



CITY OF DANBURY
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ZONING BOARD OF APPEALS
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MINUTES
November 8, 2007
Conference Room 3C
7:00 PM

The ZBA meeting was called to order at 7:04 pm by Chairman Jowdy. Present were Chairman Richard S. Jowdy, Herbert Krate, Joseph Hanna, Gary Dufel, and Alt. Jack Villodas.

Absent were Michael Sibbitt, Alt. Rodney Moore and Alt. Rick Roos.

Staff present were Sean P. Hearty, Zoning Enforcement Officer, and Secretary Patricia Lee.

Krate motioned to hear tonight's agenda as presented. Jack Villodas seconded the motion. The motion carried unanimously.

Jowdy explained the procedure for Public Hearing to the audience, and suggested that **07-74** be considered first, and I will disqualify myself, Jowdy said, and my assistant will read the letter from Sharon Calitro which should be a part of the record.

#07-74 – Taranjit S. Randhawa, 25 Mill Plain Road (E15025), Application for Certificate of Location Approval for the sale of gasoline (CA-80 Zone).

Krate said they will also consider **#07-74** not part of the Public Hearing. Krate explained that Randhawa's 25 Mill Plain Road application is not a Public Hearing; permits have already been issued, and it meets all the setbacks and requirements for a service station. But Corporation Council confirmed that it is not a Public Hearing, Krate said.

David Bennett, Attorney at Law, of 72 North Street, identified himself and his firm. As you indicated, Bennett said, and he explained the Connecticut General Statutes saying we were originally sent to the Zoning Commission, but your regulations do state that this come to you. The application has all permits and approvals, and he read the end of Corporation Council Robin Edwards' letter. Krate gave the board a little history of applications for certificates of gas station and repair location approvals, a name change or ownership change, formerly reviewed by the Zoning Board of Appeals, then the Zoning Commission. This one fell through the cracks, and should have been sent here first, Krate said. Tacitly, it just needs our approval. Bennett confirmed that it just needs ZBA approval. Make sure you have the right letter, Bennett said to Dufel, when he questioned who should hear this item. Before I was brought on board, Bennett said, we'd ask for your approval. Krate started to state to move this to approval. Sean Hearty spoke to Krate at the panel and brought the stipulation to Krate's attention. Bennett concurred. Krate recommend they **approve** this, and this will also nullify a previous approval for a package store, and that will be filed in the land records. Joe Hanna seconded the motion. The motion carried unanimously. Secretary Lee explained that the **stipulation** had to be filed on the town records before the K-7 can be given to the applicant. After the vote, Jowdy came back to his chair and explained his self disqualification on **#07-74**.

NEW BUSINESS:

#07-72 – Antonio Mota, 31 Victor Street (G15238), Sec.4.C.3., to reduce minimum required side yard setback from 15 ft. to 6.3 ft. for residential expansion from one to two-family (R-3 Zone). This petition was introduced by Chairman Jowdy at 7:15 pm. Melvin Evuen signed in and identified himself saying good evening. I design and am expediting the project, Evuen said. We are looking to add on as is shown on this map; it will allow me to have my parking in the back, and Melvin Evuen explained what he is trying to avoid. It will conform to the majority of most buildings in the area. Krate asked Melvin what is your hardship? Melvin Evuen I want to conform as closely as possible to the other structures in the area. Dufel had a question on the structure to be removed and the paved area. Melvin Evuen said he's going to save the garage, and this will avoid parking on the street. Sean Hearty explained to the Commissioners about the parking issue, so he'll push the parking back, and reduce the possibility for congested parking. Dufel asked so he could add an addition without a variance, it just would require parking? He could build an addition without the variance, Dufel said. Krate said I have no other questions. Dufel asked is the garage staying or going? Krate asked Melvin Evuen how are you going to have your parking if the garage stays? Antonio Mota, the applicant, came forward from the audience. Dufel asked for clarification. Mota said I'd like the garage to stay. Krate said there's a problem: you have your parking spaces in and out of the garage. Mota said we'll take it out. Dufel said then how do you get into parking spot #4 if the spruce tree is staying. Melvin explained how to Dufel. Dufel said I'm asking about the spruce tree because you're using it as a hardship. Dufel asked aren't you going to cut it down in a year? Melvin explained how it could have negative impact, and that he encouraged Mota to leave the tree there. Krate asked is the parking gravel or blacktop? Gravel, Evuen replied. Krate and Dufel discussed the tree as a hardship. Krate said I'm not going to get carried away with that. Jowdy asked is there any members of the audience who wish to speak for or in opposition to this application.

Jowdy reviewed the request and the consideration to make the lot more appealing for the neighborhood during the voting session. Krate had a question on the setback and discussed this with Hearty. Krate said I think it'd probably be beneficial to the City to put the parking in the rear. Krate made a motion to **approve** this request per plan submitted, to reduce the minimum side yard setback for expansion to a two-family. Villodas said I second that. Krate said please note to the departments that issue permits on this that it's showing exactly 75 feet, and we do want to show due diligence. Krate said we will **stipulate** that the garage must be removed. Hanna seconded the motion. The motion carried unanimously.

#07-73 – John DeGross, 55 Holley Street Extension (J12084), Sec.4.A.3., to reduce south side yard setback from 15 feet to 5.4 feet; to reduce north side yard setback from 15 feet to 7 feet for new single-family residence (RA-20 Zone). Jowdy introduced this application at 7:25 pm. Bill Lavelle came forward and identified himself and his address at 11 Society Hill Road in Danbury. Secretary Lee asked Lavelle to sign in. The Commissioners reviewed the maps. Okay, Jowdy said. Lavelle said basically why we're here tonight is the footprint changed on the lot; actually we have less impact now than we did before. Sean felt we should come in here as the box has changed. Krate asked the house is no larger? Lavelle said it's two-story and was two-story. Krate agreed. Dufel asked was this change due to a surveyor error? Lavelle replied no; we changed the box. Krate explained how this is less of a variance. Hanna asked so this is the new one, right? Jowdy asked if there was anyone who wished to speak for or against this application at 7:29 pm. Neighbor Robert Trocolla stood up and identified himself. Trocolla said it sounds like this was already approved. Krate said it was approved back in April. Jowdy said he's really asking tonight to come further away. Krate said to Trocolla, I've got news for you: your garage is on his property.

(laughter) Krate said be careful what you ask for. Jowdy asked is there anyone who wishes to speak for or against this application? The Board will inform you of its decision. Jowdy introduced this issue at the voting session at 7:46 pm. Jowdy reviewed the reconfiguration of the house, saying it is less than what we approved before. Krate said I have no questions. Krate made a motion to **approve** the reductions of the two side yard setbacks, per plan submitted. This is a pre-existing, nonconforming lot. Hanna seconded the motion. The motion carried unanimously.

#07-75 – Danbury Health Center c/o Wethersfield Health Care, 107 Osborne Street (J12029), Sec.4.D.3.a., to reduce front yard setback from 20 feet to 5.5 feet to install a generator (RH-3 Zone). Jowdy introduced this item at 7:30 pm, and Abigail Adams, LA, of CCA, LLC, came forward and signed in. She handed out plans to each Commissioner while explaining the generator location. We are putting in screening, in answer to Krate's question, Adams said. Krate asked and the hospital has not objected? Abigail Adams said not that I've heard. Steve Roberts (applicant) spoke from the audience about the type of generator. Krate asked should we have the Fire Department look at this thing? Sean Hearty replied they will be looking at this. Adams added that's part of the site plan approval application. Dufel asked Adams what other locations did you look at, and why did you decide here? Adams explained the site at the easel, and the problem with their alternative, and the sole areas for outdoor recreation for 250 employees, and 180 patients. Dufel asked what about back by the metal shed? Adams said we did not really explore that area, but I believe that's where there's refuse. Steve Roberts again joined in, saying it is refuse, and the power line comes in here. Dufel asked what plantings are proposed? Adams replied I will do that on the site plan, but probably arborvitae. Dufel asked you're required to have this generator? Roberts explained the existing generator is inside; it is much smaller, and it died. Jowdy asked are there any more questions? Is there anyone who wished to speak for or against this application?

Jowdy reviewed the request for the generator in the discussion session, saying the presentation was self explanatory; it's for an outside generator. Krate said we did raise a concern about exhaust from the generator. Hanna said it will have to meet the Health Department code. Hanna made a motion to **approve** the front yard setback with a notation. The hardship is that the generator has to be outside as it is bigger, and we will **stipulate** that evergreen trees be planted to cover it, and exhaust emissions must be addressed by the other permitting departments. Krate seconded the motion. The motion carried unanimously.

#07-76 – Elaine J. Wallin, 132 Federal Road (L07043), Sec.5.A.3., to reduce minimum northeast side yard setback from 20 ft. to 15.5 ft.; to reduce southwest side yard setback from 20 ft. to 14.3 feet for retail store (CG-20, RA-80 Zones). Jowdy introduced this item at 7:35 pm. Attorney Neil Marcus identified himself, and with me is Mike Mazzucco, the civil engineer. You may remember: we were before you in June, and at that time, I have the old map; at that time we explained to you, this property is so unique. The road was literally about fifty feet away, and we are working with the State of Connecticut to fix that, Marcus said. You granted us the variance, Marcus said. Krate added that was predicated on getting property from the State. The site plan was rejected as the Zoning regulations changed on 6/26/07. The plan has not changed from June 14th. I have a new map to submit for the record, show the overhang on the building as well. Staff had asked us to show the overhang. The variance requested is from the edge of the overhang, and explained how it was fine on 6/14, but 12 days later went out of code. Krate said I have a question for Sean: when we grant these sideline variances, if the variances requested don't impact the State, you don't have to stipulate that again, right? Marcus reiterated how the regulations changed twelve days later. The site is somewhat unique; basically there's a rock

cut behind us. The site has not changed much. Dufel said so the existing building will be knocked down. If you knew the zoning regulations were going to change, would you have redesigned the building? At the easel, Marcus explained he had no idea that the regulations would be changing. Dufel asked is a retaining wall going to be built back there? Marcus replied, no, we have a rock face. Krate joked they are going to put a McDonalds on the top. Your brother built those other stores in the loge area on that road, Krate added. Jowdy asked if there were any members of the audience who wish to speak for or in opposition to this request. These are the Wallins back here (two ladies in audience). Krate asked how is your husband doing, and Mrs. Wallin replied to him. In the voting session, Jowdy re-read the request. The hardship is the configuration of the land. Krate said the zoning code changed 12 days after the variance. Krate said I motion to **approve** this, and we will add a **notation** that this is per revised map submitted, dated 11/7/07, replacing our original maps. The hardship is this is a pre-existing, nonconforming parcel. Hanna added and the zone changes. Hanna seconded the motion. The motion carried unanimously.

ACCEPTANCE OF MINUTES: 10/11/07 Meeting. Jowdy we need approval on these minutes. Krate made a motion to approve the minutes of the October 11, 2007, meeting. Hanna seconded the motion. The motion carried unanimously.

ADJOURNMENT: Krate made a motion to adjourn; Joseph Hanna seconded the motion. The motion carried unanimously at 7:52 pm.

The next regular ZBA meeting is scheduled for **December 13, 2007**.

Respectfully submitted,

Patricia Lee, Secretary