



CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

BY: **LR**
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ZONING BOARD OF APPEALS
(203) 797-4525
(203) 797-4586 (FAX)

DRAFT MINUTES
January 22, 2009
COMMON COUNCIL CHAMBERS
7:00 PM

Chairman Richard S. Jowdy called the meeting to order at 7: 02 pm. Present were Herb Krate, Michael Sibbitt, Joseph Hanna, Gary Dufel. Absent were Alternatives Rick Roos and Rodney Moore. Alt. Jack Villodas has resigned 1/12/09.

Herb Krate motioned to hear tonight's agenda as presented. Second by Joseph Hanna. The motion carried unanimously. Jowdy described the procedure for Public Hearing to the audience.

CONTINUATION OF PUBLIC HEARINGS:

#08-56 – Nick Tsakonitis, 36 Franklin Street (H13036), Sec.4.C.3., to reduce required side yard setback from 15 ft. to 6.1 ft. on west side; to reduce rear yard setback from 25 ft. to 12.6 ft. on west side; to reduce side yard setback from 15 ft. to 0 ft. between point A & B; Sec. 8.A.2.c.(4), to permit grading within 5 ft. of property line for construction of retaining wall & parking structure between point A & C; Sec.8.A.2.c.(4)., to permit grading within 5 feet of a property line for construction of parking structure on west side; Sec. 8.C.2., to reduce aisle width from 24 ft. to 20 ft.; Sec.3.G.3.b, to increase maximum allowed height for an accessory use from 15 ft. to 31.5 ft. (R-3 Zone). Chairman Jowdy introduced this continuance at 7: 04 pm. Bob Aldridge signed in as Jowdy read the requests. We also have input from the applicant. Aldridge said we asked the Zoning Enforcement Officer to determine if this was a legal four-family. There will be no action on this petition until we are sure it is legal. We will listen to it, Jowdy said to Aldridge. Sean P. Hearty said you can still choose to hear it. Aldridge said we tried to put markers out for you, but the young man that went with me slipped on the ice and ended up in the river. I made a sketch of the property to show the distances, the deck, the wall, the retaining wall, ground level. We don't find that to be as great as the surveyor found it. Aldridge explained these measurements. Aldridge described the safety issue with parking on the street at this address. Krate asked Hearty about the structural issues, the height, the restraints, which Krate said is a Building Department issue. Dufel asked for clarification of the height; are you asking us to ignore the surveyor's information? Aldridge replied no. Dufel asked about the parking; Aldridge and the Commissioners answered parking is on the street. Aldridge said this house is about 80 or 90 years old. Jowdy said the structural issue is the purview of the Building Department. Jowdy complemented Dufel, an engineer. Jowdy asked is there anyone in the audience in favor or in opposition to this application. During the voting session, Hearty said to the Commissioners you can act on this. Hanna said a driveway is a safer arrangement. Dufel said, getting back to the issue, this is one that I really have a problem with, and Dufel discussed the parking structure height, giving comparisons; this is a residential facility; a draconian measure to solve a parking problem that's been going on for 90 years. Dufel continued, and when the actually build it, they would have to address safety and drainage; this is just wrong. Krate said I tend to agree with you on this; they are

putting something commercial in style in a residential neighborhood. I did go look at it. I am also not happy with this one, Dufel reiterated. Jowdy, later in the voting session, said this is open for a vote. Krate made a motion to **deny 08-56**, 36 Franklin Street. This is definitely not in keeping with a residential neighborhood and presents more problems than it solves. Denial is not without prejudice, Krate added. Sibbitt seconded the motion, and it carried unanimously at 7:59 pm.

NEW BUSINESS:

#08-65 – Antonio J. Carvalho, 4 Liberty Avenue (K16072), Sec.3.H.3.b.(1), to reduce required lot width from 50 ft. to 36.9 ft. to allow driveway for proposed new single-family dwelling (RA-8 Zone). Jowdy introduced this at 7:11 pm, and Melvin Euvén came forward and signed in, as the Commissioners viewed the plans. Euvén clarified the existing house shown on the assessor's card. Euvén said he is expeditor and will be doing the design. We have a lot here that allows a first free split, and the zone calls for 8000 sq. ft. minimum. Euvén said we have two times plus for this free split. He said he will conform to all regulations. Jowdy mentioned the lot frontage, the newer regulation, and Euvén explained this variance is really for the driveway portion, and he gave the dimensions. It would look better within the neighborhood. Krate asked is this a legal real lot? Hearty explained that half way down this lot size shrinks, and everything else is a free split. Euvén said the configuration of the lot is the reason we seek a variance. Every other requirement and code restriction will be met; the plan is for a raised ranch house. Hanna discussed parcel A, the existing house, 8001 square feet; but if you give more square feet for the driveway, moving it back, allowing for a wider driveway; and Hanna and Krate discussed the size. Hearty said he'd be making the existing house nonconforming. That would necessitate another variance. Krate said it would not work. Sibbitt agreed. Dufel had no questions. Jowdy discussed the hardship and the number of lot width variances that have come before the ZBA; that's why the rule was made, just so you know, Jowdy said to Euvén. I designed the new one right across the street, Euvén said. Euvén said it would not look nice architecturally if it was located other than where Mr. Rapp shows it. The Commissioners discussed the layout, the frontage, the rule of 50 feet all the way back. We'll take that into consideration. Jowdy asked are there any people in favor or in opposition, and many hands in the audience shot up.

The first speaker in opposition, James Manone, of 4 Lancey Street, signed in. I am definitely in opposition to it. What is the hardship? I am fully aware of the setbacks. The property is not similar to others in the area. All driveways are not the same size and there are some other inequities. What is his hardship? He bought it as a single-family dwelling. Manone concluded I'm against it at 7:22 pm.

The second speaker, John Riska of 6 Lancey Street, said he is opposed to this driveway variance. The Commissioners verified his address. In his statement of hardship, Riska said, I went around the whole neighborhood and took pictures of all the driveways, and most of them are 40 and 60 feet. Krate explained the purpose of the ZBA to Riska: when zoning laws change, to give an avenue of relief; we're mandated by the State, if there is a hardship. Krate continued they don't have to come to us for a 200-foot driveway; their request is for the width of the lot: instead of 50 feet of width, just so you're all clear. The length of the driveway or plan for a second house are not relevant points. Riska said he's lived here for some 40 years, and I don't want to see a long driveway behind my property line. Jowdy asked for some vicinity clarification. Riska said I addressed it the best I can. The third speaker said my name Maria Loha and stated where she lives, 6 Liberty Avenue. We don't want it because the new neighbor wants to build a building. We want to know because we have little children, and we don't know the new people coming in. We don't know nothing. Jowdy explained to her that they can't control that. Krate said there isn't

anything that we control that has to do with who is going to live in that house. That is really not an issue for this hearing, Krate said. It's strictly the fact that he's about 16 feet short on the width; that one issue.

The fourth speaker, Angela Carpenter from 2 Liberty Avenue, said she lives directly adjacent to this property. Carpenter said it's his property and he knew before he bought it that there would be a problem with this. He created the hardship himself. If he doesn't have it, he shouldn't get it, Carpenter said.

Tom Saadi, from 24 Tobins Court, said I don't live adjacent to this address. I'm a council person for the fourth ward, and a lawyer, but I am not speaking in that capacity tonight. Saadi explained the reasonable basis for a variance. The purpose of zoning regulations is to restrict the use of properties. That's not a hardship; that's the essence of zoning. Relief must have certain elements. Financial concern is not inherent. There is no financial hardship rising to the level that warrants a variance, Saadi said. There is nothing being taken from the applicant. Mr. Jowdy pointed out that creating a precedent is a problem. It is very important that we don't have a snowball effect. Jowdy asked are there any questions?

Jowdy asked is there anyone in favor of or in opposition to this application at 7:34 pm. Melvin Eujen retook the microphone. I'd like to convey what I meant when I said "similar" to the rest of the neighborhood. Krate the length of the driveway is not the issue; it's a non-issue. Krate asked when was it purchased? Eujen said a couple of months ago; he learned of the problem only after purchase. Krate said he has to do due diligence. Eujen said it would be a raised ranch for a family member. Eujen said putting the building in the rear would enhance the neighborhood. If I put it in front, I may not have to ask for this variance. Dufel suggested he provide a sketch of the alternative, or come back with that. Jowdy discussed why the law was made, saying I can't guarantee you won't get that. If you can put it somewhere without a variance, we will have no say on it. Eujen said at 7:38 pm I will then hold off.

In the voting session Hearty said that has been **continued**. Just relax. He will modify his drawing.

#09-01 – Robert F. Arconti / Arconti Concrete, LLC, 122 Beaver Brook Road (K10053), Sec.6.A.3., to reduce minimum side yard setback from 20 ft. to 8.5 ft. for new industrial building (IL-40 Zone). Bob Arconti signed in, identified himself, a lifelong resident of Danbury. Krate said to him not yet. We love Danbury, my wife and I, Arconti said. I live at 4 Ridgewood Drive in Danbury. I own Arconti Concrete; we deliver small quantities of concrete. I'd like to construct a new industrial building; it's as small as I need to house all my equipment. The frame building is going to go. It will improve the sight lines for the intersection. But I'd need to encroach on the side lines. Jowdy asked is the wood building coming down? Arconti said it will be 30 feet from both streets, agreeing it is a busy corner. Dufel asked what will be outside in the course of your operations. Mine and employees vehicles, trucks will go out during the day, then bring the trucks back, Arconti replied. Dufel said so you're saying it's a clean site. Arconti I'm so looking forward with this due to the theft and the vandalism over the past few years. Krate said I applaud you; that corner is horrendous now. Hanna discussed the placement of existing building. Krate described what he's improving. Dufel asked about the property behind this; industrial zoned, but a two family house. If this is approved, avoid anything in the back, ventilation things, don't encroach on them, we want to protect neighbors. Arconti said I'd like to think of myself as a good neighbor. I'm quite proud of my name. I've owned this for about 8 years. Tenants were a nightmare; no more tenants. Jowdy asked is there anyone in favor or in opposition to this at 7:45 pm. Jowdy reviewed what is being requested in the voting session at 8:00 pm. Dufel said, to me this is what zoning variances are meant for; I must drive by it twice a week and I get the shudders when I drive by it. It's a very reasonable use. Hanna made a

motion to approve this per plan submitted, for a new industrial building. They are taking down the old building; it will be an improvement to side yard setback and safety. Krate said I'm going to second it. The motion carried unanimously at 8:02 pm

#09-02 – Calvin L. & Irene H. Black, 3 Driftway Point Road (D13027), Sec.4.A.3., to reduce minimum side yard setback from 25 ft. to 12.5 ft. for residential addition (RA-40 Zone). Mr. and Mrs. Black came forward and said good evening; thank you for hearing us. What I'd like to do, I've walked around and gotten input from the neighbors, and my mother-in-law will no longer be able to live on her own. This is not a separate apartment, just an addition. Mr. Black discussed handicapped-accessibility for the home and the inside. The new addition will actually be a bit further from the property line; the overhang. On the back of this is just a little extract. I went to my neighbors, but don't have letters from them. The neighbors thanked us for letting them know and Black explained the distances to each neighbor. Three neighbors can't see our house. I'd like to expand a little on the hardship; I guess it's the zoning issue. When these houses were built, they fit the requirements at the time. They are all about 65 feet from the road, oriented like my house, Black continued. They are close to the property lines. What I want to do, it seems to me, the current intent is to keep houses a certain distance apart. We'll still be over 80 feet from the nearest property. Jowdy clarified the variance request and distances. Dufel (Tape 1 flipped to side B) asked about the trees on the back yard and asked him to describe the topography. Calvin Black explained it appears to be a gentle slope, but we have had some flooding. Dufel asked do you have a driveway or a garage? Calvin Black said yes; we'll take the garage structure and then put a new garage in front. If you think about that one, all the deeds in this area say single-family use. Dufel said this gentlemen did his homework. Jowdy thanked the couple. There is no one in opposition here, Jowdy said. In the voting session, Jowdy reviewed the needs of a family member. Dufel made a motion to approve Black's request at 3 Driftway Point Road, for the residential addition. The lot is narrow; it's a reasonable addition, and it's per plan submitted. Sibbitt seconded the motion, and the motion carried unanimously.

#09-03 – POSTPONED to 2/26/09 - Nidia Vargas dba Oasis Restaurant, 38 Shelter Rock Road (K15090), Sec.6.A.3., to reduce min. front yard setback from 30 ft. to 20 ft.; to reduce side yard from 20 ft. to 5 ft. for patio; to reduce side yard from 20 ft. to 5 ft. for 2-story addition; to reduce side yard from 20 ft. to 11 ft. for 1-story addition; Sec.6.C.2.b., to eliminate req'd. 20 ft. continuous planting strip; Sec.8.C.2.b.(2), to reduce minimum aisle width from 24 feet to 14 feet 10 inches; Sec.6.A.2.a., to permit change from one non-conforming **use** to another non-conforming use, a restaurant (IL-40 Zone).

ACCEPTANCE OF MINUTES: 1/8/09 Meeting: Motion to accept these minutes as presented by Krate. Second by Joe Hanna. Motion carried unanimously.

ADJOURNMENT: Motion to adjourn by Krate. Second by Hanna. The motion carried unanimously at 8:04 pm.

NOTE: THE NEXT REGULAR MEETING IS SCHEDULED FOR **2/26/09**.

Richard S. Jowdy, Chairman

Respectfully submitted,
Patricia M. Lee, Secretary