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ZONING BOARD OF APPEALS
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MINUTES
ZBA REGULAR MEETING
September 27, 2007
COMMON COUNCIL CHAMBERS
7:00 PM

The meeting was called to order by Chairman Richard S. Jowdy at 7 pm. Jowdy read the application numbers to be heard tonight. Herb Krate made a motion to hear all of the petitions. Second by Michael Sibbitt. The motion carried unanimously. Present were Chairman Jowdy, Gary Dufel, Michael Sibbitt, Herbert Krate, Joseph Hanna, and Alt. Jack Villodas.

Absent were Alt. Rick Roos and Alt. Rodney Moore

Staff Present: Sean P. Hearty, Zoning Enforcement Officer, Patricia Lee, Secretary
Jowdy explained procedure for Public Hearing to the audience.

CONTINUATION OF PUBLIC HEARING:

#07-57 – CONTINUED from 8/23/07 meeting: William Crain, 83A Boulevard Drive (D16004), Sec.8.B.1.b.(3)., to increase maximum allowed driveway grade from 12% to 23% at top, and to 17% thereafter (RA-40 Zone). Mr. Crain signed in. Dufel said there are six of us here; because this is a safety issue, I would prefer to step down, Mr. Chairman, as I'm a civil engineer. Crain asked do I have to plead my case again? Jowdy said we have some more information. It was approved, and never filed, Jowdy said. Crain reviewed the grades he's asking. Krate said that if this is approved it will be subject to the previous plan, ZBA #98-80, ("Proposed Driveway Plan, Lot 83A, Boulevard Drive, Danbury, Connecticut", dated 6/3/98 Drawing No. 980520, prepared by L.P.R. Associates of 118 Coal Pit Hill Road of Danbury, CT). Crain looked at the plan at the panel. Krate said this indicates what has to happen; the barrier has to stop a car. Crain and the Commissioners discussed the vicinity. This is my house here, Crain said. It was in the foreclosure file, and Crain discussed what it looked like at the time the guy in front took it upon himself to put the fence up. This is what it has looked like for the last 5 years. That's where I walk. And you can see the homemade sign he put up, Crain continued. That's what the whole court case was about, and we agreed. Krate said you're going to have to put a barrier up that will stop a car in case the brakes failed or what not; a free wheeling vehicle going down, and it can only be a gravel driveway. Jowdy added you can get specs from engineering on the barrier. During the voting session, Krate made a motion to **approve** #07-57 at 7:47 pm, to increase the maximum allowed driveway grade from 12%, and it must be stone and it cannot be blacktop, due to the proximity to Lake Kenosia, plus a stone abutment will be built at end of driveway, and Krate referred to the old map submitted with those **stipulations**. Hanna seconded the motion, and the motion carried unanimously with Dufel recused.

NEW BUSINESS:

#07-60 – WITHDRAWN - Burnell E., James, & Heywood McCarley, 83 Rowan Street & 0 Rowan Street (I11097, I11096), Sec.4.B.3., to reduce req'd. min. side yard setback from 8 ft. to 2.5 ft. to allow construction of a single-family residence on Parcel B (RMF-4).

#07-61 – William J. & Mary K. Trotta, 20 Woodbury Drive (K08005), Sec.8.C.1.c., to allow parking in front yard in existing driveway (RA-40 Zone). Jowdy introduced this item at 7:06 pm. Dufel came back to panel. We were here to get a variance on the side lot (ZBA #07-40), and we realized that it was going to be too costly. So we are going to add onto our garage for our son, Ms. Trotta said, so that means we would have to add another driveway. We'd have to close down our existing driveway, and add a driveway to another part of the house. Zoning told us we were going to have to put it on the right side of our house, and Trotta held up photos to illustrate how it would really take away from the beautification of the neighborhood, Trotta said. Krate said so basically that's why you want to have parking in the front. Our neighbor is here tonight, Trotta said. Trotta brought his photographs to the panel, saying any cars would be well behind any view from the road. We have no entrance, which is okay in the summer, but in two feet of snow it would be difficult, Ms. Trotta said. There are trees there we'd have to take down. Villodas had a question on the proposed driveway. No, we couldn't afford it unfortunately, Trotta replied. Krate said any neighbors in favor should come up and speak. My name is Kelly Rotkewicz; I'm the Trotta's neighbor. My husband and I fully support this application of the Trotta's; it is in keeping with the value of the neighborhood; it does not make a whole lot of sense to add on that other driveway. Jowdy asked if there was any members of the audience who wish to speak for or in opposition to this request. Jowdy reviewed the petition during the voting session at 7:49 pm. Jowdy said this is open for discussion and / or vote. Krate made a motion to **approve** the variance to allow parking in the front yard in the existing driveway. The hardship is if they were to move driveway, it would be nonconforming with the neighborhood. This is per plan submitted. Sibbitt seconded the motion, and it carried unanimously.

#07-62 – Frank R. & Carole A. Salvatore, 12-14 Ivy Lane (I09164, I09165), Sec.4.A.3., to reduce front yard setback from 30 feet to 15 feet; to reduce side yard setback from 15 feet to 13 feet for residential addition (RA-20 Zone). Jowdy introduced this petition at 7:13 pm as Frank and Carole Salvatore signed in. The Commissioners reviewed the maps. Jowdy explained the setback requested and what the existing setback is. Carole Salvatore said it's 19 on one side and 15 on the other. Jowdy said it's always been nonconforming. Carole Salvatore said we are not going to go any further than we are right now. Jowdy and Ms. Salvatore clarified the overhang that is there, and she showed photographs of the home and the neighboring houses. Jowdy asked you are not coming any closer than you are right now? OK, I guess we understand. Then you are talking about your side yard. Carole Salvatore said there should be a letter from our neighbor. The Commissioners discussed the pre-existing neighborhood. Jowdy reiterated I guess we understand. There are two feet on the the side, Krate said. We'll take a copy of your letter. Relax, Krate said to the Salvatores; we have not hung anyone here for at least three years. The Sears have no problem with the 13 feet they are asking for, for the record, Krate said. Dufel had one question on why it can't go on the other side. Carole said we have lived here for 43 years, and because then I'd have to go through the bedroom to serve in the dining room. Dufel and Jowdy discussed the hardship and what's in our record. "My family is bigger" is not in and of itself a hardship, Dufel said. Jowdy said I don't disagree with your philosophy. Jowdy asked are there any members of the audience who wish to speak for or in opposition

to this request. Later in the voting session, Jowdy introduced this petition for setback reductions for a residential addition. The hardship as mentioned, Jowdy said, is they have owned the house for forty something years, and it's growing family, and there was a letter submitted in favor of the application. The lot is pre-existing, nonconforming with regard to size. Krate made a motion to **approve** the reduction of the side and front yard setback for a residential addition. The hardship is they can't add it on to the other side of the house since no one wants to put a dining room off a bedroom. Hanna seconded the motion and the motion carried unanimously.

#07-63 – Kyle & Marian Merritt, 19 Hawthorne Cove Road (K02123), Sec.4.A.3., to reduce front yard setback from 30 feet to 24 feet for residential additions (RA-20 Zone). Jowdy introduced this at 7:19 pm. Kyle and Marian Merritt signed in. Jowdy explained that establishing a hardship is a prerequisite for a variance, without having any detrimental effect on anyone else. Kyle Merritt said we would like a larger house; all we're trying to do is to make our front porch area bigger. We don't have a lot of choices of what we can do. Kyle Merritt explained how slick and dangerous it is for kids in the winter. We want to make it more functional and make it bigger. Marian Merritt handed out photographs to Commissioners; just to show you what the street looks like, and Marian Merritt went through the photos at the panel. We have an empty lot behind us and an empty lot next to us. We have neighbors on this side, in answer to Chairman Jowdy's question. Villodas and Hanna discussed the plans. Jowdy asked are there anymore questions from the board? Dufel asked could you describe the topography? Marian Merritt explained it is fairly flat over here, then there's a hump over the septic. Dufel asked your position is that you can't move it to the side? Why is the septic a hardship? Marian Merritt replied I don't know. We want to expand the size of the house. Right now we open the front door and; Dufel said we just want to understand your hardship. Jowdy asked are there any members of the audience who wish to speak for or in opposition to this request? In the voting session, Jowdy introduced this issue and what they are asking for. Krate asked are there any questions? Krate made a motion to **approve** the front yard setback; the hardship is that in the wintertime they have no safe entryway. They want to cover the porch, and add an area to handle wet clothing, boots, etc., Krate said. Sibbitt seconded the motion. The motion carried unanimously.

#07-64 – Tino Marcal, 7 Park Avenue (H15152), Sec.4.C.3., to reduce required minimum lot size from 11,250 sq.ft. to 9941 sq.ft. for conversion from a rooming house to a 3-family dwelling (R-3 Zone). Jowdy introduced this item at 7:25 pm, as Marcal signed in. Tino said good evening; there are now about 12 rooms. Jowdy said 12 rooms for about 12 people; you are downgrading the amount of people that would be in the home? Marcal said I am asking basically to be what the neighborhood is, the R-3 Zone. Dufel asked Secretary Lee what is the hardship; there is really no hardship stated on here. Dufel said you're just telling me what is the perceived hardship. There's got to be a hardship. Marcal replied it's just a reduction of usage, and it will give more character to the street. Dufel asked do the others agree that there is no hardship? The Commissioners discussed the required zoning: two family now, per Jowdy, so he could go in under what the zoning is now; give up the rooming house and go for a two-family. Hanna explained what the zoning regulations state for two front yards, and Krate insisted that Marcal has two front yards. Hanna said he cannot choose which to use. Krate said I would think he could use the larger frontage. Krate said you are not paying attention to what I'm saying; he's got two front yards. It's frontage. He has more than 75 feet on Harding Place. The driveway is on Harding Place. Jowdy said it's an usual piece of property. Dufel said that's why they call it two front yards. Jowdy said that's a legal hardship: two front yards. Krate said I don't see where the zoning regulations state that it has to be two front yards. Dufel said the variance is on lot area.

Krate said I'm saying I believe he does because he can use the greater front yard. Hanna said the lot size does not meet the required square feet. But both streets are zoned for multifamily, Krate said; that's why he's here. Marcal said I figured that rather than being a rooming house, the reduced traffic, it would be an improvement. Krate said if all Danbury rooming houses were to disappear I would not be unhappy. Jowdy said you're asking for a variance on the square footage on the lot. And the house is about 3000 sq.ft., Marcal said. Hanna asked about the driveway location, and Marcal showed him where it's proposed on the plan. Villodas asked where the entrance is. There is a lot of traffic; too much traffic there, Marcal said. Jowdy said you will be turning a 12-room rooming house into a 3-family. Krate added you will obviously be gutting this and renovating it; I recommend you put the entrance and change your address to Harding Place. Jowdy asked if there are any Commissioners who wished to speak for or against this application. At 7:52 pm in the voting session Jowdy summarized Marcal's request. He can do that in this multifamily zone. He does have a 3000 sq.ft. house which he will remodel within his present foundation. Krate said I would love to get some clarification on the current law which was just changed on the frontage, I would like to make sure we are acting correctly; if it then can be either or, then we would stipulate the entryway and the (Planning Dept. will legally change their address) address on Harding Place. Sibbitt said that sounds good. Jowdy and Krate clarified the Park Avenue address, and said they want legal consideration about Harding Place. If he can, then it's fine. If he can't, then he has to get another variance. If the applicant has no problem, we'd like to continue this, Krate said. At that moment, Zoning Enforcement Officer Sean Hearty arrived at the meeting. Krate asked Hearty can we use either / or the two front yards? Hearty indicated yes. Krate said that answers the question. Villodas said very good. Krate made a motion to **approve** Tino Marcal for conversion of a rooming house into a three-family residence per plan submitted. Sibbitt seconded the motion and it carried unanimously.

#07-65 – James N. Casali, Beech Trail (H04027), Sec.4.A.3., to reduce required minimum front yard from 30 ft. to 16 ft.; to reduce side yard from 15 ft. to 10 ft.; to reduce rear yard from 35 ft. to 15 ft.; to reduce required lot area from 20,000 sq.ft. to 11,371 sq.ft.; and to reduce square side dimension from 100 ft. to 122.56 ft. x 39.6 ft. for new single-family residence (RA-20 Zone). Jim Casali and Patrick O'Rourke came forward at 7:36 pm as Jowdy introduced this application for a new single-family residence in the RA-20 Zone. They introduced themselves. Krate said okay, here's the right file. Jowdy said this is a rear lot. How many other houses on the street are that size? Jowdy continued I don't think there's too many up there. There's a community well and septic, O'Rourke said. Dufel asked is there anything on the lot now? O'Rourke replied it's vacant. Casali said the lot has been existing at least since 1953. Dufel asked is this a raised ranch? O'Rourke replied 3 bedrooms, 2 baths; do you gentlemen need a floor plan? I have two. Jowdy answered yes. Dufel asked what's the little house shown to the north. O'Rourke said it says house here, but it's a shed. We call it a sugar shack, and he discussed size of shed with Dufel. Dufel asked where is this? O'Rourke replied Margerie Manor, off Hamilton Drive. Krate asked you have no grade problems with the driveway? Is there a septic up there? O'Rourke said we will put a septic on the lot. Jowdy clarified there will be 3 bedrooms. An engineer for CCA has already looked at it, O'Rourke said. Jowdy asked it's been a legal lot for over 50 yrs.? O'Rourke said yes. We want to keep it a three bedroom to comply with the neighborhood. It's not a common driveway. Krate said I have one question: how wide is that driveway? How wide is the entire opening? Twenty plus, Casali said. The commissioners discussed that length. Okay, I have no further questions, Krate said. Jowdy asked are there any members of the audience who wish to speak for or in opposition to this

request? From the audience, Wayne Spiers and Karen Sexton came forward, father and daughter. We are putting a septic and a well on a quarter acre? Spiers said I live in the neighborhood also. Krate said if they can't meet the requirements for a well and septic, they cannot go forward. Spiers said mine is a quarter acre lot. The only concern is that we don't put any more houses there. They were small cottages to start with, and Spiers discussed his concerns. Jowdy and Krate said they have to conform with all the current regulations. Krate explained from here it goes to the Health Department and down the line. They are not granted any building permits. If they don't extend the road, the fire marshal won't let them build. Krate said the Casali's have been around for a long time. Spiers clarified the homeowners' association for O'Rourke and Casali and the commissioners. Big garbage trucks can't get in there, Spiers said. Jowdy asked are there any members of the audience who wish to speak for or against this request? At 7:55 pm, Jowdy reviewed the petition for the existing lot. Krate said the lot area square footage requests are withdrawn. They can conform with all septic and well regulations; we usually allow that to continue. Dufel said I'd like to say I find it against better judgment to shoe horn these small lots, however I understand what the Chairman just said. Dufel said it's just that somebody wants to make money. I understand my job on this Commission. Krate made a motion to **approve** these requests for the front, side and rear setbacks and the square side dimensions; the hardship is the pre-existing, nonconforming lot. It's for a one-family modest residence, per plan submitted, Krate concluded. Hanna seconded the motion, and it carried unanimously.

#07-66 – CONTINUED to the October 11, 2007, meeting - Miguel D. Fernandez, 12 Well Avenue (G15102), Sec.4.A.3., to reduce req'd. minimum. rear yard setback from 35 ft. to 22.5 ft. for attached 2-car garage (RA-8 Zone).

ACCEPTANCE OF MINUTES: August 23, 2007. Motion to approve these minutes by Krate. Second by Villodas. The motion carried unanimously.

ADJOURNMENT:

Motion to adjourn by Krate. Second by Jowdy. The motion carried unanimously at 8 pm. Sean P. Hearty said I had a parent-teacher thing tonight.

NOTE: THE NEXT REGULAR MEETING IS SCHEDULED FOR **October 11, 2007.**