



CITY OF DANBURY
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ZONING BOARD OF APPEALS
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DRAFT MINUTES – SPECIAL MEETING

WEDNESDAY, NOVEMBER 6, 2013

Conference Room 3C, Third Floor

7:00 PM

ROLL CALL: Present were Chairman Richard S. Jowdy, Michael Sibbitt, Herbert Krate, Joseph Hanna, Alt. Vincent DiGilio, Alt. Anthony Rebeiro. Rebeiro recused himself from item # **13-41**, and returned to the meeting for acceptance of minutes. Absent were Rodney S. Moore, Alt. Rick Roos. Staff present were Sean P. Hearty, Zoning Enforcement Officer, Secretary Patricia Lee.

NEW BUSINESS:

13-41 – 29 Federal, LLC, 23 Federal Rd. (K11123), Sec.6.A.2., in accordance with Sec. 9.C.1.a., USE Variance, to allow a package store use on site that has historically been used as retail (IL-40 Zone). Debby Rizzo and Ingemar Heredia, Attorney at Law, from Stamford, CT, signed in. Sean Hearty arrived. Jowdy called the meeting to order at 7:00 pm. Jowdy read the advertisement for the Special Meeting into the record, and the lack of quorum on 10/24/13 that forced that meeting cancellation. We have one new business, #**13-41**, Jowdy continued. Krate made a motion to hear # **13-41**. DiGilio and Hanna seconded the motion. Motion carried unanimously. Debby Rizzo came forward, saying she is representing 29 Federal, LLC; we would like to allow a package store use on the site, and she gave the history of the sites, the liquor store; the delicatessen always had a beer permit. I'm just asking; we've checked with all neighbors. We are the other side neighbors; a retail facility is also next door, a pawn shop. It was a consignment shop before that, Rizzo said. Jowdy said there are various retail stores there. Krate said this is not too much to ask, I guess. Hanna questioned the location. Rizzo said we are across from the towing end of Federal. Next to F & M Electric, Krate said. Rizzo said it's vacant now, in response to DiGilio. It's been possibly six delicatessens, Rizzo said. It is Monte Carlo, and it used to be on Osborne Street. It's an existing liquor store in Danbury, in answer to Sibbitt's question as to why Danbury needs one more liquor store. Last year a new package store opened up by CVS in Brookfield, Sibbitt said. That one (by CVS) closed. Chairman Jowdy asked is there anyone in favor? Attorney Ingemar Heredia said yes, and said I will briefly speak on behalf of my client, Jose Perez. He's had various businesses in Danbury for the last 20 years. This was at Plumtrees; business is slow, and the rent there is eating his profits. His son will be hired to help him, Heredia said. Krate asked does his son speak English? DiGilio and Krate had questions for Attorney Heredia. Krate asked Sean Hearty about a physical abandonment, unless some physical change took place. Krate said I

remember an application for a used car lot, if I'm not mistaken. When someone comes in for a change of use like that; it wasn't granted? We had a Mr. Esposito in there, from Parks & Rec., for supplying ice cream to City parks, and he did have some kind of hot dog cart. It's been retail in the past; there's retail all around it, Chairman Jowdy said. Krate reiterated abandoning a use. Hearty said it was a liquor store. A package store and a retail store used to be the same under the zoning regulations, Hearty said. I recommend you approve it, and if you approve it, approve it with the condition: pending zoning commission approval. A site plan would be required, Hearty said. DiGilio asked about the due diligence of that commission, the zoning commission. Chairman Jowdy asked is there anyone in opposition. Krate made a motion to close the public hearing. Sibbitt seconded. Motion carried unanimously.

The board will go into the voting session and decide, Jowdy remarked.

Jowdy opened the voting session. DiGilio asked Hearty a question about the history of retail and package stores, and Hearty replied it was pre-existing nonconforming. The commissioners discussed the history of nonconformity. Krate made a motion to **approve**, Sec.6.A.2., in accordance with Sec. 9.C.1.a., USE Variance, to allow package store use on site that has historically been used as retail (IL-40 Zone) per plan submitted. There is no problem with the neighborhood. There is no one objecting to this, and Jowdy added the fact that there was a liquor store before. Krate said it lost that status. Chairman Jowdy said I want it known that it used to be retail; it used to be a package store, so everyone knows that. Krate said I think that that should be left out. Chairman Jowdy said I want the zoning board to know that. Krate said I would rather not add it to my motion. This approval is **pending approval from the zoning commission**, Krate added. Hanna seconded the motion. Motion carried unanimously at 7:17 pm.

ACCEPTANCE OF MINUTES: Tony Rebeiro is back; make a note, Hearty said.

6/13/13 Motion to approve meeting minutes by Krate. Second by Hanna. Motion carried unanimously.

7/11/13 Motion to approve meeting minutes by Hanna. Second by Krate. Motion carried unanimously.

8/8/13 Motion to approve meeting minutes by Krate. Second by DiGilio. Motion carried unanimously.

9/12/13 Motion to approve meeting minutes by Krate. Second by Tony Rebeiro. Motion carried unanimously.

9/26/13 Motion to approve meeting minutes by Krate. Second by Hanna. Motion carried unanimously.

ADJOURNMENT: Motion to adjourn by Krate. Second by Sibbitt. Motion carried unanimously at 7:20 pm.

NOTE: The next regular meeting is scheduled for November 14, 2013. There is only one meeting in November due to the Thanksgiving holiday.

Respectfully submitted,

Secretary Patricia Lee