



**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  
**May 12, 2011**  
COMMON COUNCIL CHAMBERS  
7:00 PM

Present were Acting Chairman Herb Krate, Alt. Rick Roos, Michael Sibbitt, Joseph Hanna, Gary Dufel. Absent were Chairman Richard S. Jowdy, Alt. Rodney Moore. Staff present were Sean P. Hearty, Zoning Enforcement Officer, Patricia Lee, Secretary, Paul Estefan, Airport Administrator.

Krate opened the meeting at 7:05 pm. Krate introduced the meeting, and Rick Roos read the Legal Notice into the record. We are starting with a four-man board tonight, but we do expect a fifth member (Sibbitt), Krate announced.

CONTINUATION OF PUBLIC HEARINGS from 4/14/11:

**# 11-07** – CONTINUE to **June** meeting: Elite Rentals, LLC, 9 Williams Street (I15086), to appeal for correction of an alleged error in a decision of the Zoning Enforcement Officer who on 2/9/11 issued a Cease and Desist Order (RMF-4 Zone). Extension letter received 5/12/11.

**# 11-09** – CONTINUED with CONDITIONS: Jose M. Albuquerque, 36 Sheridan Street (J14154), Sec.8.A.2.c.(4), to reduce minimum for bottom edge of excavation or fill from 5 ft. to 0.0 ft. for driveway (R-3 Zone). Krate introduced this application. Leah Walsh, Attorney at Law, from 235 Main Street, Danbury, stood up and identified herself, speaking on behalf of the Albuquerque's. Walsh signed in. I'm here on behalf of the Albuquerque family, I know there was some confusion, and I'm an attorney here with Ventura, Smith and Ribeiro, Walsh said. Since I was not here at the last meeting, I apologize if I repeat myself. They have a very narrow driveway, and some of the tenants are elderly, and they were concerned. They are now aware that this was something that they should not have done. They understood that the neighbor had an issue with their deck. Dufel asked to see the photographs. The application said 0.0 ft. I think there was a language issue here, Walsh said. Roos asked does this have to be re-advertized? No, because it's less, Krate said. Walsh said we certainly understand the concern of undermining the deck. It's going to be a solid retaining wall cemented in. They feel that a foot and a half would be enough, Walsh said. Does the board have any questions for me? Dufel and Walsh and Krate discussed the distance shown on the drawing. In these pictures, where is the wall actually going? I'd be happy to show you, Walsh said. At the panel, the commissioners and Walsh discussed the wall. This wall will actually help to support the porch or deck, Dufel said. I imagine the neighbor will speak. Walsh said we tried to reach an agreement today; we talked for about an hour. No agreement could be reached, Walsh said. Is there a foundation, Dufel asked. Walsh said they already had a wall here, then they discovered they owned more land than they thought. So the wall was here, Dufel said; okay. Roos said I have a question: you alluded to the fact that everybody felt comfortable with the structural integrity of the porch. Krate asked is there anyone who wishes to speak for or in opposition to this application?

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Lionel Luis (no relation to the neighboring land owner Isabel Luis) came forward and signed in to speak in favor of the request. Luis explained some of the history; in case of an emergency situation such as a fire truck or ambulance having to get in there. He said the surveyor said we should leave 1½ foot off. The neighbor said that's fine, then he sent his attorney over here, Lionel Luis said. There are no footings there for the porch, so the wall will reinforce the porch. Yes, it's close enough; we could dig and put a footing in there. As we see it, if anything, it will help his property, Lionel Luis concluded. Krate asked is there anyone else in favor? Is there anyone opposed? Attorney Ray Lubus, representing Isabel Luis, the abutting neighbor, at 40 Sheridan Street, signed in. Ms. Isabel Luis from New Fairfield signed in. They wanted to stake the four corners to remodel this entire home; it had become run down, Lubus said. There had already been a pre-existing stone wall. So when that stake was driven, they noticed there was an error. Lubus produced a photograph showing the proximity, the new drop-off, also a safety issue. You have a five foot ordinance in Danbury. Lubus described to the commissioners what an applicant must provide to the ZBA for a variance. Dufel told Lubus you can continue, but we know our jobs. Lubus said so you have to find a legal hardship. Dufel asked Lubus what is the self-created hardship here? Lubus said there was nothing unique about the Albuquerque property. They are trying now to go within the five feet. We submit that you are without the authority to grant a variance here, Lubus said. Krate said this is an older property. It appears to be right touching. They are asking to come to 1½ foot. The five foot restriction, I'm sure that is grandfathered since the house was built in 1900s. Dufel asked Krate, as a point of order, this is not to put up a wall; it's to dig an excavation. Hearty said the regulation addresses excavate or fill. Lubus said the board should look at this as is, without the excavation. Krate admonished Lubus. Krate said to Lubus there's a reason that we all have two ears. You were arguing with me. You have to listen once in a while, Krate said. Lubus said we are asking it to be filled in and put back the way it was. We attempted to compromise. Krate asked Lubus does your client reside in that home? Lubus replied I will not respond to that question as it is inappropriate. Secretary Lee, at Dufel's request, read the address of the neighboring property owner from the sign-in sheet, Isabel Luis, as 4 Woodridge Lane in New Fairfield, on the topic of 40 Sheridan Street, into the record. Is there any opposition to the variance, Krate asked twice. The petitioner can respond. Attorney Walsh came forward, saying out of fairness to my client, the owners of 40 Sheridan Street (Isabel Luis) did the same thing without a variance permit, if we are really going to be pointing fingers. Dufel asked how wide was the driveway before? I know it is indicated in the plan you have, Walsh said. Dufel, Hearty, Walsh, Lionel Luis, and the Commissioners discussed the plan and the photographs at the panel. Lubus, in response to Krate's request, came back to the mic. Lubus and Hanna argued the law regarding a pre-existing, nonconforming situation. Dufel said it looks to me that there was 10 feet to the side of the house. I recommend that this wall be replaced some place between the house and some place between the line; that's what I intend to push for. Lubus said I don't disagree. But it is less than the applicant requested, and I don't know if the ZBA has that right. If there's nothing to add, this hearing is closed. Krate made a motion to close this. Roos seconded the motion. The motion to close carried unanimously at 7:25 pm.

In the voting session, Krate said any change to the variance request has to come from the applicant. I recommend that we deny this without prejudice, and they may come back in to us with a new plan. Roos asked Lubus a question. Hearty said, Gentlemen, the hearing is closed. You can handle that with Sean Hearty after the meeting, Krate said. Dufel made a motion, given the uncertainties: I motion to **deny without prejudice** the application. Sibbitt seconded the motion. Any discussion, Krate asked? Dufel said if the neighbor is worried about undermining the porch, that's just hanging there; but I don't think it applies. Krate said it is not our problem. The motion carried by four with Joe Hanna in opposition. The applicant can reapply, and reapplication would have to show a difference in the variance requested, Krate concluded.

## NEW BUSINESS:

**# 11-11** – Paul A. Hiro, Agent for Marco Sari, 13 Bates Place (I13288), Sec.4.D.3., to reduce min. side yard setback from 15 ft. to 9 ft. for res. addition to 2-family dwelling (RH-3 Zone). Krate introduced this item as Paul Hiro signed in at the mic. He identified himself, as an agent for the Sari, who own a residence at 13 Bates Pl. I surveyed this property in 1997, and an addition was added and a deck, and they made it into a two-family. Mr. Sari, about four months ago, was granted a permit to build an addition on the second floor only over the top of the cellar entrance. Hiro stated the variance request. The proposed house is not closer to the property line. Krate asked for clarification; now you want to square this off. Hiro replied only on the second floor. The deck came down; the foundation came in. The hardship is basically the width of the lot. The regulations changed from 8 feet up to 15 feet. Krate said this will remain a two-family house. This proposed addition will keep with the nature of the neighborhood. Dufel got clarification from Paul Hiro, because somebody made this a two-family house. It became a two-family house in 1998. Did they make their own problem? They made this a two-family legally in 1998. They have no variances now. It's a two family, conforming. Hearty said the regulations did not go into effect until after. Dufel said I know you're not an architect; why should we grant a variance? Hiro said all he is trying to do is square off that upper area. Dufel asked why can't he meet the code? Hiro said let the record show that the gentleman smiled at me. I think you know the answer to the question before you ask the question. It's for their growing family, Hiro said. Roos asked Hiro about the angle of the placement of the house on the lot. If you continued the house straight back, projected it from right here, Roos said, it would begin to infringe on this side yard. Hiro and Roos discussed enlarging the residence. Roos noted if he continues to build it straight back, he would require a variance as well. Krate asked is there anyone who wishes to speak for or in opposition to this proposal? The neighbor in the audience spoke with Sean Hearty, and Hiro explained her concerns. Krate asked again is there anyone in opposition to this? Hearty explained she's in number nine (Bates Place). Chavez said I'm fine. Dufel said let the record show that she's fine. Dufel made a motion to close. Hanna seconded the motion. The motion to close carried unanimously at 7:47 pm. Hanna made a motion to **approve** #11-11 to reduce the minimum side yard setback from 15 ft. to 9 ft. for a residential addition to two-family dwelling per plan submitted. It does not affect the welfare, health and safety of the neighborhood. Sibbitt seconded the motion. The motion carried by four votes at 8:20 pm with Dufel opposed.

**# 11-12** – Frank Coscarella, Agent for Leila M. Rasamny-Gorra, 12 Sunset Drive (I05007), Sec.4.A.3., to reduce min. rear yard setback from 35 ft. to 5.5 ft. for office with deck addition (RA-20 Zone). After a discussion with Sean Hearty, Frank Coscarella asked that this be **continued** to the next meeting. Continued, Krate said.

**# 11-13** – Lori E. Lance-Ulrich, 21 Nancy Drive (J10118), Sec.4.A.3., to reduce minimum front yard setback from 30 ft. to 25 ft. for proposed carport (RA-20 Zone). Lori Lance-Ulrich introduced this item. Dufel asked her you do not have a garage? I never had a garage? Describe how this carport will look, Dufel asked. I have an architect's drawing, she said, which Dufel reviewed. Dufel and Lori and Krate discussed the carport design; it's a little cheaper, she said, to do a carport than a garage. Dufel asked Hearty if we approve this she has the right to put up a third wall sometime in the future. Hearty said yes. Lance-Ulrich said she can't wait to put new car in the carport. Motion to close by Dufel. Second by Hanna. The motion carried unanimously. In the voting session later, Krate said this is the lady who wants a carport for her new car. Roos made a motion to **approve** the request to reduce minimum front yard setback from 30 ft. to 25 ft. for a proposed carport. It is a small lot, and it will not be a detriment to the welfare, health and safety of the community. Hanna seconded the motion. The motion carried unanimously.

# 11-14 – Vincent Albano, 1 Rockwood Lane (C08009), Sec.4.A.3., to reduce side yard setback from 40 ft. to 29.4 ft. for breezeway expansion (RA-80 Zone). Krate introduced this application at 7:51 pm, as Albano signed in. Krate asked what is your hardship, Vincent? Dufel offered the hardship is that the kids need a place to do their homework. Krate and Albano discussed the size of the breezeway. Dufel said it is a partial breezeway, and you want to make it a full breezeway. He's doing a full connection, Sean Hearty said, so he's make it a more habitable space. Albano and Dufel discussed what is a hardship. Albano said I don't want the kids doing their homework in the kitchen. Krate discussed a real physical hardship to Mr. Albano. Dufel: because of the triangular nature of the lot, the irregular shape of the lot. Krate asked anyone opposed to this variance. Hanna: motion to close. RR: 2<sup>nd</sup>. MCU. At 8:21 in voting session, Krate paraphrased the request. Discussion? Dufel if using kids as a hardship, they should bring the kids in. Hanna made a motion to **approve** to reduce the side yard setback from 40 ft. to 29.4 ft. for a breezeway expansion. It will not have a detrimental effect on the welfare, health and safety of the neighborhood, and it will not affect the existing setback. Roos said this adds to the safety. Sibbitt seconded the motion. The motion carried unanimously.

# 11-15 – DXR Aviation Center, Wallingford Road (G18018, G18017), Sec.6.A.3., to reduce min. side yard setback of southerly wall & roof from 20 ft. to 14 ft.; Sec. 6.A.3., to increase maximum building coverage from 30% to 33.6%; Sec. 8.C.3.b.(1), to eliminate trees requirement in landscaped islands & along street line frontage; Sec.6 C.2.b., to eliminate continuous planting strip requirement (IL-40 Zone). Krate introduced this item at 7:56 pm, as Ben Doto, PE, came forward and signed in. Dufel asked Doto, orient us, if you will. Doto said I will, and identified himself at the mic. They are the new owners of the Sadler Air facility on Wallingford Road, a little dead end road off of Miry Brook Road. The pink is the property line. It's a roughly 2-acre facility with three existing hangars. The proposal here today, Doto continued, is to put an addition to hangar number two. We will exceed our building coverage. Krate asked why? Doto replied the site is tight. The reason is to allow this hangar to accommodate more updated aircraft. Although, it is only two acres. The owner leases the area from the airport. The lease is 25 to 30 years, and it's utilized, in answer to Dufel's question. Krate joked we don't want to bother you, Paul. Doto continued to describe the coverage. Krate asked what is the hardship. You don't own it so you can't count it. Dufel asked how long has this property served as tie-downs. Paul Estefan, Airport Administrator, signed in at 8:01 pm. Estefan gave the history of the site. It cannot be developed for anything other than aeronautic use, Estefan said. There were three roads and they created what you are looking at today. Mr. Sadler went to the town of Danbury. It's an angled piece of property. I recommend you make any approval contingent to FAA approval. It is a tight squeeze for this airport to entertain another hangar addition. Moving airplanes in and out of a building, it's a challenge, Estefan said. Dufel asked is this building useful for operating the airport. Estefan replied for the applicant, it will be very useful. Dufel said I am ready to understand more variances. We know we need a lot more approvals than just the ZBA and FAA, Estefan said; it's a special exception in the IL-40 Zone. Doto continued describing the other variances he is asking for, including changing the pitch and drip edge of the roof without getting any closer to the property line. The other variances we are asking for involve the landscaping, and Doto discussed the current gravel parking lot and the 3 curb cuts. It's a pre-existing nonconforming parking lot. We spoke with zoning staff. They want to see some upgrades to that parking area, which Doto described. The only thing is island trees and landscape buffers, evergreens, things of that nature. We are asking to have those trees excluded and that strip excluded. Dufel asked why no trees? Estefan replied birds. Estefan said we have enough wildlife flying over and on the ground at the airport; deer, coyote, but our biggest problem is trying to keep it deer-free. I'd like to address the islands at the proper time, Estefan said. Doto and Estefan

indicated Wallingford Road on the plan. Estefan discussed the Sadler's request. Krate asked why would you be opposed to plants that would be bird-friendly? Doto said birds like shrubs. Krate asked why can't we ask that some low shrubs be planted there that are not deer-friendly. Dufel answered, for safety reasons, he recommends no shrubs. Estefan said I'll ask the USDA to review our wildlife plan and ask them what we could put in there: Krate said it looks like hell over there, so anything we can do to improve the looks of the property. Dufel asked Doto about the roof-overhang, which Doto explained. Doto explained the modern aircraft size being the hardship. Dufel asked about the new tax plans and the rumor to close the airport. Estefan replied they took it off the table, at least for this year. Doto said thank you at 8:14 pm. Krate asked is there anyone who wishes to speak for or in opposition to this proposal? If you talk Paul now, I'll kill you, Krate joked. Roos made a motion to close this hearing. Hanna seconded the motion. The motion carried unanimously at 8:15 pm. We will now go into the voting part of our meeting. We should put into this motion what Mr. Estefan has requested, without adversely affecting the airport, but only if it does not adversely affect the airport, Krate said. Hanna made a motion to **approve # 11-15** to reduce minimum side yard setback of southerly wall and roof from 20 ft. to 14 ft.; to increase maximum building coverage from 30% to 33.6%; to eliminate trees requirement in landscaped islands and along street line frontage; to eliminate the continuous planting strip requirement. They need a bigger building to accommodate newer airplanes, and the shrubbery situation will be considered **pending** the FAA approval, per plan submitted. Dufel seconded the motion. The motion carried unanimously at 8:25 pm.

ACCEPTANCE OF MINUTES: Dufel motioned to approve the meeting minutes of February 10, 2011. Sibbitt seconded the motion. The motion carried unanimously. Krate motioned to approve the meeting minutes of April 14, 2011. Hanna seconded the motion. The motion carried unanimously.

THE NEXT REGULAR MEETING IS SCHEDULED FOR **JUNE 9, 2011.**

ADJOURNMENT:

Motion to adjourn by Sibbitt. Second by Joseph C. Hanna. Motion carried unanimously at 8:26 pm.

ZBA



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Public Hearing Sign In Sheet

Date MAY 12 2011

<u>Name</u>	<u>Address</u>	<u>Signature</u>
Leah Walsh # 11-09	235 main street Danbury CT 06810	Leah Walsh
Leowel Luis # 11-09		
Atty Ray Lubus # 11-09		
Isabel Luis # 11-09	4 Woodridge Ln. New Fairfield CT 06812	on 40 Sheridan St Danbury CT 06810 Isabel Luis
PAUL HIRO # 11-11	35 DANBURY RD NM CT	Paul Hiro
Frank [unclear] # 11-11	9 Bato St	Frank
Hon Lance Ulrich # 11-13	2 Nancy Drive	Lance Ulrich
Vincent Albano # 11-14	1 Rockwood Lane	



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Public Hearing Sign In Sheet

Date \_\_\_\_\_

Name

Address

Signature

PAUL ESTEFAN

# 11-15

@.ty.

JOE

BEN AYO

# 11-15

248 MAIN ST  
STE 3A, D.C. 06810

BEN AYO

ZONING BOARD OF APPEALS  
CITY OF DANBURY

ATTENDANCE

Date: MAY 12 2011

Meeting called to order: 7<sup>05</sup> pm

ROLL CALL:

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>(time)</u>	<u>LATE</u>
Richard S. Jowdy	_____	_____/_____ ✓		_____
Herbert Krate	_____/_____ ✓	_____		_____
Michael Sibbitt	_____/_____ ✓	_____		_____
Joseph Hanna	_____/_____ ✓	_____		_____
Gary A. Dufel	_____/_____ ✓	_____		_____

ALTERNATES

Richard Roos	_____/_____ ✓	_____		_____
Rodney Moore	_____	_____/_____ ✓		_____
<del>Jack Villodas</del>	_____	_____		_____

OTHERS PRESENT

Dennis Elpern	_____	_____		_____
Sean P. Hearty	_____/_____ ✓	_____		_____
JoAnne Read	_____	_____		_____
Patricia Lee	_____/_____ ✓	_____		_____
Sharon Calitro	_____	_____		_____

~~Corporation Counsel~~ Paul Estefan, Airport Administrator

ADJOURNMENT: 8<sup>26</sup> pm MS  
JH  
MCU