

**ZONING BOARD OF APPEALS  
REGULAR MEETING  
November 13, 2014**

DRAFT MINUTES

ROLL CALL: Chairman Jowdy called the meeting to order at 7:02 pm. Present were Jowdy, Joseph Hanna, Herbert Krate, Michael Sibbitt, Rodney Moore, Alt. Anthony Rebeiro. Absent was Alt. Rick Roos.

Staff present were Sean P. Hearty, Zoning Enforcement Officer, Secretary Patricia Lee. Joseph Hanna read the legal notice into the record with the three items. Motion to hear tonight's applications by Hanna. Second by Sibbitt. Motion carried unanimously at 7:02 pm. Jowdy explained the procedure for public hearing to the audience and board. Hanna said they went for a continuation (# **14-44**) so we could get the dimensions.

CONTINUATION OF PUBLIC HEARING:

**# 14-44** – Victorian Associates, LLC, 120-130 Osborne St. (J12091, J12092, J12093), Sec.4.B.3.a., to reduce min. req'd. front yard setback from 20 ft. to 14 ft. for front porch roofs/ covered entrances (RMF-4 Zone.) CONTINUED from 10/23/14. Jowdy introduced this continuance. Robert Botelho took the mic and signed in stating I appreciate your time. Botelho identified himself as president of Victorian Associates, and handed out the aerial view. Basically what you have before you are the front elevations and the side elevations. We want the front porches to protect the occupants and to keep some continuity. We are, number one, an affordable housing project, and we received an award from the Mayor for this integrated housing, as affordable as possible. The project is about 28 years in the making, so it was not something that was taken lightly. I will turn it over to Mark Kornhaas with Artel Engineering Group. Mark Kornhaas handed out plans that showed the dimensions and what we submitted earlier this week. This is about the fifth building. There are five porch units involved, Kornhaas said. There are seven units in building five, and one is affordable. Jowdy asked about what will be demolished. 120 is going to stay there, Mark Kornhaas said. Two buildings will come down to allow for building five. The Osborne Street roadway curves along the front of the property. It's segments, multiple segments, so it creates front yards that are irregular. Kornhaas mentioned the allowance for a one foot projection. The question was can we move this building back, and Mark Kornhaas explained why not: the open space. Hanna asked why can't it be moved back? You have not tried anything. We only go a little bit in the front, Hanna said. It would be into the utilities, all the stormwater management system, Kornhaas said. That system is very shallow with a very shallow cover, under the whole entire open space. That is an ADS system for water storage, Botelho said. We can't even put machines on it. Plus we have requirements for landscaped buffers, parking, cars in the back of the building. Hanna said for a site like this, the system should be able to take some traffic. The last time we talked about it, Botelho said, at the easel, and Botelho discussed again the completely engineered ADS system. Sean Hearty reminded the commissioners why this one was continued, to show what was back there, so the building could not be pushed back. Botelho said we wanted a beautiful building, not just a run of the mill complex. The primary system is over here. People will have decks, privacy; we'll manage the water coming off the road, the hospital. We put a lot of consideration into this proposal. Mark Kornhaas went to easel and told the dimensions: 19 feet at the closest; 21 feet is the farthest. Moore asked a question. Kornhaas enumerated some options that they took into consideration when planning this. We could have taken off the porches. Jowdy said this is an award winning design; I go by there every day. There are two facades, Mark Kornhaas said: one faces the open space area; one faces the road. Mark Kornhaas said thank you at 7:16 pm. Jowdy asked is there anyone who

wishes to speak for or in opposition to this variance request? Hanna made a motion to close the public hearing. Moore seconded the motion. Motion carried unanimously. Jowdy, at 8:10 pm in the voting session, said we come back to our first application. Hanna made a motion to **approve #14-44**, Sec.4.B.3.a., to reduce minimum required front yard setback from 20 ft. to 14 ft. for front porch roofs/ covered entrances in the RMF-4 Zone, per plan submitted. This was continued from 10/23/14, with a very well constructed place, and open space in the center. It's the only way they can do it, Hanna continued, and will not be a detriment to the welfare, health and safety of the neighborhood. Moore seconded the motion. Motion carried unanimously at 8:13 pm. Botelho said thank you very, very much.

#### NEW BUSINESS:

**# 14-40** – Gem Pat Realty Corp., 36A Padanaram Rd. (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). Postponed from 10/23/14. Jowdy said we are waiting for one other person, as I have to withdraw from this discussion. So we will hear **14-45** before **14-40**, and he explained why. Herb Krate arrived at 7:19 pm. Jowdy came back to this application at 7:24 pm, saying he must step down. Jowdy said I have there letters; Herb will take care of them. Richard Jowdy left the panel at 7:24 pm. Krate said, for the record, there are three letters here: two are opposed; they are all opposed. I'm informed that Zoning is also opposed to it. Herb described the six signatures on one petition, and the one with three people signing in opposition. They will be entered into the record. Peter Scalzo, Attorney, from 2 Stony Hill Road in Bethel, came forward at 7:25 pm and identified himself and his office address. I am here on behalf of the applicant, Pat Grady. Joe Balskus, Traffic Engineer from Tighe and Bond, is also here. Balskus does have an aerial photograph, which Balskus put on the easel. This is the CN-20 Zone, Peter Scalzo continued, and they wish to house a dental facility on the second floor only. Krate asked who are the two stores. The first floor has Nationwide Insurance, and a market research firm, and a Center for Living Well Therapies. The zone here, Scalzo continued, was previously CG-20 which does not permit dental offices. Scalzo discussed the old regulations, and the current regulations now present a hardship. A similar use was granted on 19 Padanaram across the street in 1999. I mention this just for illustration purposes only, right next door. Krate said we are talking about the office building. Scalzo discussed Dental Associates across the street (36 Padanaram Road) and right next door. This will be in harmony with the existing uses. Scalzo said we know that traffic is an issue on Padanaram Road. I will have Joe Balskus come up now and make his presentation. Joe Balskus identified himself as Director of Traffic and Parking for Tighe & Bond. Krate asked him to sign in. I am a licensed engineer in the State of Connecticut. We did a traffic statement, and I will go over that. The aerial is on the board there, and Balskus discussed the photographs on the bottom, under the aerial photo. Krate clarified the property line. We did site visits during peak hours, Balskus said, and the circulation worked very well: one way in; one way out. Padanaram is a minor arterial roadway; the speed limit is 30 miles per hour. It carries about 1600 cars per day during peak hours, and he stated the times of peak hours. There are no issues with site lines today, Balskus said. Krate interrupted him, you start sentences great, but you swallow the end of your sentences. We will address any deficiencies that we need to take care of. The site lines are good. But if we convert this office to a medical/dental office, how does this impact the traffic. We rely on a trip generation manual, based on hundreds and hundreds of situations similar to this, Balskus said. Krate asked do you have a proposed layout for the dental office; how many dentists: one or maybe five? Pat Grady came forward and said it is one dentist. Krate replied that's all I want to know. Balskus continued this manual is the industry standard, in terms of one dentist or two dentists. Your City traffic engineer also uses this manual. We are talking about an increase in traffic, at

most, of about 40 cars per day, Balskus said; a really small amount. You won't discern it, Balskus said. My point is that one through three dentists, that's not going to change anything. Krate said traffic is not my primary concern here. Finish your presentation, Krate said to Balskus. As a professional engineer, you are not going to be able to tell there's a dentist in here. We are not going to cause a problem. Balskus said that's my conclusion at 7:40 pm. Krate and Balskus discussed the table that was submitted; this would generate 168 cars. Peter Scalzo asked to help clarify. The survey that we submitted is a current existing survey. Scalzo discussed the parking issue, and added we understand that we have to go back for a site plan application. We can re-do the parking, if a variance is granted, Scalzo said. There are three occupants there now, including the landlord. It is approximately a 9000 sq. ft. building. There are an awful lot of cars there with the existing tenants; there are times when one whole side is full, Krate said. Pat Grady said I can address that, but later sat down. Balskus said I saw very little cars there; I found less than five cars the two times I was out there. Pat Grady said my little business is just me and one person working there. Nationwide is two. The Center for Living Well has therapists and customers. I've been working there every day for 18 years, Grady said. Krate said take a vacation at 7:44 pm. Michael Sibbitt asked is the second floor handicapped accessible? Grady said the plan is to put an elevator in, I've heard. Krate asked are there any questions? Rod Moore said you answered by questions already, Moore said to Scalzo, about opening it up for other dentists. Scalzo said this is only about a dental office on the second floor. Krate asked is there anyone who wishes to speak for or in opposition to this application. Peter Delucia came forward at 7:46, signed in, identified himself, stating I am the landlord of the building next door, the abutting property. My tenants' concern is an overflow of parking. Delucia said my question is how many dentists? I'm pro business, but we need to have more information. Peter Delucia discussed the parking there, and what he counted: 2 handicapped and 34 other spaces. The overflow may come into our parking lot, and we have as much as we can manage, and I don't want this to affect our property and our tenants. Scalzo asked what side is Peter Delucia located on; is there enough room to put a fence. Angela Delucia came forward, the mother of Peter Delucia, and she signed in. My English is not very good, she said. Krate said talk to the microphone. To me it is a hardship to put a dentist right next door, Angela Delucia began. She showed the parking on the plan on the easel. Even if they put in a fence, they will go around the fence; people with a toothache, they don't care where they park, Angela Delucia said. Balskus took the mic again. There is a way to manage that, so as a traffic engineer, my point being is that parking is between the property owners. Krate said my concern is that no single dentist is going to rent here and put in an elevator. So there is something else that is going to go in there; I am just skeptical about a single dental office in there, Krate reiterated. Martin Smith next signed in at 7:53 pm, saying good evening. I am a real estate agent with the Scalzo Group, who represents Dr. Lee; he will be purchasing the building. It will be a dentist from New York. This will be his primary pro bono work. He already has a practice. A humanitarian pro bono service will be in that space, Smith said. We will install an elevator for an ADA component. It will not be a similar use to the Dental Associates next door. So you won't have the same amount of parking, Smith continued. He will see mostly younger people. The bus line does go by there. Krate joked that pro bono work means less cavities. If they came on the bus, they will not generate traffic, Smith added. His practice will be primarily pro bono. Smith said thank you at 7:54 pm. Rod Moore said it all boils down to the parking. If this were granted, Moore asked Hearty, what would the increase be? Sean Hearty said it's the most intensive parking use in the City. Moore asked Scalzo what could be done here about the parking. Scalzo said the site can handle it, and we are told by our expert that it could be worked out. We did not focus on an engineered parking plan yet for you, Scalzo said. We wanted to see if the use would be allowed. Krate said if we grant this, it will become a medical office. There's no way in heck you can fit two parking spaces on the lot, Krate said. We are granting this to the parcel, as you know, and the minute that

happens, you go beyond the capacity of that parking, and we have been burned before, Krate continued. There is not a lot a flex room in there. Scalzo said I agree with what you have said. Scalzo and Krate discussed granting the variance for the parcel, not just for a second floor. We can't stop them; I know what your intent is. Krate cited the fact that Elmer's Diner was supposed to be hostel. Scalzo said I just have one request, if you are leaning toward granting this, I would ask you to check with legal (Corporation Counsel). Krate said we have been burned this way a couple times before. Krate and Scalzo discussed their intent, and agreed about asking Corporation Counsel to look at it also. Scalzo said I would like to continue it. Hearty clarified what he must ascertain from Corporation Counsel. Scalzo said if we are able to do this, I came up with 43 parking spaces, and we did it again and I came up with 40. I think my calculations were incorrect. Hearty explained the multiplier that they use, and how you can start pecking away at that. At 8:05 pm, Krate and Scalzo continued their discussion, and talked about an engineered site plan with Jennifer Emminger. Scalzo said we are confident that we have the parking. Krate said there is something bothering me about this: someone is buying this building and installing an elevator, and I think something else will be coming into this structure. Medical is what we are going to be approving, Krate said. Scalzo talked about the office across the street. Scalzo asked please continue this. Krate announced we will continue this until they come back to us. Hearty will talk to Corporation Counsel. Moore made a motion to **continue** this. Sibbitt seconded the motion. Motion carried unanimously at 8:09 pm. Chairman Jowdy came back to his seat at the panel.

**# 14-45** – Christopher Eanniello (Agent), 19 Woodbury Rd.(J08189), Sec.4.A.3., to reduce minimum required side yard setback from 25 ft. to 16.4 ft. to roof overhang for a two-story residential addition in the RA-20 and RA-40 Zones. Jowdy introduced this item. My name is Chris Eanniello, the applicant said, and I'm trying to get a variance, and approval. Years ago the septic failed, and City sewer was brought in. The commissioners examined the plans at the dais. We were hoping to get the approval for this as the zones were upped, for an addition on the home, Eanniello said. Bottom and top stories, Chris Eanniello said to Hanna. Jowdy paraphrased the petition and stated the size of the addition. Chris Eanniello stated we wanted an office. That's about it really, because of the changes to the zoning, Eanniello added. We are in the process of hooking up to City sewer. Jowdy asked are there any questions? Is there anyone who wishes to speak for or in opposition to this proposal? Moore made a motion to close the public hearing. Hanna seconded the motion. Motion carried unanimously at 7:23 pm. At 8:11 pm in the voting session, Herb Krate motioned to **approve #14-45** for Sec.4.A.3., to reduce minimum required side yard setback from 25 ft. to 16.4 ft. to roof overhang for a two-story residential addition in the RA-20 and RA-40 zones, per plan submitted. Rebeiro seconded the motion. Motion carried unanimously at 8:12 pm.

ACCEPTANCE OF MINUTES: September 11, 2014: Krate made a motion to approve these minutes as presented. Second by Joe Hanna. Motion carried unanimously. And October 23, 2014, meeting minutes: Moore made a motion to approve these minutes. Hanna seconded. Motion carried unanimously.

ADJOURNMENT:

Motion to adjourn by Krate. Second by Hanna. Motion carried unanimously at 8:14 pm.

Respectfully submitted,  
Patricia Lee