



CITY OF DANBURY
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ZONING BOARD OF APPEALS
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MINUTES

REGULAR MEETING
January 11, 2007
COMMON COUNCIL CHAMBERS
7:00 PM

ROLL CALL:

The regular meeting of the Danbury ZBA was called to order at 7:04 pm by Acting Chairman Herb Krato. Present were Krato, Joseph Hanna, Michael Sibbitt, Alt. Jack Villodas, and Alt. Rod Moore. Krato explained the procedure for Public Hearing to the audience.

NEW BUSINESS:

#07-01 – Kelly Reed, 177 Kohanza Street (G10026), Sec.4.A.3., to reduce min. south side yard setback from 25 ft. to 9.7 ft.; to reduce north side yard setback from 25 ft. to 15.9 ft.; & to reduce north side yard setback from 25 ft. to 13.1 ft. for two-story, single-family, residential expansion (RA-40 Zone). Krato introduced the request. Ralph Sergi introduced himself and his son, speaking for the applicant. We represent Kelly Reed and this application with my son Ben, contractors. She has a half acre lot. The 13.1 ft. is an existing portion of the house. The 17.5 is the small section that we want to add. Krato said, so we're basically making that side legal. Sergi and Krato discussed what's existing. Sergi said we're adding a 2nd floor making it a cape; going up. Krato said simply to make it legal to today's standards. Moore had a question on the new roof. Krato asked if there was any members of the audience who wish to speak for or in opposition to this request. Elizabeth Bontempi at 175 Kohanza Street, on the south street, came forward, signed in, and said I like my neighbors and I have no objection to anybody enhancing their property. Krato said to her you realize they are not coming any closer. Bontempi said that may be, but they are coming up higher. She explained to Krato at the panel, and submitted photographs. I won't have any privacy in my kitchen at all, Bontempi explained. Krato asked if there were any others who wished to speak for or in opposition to this application. Ann Leiss, signed in and said I live immediately across the street. The houses are very close together; it will make it look very cramped. Kelly Reed, spoke in rebuttal, stating they all like me. I grew up in that house when I was younger. My parents bought the house in 1960 something. The house was sold. I kept in touch. When it was put up for sale again, they called me and I got the house back. My kids are growing, and we are starting to grow out of it, Reed explained. I like my neighbors. I have gone through many different planning designs to kind of match the adjacent homes. I'm looking to stay in the neighborhood and I don't want to move. Krato said thank you. Sean Hearty spoke to Commissioners at the dais to clarify the application. If there's no one else, we will inform you of our decision, Krato said. He opened the voting session at 8:46 pm, asking are there any comments or motions. Hanna made a motion to **approve** ZBA 07-01 per plan submitted, for a two-story, single-family residential expansion. The existing house is

already nonconforming as to location. Krate said I would add that there were some negative comments, but this variance is not for height. Sibbitt seconded the motion, and it carried unanimously.

#07-02 – Mike Paulsen, Agent, 5 Prindle Lane (C14040), Sec.5.B.3.b., to increase maximum building height from 45 ft. to 65 ft. for installation of mechanical equipment on roof (CA-80 Zone). Krate read the request into the record, while Paulsen signed in, representing Banta Direct Marketing Group. Paulsen said we have equipment that has reached their life expectancy, and we want to keep our costs down. We had a variance in 1995 for 63 feet in height. I was told that another variance is required since this is in a new location, Paulsen said. Krate explained that since the ZBA granted one variance, we will hear it again. Technically you didn't need the first variance. I would ask Paul Estefan to come up and comment, Krate said. Airport Administrator Paul Estefan signed in at 7:16 pm & said Happy New Year to the Commissioners. My letter of June 1995 still stands, and I'd like the applicant to follow the same stipulation: that a light be put on it, and I don't object to the additional two feet. That's fine. Let me say that in 12 years a lot of things have changed, Estefan said. We had the heliport over at Union Carbide. Now we have the State police helicopter right next to I-84. If there's a low cloud cover, we want to be sure that this can be seen. Krate said it will have to have appropriate lighting. Estefan said if the put the same light on it, that would be okay. Krate asked if there was any members of the audience who wish to speak for or in opposition to this request. In the voting session, Moore moved to **approve** the height variance to 65 feet with the **stipulation** that an approved FAA beacon or light be placed on top, as per Paul Estefan's recommendation, per plans submitted. Sibbitt seconded the motion, and it carried unanimously.

#07-03 – Daniele Amelia, 8 Melrose Avenue, Parcel A (J12212), Sec.4.A.3., to reduce min. required lot area from 20,000 sq.ft. to 9431 sq.ft.; to reduce min. square side dimension from 100 ft. to 72 ft. x 83 ft. (RA-20 Zone).

#07-04 – Daniele Amelia, 8 Melrose Avenue, Parcel B (J12212), Sec.4.A.3., to reduce min. required lot area from 20,000 sq.ft. to 7356 sq.ft.; to reduce min. square side dimension from 100 ft. to 56 ft. x 88 ft. (RA-20 Zone).

We'll hear these two applications together, parcel A and parcel B, Krate said. Ward Mazzucco, Attorney at Law, signed in, identified himself and thanked the Commissioners for combining the two issues. Krate said I have one ques: is this now one lot? Mazzucco said it was originally two lots, and I believe it still is. I anticipated the chair's question. Mazzucco discussed the vicinity and square footage of the parcel, a commercial area up to Osborne Street, and distributed three photos, showing some of the commercial structures immediately next to the property. Mazzucco described the commercial structures. Commissioners viewed the photos. This is an area of generally small lots, running about .2 of acre. On the assessor map, which I will leave with you, you can see both their neighborhood and the neighborhood behind. Krate confirmed that the yellow is the lot we're talking about. In answer to the chair's question about one or two lots, Mazzucco explained lots on Springside Park and Melrose Avenue, not an accessway, a strip about 8-feet wide at its widest part which touches the edge of the commercial zone. Krate asked what are they attempting to do, just build a home? This is exactly what the City is looking not to have happen, Krate continued. What is the hardship that precludes them from reasonable use of their property? Our regulations, Krate added, really frown upon granting a greater nonconforming use. The inference is there, the way they are written, they are not looking for this Board to grant this sort of thing, UNLESS there is a true hardship. Why should adding a second home be considered to be a hardship? Krate said, Ward, you have to crank it up. Mazzucco replied the house in question is very modest, with about 1000 sq.ft. of useable area. In terms of the rest of the neighborhood, in expanding the house, which would be getting closer to the commercial zone,

would not be desirable. It's really not feasible to go west. Krate answered, well, they don't own west. Why can't they go east? Mazzucco said that the next photos show where a house might be built, on an area that is flat, open, served by City water and sewer, and ideal for a home. The area is virtually fully developed, and every lot is built on. Krate said I'm well aware of the area. Mazzucco continued, photos 6 and 7 show the existing properties already built out. In terms of the neighborhood, I believe all the neighbors who would be potentially affected by this have signed a petition (11 signatures) indicating that they are in agreement. Krate noted the petition submitted. Mazzucco said, the hardship is that you have a very small house which cannot be expanded to the west. This property is the only one with an expansive lawn area, not really saleable since it's next to the commercial prop. The only requests are to vary the minimum square and the lot area, which Mazzucco further explained. A far larger house would be inconsistent with the neighborhood. Mrs. Amelia is expecting a baby in a couple of months and wants to stay in the neighborhood that she loves. Mazzucco consulted with the Amelia's in audience. Mr. Amelia mentioned an issue about Radon in the house, but the Zoning Board of Appeals would not be interested. Every other single lot in the neighborhood is built on. Krate repeated, you have yet to come up with a legitimate hardship, other than an economic hardship. Why should we take a pre-existing, nonconforming lot and allow it to become more nonconforming? Mazzucco said they've looked at how they could expand this. Krate asked why cant' they live in that house until they build the other house, and then tear it down. Mrs. & Mr. Amelia came forward and signed in. Mrs. Amelia said it's difficult to say, I don't understand the word "hardship". We cannot afford to expand the old house. It's like a country house. Karate cautioned her, you cannot use economic, finance, money matters to gain a hardship. Before you say much more, you should consult your attorney. Mrs. Amelia said the realtor that sold it to us said it was two lots, and you could turn it back to two lots. Krate asked this is what your attorney told you? No, the realtor, Mrs. Amelia replied. Mazzucco interjected there are, in fact, two lots. Krate said their attorney should have instructed them that today it is showing as one lot, and they may or may not have it cut into two lots. You know what's gone on with the moratorium; they are trying to reduce/ maintain density rather than increase it; I still don't see a hardship. This is my view, Krate said. Rod Moore questioned if the chain of title has always referred to two lots. Mazzucco said yes, the three are mentioned separately in the deed. Krate said, but they have been not been paying taxes on two lots. You are asking us to cut the lot. Mazzucco and Krate discussed the neighborhood, taking away open space, reasonable use of their property; the assessor's map for quite a while has been showing one lot. There must be extenuating circumstances for this Board to grant a more nonconforming lot. I'm going to ask Sean a question, Krate said. Let's get on with the hearing and you'll have an opportunity to speak again. Krate asked if there were any members of the audience who wish to speak for or in opposition to this request. Krate said, Sean, I'd like to get some input from you: at some point that stopped being two lots. Moore, Hanna and Krate discussed one versus two lots. Sean said the rule of thumb is, if we can prove there was an intent to combine the two lots, then someone would have requested that they be combined. I did not do the research all the way back. Krate said I suggest we continue this so that Sean can finish his research; go back, to see if these lots were combined. Moore asked are there any improvements on that lot? Fencing? Outbuildings? Mazzucco answered no; your survey map should confirm that. Krate said it still does not mean that it's one lot. I want to find out the intent; was there a request to combine two lots into one lot for tax savings. Sean, through the chair, addressed Rod Moore about a previous court case. Mazzucco said we'd be happy to come back next time. Secretary Lee said the next meeting is February 8th. Krate said I go away February 9th; you might want to have to same quorum on February 8th as tonight; make sure Dick hears the tape then. (Note: the tape recorder did not function for this meeting). Mazzucco said thank you. These two issues are **continued**, said Krate. Hanna said if someone came to the assessor's office and asked to combine the two lots, is that intent? Hearty and Krate replied yes.

ACCEPTANCE OF MINUTES: December 14, 2006 Regular Meeting. Hanna made a motion to approve the minutes as presented. Sibbitt seconded the motion, and it carried unanimously.

ADJOURNMENT: Moore made a motion to adjourn. Hanna seconded the motion, and it carried unanimously at 7:53 pm.

*THE NEXT REGULAR MEETING IS SCHEDULED FOR **February 8, 2007.***

Respectfully yours,

Patricia M. Lee, Secretary