

**ZONING BOARD OF APPEALS  
MINUTES**

**October 23, 2014**

City Council Chambers

7:00 pm

ROLL CALL: Acting Chairman Herb Krate opened the meeting at 7:04 pm. Present were Krate, Michael Sibbitt, Joseph Hanna, Rodney S. Moore, Alt. Rick Roos. Absent were Chairman Richard S. Jowdy, Alt. Anthony Rebeiro.

Staff present were Sean P. Hearty, Zoning Enforcement Officer, Secretary Patricia Lee. Krate read the legal notice as it appeared in the newspaper. Motion to hear tonight's petitions by Hanna. Second by Roos. Motion carried unanimously. Krate laid out the procedures for public hearing for the audience for those in favor and those opposed, and let's not be repetitious, Krate asked.

CONTINUATION OF PUBLIC HEARINGS:

**# 14-37** – Mark Edwards, 28-30 Candlewood Drive, (I06097, I06233), Sec. 4.A.3., reduce front setback from 30 ft. to 14 ft. for SF residence (RA-20 Zone). Public hearing closed; tabled 9/11/14. Krate introduced this item at 7:05. The public hearing is closed on this. We asked for drainage. Hearty explained the changes to drainage, the catch basins, as per the new plans. That being said, we will vote on that later tonight, Krate said. Rick Roos said that is going to only be a four-person vote. They have only a four-person board, Krate said. Krate said I'm prepared to vote for this, and suggested that Roos read the minutes from the last meeting so he could vote. Rick Roos quietly read the minutes from the last meeting. And we will push this, Krate said, to the back of the meeting. In the voting session at 8 pm, Rick Roos reviewed the proposal, and had read the minutes of the last meeting. Moore said the original continuance was to allow us to do an on-site, Krate, Duke Hart, the owner and his engineer. Rick Roos said did anyone ask why it can't be smaller? Krate said it's reasonable. Rick Roos said okay, at 8:01 pm, reviewing the file, and having read the minutes from the September meeting. Rick Roos said go into the voting session at 8:03 pm. Krate said I assume we have no more questions. Moore said he had one comment: it's a miserable place to build, so that's the hardship, and I'm not sure; I'm not the one to make the motion, Moore said. Hanna made a motion to approve **#14-37**, Sec. 4.A.3., reduce front setback from 30 feet to 14 feet for a single-family residence in the RA-20 Zone. The City Zoning Enforcement Officer and Engineering have reviewed this, so therefore there's no detriment to the welfare, health and safety of the community, per plan submitted, Hanna said. Sibbitt seconded the motion. Motion **denied** with Rick Roos and Rod Moore in opposition. Krate said it's voted down at 8:05 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 15 ft. for pool (RA-40 Zone). Public hearing opened, and continued on 9/11/14. Krate introduced this continuance. Hearty said I did go on site and met the contractor; I did not see any violation on site. Steve Canarozzi took the mic at 7:09 pm. Canarozzi explained the project, saying we have two little children. Right now it is unusable property; we will turn that unusable property into a pool area. Moore said refresh my memory on the topography again. Canarozzi did, stating it goes down, and goes back up again. Krate asked is there anyone who wishes to speak for or in opposition to this variance request? We will inform you of our decision, Krate concluded. In the voting session, Hanna made a motion to **approve** Nejame & Sons, **# 14-38**, to reduce the rear yard setback for a detached accessory use from 20 ft. to 15 ft. for a pool in the RA-40 Zone. Considering the size of the lot and the topography in the back, and it does not affect the safety and wellbeing of the

neighborhood, per plan submitted. Rick Roos seconded the motion. Motion carried unanimously at 7:49 pm.

NEW BUSINESS:

# **14-40** – POSTPONED to 11/13/14: Gem Pat Realty Corp., 36A Padanaram Road (H10132), Sec.5.E.2.a., USE Variance to allow a medical office, specifically a dental office, on the second floor of the premises (CN-20 Zone). Krate said this has been postponed.

# **14-41** – Marjorie J. Shannon, 9 Crescent Drive (H15187), Sec.4.A.3., for replacement detached accessory use, to reduce minimum required side yard setback from 6 ft. to 2.5 ft. to roof overhang; to reduce minimum required rear yard setback from 6 ft. to 3.0 feet to roof overhang for a two-car garage (RA-8 Zone). Shannon signed in at 7 pm, stating I would like to change my garage as it is obsolete. I would like a two-car garage now; just extend it 2½ feet. Moore clarified just make it a two-car now, with the same footprint that it is now, regarding the overhangs. Ms. Shannon said I have a letter from my neighbor. Krate read the letter from the Sterling's into the record: 11 Crescent Drive; they have no objection. Krate asked is there anyone who wishes to speak for or in opposition to this variance request? That was not so bad, was it, Krate said to Shannon. Rick Roos made a motion to **approve # 14-41** to reduce minimum required side yard setback from 6 ft. to 2.5 ft. to roof overhang; to reduce minimum required rear yard setback from 6 ft. to 3.0 feet to roof overhang for a two-car garage in the RA-8 Zone. A two-car garage now is going to be replacing the existing garage, using the current foot print, per plan submitted. Hanna seconded the motion. Motion carried unanimously at 7:51 pm.

# **14-42** – Doctors Express of Danbury, 100 Mill Plain Road (C14058), Sec.8.E.3.a.(3)., to allow two freestanding signs to be closer than 300 feet from one another on a lot; to allow cumulative sign face area to exceed permitted area for freestanding signs; Sec. 8.E.5.a., to allow pylon sign to be located within 10 feet of the front lot line (CA-80 Zone). Krate introduced this item at 7:13 pm. Tom Kelly came forward and signed in at podium, representing Doctors Express. We were here at the last meeting asking for signage on the building, and we've come back with a free standing sign. So we went out to the site with Sean (Hearty) and looked at what other options there were. We are asking for one sign, not two signs, Kelly said. The reason for the request, for an urgent care center serving people in need, it is very important that they can find it easily. Finally, we are asking for it to be within 10 feet of the property line. I've taken pictures from the east and from the west, where you can see there's a berm there, Kelly said. Krate asked where is it in relation to the clock. Further back from the clock, Hearty clarified. 9½ feet by seven, Krate asked. It will complement the architecture, Kelly said. Hearty said the base does not count for a sign size. Moore said it's a little vague in my mind. Hearty and Krate said it's for very little; they are going to stick with the specifications that you see. Hanna confirmed the sign is not flashing. Krate said it is not changing. Moore said I just wonder: I understand the real need, but the other tenants in the building may say this is a precedent. Krate said that's for the other tenants to discuss with the landlord. Krate explained the previous application for a sign on the second floor fascia. Tom Kelly said there is no other tenant that has the urgent need that we have. Thank you, Kelly concluded. We will inform you of our decision, Krate said at 7:19 pm. Moore made a motion to close #14-38, #14-40, #14-41, #14-42 and #14-43 public hearings. Hanna and Roos seconded. Motion carried unanimously. In the voting session later, Krate gave a short history of the first sign proposal, saying it's open for discussion or vote. Hanna made a motion to **approve # 14-42**, Sec.8.E.3.a.(3)., to allow two freestanding signs to be closer than 300 feet from one another on a lot; to allow cumulative sign face area to

exceed permitted area for freestanding signs; Sec. 8.E.5.a., to allow a pylon sign to be located within 10 feet of the front lot line in the CA-80 Zone. Krate clarified it's one double-faced sign; it has nothing to do with the other sign. Per plan submitted, Hanna continued; it can only improve that people find the place in an emergency, people not well. Rick Roos seconded the motion. Motion carried unanimously at 7:49 pm.

**# 14-43** – Islamic Society of Western Connecticut, 388 Main Street (H13238, H13239, H13241, H13242), Sec.5.H.1.b., to eliminate requirement for continuous perimeter planting strip and parking in perimeter strip; Sec.5.H.2., to allow parking in Knapp's Lane front yard; Sec.5.A.3., to reduce minimum required front yard setback from 25 ft. to 3.3 feet, to reduce minimum north side yard setback from 20 ft. to 1.6 ft., to reduce minimum west side yard setback from 20 ft. to 7.5 feet; to increase maximum allowed building coverage from 30 % to 70 % for building expansion; Sec.8.C.3.b., to eliminate requirement for landscape islands adjacent to the sidewalk; Sec.9.C.2.b., to permit expansion of a nonconforming structure; Sec.8.B.3., to reduce sidewalk required width from 5 feet to 4 feet (CG-20 Zone). Krate read the petitions into the record at 7:19 pm, while Doug DiVesta, PE, from Roxbury, CT, set up the plans on the easel and signed in. DiVesta introduced himself at the microphone. This (application) sounds terrible, but it's a pre-existing building, Krate said. The building is there already. Krate and Hanna and Hearty and Roos discussed the coverage. DiVesta described the vicinity and the zone; a 20,000 sq. ft. lot. These are two parcels, DiVesta said at the easel; Knapp is where the existing structure is now. The proposal is to raze the existing structure and combine the two lots, and making one large lot; making it slightly less nonconforming than it is now. DiVesta asked do you want me to go through each variance. Krate asked where's your parking. DiVesta said they own two other lots. In 1995 and 1998 variances were granted for the parking lots, landscaping strips, things like that, south of this proposal, DiVesta said. If you combine the two lots, Krate asked, to one large lot, it probably would not be such a variance. Hanna asked what are they going to use this for? The new addition, DiVesta said, will be for prayer; one building for prayer, a larger prayer area, cleansing and that, with some offices upstairs, and an apartment as well. Moore said I am looking at that massive uptick in coverage. Hanna discussed in the future, what about the possibility of putting a building on those other two lots. Moore asked how tight is the parking? Hearty explained the uses are not intensifying to Moore. Moore said it may be impossible to put a building there. Hearty described the stipulation that could be added to any approval. Imam Mohammad Akhtar. Krate said as long as that coverage is maintained there. Hearty clarified. Krate asked is there anyone who wishes to speak for or in opposition to this variance request. Motion to close by Rick Roos. Second by Sibbitt. Motion carried unanimously to close this hearing at 7:29 pm. In the voting session, Krate said if you make a motion, be sure to include any improvements to the parking lots as long as this use is in effect. Joe Hanna made a motion to **approve # 14-43**, Islamic Society of Western Connecticut, and Hanna listed each section to be varied: Sec.5.H.1.b., to eliminate requirement for continuous perimeter planting strip and parking in perimeter strip; Sec.5.H.2., to allow parking in Knapp's Lane front yard; Sec.5.A.3., to reduce minimum required front yard setback from 25 ft. to 3.3 feet, to reduce minimum north side yard setback from 20 ft. to 1.6 ft., to reduce minimum west side yard setback from 20 ft. to 7.5 feet; to increase maximum allowed building coverage from 30 % to 70 % for building expansion; Sec.8.C.3.b., to eliminate requirement for landscape islands adjacent to the sidewalk; Sec.9.C.2.b., to permit expansion of a nonconforming structure; Sec.8.B.3., to reduce sidewalk required width from 5 feet to 4 feet in the CG-20 Zone. Second by Sibbitt. Motion carried unanimously with the **stipulation** that the parking on the lots on Knapp Street not to be developed unless they come back to the commission, and shall remain that way as long as that use is in place. Sibbitt seconded the motion. The

Imam Mohammad Akhtar spoke from the audience, saying this is the only Islamic center in the City of Danbury.

# 14-44 – Victorian Associates, LLC, 120-130 Osborne St. (J12091, J12092, J12093), Sec. 4.B.3.a., to reduce minimum required front yard setback from 20 ft. to 14 feet for front porch roofs/ covered entrances (RMF-4 Zone.) Krate introduced this item at 7:30 pm, as Dainius Virbickas, PE, from Artel Engineering Group, LLC, and Robert Botelho identified himself, saying I am the developer and owner of the complex. Botelho said I would like to give you some handouts. Virbickas said I am here on behalf of the applicant, and he signed in at 7:31 pm, stating I will explain while the applicant hands out the drawings. We are here seeking a variance to the front yard setback down to 14 feet for our residential development. Victorian Meadows has been under construction now for a good three years. Now we are going to construct building three on the Osborne Street side. This building, located along the frontage, needs to have two frontages, so to speak, utilizing the front entries. The north face gets all the weather, driving rain, snow and so forth. It's just to allow that rooftop; just to provide shelter to those doors, and people coming and going. It is no closer than the existing porches on the other residences. Krate asked about putting a sidewalk in. Oh, yes, Virbickas said, and he described the proposed sidewalks. The homes and rooftops are all pretty close to the street. Krate asked are these all rentals. Virbickas and Botelho replied yes. Hanna asked the building width. Botelho said two bedroom units; one car garages, a play room; we must make the fronts and the backs conforming with the rest of the project. Why could not that building be pushed back a little bit, Krate asked. Virbickas said that's a good question. We ended up with a nice large courtyard; while green on top, it houses many utilities, piping, drainage, stormwater, sewage. Krate said you have plenty of room for access. If you moved that building back, you would still have plenty of room for access, Krate said. Virbickas and Krate discussed the property line at the dais; why could it not be brought back a little bit. Krate added you are going to be maybe 19 feet off the roadway there. Virbickas said, actually, I measured those distances. The projections will be 19 feet away. The buildings will be 25 feet away. Botelho explained the need for parking. Hearty, Krate, Botelho, Virbickas all discussed the parking spaces; the parking required by code for visitors to this complex, to be able to come and go. Rick Roos asked how many feet from the back of the building to that island? Hearty said 24 feet. Botelho, Roos, Virbickas examined and discussed the plan and the approved site plan. Krate noted I don't have a site plan; you guys have to go back home and come back with a proper site plan. Virbickas said Zack Rapp prepared this map. Krate said we are going to have to continue this to the next meeting. Botelho said we will work with Artel and Syd and Zack Rapp, and bring you more descriptive information. Krate said we cannot vote on it. We continue this to 11/13, Krate said. Motion to **continue** this public hearing by Rick Roos. Second by Hanna. Motion carried unanimously at 7:45 pm.

ACCEPTANCE OF MINUTES: September 11, 2014: We cannot approve these minutes, Krate announced, since certain commissioners are not here tonight.

Motion to adjourn by Sibbitt. Rod Moore seconded the motion. Motion carried unanimously at 8:12 pm. Krate and the Mion's in the audience discussed the proposal. The Mion's thanked the commission.