

ZONING BOARD OF APPEALS
DRAFT MINUTES – REGULAR MEETING
September 11, 2014
City Council Chambers
City of Danbury
7:00 pm

ROLL CALL: Present were Chairman Richard S. Jowdy, Herb Krate, Michael Sibbitt, Joseph Hanna, Alt. Anthony Rebeiro.

Absent were Rodney S. Moore, Alt. Rick Roos.

Staff present were Sean P. Hearty, Zoning Enforcement Officer, Secretary Patricia Lee.

Chairman Jowdy called the meeting to order at 7:03 pm. Chairman Jowdy explained the procedures for public hearing to the audience. Krate motioned to hear tonight's five applications. Second by Hanna. Motion carried unanimously. Make sure you sign in, Jowdy added.

CONTINUATION OF PUBLIC HEARING: NA

NEW BUSINESS:

14-35 – Jody Rajcula & Maura Keenan, 19 Lake Terrace Drive (J03102), Sec.4.A.3., to reduce front yard setback from 30 ft. to 10.5 ft.; to reduce east side yard setback from 20 ft. to 10.6 ft.; to reduce west side yard setback from 20 ft. to 5.7 ft.; to increase maximum building coverage from 20% to 21.8 % for a deck (RA-20 Zone). Richard Jowdy introduced this item at 7:04 pm and read the petition. Jody Rajcula came forward and signed in and identified herself. She said we are expanding a deck that already existed. I brought some pictures which Rajcula distributed. The left side is the subject property; by the blue railing, right around there, behind the neighbor on the west side. Jowdy read the letter from the neighbor, Kathleen Olson, stating her concerns about the septic system, the size of the deck and the proximity to her home. The septic tank has no bearing on this petition, Krate said. When it's finished, if you look at that bottom picture, it will be approximately 5½ to 6 feet to her house, Jowdy said. Krate said that is not her question. I don't see her house on the plan you gave us, Krate said. Rajcula said all the lots are nonconforming, maybe eight feet from the property line. Jowdy held up the photo and asked Jody Rajcula a question. Hanna asked Rajcula about the size. She described the front deck; and the wrap-around deck that is going to be extended. The commissioners continued talking all at once at 7:09 pm. Jowdy said I'm sure everyone up there is doing the same thing. Hearty asked about the side deck. It's just an accessway, Rajcula said. We are going to be putting in a new one. Krate said septic is a Health Department issue. Jowdy said I just said that. Thank you very much; the board will inform you of its decision. Jowdy asked is there anyone who wishes to speak for or in opposition to this variance request? Larry Krueger came forward and signed in at 7:10 pm. Thank you for your time. I live three doors down from our neighbor, and I'm not necessarily opposed or in favor. Krueger asked about notification requirements. The size of the deck seems to overwhelm the neighborhood, being so close to the road. Jowdy said the pictures show that her deck is less protruding than other decks. You said the septic is not a concern here, but Krueger clarified the septic and the deck are in the front yard. It's right on the street, Sir, Krueger said. I did not know; I did not see a hardship, Krueger added. Krate said the hardship is that the house is existing, and she has two front yards. It's a hardship to the property, Krate said. Jowdy told him the Health Department will be checking this. I am a member of the Candlewood Lake Authority, Krueger said, and this is out of character with the neighborhood for such a large deck. Thank you.

At 7:15 pm, Kathleen Olson signed in from 17 Lake Terrace Drive, and said I'm next door. Everybody wants to have a deck; it's just so close to my house, and the size of it. Krate said it's coming off the house 42 inches only. It will also come out further to where my property is, Olson said. I have a six-foot deck on my house. It's probably as close to the street as you are, Krate said. It's just access up, and that's reasonable. Hanna said she's talking about the size of the deck. One concern is proximity to my house, Olson said; and the other is the size of it. Jowdy said you should not even be able to see it, based on this picture. Our consideration is to see if there is a hardship. Olson said the access is where all the people come up. Jowdy said we thank you. Jowdy asked if the petitioner would like to come back up. Regarding the closeness, Rajcula said, the previous deck was in the same place; technically it creeps a little closer to her house. It's always been there. And there are other decks on the street that are the same size as this proposal, Rajcula said. Hanna asked about encroachment. That's an easement, Rajcula said, and that's being settled as we speak. Rajcula described where to find the access driveway that appears on the plan. Three properties share it. It was built encroaching 45 years ago. Rebeiro asked about the septic location. Rajcula said at this time, yes, the septic is under the deck. Jowdy said the opposition can come up one more time. Thank you, Jowdy said. Krate made a motion to close # **14-35**. Hanna seconded the motion. Motion carried unanimously. Later in the voting session at 8:35 pm, Jowdy restated the request. Open for discussion and or vote, Jowdy said. Krate made a motion to **approve** Lake Terrace Drive to reduce the front yard setback from 30 ft. to 10.5 ft.; to reduce the east side yard setback from 20 ft. to 10.6 ft.; to reduce the west side yard setback from 20 ft. to 5.7 ft.; to increase the maximum building coverage from 20% to 21.8 % for a deck in the RA-20 Zone. Hanna seconded the motion. Motion carried unanimously.

14-36 – Paul D. Lefebvre, 36 Harrison Street (K15054), for a detached accessory use, Sec.4.A.3., to reduce side yard setback from 6 ft. to 2 ft.; Sec.3.G.3.c., to increase total ground floor area from 50% to 77% for garage (RA-8 Zone). Jowdy introduced this petition and Paul Lefebvre came forward and signed in at 7:23 pm. Lefebvre said this is for a detached garage. This is the original; these are copies; that's the first and second floor. What I am attempting to do here; I thought this might be easier to see. With his laptop, Lefebvre said the proposal is to build the garage directly in front of those vehicles (in the photograph). The second floor, in order to put the garage in level, due to the ascending property; it's somewhat a second floor to get above the level of the grass. Krate asked again, saying let me finish my question. There's nothing up there that facilitates getting rid of the other accessory structure. Krate said your garage is an oversized garage. Lefebvre explained the bad location idea that they had abandoned. This way here you can drive straight in. The property is only 65 feet wide. We are trying to get some space in the garage by going back. Lefebvre described the items he hopes to store in the garage. I can show you a couple more pictures, if you'd like. Paul Lefebvre said I have also two letters from my next door neighbors; 3 letters stating no opposition to my proposal. Was this given of your own free will, Krate asked the neighbor. I have no problem, the neighbor said. Paul Lefebvre summarized the hardship. Jowdy asked is there anyone who wishes to speak for or in opposition to this variance request? Motion to close the public hearing by Krate. Second by Joseph Hanna. Motion carried unanimously at 7:29 pm. Later in the voting session, Hanna motioned to **approve** # **14-36** for a detached accessory use, Sec.4.A.3., to reduce side yard setback from 6 ft. to 2 ft.; Sec.3.G.3.c., to increase total ground floor area from 50% to 77% for garage in the RA-8 Zone, per plan submitted. The hardship is the topography and the access, and this does not create a detriment to the community. Rebeiro seconded the motion. Motion carried unanimously. (Tape 2, side A installed).

14-37 – Mark Edwards, 28-30 Candlewood Drive, (106097, 106233), Sec. 4.A.3., reduce front setback from 30 ft. to 14 feet for single-family residence (RA-20 Zone). Jowdy read the application. Ralph Gallagher, Jr., PE, from 39 Mill Plain Road, identified himself representing Mr. Edwards. Krate said take the hand mic with you. This is our second round with the public hearing, Gallagher said. Gallagher asked that the previous hearings be included in this application (**#14-19**, **#14-23**). Gallagher described the parcel, two combined parcels, the front yard setback, the lot configuration, the lot size and lot location on a curve of the road. We have a modest size dwelling, actually built on the corner of that road. We are locked into where we are. This is the same as the previous proposal. Gallagher explained about the conflict with his daughter's rehearsal dinner at the last meeting; why he did not show up. Gallagher said I found many, many houses with the same front yard setback issue, so I am definitely not out of character with the front setback, nor the size of the house. Gallagher described the current drainage. We will drain to that pipe and the water will no longer run that way. Gallagher and Krate discussed the water travel route. Gallagher said the soil is very good. Krate asked him would you be opposed to...Then Krate asked where is the catch basin they put in there? Would you have a problem putting a catch basin at the end of your driveway and tie it into that pipe. Krate and Gallagher discussed avoiding anything that might happen. Gallagher said thank you. Jowdy asked is there anyone who wishes to speak for or in opposition to this variance request?

Susan and Albert Mion came forward and signed in. Susan Mion identified herself, saying I live at 4 Brighton Street and own three other properties. We abut them on three sides. I have lived there all my life, and there have been several problems we have experienced first hand. This proposal will affect the overall quality of life; it is too big for the neighborhood. It is not suitable nor fitting. Mion continued these are converted summer cottages, and she discussed the basements because of the high water table. They were built closer to private roads, before we became part of the City. Our driveway and Brighton Street have been damaged due to this running water. I have seen other neighborhoods where new expanded homes have overtaken the neighborhood. If there's a possible shift or failure, would it foul our water? Mion discussed the other front yard septic system. I am concerned about the lot size and the neighborhood density. Another neighbor built a home that used the entire lot, and it's a lovely house. I teach, Mion said. Susan Mion compared this to a child's report card. She discussed the deer, red foxes, the animals. Where will they go? We had to ask the City in the past to divert this water. This waterway is a channel and can be seen on the 1987 survey. The basins don't exist. My husband regularly shovels up the silt. She discussed their fears, the sandbags, erosion, the steep slope, which she described. What about lawn fertilizers, insecticides, pesticides? This is not a corner lot; it is a curve. A truck turned over up here; kids are walking to their school buses. 26 Candlewood Drive, our other parcel, is deemed too steep for building, Mion said. I can cite for you four or five examples of other neighbors' proposals where they had to reconfigure their lots. She discussed the rarity of open space in Danbury, the cow path, those stone walls. They propose to dismantle those stone walls, and she gave another example. We own three distinct taxable parcels and she spoke of the City website. She discussed pushing the envelope; building an incongruous dwelling, her septic, the time it will take to make these things happen. Who will speak for the wildlife, who will speak for our child who is recovering from brain surgery? There is no longer peace and tranquility in our yard. It could possibly adversely impact our home value. Please don't make us suffer because someone else bought a tiny lot, Susan Mion concluded. Albert Mion from 4 Brighton Street said I am here with my wife Susan. The reason for the variance is the hardship. Albert Mion said it is a nonconforming lot; has poor drainage, it is difficult to climb in the winter, etc. I have an easy fix for this: don't grant it, Mion said. I would like to remind the board about the engineer not showing

up at the last meeting. My neighbors here are also in opposition. There was no one there. We were there (at the meeting). We are representing our interests, Mion said. Krate said I have a pretty thick skin, and I don't insult easily. Jowdy described the rights of the applicant. What size are your lots, Ma'am? Susan Mion stood and gave the size of her lots. It's existing construction from the fifties. Did you hear any of these things that I said? We have definite reasons for our objections. How many stories will it be, Susan Mion asked? Krate stated the allowable coverage of the house. Gallagher said I believe it's two stories. Jowdy said your presentation is well taken. It's up to the engineers and all the departments to approve that. Jowdy asked Sibbitt if he had any input. Jowdy asked is there any other opposition at 7:55 pm. Carl Durgin and his wife came forward. I know that at a previous meeting my wife asked could someone come look at the property. This is a blind corner on a very steep hill, Durgin said. Krate said I went up there. Durgin discussed the storm drains with no pipe for it. I don't know who built that road, Durgin said. It's a City road. Krate said the City will have to address this. Durgin said I can't imagine putting a driveway on that steep hill. You deal with the whole package, and I know a driveway is not your issue. It's steep enough that City school buses cannot come down, Durgin said. Krate said we don't like to give exceptions for grades on driveways. If it's over 12%, they won't let him build it. Krate said I get it. We don't need to saturate the neighborhood, Durgin said. Krate explained the State mandating that the ZBA exists to protect property owners from duress from up zoning and by keeping buildable lots buildable lots. We only handle a portion of what this proposal will have to go through, Krate said. They comply on every side except the front, and they have two front yards, and that's a real hardship. We are charged with granting reasonable relief to homeowners, Krate continued. I live in a community similar to this. That forest is now going to go away. That's what happens; it's a normal human response on a piece of property. I was there. I've seen way worse. There's way worse everywhere, Krate said. Jowdy explained the other departments' jobs, and the ZBA's duty. Durgin said I would not want to see this neighborhood changed that much, at 8:03 pm. Axel VonMetzsch next signed in from 11 Candlewood Drive, saying my only objection is my view. I look at woods, and now there will be a house. Jowdy asked is there anyone else who wishes to speak for or in opposition. Gallagher came back to the mic. I tried to copy these down. The size of the house: it's a 2 story, 3 bedroom home, so it's not going to be towering. Gallagher discussed the septic; it will not be an issue. We stopped the erosion; that catch basin was plugged up. We will take our drainage across. There was no ledge in the test holes where we dug. Being too steep is not something to stop a building in the City of Danbury. Gallagher said there's some adjusting to that steep road as we build. The site line is only relevant to someone coming out of this driveway. The site line will definitely not be an issue, Gallagher said. If there are any other questions, I would be happy to answer them at 8:11 pm. Susan Mion came back to the microphone and went to the easel. I would be curious to know, the storm drain that is here, and she explained the storm drain, the pipe and the route of the water. And I'm telling you gentlemen, these pipes don't exist, Mion said. So here's my question: if they are going to be tying in to something, where on Candlewood Road? Will they be digging up; is it the applicant or the City? Something will have to be done with the water. People are impacted. We are here asking you to not approve this, Mion said. Gallagher said we do show a pipe from this catch basin. What we saw was cemented up. We are going to have to deal with that, Gallagher said. Mion and Gallagher discussed digging it up. Mion said I understand; I understand the setbacks. Jowdy said thank you and we'll let you know. Krate made a motion to close this public hearing. Second by Hanna. Motion carried unanimously at 8:10 pm. When will the decision be made, Mion asked. Rebeiro said he (Gallagher) said he submitted a drawing that was not accurate. Krate discussed who may have screwed up. Hearty clarified the septic design. Rebeiro said my concern is they admitted they submitted a plan that is not accurate. Sean Hearty said I think

it may be something I can look in to. Jowdy and Krate agreed with Hearty. At the suggestion of the Zoning Enforcement Officer, Jowdy said, he will look into it and get back to us. Jowdy said that will be **tabled** at 8:41 pm.

14-38 – Nejame & Sons of Danbury, LLC (Canarozzi), 6 Hillandale Road (F08077), Sec. 4.A.3., reduce rear yard setback for detached accessory use from 20 ft. to 10 ft. for pool (RA-40 Zone). Thomas Nejame and Stephen Canarozzi came forward and signed in. The issue we are asking for trying to fit a swimming pool back there and Stephen Canarozzi discussed the parcel. We have two little girls and they like to swim and to run around. It's not out of character with the neighborhood. About 20% of the folks have pools, Canarozzi said. I have less than a third of an acre. Krate asked are you City sewer. Yes. Krate asked is there any reason you can't move that pool further back? Stephen explained why he does not want the pool on top of the house and leaving room for a play area. Krate said I have a problem with that. Nejame took the mic saying I'm Tom Nejame and you are absolutely right. Nejame discussed such a small lot, the flattest area in the lot; we don't want the pool right against the house, and it would be a safety issue. Nejame provided some photos to the commissioners, at Krate's request. Krate asked this rock wall that you built, where is that? Nejame and Krate discussed the developed good flat area. Krate said why don't you just bring more fill in. You have enough area. Nejame said the reason I don't want to bring fill in here, I would have to build an entire retaining wall. Krate said correct; you'd have to build another wall. Krate said then dig out over here and put the pool in. Nejame explained what that would require. Krate replied cost is not our concern. You have the availability to have much less impact. Hanna gave the dimensions; you have 16 feet. It's an above-ground pool; the fence goes on the ladder, Krate said. Krate and Hanna and Sibbitt discussed the distances. Rebeiro said he's going off the dimension of the deck. The commissioners talked about alternatives. Krate reiterated you have enough room; this certainly is not the minimum distance that you can handle. Krate and Jowdy continued discussing the layout of the parcel and the house and the pool. If I were you I would continue this, Krate said. Canarozzi reiterated his reasons for choosing the pool site. Herb Krate said we can't recommend anything to you, but we are supposed to grant the minimum variance, and I think it can be done with less impact on a property line. Jowdy, Nejame, and Krate discussed the topography and granting the minimum amount. This goes beyond the minimum amount necessary to allow reasonable use of the property, Krate said. Jowdy offered an alternate idea. Krate said you can actually amend it, and bring in an amended map to the Zoning Enforcement Officer. We will go with 15 feet. From 10 to 15 feet, Secretary Lee confirmed. Neighbor Jonathan Levine took the microphone and identified himself, saying I live at the property adjacent to the property behind this parcel. Is work allowed to be done before this is approved? No, the commissioners said. Work is being done on the property; the wall is being built, Levine said. Those are my only questions, Levine concluded. Canarozzi said we did start a rock wall; it's smaller than four feet. Hearty said three feet and up requires permission, and you are retaining soil. Jowdy said the Zoning Enforcement Officer has asked us to continue this so he can go out there. Motion to continue this by Herb Krate. Rebeiro seconded the motion. Motion carried unanimously to continue this. Hearty said we are going to look into it. Krate and Hearty said the public hearing is still open and it is **continued**. Hearty said to the applicants have the survey updated and show the stone walls.

14-39 – Doctors Express of Danbury, 100 Mill Plain Road (C14058), Sec.8.E.3.a.(1).(a)., to allow two wall signs to not be confined to that portion of exterior building wall where the business to which the signs refer is located (CA-80 Zone). Jowdy read this petition at 8:30 pm. Tom Kelly said I own 2 Main Street. I have invested 2 million dollars in the downtown site, and we are looking to open an additional area. We feel this is an underserved area, this 100 Mill Plain Road. The

variance we're looking for, the way we designed the space for the operation, we restructured it for better flow. It is an urgent care center, patients with urgent needs; they need to find us. Krate had a question about a free standing sign. There's not really room for it, Kelly said. We have asked for additional consideration on that, but on the west side the people will be able to pull in that driveway. Hearty said LED means light emitting diode. Commissioners discussed themselves. Jowdy and Kelly and Krate discussed the issues with this signage, and if the neighbors have any problem with proposal. They discussed the tenant occupancy, the Union Bank, the storage area. We'll let you know, Jowdy said. Is there anyone who wishes to speak for or in opposition to this proposal? Motion to close this public hearing by Herb Krate. Second by Sibbitt. Motion carried unanimously at 8:35 pm. In the later voting session, Jowdy introduced Doctors Express, and he said if we allow those signs on the building, the character of the building must be considered. This is a landmark coming in to Danbury. Krate said you are opening a Pandora's Box, if a neighbor wants a similar sign. It's not them I'm concerned about; I'm concerned about what that building will look like with 24 big signs on that building. Krate, Jowdy, and Hearty discussed other options, a free standing sign. Hanna said I think they have enough signage. The commissioners continued discussion about a freestanding sign versus the signs requested in this application. Krate made a motion to **deny without prejudice** Sec.8.E.3.a.(1).(a)., to allow two wall signs to not be confined to that portion of exterior building wall where the business to which the signs refer is located in the CA-80 Zone, because there are no other signs on the face of that building, and it would be detrimental to the building; it is an entrance to Danbury; it is not the mall, and should not be treated as the mall. Tony Rebeiro seconded the motion. Motion carried unanimously at 8:48 pm.

ACCEPTANCE OF MINUTES: Motion to accept the August 14, 2014, meeting minutes as presented by Krate. Second by Sibbitt. Motion carried unanimously.

ADJOURNMENT: Motion to adjourn by Krate. Second by Rebeiro. Motion carried unanimously at 8:49 pm.

Respectfully submitted,
Patricia Lee, Secretary
Zoning Board of Appeals
City of Danbury