



CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

ZONING BOARD OF APPEALS
(203) 797-4525
(203) 797-4586 (FAX)

MINUTES
July 12, 2007
Zoning Board of Appeals
Common Council Chambers

The meeting was called to order at 7:02 pm by Chairman Richard S. Jowdy.

Present were Richard Jowdy, Michael Sibbitt, Joseph Hanna, Gary Dufel, Alt. Jack Villodas, Zoning Enforcement Officer Sean P. Hearty, and Secretary Patricia Lee.

Absent were Herbert Krate, Alt. Richard Roos, Alt. Rodney Moore.

Chairman Jowdy read the legal notice into the record. Sibbitt motioned to hear tonight's new business. Hanna seconded. The motion carried unanimously. Jowdy explained the procedure for Public Hearing to the audience, and requested that the applicants identify themselves and sign in.

NEW BUSINESS:

#07-43 – Crystal Bay Association, Inc., Hayestown Road / Poets Landing (109066), Sec.4.E.3., to reduce minimum front yard setback from 40 ft. to 5.7 ft.; to reduce side yard setback from 20 ft. to 5.5 ft.; Sec.8.C.4.f., to reduce required parking spaces from 94 to 90 for 2 detached garages (RR-10 Zone). Jowdy introduced this item while the petitioner signed in. Attorney Karin NeJame, of Old Sugar Hollow Road in Danbury, identified herself as representing Crystal Bay, and she described the community in Crystal Bay. We're looking for a variance of three current regulations. Unfortunately, this is virtually a three-sided parcel, one side being the lake side, NeJame said. We really can't tell what's a front yard and what's a side yard. We need those variances in order to install those buildings, NeJame said. The number of parking spaces is being reduced. There are only 50 registered motor vehicles there, NeJame continued. The association takes a daily count of who parks there. The maximum was 56 spaces being occupied. There's a lot of construction equipment from Poet's Landing, and that's not a problem. Poet's Landing is the only neighbor and they support our application, and I have their letter, NeJame said. Hanna had a question on the number of garages, and what will be their use. NeJame explained that they will lose four spaces. Jowdy clarified that the applicant is losing a space in trade for a garaged space. I have some relatives up there, so I know, Jowdy said. We think there's ample space for it, and we truly have a legal hardship, and it only affects the one neighbor, the owner of Poet's Landing. We have reached an agreement with them, and it involves the winter parking of boats on land

which will be stopped. I will ask you to grant our application, NeJame said. Dufel said I have a question: I presume this project went through a lengthy review by Planning and Zoning, and I've got to believe that these garages went through some scrutiny. NeJame said it happened to be my office that represented Crystal Bay, but not me specifically, that handled many of Crystal Bay's permits. Most of our issues have already been approved by Planning and Zoning. Dufel interjected I'm only talking about this site. Jowdy said Crystal Bay was built without garages, but it was never finalized. Many people in Crystal Bay are elderly, so they now have the opportunity to park there. Dufel said if they did, I really wonder if it would have been approved. No, it's because of the way this lot was developed. I don't know what it would have looked like, Dufel continued. I have difficulty understanding the need for garages, and you must know the rules, and I'd like you to tell me, what is the hardship? If it's not listed here, we have to deny it, Dufel said. The site is big. This could have been planned. And Dufel continued to express his doubts, saying why put them almost on a property line? George Johnson stood up and explained why the garages were not initially planned, since all the utilities run under there, so we could not put them there. And he used the plan to explain that this precluded us from building anything on top of that. Some people were interested in a garage. Dufel asked for clarification of the hardship from Mr. Johnson. That's bad planning, Dufel said; because somebody did bad planning, I'm not going to approve this. I don't see a single cause for a hardship here. NeJame said I hear what you are saying and I understand that, but the configuration of the lot doesn't give us room, and the fact that it's surrounded by water: you can't construct there because of the wetland issues, so that takes the property that we might otherwise be able to use. Dufel said this should have been built with 20 units and 20 garages. It doesn't fly with me. I get tired of these kinds of variance requests when the developer does this kind of a project. And Dufel reiterated it's bad planning & bad zoning. That's my opinion. NeJame said to Commissioner Dufel, you're well spoken; thank you. Jowdy explained what he sees as the variance hardship at 7:16 pm. Jowdy asked is there anyone in favor or opposition to this application? George Johnson signed in and asked to speak in favor of the application: I'm in favor. I took this project on, doing all the legwork, working it out with Keith Hamlin next door, who is the son-in-law to Mr. Manocherian. We have a number of people there who are elderly, in walkers, on oxygen. Johnson described what it's like when they have to shovel off their cars. Some of them went to Florida, and some of them have aged and decided to stay here through the winter. So we wanted to make lives a little easier. There are no views to block. You aren't taking up only a patch of grass or blacktop. There is an excellent drainage system in there that we can connect. There are huge holding tanks in front of the building, Johnson continued. From a comfort standpoint, we are trying to make life easier for some of the residents. That's all. Sibbitt said I have one comment: now you are going to make them walk twice as far to get to the garage. George Johnson replied this is the only place you can put them. Rather than chipping ice off my windshield, I'll walk to the garage, the residents say. Any other questions? Suzanne Marnane next signed in saying I'm on the board, and in regard to the variance being so close, we have such full support from the surrounding neighbor. Isn't that something that should be taken into consideration? Jowdy asked is there anyone else in favor or opposition who wishes to speak? Later in the voting session, Jowdy said okay, we are going into the voting session now with Crystal Bay Association, and they want to put up 20 garages, and they need a variance in order to do that. They built them that way, set towards the water. I don't believe that a variance is really that detrimental, Jowdy said. And the hardship is the people basically need the garages for the weather factor; now they are being used year round; the hardship is some of the people have with their ages and

sickness with age. Dufel said I think I've said what I felt, and I simply don't recognize the desire or want of a garage as an adequate hardship. We can't run roughshod and ignore the rules and regulations, especially when they want to go so close to the line. Sibbitt added, but there was no plan for these garages when they planned these units. So if Poets Landing wants to put in a supermarket, will that be okay over there? One garage is only 5½ feet off the roadway. Someone comes home drunk one night and they are off the road, Sibbitt said. Hanna explained the garage extends five feet off of the parking area. Jowdy said the parking lot is there now. I have a little more insight now; I used to go up and visit the place, Jowdy said. People were basically in Florida in the winter; but again I'm only directing at what was presented. Joseph Hanna made a motion to approve **#07-43** to reduce the setbacks and number of spaces for two detached garages. Hanna said it will provide safety and shelter for the residents to keep their cars inside, and it will not affect the welfare, health and safety of the area. Villodas seconded the motion. After the verbal vote, Jowdy said the motion is **defeated**, 3 ayes (Hanna, Villodas, Jowdy) to 2 nays (Sibbitt and Dufel).

#07-46 – Kathryn Ann Kosek, 45 North Nabby Road (L05003), Sec.4.A.3., to reduce required minimum side yard setback from 40 feet to 23 feet for residential additions (RA-80 Zone). Jowdy read this petition into the record. Ms. Kosek said Stacey Keaney is the designer, and I have a few things to display tonight. Keaney said we are asking for a variance for the side setback. This is existing; you can see where the house sits on the property. The area went from half-acre to two-acre zoning. Dufel had questions on the variance location. Stacey Keaney we are asking for 23 feet since we are going to replace the fascia. The new stuff is 30 feet from the property line, Keaney said. The 30 feet is to the proposed deck and the addition. Jowdy had some questions which were answered by Keaney, and Hanna agreed. It is pre-existing, nonconforming because of the zoning change. This is the front of the house. This is where the addition will go, Keaney explained, which is really only visible by one neighbor. I have some pictures also. Kathryn Kosek explained the photographs presented too. Dufel requested some clarification from Keaney: what are you doing on that corner then? You are extending the eaves? Keaney explained that they are replacing the gutter and new siding, so this will allow a little bit of breathing room there. Jowdy said I understand. The two ladies showed more photographs and elevations. These houses were built in 1972, Kosek said. After more discussion by Kosek and Keaney, Dufel asked why are you here tonight; if you could stay within the 24.4 feet then you don't need to be here. Jowdy said it's nonconforming right now. Keaney explained what is supposed to be forty feet. Dufel said, so I've got to open my mind back up and ask why couldn't you have designed this not to need that. Keaney said to Dufel because of the reconfiguration of the deeper kitchen area. So we are choosing to go towards the back yard, and Keaney explained the house layout. Dufel said, frankly, that one does not bother me at all. I don't expect you to knock the house down. Keaney explained again the side distance. Dufel asked why make it worse? Due to the interior design, Keaney answered. Dufel said it's not a good reason unless you tell me you went through 48 other possibilities. The applicant and Mr. Dufel discussed back and forth. Why can't people have existing conforming stuff, Dufel said. I'm satisfied with the information, Dufel said. We've minimized our area of impact, Keaney said. The well is in the front, Keaney said. Dufel said you can move wells. Jowdy asked is there any members of the audience who wish to speak for or in opposition to this request at 7:30 pm. Later in the voting session, Jowdy reviewed the request at 7:59 pm, and opened it for discussion and / or vote. Hanna made a motion to **approve # 07-46**

for the residential additions; the hardship is the zoning upgrade of an existing setback. Sibbitt seconded the motion. The motion carried unanimously.

#07-47 – Reynaldo & Jessita Magboo, 86 Hayestown Road (J08017), Sec.4.A.3., to reduce required minimum front yard setback from 30 ft. to 25 ft.; to reduce required minimum rear yard setback from 35 ft. to 23 ft. for residential additions (RA-20 Zone). Mr. Reynaldo Magboo signed in as Chairman Jowdy explained this request in the RA-20 Zone. Good evening, Gentlemen, Mr. Magboo said. The reason I'm asking for a variance permit is that I'd like to put a porch in front because when it rains and snows, the door gets wet, and the snow piles up right outside the door. In the back it's the same thing, the snow piles up right in front of the door, Magboo said. I have here a picture of the house, and also the letters from my neighbors; all my four neighbors. Jowdy asked about the patio? What is this over here? Magboo explained the walkway from the driveway. The shape of my property is quite odd. Dufel asked when was house built? Four years ago, Magboo said. Explain again; is there anything in the front now? Magboo explained to Dufel. Magboo said this is slope. Dufel questioned the location of the house on Hayestown Road; it's after the lake? On the right or left? The commissioners looked at the photos, and Magboo submitted letters from his four neighbors, which Jowdy noted. Hanna had a question on the setback required. Jowdy asked what is on the other side of the street? Magboo explained about the wetland across from him. Jowdy said the configuration of your land is the hardship. Magboo said please notice in the back too the 45 degree slope. Jowdy asked are there any members of the audience who wish to speak for or in opposition to this request. Dufel said I just wonder who ever approved this lot; this shape, at 7:37 pm. Jowdy reviewed the variance request for this in the RA-20 zone in the voting session. He's putting on the sun porch and a landing or reception area for the house. Open for discuss & or vote, Jowdy said. Hanna made a motion to **approve** Magboo's request for his residential additions; he is trying to shield the front door from the winter. It is per plan submitted. The hardship is the slope and odd shape of the lot. Sibbitt seconded the motion. The motion carried unanimously at 8:02 pm

#07-48 – Ronald and/or Wendy Hesse, 34 Dartmouth Lane (H17021), Sec.4.A.3., to reduce required minimum front yard setback from 30 ft. to 17 ft. for entryway addition (RA-20 Zone). Jowdy introduced the petition as Mr. And Mrs. Hesse signed in. Jowdy said tell us what you'd like to do. Mr. Hesse said good evening. We want to start by showing you some pictures. All 6 of our kids, when they come in, they tear up the front of the house. We are looking to put on just a covered entryway, similar to what our next door neighbor has. We have less than a quarter of an acre, and Paul Hiro told us it had been rezoned. It's just to protect the front of the house for when the kids come in. Jowdy asked the size of the house. Wendy Hesse said there had been a previous variance by the former owner (Glenn Tucker, ZBA # 87-94). The commissioners discussed the proposal. Jowdy said you have six children in this house; God bless you. Hesse said they keep us busy. Jowdy summarized the petition and said all of those houses are pretty much the same in that area. Are there any questions? Is there anyone who wishes to speak for or against this application? Jowdy reviewed the request in voting session. I do remember he has 6 children, Jowdy said. Hanna made a motion to **approve # 07-48** for the entry addition, per plan submitted, to provide a shield for the front door. It's a small lot. It will not pose a detriment to the welfare, health and safety of area. Sibbitt seconded the motion. The motion carried unanimously. Dufel said his vote is not based on the applicants' having six children.

#07-49 – George S. II & Suzanne Osuch, 7 Karen Road (K06038), Sec.4.A.3., to reduce required minimum side yard setback from 25 ft. to 4 ft. for garage expansion to 2-car (RA-40 Zone). Jowdy introduced this item as Robert Tarsi signed in, representing his daughter and son in law. Tarsi said they want to apply for a side line reduction. The house is approximately 1200 sq.ft. that is sitting on a block foundation. The blocks are all cracked and are going to be replaced. They want to take down that garage and replace it with a two-car garage with storage up above, Tarsi explained. The back is all septic. I have a letter from the neighbor in the folder. It's a tight lot, Tarsi said. Sibbitt had a question about the garage size. Bob Tarsi said we want to square off the back of the house. Sibbitt: why 32 ft. by 22 feet? Tarsi explained that it is used as a shed now, but while they are re-siding the house, he explained, they would like to expand the garage. Jowdy the hardship is the size of the property, and this will get the car off the street. The lots are small up there; I understand, Jowdy said. Are there any questions? Joe Hanna said it doesn't look like it. Jowdy asked is there anyone who wishes to speak for or against this application? Jowdy reviewed the request at 8:04 pm in the voting session: it is a quarter of an acre lot, for an addition for a 2-car garage. Most of the Karen Road houses have two-car garages up there. It's up to the Board, Jowdy concluded. Dufel said, for discussion, again this is another garage close to the property line. They want to get their cars out of the rain, and be like the other houses in the area. They have to rebuild their existing garage; that's fine. No one should have a garage four feet away from the line. Hanna made a motion to **approve** the request for the garage expansion in this RA-40 Zone; it's going to be a little bigger than the existing garage, per plan submitted. Hanna continued, I don't see any welfare, health or safety issue. Dufel seconded the motion. The motion carried by four ayes (Hanna, Sibbitt, Villodas and Jowdy) to one nay (Dufel). Jowdy said I am surprised you seconded the motion to Mr. Dufel. Dufel explained there had been a pregnant pause with no second. So approved, said Chairman Jowdy.

#07-50 – Matthew & Erin Gudeux, 175 Westville Avenue Extension (F13039), Sec.4.A.3., to reduce minimum required side yard setback from 25 ft. to 9.5 ft. for deck addition (RA-40 Zone). Jowdy introduced this application at 7:45 pm. Mr. Erin Gudeux said I'm the owner. We would like to cut short our existing deck and make it kind of a landing since the grading goes all downhill on our property. It's a nonconforming lot. If you look at the plan you'll see the small side setbacks of the house. Even the front is not the correct setback, Gudeux said. Jowdy clarified the existing location of the house on the lot. So you're asking for a variance because you're nonconforming as it is, with only a couple of feet on the other side. What you're doing is putting a lower deck almost in direct line with the existing deck, Jowdy said. Gudeux explained the landing and a couple steps down to the new deck. Jowdy asked are there any questions? Dufel said I have one. Could we approve this by requiring you to build the deck to maintain the same (tape #1 flipped to side B) side line, and Gudeux explained that the location of his septic precludes this. I have to be at least five feet away. If I moved it over, I would be less than five feet. Dufel said it says approximate location. Gudeux said that's because he did not locate it; I did. Gudeux said it should be six feet from the septic. Dufel discussed the deck size. Gudeux explained I wanted a little bit of cushion there. Dufel asked why do you need a cushion if you know where it is? Jowdy explained what can happen when you actually do the work. Dufel asked we are also protecting Patricia Pudelka? Jowdy explained that the neighbor Pudelka could object to the one foot, but she's not here tonight. Dufel said I think it's a fair question, and the applicant explained to me why it's there. Jowdy asked is there anyone who wishes to speak for or against this

application? That is the end of our regular session, Jowdy announced. In the voting session, finally, # **07-50**, Jowdy explained what the man wants to do, and he's too close to the side line now. It is for a deck addition. His testimony is that his septic is right there. I would probably want to be that one foot away, Jowdy said, and he opened it up for discussion or vote. Hanna made a motion to **approve** the reduced side yard setback in this RA-40 zone; the other side of the property is pre-existing, nonconforming, and a 10-foot wide deck is not really a big deck. It will not be a detriment to the area's welfare, health and safety. Dufel seconded the motion. The motion carried unanimously.

ADJOURNMENT: Motion to adjourn by Hanna. Second by Villodas. The motion carried unanimously at 8:10 pm.

NOTE: THE NEXT REGULAR MEETING IS SCHEDULED FOR **JULY 26, 2007** at 7 pm.

Respectfully submitted,

Patricia M. Lee, ZBA Secretary