



CITY OF DANBURY
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ZONING BOARD OF APPEALS
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MINUTES

March 27, 2008
COMMON COUNCIL CHAMBERS
7:00 PM

ROLL CALL: Chairman Richard S. Jowdy called the meeting to order at 7:03 pm. Present were Jowdy, Herbert Krate, Michael Sibbitt, Joseph Hanna, & Gary Dufel. Absent were Alternates Rod Moore, Richard Roos, Jack Villodas.

#08-09 – CONTINUE to 4/24/08: Richard Rizzo (Agent for Colonial Ford), 126 Federal Road (L08024), Sec.8.E.3.a.(3)., to vary requirement allowing only 1 free-standing sign for each 300 ft. of street frontage for proposed 2nd sign (CG-20 Zone).

Herbert Krate made a motion to hear tonight's agenda as presented. Hanna seconded the motion. The motion carried unanimously. Jowdy explained to the audience the procedure for Public Hearing, including any speakers wishing to speak in favor or in opposition of an application.

NEW BUSINESS:

#08-05 – Michael & Kendra Pruneau, 117 Hayestown Road (J08050), Sec.4.A.3., to reduce minimum required side yard setback from 15 ft. to **7.8** ft. (RA-20 Zone). Jowdy introduced this item at 7:04 pm. Sean P. Hearty, Zoning Enforcement Officer, came forward and told the Commissioners about the architectural overhang, that extra foot projection. We said we'd bring it back to the Board, Hearty said, and see what the Board's pleasure would be. Jowdy and Krate discussed acting upon it. Later in the voting session, Jowdy reviewed the previous variance and Krate mentioned the misunderstanding. Krate said I motion to allow for the extra foot, per revised plan submitted. It was due to an oversight on original variance requested. Sibbitt seconded the motion and the motion carried unanimously.

#08-13 – Jorge Galhardo, 85 Beaver Brook Road (K11146); Sec.6.A.3., to reduce the minimum side yard setback from 30 ft. to 19 feet; Sec.8.C.3.b.(1), to vary the requirement for landscaped islands at end of most of the parking rows (IG-80 Zone). Jowdy introduced this item, and Mark Kornhaas, PE, came forward with his plan for CTX Concrete Foundations, LLC., and identified himself at the microphone. Kornhaas described the vicinity: this is right next door to Danbury Plastics. It's on the east side of Beaver Brook Road; it's very narrow and deep, and it is on the Still River. In the IG-80 zone the area is supposed to be 80,000 square feet minimum. All the surrounding lots are zoned similarly. Kornhaas described the application for the side yard setbacks to put this building in here on this very narrow lot. The lot also has municipal sewer easements through here, Kornhaas said. The applicant would like to develop this; that's why we are here. It is not associated

with Danbury Plastics, Kornhaas explained, and he gave the dimensions to Jowdy. It is pretty much trading off, Kornhaas said. The coverage will be about 17.9% or 18%, Kornhaas continued. Dufel asked about the residence in front. Kornhaas said it's going to remain. Kornhaas explained that the City won't allow us to put plantings on a municipal easement; we really can't put in any plantings at all. Gary Dufel and Kornhaas discussed the plantings. Wherever we can put a plant, we will, Kornhaas said. It should be 8 feet minimum, so just to be safe we asked for it. Krate asked about this winding up being a mixed use lot. Jowdy said it's grandfathered. Hearty confirmed that the dwelling is grandfathered, and clarified for Krate that they can consider the variance. Kornhaas said all the trailers will be gone. Hanna, Jowdy and Dufel discussed that two side yards variances are required. Secretary Lee said they've only asked for one side yard. It has to be republished, Krate said. It will have to come back at the meeting at the end of April. Later in the voting session, Dufel reminded Jowdy that this discussion is being deferred.

#08-14 – Westchester Modular Homes (P.Scalzo), 48 Huckleberry Lane (D17045); Sec.4.A.3., to reduce minimum front yard from 40 ft. to 17.8 feet; to reduce side yard from 25 feet to 19.5 feet for new single-family residence (RA-40 Zone). Peter Scalzo, Attorney at Law, took the mic at 7:15 pm. Scalzo identified himself and his address, saying he is joined here tonight by Michael Lillis, PE, from CCA, LLC. This is a pre-existing, nonconforming lot in an RA-40 Zone. The red triangle area actually depicts the buildable area, Scalzo continued. They propose to put a house there, and he gave the dimensions; a cape style house. We need relief for front yard and side yard requirements, which Scalzo described. Krate asked about topography on this. Hanna said that's different than what was advertised. Where are you getting 6½ from? Dufel said I can explain the error: 25 ft. is required, and we put down 6.5 feet. Hanna said okay, we understand. Krate said we'd had a lot of problems with topography in that area. Lillis said I would describe the topography as gently sloping. We have not done a grading plan yet. I'd expect this driveway to be nearly flat. Dufel asked so you are sharing the driveway? He'd be accommodated, Lillis said, and he explained the proposed driveway area. Krate said for the record we have a letter from that person, Greg Holt, in favor of the variance. Scalzo said we'll have to fix the shed. The lot was created in 1950; I have a map. Dufel asked how did the driveway encroachment happen from Huckleberry across his property? Lillis replied I don't think we know. Dufel asked why are you accommodating it? Lillis said you risk an adverse possession issue. Dufel, Scalzo and Lillis discussed Holt's letter. This is a joint effort here, Scalzo said. I also have a letter from the estate of Samuel Niditch authorizing me to be here tonight, Scalzo said. Dufel asked how many bedrooms? Lillis said it's served by City water and sewer. Dufel said the house is a modest size. The Commissioners discussed the number of bedrooms. Scalzo said that's all that can fit. Scalzo said, since I bumbled this, are we clear on the variances I'm asking for? Hanna said we're not going to give you 5½. Scalzo gave the square footage of the lot. Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal?

Nick Wolf of 6 Kenmere Boulevard came forward and signed in. I would just like to know if the City will verify that the builder abides by the variances. Would the City verify that no damage will be done to a neighbor's property? Wolf said I live across the street from this site. Trucks have difficulty maneuvering in that area, Wolf said. They can't legally go over your property, Jowdy told Wolf, and if they do, you can call the authorities. But we have no jurisdiction stopping someone from driving on your front lawn. The City is responsible to make sure the variances are followed, Jowdy concluded. Dufel asked Wolf is there an association there? Wolf said there's no association. In the voting session, Jowdy reviewed the relatively small house and the existing easement across the property to allow the neighbor to come and go. Hanna made a motion to **approve 08-14** to reduce the minimum front yard from 40 feet to 17.8 feet; to reduce the side yard from 25 feet to 19.5 feet for a

new single-family residence. This is per plan submitted; it's a small approved lot. They have to share the driveway, Hanna concluded. Krate seconded the motion. The motion carried unanimously at 8:09 pm

#08-15 – Sunrise Construction Corp., Mill Plain Road Cut-off, aka, 3 Old Mill Plain Road (C14071), Sec.4.A.3., to reduce east side yard setback from 25 feet to 17.2 feet; to reduce west side yard setback from 25 feet to 18 feet for new single-family residence (RA-40 Zone). Chairman Jowdy introduced this item at 7:28 pm. Robin Kahn, Attorney, signed in and identified herself. You have previously seen this property in 2004, and I will show you that map, Kahn said. Krate asked who was the former owner. Kahn replied Patterson (ZBA 04-17). A tree fell on it and destroyed the house. Mr. Patterson got permission to rebuild the house. My client has since acquired the property, Kahn said, and decided to put the new house pushed back to a location that has more privacy, farther from the street. Kahn showed where on the plan the variances will be needed, and he's giving up the other variances. Krate said they are not as bad. Kahn explained the lot is very peculiarly shaped. Dufel asked about the old variances, which Krate explained. Kahn said this is not a much bigger house, in answer to Dufel. Dufel asked you are keeping an existing two-story building? Kahn said it is a very old barn; that was a pre-existing structure. This is an area that I don't think has any impact on anyone, Kahn said. Sibbitt had a question on altering that building. Krate said they are not altering their property. One of the neighbors, Mr. Cava would like to see some privacy fencing or screening in here, Kahn continued. My client has no objection to that. Mr. Cava asked for plantings, but there is ledge there. It will either be a forty-foot long fence, or trees, whichever makes more sense for that location. Kahn asked Cava in the audience to describe the vicinity, and Jowdy discussed the old approval; now it's going back further. Sean Hearty had a question for Kahn. Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal? Attorney Peter Scalzo and Mr. Louis Cava came forward and identified themselves. Scalzo said I have a map here where they have roughed in their lot. They have a deck here, which is why they want the screening. Krate said is the topography fairly similar, the height of the two lots? Scalzo said he is asking for some kind of screening be erected. Krate said yes, but the two parties have to work it out. Later in the voting session, Jowdy reviewed the request and opened it up for discussion. Krate said the neighbor has agreed to the variance with screening that we will stipulate. This is less impact than the previously granted variances five years ago, and probably better for the neighborhood in this fashion. Dufel asked why should we stipulate screening? Hanna replied because then they can't refuse to do it. Krate said the applicant has agreed to do it; they have to sit down and decide what they are putting in; a privacy curtain has been agreed to. Krate said there's no reason not to put it in. Krate made a motion to **approve** the variances to reduce east side yard setback from 25 feet to 17.2 feet; to reduce west side yard setback from 25 feet to 18 feet for a new single-family residence. The STIPULATION is that forty feet of either plantings or fencing will be installed on the east side, Krate said. Dufel added on the neighbor's side. Hanna opened up the map again. Krate said on the east side of property; the size and type of barrier shall be negotiated between the neighbors, per plan submitted. Sibbitt seconded the motion, and the motion carried unanimously.

#08-16 – Jennifer Dayton, 59 Ta'Agan Point Road (I06021), Sec.4.A.3., to reduce the rear yard setback from 35 feet to 28 feet; to reduce side yard setback from 15 feet to 7.5 feet for additions of decks (RA-20 Zone). Jowdy introduced this item at 7:35 pm; this is for decks only. Jennifer Dayton signed in and identified herself at the microphone. Jowdy said okay, I guess the marks on the map is the proposed deck here. Dayton replied yes. It's going to be in from the garage, Jowdy said. The house deck is in violation because the house is already in violation, Jowdy said. Dayton explained that I got a variance before, but

I misunderstood. Jowdy said it's two feet further than the actual house is. Krate and Jowdy discussed and examined the distances on the plans. Krate said, oh, I'm sorry; I misread it. Sibbitt, Krate and Jowdy discussed the deck location. Dayton said they put glass sliders in, so I'll have something to walk out on from the glass sliders. Krate said we can't grant 28 feet if they are showing 29 feet. Dufel had a question on possibly building a deck approximately 7 feet wide without a variance. Krate said she would have needed a variance anyway for the side line. Dufel asked Hearty about the setback. Dayton said I'm 550 feet off the water. Dufel said the 440' line is where we are measuring things. Hearty explained that you can project 25 feet into the rear yard setback. Sean Hearty said so technically she does not need a rear yard setback. She needs a side yard, not the rear yard. Dufel reviewed what she needs. Is this already built? Oh, I heard the word "violation", Dufel said. Hearty reviewed the history of the applications (see ZBA 08-04): a patio versus a deck. Dufel asked Dayton how is your new water system? Dayton replied I'll let you know in June. Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal? In the voting session at 8:14 pm, Jowdy explained what Dayton thought she was getting last time. She's back here and she wants to put the decks on. Krate said 7.5 feet. Hanna confirmed 7.5 feet. Krate reiterated she does not need the rear yard variance. Hanna made a motion to **approve 08-16** to reduce the side yard setback; the house is pre-existing, nonconforming, and it does not affect the welfare, health and safety of the neighborhood, and this is per plan submitted. Krate seconded the motion. The motion carried unanimously at 8:15 pm.

#08-17 – Michael J. Flynn, 167 South King Street (D08048), Sec.4.A.3., to reduce the minimum required front yard setback from 40 feet to 35 feet for construction of a roofed front porch (RA-40 Zone). Jowdy introduced this item at 7:45 pm. Mike Flynn identified himself at the mic. Paul Fagan, LLS, from Surveying Associates also identified himself. Both signed in. Fagan said I've got tax assessor's maps showing the location of these lots. Krate asked Fagan you didn't do this original subdivision, did you? Fagan said yes, I did. Krate asked Fagan joking, were you drunk when you did them? Fagan said the house was built back in 1972 and he discussed the topography, the septic; they faced the house this way, and they accessed the house off Strawberry Hill. So there isn't any driveway cutting in here which is good, Fagan said. What Mr. Flynn would like to do is to add an 8-foot front porch. Porches were really not in style when the house was built. The house was built close to the road, Fagan continued, and he discussed the soffit and the gutter. The house is actually back 36½ feet. Krate asked is it an open or closed porch? Flynn explained it is open and has stairs, with the entrance coming from the driveway. Dufel clarified the distance with Krate. Dufel said you have, what, and acre of land roughly? You said you want a porch for style? When you list the hardship on the application, you list two front yards. I have trouble recognizing style as a hardship, Dufel said. Style is not in our book. Jowdy stated all corner lots create a hardship for zoning, so I think the configuration is justifiable. Dufel asked Jowdy are you implying that everyone on a corner automatically has a hardship, or is it simply a challenge? He's got a whole acre, Dufel said. The hardship is that somebody built the house too close to the road. Fagan said the topography slopes back, so the front of the house is probably 6 feet higher than the back of the house. Dufel asked why do you want 8 feet? Fagan said if you put furniture out there you can't get by it. This is a minimum of what would be practical for use. He is enhancing the architectural design of the house. Dufel continued a front porch is not a necessity, I'm arguing. Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal? During the voting session Jowdy explained the 167 South King Street petition; the porch actually covers and keeps the weather out of the house. It is open for discussion and / or a vote. Krate made a motion to **approve** the request to reduce the minimum required front yard setback from 40 feet to 35 feet for construction of a roofed front porch. The hardship is that

there are two front yards, as well as the topography and the septic location, per plan submitted, Krate said. Sibbitt seconded the motion. The motion carried by four ayes (Jowdy, Krate, Sibbitt, Hanna) to one nay (Dufel).

#08-18 – Greater Danbury Irish Cultural Center, Inc., 6 Lake Avenue (H14047), Sec.5.H.1.b., to reduce contiguous planting strip along Oil Mill Road from (1) 20 ft. to 16 ft., (2) from 20 ft. to 8 ft., (3) from 20 ft. to 8 ft.; Sec.5.H.2. & Sec.8.C.1.c., to permit parking within a portion of the req'd. 25 ft. front yard setback (1) 9 ft. (1 stall), (2) 17 ft. (5 stalls), & (3) 17 ft. (8 stalls), as per 3/7/08 site plan (CG-20 Zone). Sean P. Hearty recused himself and left the chambers. Chairman Jowdy introduced this at 7:54 pm and read the requests. Vinny Nolan came forward and signed in, president of the Greater Danbury Irish Cultural Center. Tell us what you're doing, Jowdy said. Nolan said I'm joined also by vice president Eileen Alberts. Nolan gave some history of the organization's site. We've acquired this location, Nolan said, for club type facilities and meeting facilities, and we've asked Paul Fagan to help us get the parking onto the area. Nolan discussed the number of spaces, including handicapped spaces. The building is a longstanding industrial building on that corner. So what we're trying to accomplish is additional parking in the rear, plus on that uncleared lot. Our goals are clear, to create an esthetically pleasing building. Fagan identified himself at the mic saying I did sketches of the location of the property if you need it. This is the shape of the property and, as you can see, it's a corner lot, and very narrow back here. If we had to actually conform, we would have to eliminate all the stalls along here and Fagan explained. We are asking for variances. Do you want me to go over them? We are keeping this all green, and Fagan reviewed the petitions for the three sections. Krate asked Fagan does your client have any objection to a barrier along the line that faces the road, a bumper? My only concern with something like this is if someone should hit the wrong pedal. Nolan expressed his agreement. Jowdy discussed the barrier with Krate; I would like to see some sort of barrier so cars could not come down over there. Nobody now heads in there; they park all over the place. Nolan explained to Dufel their site plan, a possible sidewalk, a ramp, stairways. Dufel said your drawing is a little different from mine. Fagan, Krate, Dufel and Nolan discussed the encroachment, a buffer area, Mr. Salem, the residential neighbors, the Oil Mill Condominium project. Krate said it's not a heavily traveled street. Dufel joked is anything square in this town? Krate said the plan is well done. Nolan said as we develop this, do we want a stairway; yes we do, but we will end up with a sidewalk. Fagan said we would like to be a little flexible in here. Krate observed that areas 2 and 3 will require guardrails, if we pass it. Nolan said that's all level back there, compared with what's in here, and Krate reiterated the guardrail requirement. Dufel said you worked hard to maximize the parking; will that be enough? Nolan responded with the activities of the club; the maximum dinner capacity we think is probably 75 or 80 people; 120 maximum. On St. Patrick's Day we'll ask Mr. Salem if we can park on his area. Vinny Nolan said we've already had some discussions along that line, and we can work out the conditions, and so forth. Dufel asked will you paint the asphalt green? Jowdy asked are there any questions? Is there anyone who wishes to speak for or in opposition to this proposal?

Eileen Alberts stood up in the audience saying all I have to say is please pass this petition. We've needed it for a long time. During the voting session, Jowdy reviewed the requests at 8:17 pm, as per 3/7 site plan. Everyone pretty much knows that lot, Jowdy said. In order to utilize that building, those variances are required. Open for discussion. Krate made a motion to **approve 08-18**, 6 Lake Avenue, and Krate listed the parking petitions: Sec.5.H.1.b., to reduce contiguous planting strip along Oil Mill Road from (1) 20 ft. to 16 ft., (2) from 20 ft. to 8 ft., (3) from 20 ft. to 8 ft.; Sec.5.H.2. & Sec.8.C.1.c., to permit parking within a portion of the req'd. 25 ft. front yard setback (1) 9 ft. (1 stall), (2) 17 ft. (5 stalls), & (3) 17 ft. (8 stalls), as per 3/7/08 site plan. Krate added there should be a stipulation

that the stalls facing Oil Mill Road will have a barrier at the edge of the parking area to protect any pedestrians, per plan submitted. Hanna seconded the motion. The motion carried unanimously at 8:20 pm.

Dufel said as a point of information, it's Oil Mill Road.

NOTE: THE NEXT REGULAR MEETING IS SCHEDULED FOR **April 24, 2008.**

ACCEPTANCE OF MINUTES: 3/13/08 Meeting. Motion to accept the minutes as presented by Krate. Second by Sibbitt. The motion carried unanimously.

ADJOURNMENT: Motion to adjourn by Krate. Second by Sibbitt. The motion carried unanimously at 8:29 pm.

Respectfully submitted,

Patricia M. Lee, Secretary