14/08 and 9/25/08 Meetings. Motion to accept the minutes for the 8/14/08 meeting as presented by Krate. Second by Dufel. The motion carried unanimously. Motion to accept the minutes for the 9/25/08 meeting as presented by Krate. Second by Rod Moore. The motion carried unanimously.

NOTES: THE NEXT REGULAR MEETING IS SCHEDULED FOR November 13, 2008, 7 pm.

Revised CT General. Statute ~1-225 requiring post all meeting minutes on City website within 7 days, effective 10/1/08.

ADJOURNMENT:

Motion to adjourn by Herb Krate. Second by Rod Moore. Motion carried unanimously at 9:14 pm.