



CITY OF DANBURY  
155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

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

DRAFT MINUTES – REGULAR MEETING  
**August 27, 2009**  
COMMON COUNCIL CHAMBERS  
7:00 PM

---

This meeting was called to order by Chairman Richard S. Jowdy at 7:05 pm. Present were Jowdy, Herbert Krate, Michael Sibbitt, Joseph Hanna, Alt. Rodney Moore. Absent were Gary Dufel, Alt. Rick Roos.

Staff present were Sean P. Hearty, Zoning Enforcement Officer, Patricia Lee, Secretary. Jowdy announced we will start this off with a four man board, and he introduced tonight's petitions. Krate made a motion to hear the petitions listed on the legal notice. Hanna seconded the motion, and the motion carried unanimously, as Commissioner Michael Sibbitt entered the auditorium. Jowdy explained the procedure for Public Hearing to the audience.

CONTINUANCE:

**#09-25** –26.4 Olympic Drive, LLC, 93 Ball Pond Road (C05093), Sec.8.B.1.b.(3)., to permit increase for 93-foot portion of driveway grade from 12% to 15.4% (RA-40 Zone), postponed from 6/11/09. Chairman Jowdy introduced this continuance at 7:07 pm. Attorney Marc Grenier identified himself and his firm in Norwalk, CT, at the microphone, representing 26.4 Olympic Drive, LLC. Back in June, Grenier said I had submitted some photographs. Grenier submitted a copy of the owner's deed, and explained the right to ingress and egress using the plan on the easel, the Zoning Location Map. Grenier reviewed the variance being requested, saying the topography is the hardship. The driveway is over 400 feet long, and he explained the easement, the area in yellow on the plan, a small hump on the property. Grenier said there is a zero grade at top and end of the driveway. The pink portion shows the fence and stone wall. There is a fence along the 25-foot easement as well as a stone wall. The driveway is pretty much dead in the center of that area. The next map shows a blow-up survey by Matt Reynolds, Land Surveyor. Grenier explained the topography; the grades along the driveway; the area in question is right in the middle of the driveway, just in this area. Krate asked Secretary Lee a question: is this the application on which Gary had asked for an engineer? (see ZBA #09-18 Joe's Hill Road) Grenier further explained the grids and the as-built cross sections on the parcel "Br". He explained the neighbors' right to pass and repass, and possibly being detrimental for access. Our variance request is a minimal variance request. Grenier explained why it would not be optimal going east or west, and create a "tunnel" coming through this property. It will not harm the welfare, health and safety of the community, and it is in keeping with the comprehensive general plan for the City of Danbury. We are limited as to where we can go, Grenier said. Krate asked has any attempt been made to dig into that? Grenier said it's all ledge; the neighbors may be concerned with seeing a long tunnel effect. Krate said whatever you do here will not effect the entry from Ball Pond Road. Grenier said I think I could represent that this would have to be all blasted, my father being in construction. Krate said 93 feet is 93 feet, still 25% of your driveway. I have a little bit of trouble understanding: you have a dip

before you hit the hump, Krate said. Reduce that hump a little bit. Grenier explained what would have to be done in order to meet that grade. Krate said, no, you wouldn't. You would only have to take down the hump, and lessen the grade. Grenier said it may close off this access to the adjoining neighbor. Chairman Jowdy said I drove it, and there is ledge all around it, and Jowdy described the effect it would have, and would blasting benefit anything. Joe Hanna said he can blast; everybody blasts every day. Grenier said we don't think that is a viable option due to the fence and wall. Under the circumstances, it's fair in that it will not affect the welfare, health and safety of the area; we are not asking for the entire driveway, and we ask you to consider and grant the requested variance, Grenier concluded. Chairman Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal at 7:20 pm. Mike Tomanio signed in and Mario Russotti identified themselves, and Tomanio said I own the driveway. Russotti said I have to drive down there. Tomanio explained what he owns. We have six houses on that driveway existing now; six families, not including Gillotte's. Tomanio said the first issue I have is the conditions to meet the hardship; certain conditions are met. This hardship was created by the predecessor in title, and Tomanio held up the original map. This yellow map goes right to the front of his lot, Tomanio said, and it always complied for years and years. After we built our house, he asked for a variance; he cut this land, thus eliminating this right of way. Krate asked to see the map. The predecessor, Mr. (Bernard) Gillotte; he gave it to his other property which he owns in the front. So he created this situation. He always had an easement. Tomanio explained the history of the access way, saying his father in law signed the papers in his garage without an attorney. Mr. (Bernard) Gillotte sold it to Mr. Grenier. It is a legal right of way, in answer to Mr. Jowdy's question. It is not justified to grant the variance, Tomanio said. At the 2006 meeting, I have a copy of the minutes; the reason that the hardship was granted, the parcel is landlocked and inadequate for a single-family house. It's always been a 15-foot driveway; it looks wider since we maintain it, Tomanio said. Krate asked has that right of way been there also forever? Forever, Gillotte confirmed. The Commissioners and Tomanio reviewed the lot history; in 1992 he did grant him a right-of-way, the predecessor who owned it, they changed it; it existed in 2006, my father-in-law gave it to him. They established it in 1992. Mr. Gillotte wanted that right of way. I'm upset with my father-in-law. They signed the papers in the garage. A gentleman in the audience said, "Don't make up stories". Krate explained the purpose of the Zoning Board of Appeals, and it is on paper a legal right-of-way, and we're here to grant relief from those regulations. Tomanio said the hardship was created by the predecessor; it was unsightly. You're in an area where a judge would have to decide that, Krate said to Mike Tomanio, and my interpretation is different from yours. The second issue, Tomanio said, is the financial loss. Every time it rains, I'm just explaining the run off and the water and the mud and the slush. Krate asked him how is granting this going to change that? That will exist if we grant the variance or not, Krate said. Tomanio said why do I have to deal with the sludge and the mud for the rest of my life. Krate replied the run-off is not going away. I will not vote for this and against this, only to do what's fair and right, and everything you're presenting was granted by your father-in-law, Krate said. It was never driven on, Tomanio said; never even walked on; it was all woods. So for me it's the section on financial loss. He's got the knowledge; he's got the equipment; it's not a huge tunnel or hole, Tomanio continued. The fence is on my property; it's got nothing to do with his property. The third issue, Tomanio said, is the welfare, health and safety of the neighborhood. Krate said I have a letter from the Fire Marshal, and therefore we have looked at the safety of the area, and Tomanio asked to see the letter from Fire Marshal James Johnson. Krate said that's the welfare, health and safety issue, and that's what we are concerned with. Jowdy explained the ability to see both ways coming out; seeing somebody coming. Tomanio said there about 20 cars that use that driveway on a daily basis. Krate said we understand what you're saying. Tomanio said plus there are no

sidewalks. Krate and Tomanio continued their back and forth discussion about the health welfare and safety, your kid's walking there; it's a legal right of way, concern about children walking there. Tomanio said now in Section 11.b.2. (of the Zoning Regulations), no variance shall be granted by the Zoning Board of Appeals for any parcel located within a RA-8, RA-20, RA-40, or RA-80 zone. Krate clarified that's for a use variance, which might be a business. So I'm misinterpreting this, Tomanio said. Tomanio continued, secondly now, according to the 2006 minutes, the hardship is that the property is landlocked, except for the 15-foot right-of-way, which is inadequate and it's not fair. Krate said I don't understand your argument. Tomanio said I don't need to use it. Chairman Jowdy said you can't land lock any property. Tomanio said we blasted when we built my house. I have the report from the last zoning meeting; there is a letter in the file. I have the second copy, after the last zoning meeting. Secretary Lee asked Tomanio for the date of that document. Grenier explained that's not the minutes; that's a narrative that I attached to the application. Tomanio continued on about the CL&P easement; it does not block their easement, and he and Krate discussed the dark green being where he claims he would have to re-grade it. Tomanio said this is CL&P's easement map. Tomanio showed his easement map to the Commissioners. He (Grenier) is fabricating it to make it look important, Tomanio said. Krate countered it's for us to ferret out what's important. That's why I'm bringing it to your attention, Tomanio said, and he continued discussing how Grenier could do it on his own. The fence was not put in until 8 months after the driveway was put in, and Tomanio explained why he put the fence up. I get offended by that; it's upsetting; I'm not opposed to him building, Tomanio said. I don't want to be burdened with the runoff, the rain and the muck for the rest of my life. The last rain storm I left the rocks there hoping one of you would come up and see it. Krate and Mike Tomanio and Richard S. Jowdy continued discussing their plans, the right of way, his entrance; six feet from the side of his house; grading it. He didn't come in and complain about your fence, Krate said. What's the difference? They discussed undermining the fence; taking great care; that's a complete fabrication and a lie, Tomanio said. Chairman Jowdy asked if there is more testimony. Tomanio said I have a lot more to say. I think that just about covers it. Krate said thank you. Mario Russotti, at the microphone, said I think Mike Tomanio has said it all. Nick Gillotte signed in representing his parents, saying he is speaking in opposition to the ZBA variance application at 7:48 pm. I am here to only say that my father was going to build this particular lot, and he was told that he has to follow all the proper gradients. We are in opposition, Nick Gillotte said; they are definitely skilled enough; the town would not let a third house be put on that other driveway. Krate reiterated we do have a letter from the Fire Marshal and they find no detriment to the welfare, health and safety, as far as they are concerned. Marc Grenier came back to the mic, saying I did learn a lot here that I did not learn from the land records, and I thank the board for their consideration of the facts of this particular case, and hope you see fit to grant the variance as requested. Krate posed the question of bringing in an engineer; you're making statements, but there is no engineer who can speak to what cutting that down would really create. Mr. Reynolds' letter is in there, and that does substantiate it, Grenier said. Krate asked Grenier, did Mr. Reynolds put that in? Marc Grenier replied no. But his map that you have in your possession dovetails with his map. We had submitted Mr. Reynolds' letter at the beginning of this meeting; I have another copy, Grenier said. If I may, that letter is exactly what you have in your package. Krate read the letter. The letter from Mr. Reynolds is simply an explanation of the map, but he does not say if there would be anything detrimental. Krate said to Grenier, you're not an expert; I'm not an expert. Mr. Reynolds did not say that. Grenier said it can come into compliance by blasting that all out. Grenier said Mr. Tomanio indicated it is all ledge. Krate said I don't care if its ledge, or if it's iron; it can be blasted. Tomanio said do I have the chance to rebut? Krate said only if there's something new, at 7:57 pm.

After a brief recess, the commissioners reconvened at 8:09 pm. Jowdy reintroduced this item and said there had been a lengthy discussion, and a request was made for an engineer's report, but he did try to explain. Jowdy said open for discussion. Rod Moore said the drainage is an important question, and we might want to get an expert's opinion. Sibbitt said the pictures are in the file. Krate said I just wish he would be forthright in his explanation. He drew all of that in, without a professional. That's why I asked, Krate said. Chairman Jowdy said he drew it on the map that the surveyor gave him. Sibbitt suggested changing the grade to 13%, and Krate and Sibbitt discussed if it was built to grade, there would be no drainage problem. Krate said I don't see it as a tremendous fix. Someone make a motion. Moore said could a motion be made to deny without prejudice? Krate said he knows what we want. Moore made a motion to **deny without prejudice**, 93 Ball Pond Road, to deny without prejudice to permit an increase for a 93-foot portion of driveway grade from 12% to 15.4%. Krate seconded the motion. The motion carried unanimously at 9:12 pm.

#### NEW BUSINESS:

**#09-36** – Daniel Sitomer, 7 Arthur Street (H21007), Sec.4.A.3., to reduce required front yard setback from 30 ft. to 13 ft. for proposed residential addition (RA-20 Zone). Chairman Jowdy introduced this new business, and Herb Krate said he had done an on-site. Melvin Euvén signed in and said I will do the building design and expediting. Mr. Sitomer is intending to add a garage. They want to, during the winter, alleviate the possibility of slipping. They are asking for the variance since it is a small existing lot, and no matter; no area on the property can the garage be added, without asking for a variance. Krate said it is a preexisting lot, as everything up there is; he's squaring it off, his wife is ill, and there are difficulties. It's what we deal with up there all the time, Krate said. Chairman Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal at 8 pm. Krate said during the voting session, this is Lake Waubeeka; everything requires a variance. Krate motioned to **approve** the request to reduce required front yard setback from 30 ft. to 13 ft. for proposed residential addition. The hardship is the shape of the lot, the location of the septic, and need for a garage for health reasons. Sibbitt seconded the motion. The motion carried unanimously.

**#09-37** – Kenosia Properties, LLC, 22 Kenosia Avenue (E17095), Sec.6.A.3., to reduce the minimum required front yard setback from 30 ft. to 24.5 ft. for door canopies (IL-40 Zone). Robin Kahn, Attorney at Law, from Cohen & Wolf, PC, signed in as Jowdy presented this issue. Krate asked are these the condos that were built by Mr. Tarlton? Kahn said I have a rendering showing the canopies, which she distributed. Herb Krate said I have no questions. Kahn explained the variance requested for the safety and convenience of the occupants, plus it adds a little bit of interest to the front, as well as ice protection and protection from the elements. Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal? In voting session, Joe Hanna made a motion to **approve** the variance to reduce the minimum required front yard setback from 30 ft. to 24.5 ft. for door canopies. The hardship is to protect from the elements and for safety, per plan submitted. Herb Krate seconded the motion, and the motion carried unanimously.

**#09-38** – Paul Parzuchowski, Executor of Estate of Henry S. Parzuchowski, 1-3 Catherine Street (H11030), Sec.4.A.3., to reduce the minimum lot area from 20,000 sq.ft. to 14,650 sq.ft. for existing single-family dwelling (RA-20 Zone). Chairman Jowdy introduced this item at 8:03 pm, and Attorney Peter Hunt representing the applicant signed in. Mr. Henry Parzuchowski passed away, Hunt said. This is up in Golden Hill where the vast majority of the houses were built in the fifties. Krate asked are we just trying to make this house legal?

Hunt explained the City has always treated this as two lots, consistent with the neighborhood, and not in detriment to the welfare, health and safety of the area. We're trying to make it legal to sell it. Krate said you are trying to create a second lot. Hunt explained the history of the area, saying I don't wish to speak for the dead. Krate joked then how can you speak for him if you don't want to speak for the dead? Hunt said you gave a variance to 56 Golden Hill. Krate asked Hunt was this lot split already? Hunt replied no. This would be conforming; this would be not conforming, referring to the plan. I did not mean to mislead you, Hunt said. Sean Hearty asked this will be a first cut, yes? Hunt said yes. If you would prefer, I would withdraw this and come in and ask for two variances, Hunt said. Krate said you should not be talking to the dead. Chairman Jowdy reviewed what the variance is asking for. Hunt showed the area map to the commissioners. Krate and Hunt discussed the lot sizes in the neighborhood. Krate asked Hunt are you sure you don't want to come back and do that? Hunt offered we can table this and come back after I consult with my client. Mr. Krate, Hunt said, I looked at every lot in this neighborhood. If we split it down the middle, Chairman Jowdy explained possible access to the site. We will table this then, Hunt confirmed. And to revisit it at the end of the meeting, Krate said. Hunt said at 8:04 pm, what I meant to say is the City always treated it as two lots. Krate said to Hunt that was somewhat deceptive, Sir. Hunt explained it has been a long night, and reinforced the argument that it obviously was two lots. Hanna said you now want your first cut it has been there for a long time. You don't need to get a regulation for a first cut. Krate said a variance was granted on a lot that was pre-existing. Hunt said this is a minimal variance; it's consistent with the neighborhood. Jowdy re-introduced this petition at 9:15 pm in the voting session. Krate said this boils down to do we want to see two lots; two similar size lots. He's entitled to a first cut. That's the bottom line, plain and simple. Jowdy said those are small lots. Krate said they are abutting properties. Moore re-explained the bottom line, what would they rather see. It's one less variance as proposed. Moore made a motion to **approve** 1-3 Catherine Street to reduce the minimum lot area from 20,000 sq.ft. to 14,650 sq.ft. for an existing single-family dwelling. All the lots in that area are within that range; it is in keeping with the character of the neighborhood; it is per plan submitted. Hanna seconded the motion. The motion carried unanimously.

**#09-39** – Four Star Realty, LLC, & Pebble Mortgage, LLC, Newtown Rd. Cutoff & 5 Mountainview Terrace (M10028, M10029), Sec.3.E.8.b., Sec.5.A.3., Sec.5.H.1.b., to allow driveway in front yards setbacks; to allow pavement, dumpster, loading in front yard setback (passway); to vary requirement for continuous 20 ft. landscaped strip on 4 front yards (CG-20 Zone). Jowdy introduced this petition at 8:08 pm. Jowdy read the requests for Newtown Road Cutoff & 5 Mountainview Terrace. Krate: what do you have; four front lines. Gary Michael, Jr., identified himself saying I have to emphasize Junior. Michael explained the vicinity, the Fast Freddie's, separated by Pocono Lane, and he referred to the map on the easel. I think it would be informative for the Board to know what's transpired over the last couple years. Pocono has approximately 200 residents in the area, and they raised some concerns a couple of years ago about the difficulty in making that right hand turn. So the city approached the State DOT, tried to get a traffic signal put in. I'll try to be brief. The State said a signal light there would not be safe. On November 2, 2006, the mayor (Mark D. Boughton) wrote a letter to Four Star Realty, LLC, and Pebble Mortgage, LLC, asking them to come up with another solution. Attorney Michael explained how the four front yards were created by the City. I've never come across a parcel with four front yards. It is these unique circumstances, and all variances stem from this same hardship, and Michael sited the sections that he is asking to vary and why. Krate asked what tenancy are we looking for here? Michael, toward the end of 2008, we had a plan in place with a used car dealership: they would take the property as is, but then the whole economy

headed south. Their lender could not go forward. Michael continued we also had conversations with a pizza place, but could not come up with a deal. Krate said I just wondered the motivation behind the site plan. Gary Michael said we feel we could market this to a bank, a pharmacy, and we would like to believe that maybe that would be alleviated with a drive-thru. We felt that this was the best suited plan. We conveyed essentially 31 feet in two parts, Michael said. Krate clarified what the applicant plans to do. I think I understand it, Krate said. Michael said they are in harmony; strict adherence to the regulations would be a hardship for my client. Thank you, Michael said, and now I will turn it over to Ben Doto. Benjamin Doto, III, PE, identified himself and said I'll be brief. From an engineering standpoint, the applicant came to me and discussed possible tenants. We met with the City. In this plan dated last summer, this had not yet been done by the City. The existing site has a massive curb cut here, Doto said, and also two large ones here, and we try to avoid putting driveways too close to intersections. Doto explained the pavement. Krate said it looks like hell; we all know that. Doto explained the idea for closing the three driveways and creating a safe drive-thru lane. Doto showed Krate the property line on the Improvement Location Survey. We want to provide parking but at the same time, there is a light here. Gary Michael agreed with Krate that the State sometimes says they will do a project, but they never have the money. Michael clarified that this portion is owned by the State. Your old man just walked in, Krate said to Michael. Chairman Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal?

Christine Bojarczyk identified herself and signed in, saying I live at 7 Mountainview, here (on the easel), on the other side of the passway. When all the talk started, again to give some history, I was never informed of this. I only was informed 48 hours after the council meeting. I was under the impression, as were my neighbors, that I would have to be notified, and two neighbors did not receive those notices. I understand that. I am against it for many reasons. The property owner was aware that there would be four front yards when he did the swap with the city. Krate asked her what is your real objection, just to clarify. Boyarczyk said from a personal standpoint, I will have a commercial enterprise less than 30 feet from my house; the garbage; the smell; I have a small child. There will be a large dumpster with food in it. There's a noise issue; where's there's garbage there are critters; and dumpster trucks going up the hill at 6 am. On a broader spectrum, there is a definite safety issue to me and my neighbors. It's a fifteen foot road, and they want to open the passway for the dumpster? Jowdy explained the proposal to Boyarczyk. Krate said they are improving the dynamic of the property because right now someone else could move in there and create many more passways. Krate said look at the plan. Boyarczyk said I have a copy of it. The rules say there should be a minimum front yard setback, a minimum side yard setback, a minimum rear yard setback, and how many feet on each side. I have heard so many times that we are supposed to be preserving our neighborhoods. Is that five-foot sidewalk supposed to be my buffer? She read the buffer and screening, fence screening, plants, and landscape requirements from the City zoning regulations. That absolutely applies to my side; I have a fence, Bojarczyk said. Krate said they would be required to put that up. Bojarczyk questioned if it's the side yard or the front yard. Sibbitt explained. Krate said they are actually adding more; they are taking off a lot of ground cover now, and replacing it. Bojarczyk said my other issues are this little side road, Pocono. So we put this passway in, and there are two entrances, one on Pocono. Sibbitt and Krate clarified to her that's not a street, that's a drive-thru. The commissioners reoriented Bojarczyk on the easel map. She discussed the traffic; people coming in, people coming out. It just does not make sense. Krate said they are reducing it; it's a commercial piece of property. Bojarczyk replied I understand that, but preserving the integrity of the neighborhood does not apply here? Joe Hanna suggested maybe a bank. Krate said we don't know either. The man is entitled to reasonable use of his property. Bojarczyk said

then we should be listening to the City regulations. They are asking for a variance, not a zone change, Krate said. Sibbitt said we don't grant zone changes. Jowdy added they gave relief to the City. Bojarczyk asked do you think that was out of the kindness of their hearts, seriously. It was snuck through without us being notified. Jowdy explained you about a heavy commercial zone, so we have to dissect the request; the rules prevail, but not particularly on your site. Krate said it had to be published. Bojarczyk countered so I'm guilty of not reading the newspaper every single day. Although you are kind enough to listen to me. Krate said to her we will give you the same treatment that we will give them. Bojarczyk said I inherited the property, when it was a one-lane road. Krate explained the regulations are not that onerous. Jowdy said all your remarks will be taken into consideration. Thank you for coming; and you should come. Gary Michael came back to the microphone saying I'd like to thank Ms. Bojarczyk for her comments and clarify about noticing the abutting neighbors; and proper notice was sent. Hanna said she's talking about the passway. Bojarczyk confirmed I'm talking about that. Michael said I sent notice to the abutting property owner. Jowdy said the City is the abutting property owner. Ben Doto: just a couple of little things: to address Christine's comments, the grass, the piece behind it, the vacant house in this commercial zone right now. What I was trying to do was to show you overall there is an overall increase in grass area, Michael continued. As far as screening, we meet all the setback requirements; driveways are allowed to be in rear and side yards, but we have four front yards here. Doto discussed her fence that the City put up. We are going to have as much of a landscaped strip as possible, except for the areas in which we must have pavement. Jennifer (Emminger, Associate Planner) asked for that at the same time. I think it's an overall safety improvement, and Doto explained why and what they evaluated before coming up with this plan. That was considered. Bojarczyk said that was like that since I was a child. Ben Doto clarified what he is saying. Chairman Jowdy said to the applicant the board will inform you of their decision. In the voting session, Chairman Jowdy explained the four front yards in this busy commercial area. Krate said I understand her not wanting it there, but it's going to be a commercial piece of property, and she happens to abut the commercial property. If anyone created the hardship, the City created the hardship. Rod Moore explained the difference of the frontage in that zone. Krate said the City really created the hardship, and the plan they submitted is so much better than what is there. Moore added there are a whole lot of permitted uses there. Hanna made a motion to approve. Krate interrupted, I have one problem: we have not granted an open variance. Sean P. Hearty explained the whole perimeter is front yards. Krate said I will make this motion then. Krate made a motion to **approve** this to allow a driveway in front yards setbacks; to allow pavement, dumpster, loading in front yard setback (passway); to vary the requirement for a continuous 20-foot landscaped strip on 4 front yards and loading in a front yard setback, which is a passway developed by the City, per plan submitted. And the strip may not be reduced without coming forth for another variance, Krate added. Hanna seconded the motion, and the motion carried unanimously at 9:22 pm

**#09-40** – Damian Matera, 6 Hillside Road (I08053), Sec.4.A.3., to reduce the minimum required front yard setback from 30 ft. to 22.7 feet for a covered porch (RA-20 Zone). Leigh Overland, architect, identified himself, signed in, and gave his address at 8:44 pm. Krate said you gave me so much material, you confused me. Overland identified his clients whom are here. It's an RA-20 zone; it's a pre-existing, nonconforming lot. The existing front yard of the house is about 25 feet. There is an existing stoop as well. The 22.7 feet will be the new roofline. We will take out the existing stoop because it is in disrepair. Krate said, got it. Overland discussed the main entrance; the weather. I tried to make the design meet the cute quaint character of the neighborhood. They all said it would be an asset to the community, plus better safety and protection of the house. Thank you for your time, and I

respectfully request you grant the variance, Overland concluded. Chairman Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal? Rod Moore asked during the voting session, is the existing porch pretty much the same size? Overland replied, just about. Krate made a motion to **approve** reducing the minimum required front yard setback from 30 ft. to 22.7 feet for a covered porch, per plan submitted. Moore seconded the motion, and the motion carried unanimously.

**#09-41** – 166 White Street, LLC, 166 White Street (I13289), Sec.5.A.2.a., USE variance, to allow conversion of a 10-unit rooming house to an 8-unit apartment house (CG-20 Zone). Jowdy introduced this item at 8:48 pm, and Ben Doto again identified himself at the mic, representing Al doNascimento. Doto described the vicinity; the double Twister; we quickly realized we had a parking problem. The applicant purchased the adjacent parcel. This is the existing house as you can see it now. It is vacant. It was a 10-room boarding house. It was tremendously run down; with a police presence with some transients there. He realized the rooming house was not the way to go. The bathrooms would be better private. But we are going from one nonconforming use to another one. Doto explained the layout of the floors, a manager on the first floor; there is plenty of parking connected with the Double Twister; there's been a ton of landscape improvements. Krate said I did an onsite visit today, and I think I'd let my kid live there; it's a far cry from what it was. There's a bathroom for every room. It was squalor before; it was awful. I was impressed, Krate said. Jowdy said I know the building. Anyone else have questions? Doto added we even have room to expand, if we need to. Rod Moore and Krate discussed the timing of the clean-up, and he decided to change it significantly for the better. Sean Hearty interjected he changed it significantly. Moore made a reference to football parlance. Motion to **approve** by Krate, a USE variance to allow conversion of a 10-unit rooming house to an 8-unit apartment house, per plan submitted, and it's an amazing transformation from what it was; even the cop is shaking his head. Hanna seconded the motion, and the motion carried unanimously.

**#09-42** – Michael Matta & Deborah Luongo, 29 Saddle Rock Road (E09090), Sec.4.A.3., to reduce the minimum side yard setback from 25 ft. to 8.2 ft. for a residential addition (RA-40 Zone). The applicants took the mic at 8:55 and signed in. Chairman Jowdy said sign the book and tell us your request. They identified themselves, Michael Matta and Deborah Luongo, owners of the home and presently living in the home. Our situation is a pre-existing nonconforming lot. We are planning to do some remodeling to the home. We have an expert working with us. We discovered in the back of the house there is not a foundation footing. It was recommended that underpinning be added. Krate said I have no questions. Chairman Jowdy asked if there anyone who wishes to speak for or in opposition to this proposal. Chairman Jowdy explained the variance in the voting session. Krate said their foundation is crapping out. Moore joked I fail to see a hardship here, Herb. Krate made a motion to **approve** reducing the minimum side yard setback from 25 ft. to 8.2 ft. for a residential addition, per plan submitted. Sibbitt: seconded the motion. The motion carried unanimously.

**#09-43** – Rexhvi Dika, 4-6 Mallory Street (H13123), Sec.8.C.1.c.; Sec.8.C.3.b.; Sec.8.C.4.f.(4), to allow parking in front yard; to eliminate requirements for landscaped islands & street line planting strip (CN-5 Zone). Chairman Jowdy introduced this item at 8:57 pm. Ben Doto, PE, again identified himself and put the plan on the easel. The applicant renovated it, and he converted some pre-existing nonconforming parking on packed dirt, and he just did not realize that he needed to get permission, Doto explained. The hardship is pretty straightforward. There is definitely not enough parking, and with this proposal we could get seven spaces. Doto explained what they intend to do: the curb cut, the applicant started it and then started. Is it a legal curb cut, Krate asked? Sean explained on the left side, yes; on the right side, no, regarding the legal curb cut. Right now it's there. The Highway

Department gave the okay for the curb cut and the road opening, Sean Hearty said. Doto said I understand Highway would want some details added. Krate said I hate to see people backing out onto the street. Doto said I know. I did go by there today. Krate said I have a lot of difficulty on that. There's no way you can work that out? Doto replied, no, as you can see. Doto, Hearty and Krate discussed the continuing nonconforming use. Krate said it's so dangerous; virtually the whole front of the property. Doto & Krate discussed it further. I have no other questions, Krate said. Chairman Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal? Chairman Jowdy reintroduced this item in the voting session: open for vote or discussion. Krate said I hate these. It does not help the neighborhood; it makes the neighborhood look like crap. Joseph Hanna made a motion to **approve** allowing parking in the front yard; and to eliminate requirements for landscaped islands and street line planting strip. It will improve the parking, as per plan submitted, Hanna said. Moore said the question is really about off street and on street parking, which you could permit. Only one side of the street allows on-street parking, Hearty said. Sibbitt offered his opinion. Krate said from a safety point of view, and he asked Hearty a question. Hearty said the ZBA does not set precedents. Chairman Jowdy said you're not setting a precedent. The regulations state that if it's there all the time. Hanna said half of it was there. Hearty said it's not considered a use. Parking is parking. It's a four family. Would you have them on the road or off the road, Hearty wondered. Krate discussed the safety. Moore seconded the motion. The motion carried unanimously at 9:29 pm.

ACCEPTANCE OF MINUTES: The minutes of the 7/23/09 ZBA meeting could not be approved since only three Commissioners are present who attended that July meeting.

ADJOURNMENT: Motion to adjourn by Sibbitt. Second by Krate. The motion carried unanimously at 9:31 pm.

NOTE: THE NEXT REGULAR MEETING IS SCHEDULED FOR September 24, 2009, 7 pm.