



**CITY OF DANBURY**  
155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

ZONING BOARD OF APPEALS  
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**MINUTES – REGULAR MEETING**  
**July 10, 2008**  
COMMON COUNCIL CHAMBERS  
**7:00 PM**

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Chairman Richard S. Jowdy called the meeting to order at 7:06 pm. Jowdy noted the legal notice that appeared in the News Times. Motion to hear tonight's agenda by Krate. Second by Sibbitt. Motion carried unanimously. Present were Chairman Jowdy, Herbert Krate, Michael Sibbitt, Joseph C. Hanna, Alt. Jack Villodas. Absent were Gary Dufel, Alt. Rick Roos, Alt. Rodney Moore.

Jowdy explained the procedure for Public Hearing to the audience.

NOTE: THE NEXT REGULAR MEETING IS SCHEDULED FOR **AUGUST 14**, 2008.

CONTINUATION OF PUBLIC HEARINGS:

**#08-25** – CONTINUED to tonight: Anthony J. & Vivian Chiappinelli, 22 Shore Road (K02112), Sec.4.A.3., to reduce min. req'd. side yard setback from 15 ft.; Sec.8.B.1.(3)., to allow 15% driveway grade for a portion of the driveway (RA-20 Zone). Jowdy introduced this item at 7:08 pm. Mr. Chiappinelli signed in, and identified himself and his address. The application before you, gentlemen, is being negotiated, so to speak, with the town Engineering Department. We gave the City an easement to pipe water from Shore Road down to the Lake. Chiappinelli explained the history of the easement, pushing the pipe over, the negotiation, and the requirement for a dispensation for the side yard setback. They cost us a lot of money since the City knocked down our wall; we had to reface the concrete wall that the City put up. The survey information I submitted is in error, as the City filed the original plans with our easement agreement. They confirmed that by giving me copies, Chiappinelli said. We would like to encroach about 3-1/2 feet, and we are negotiating back and forth with the Engineering Department. Krate said you understand you have a time frame, so we will deny this without prejudice tonight. Then you can come back in. Chiappinelli asked the Commission about getting the driveway grade. Krate said wait till your package is all put together and concise. Later in the voting session at 7:31 pm, Krate made a motion to **deny without prejudice**. They are in negotiations with the City, and they can reapply. Sibbitt seconded the motion, and the motion carried unanimously.

**#08-31** – CONTINUED to tonight: John C. Lewis, 91 Boulevard Drive (D16009), Sec.4.G.1., to allow parking in front yard; Sec.8.C.1.c., to legalize three parking spaces in the front yard (RA-40 Zone). Revised plan rec'd. 6/11/08. Sean P. Hearty took photographs today of the residence and lot. John Lewis said I'm here to follow-up on our last discussion for legalization of the three parking spots. We discussed it last time. I think Sean has some

pictures, Krate said. Hearty said the Commission asked me to go out there and take some pictures, and Hearty explained what he saw; the steep grade of the lot. Krate said so the safer of the evils is to grant. Hearty said Boulevard Drive is a tough one. Chairman Jowdy said it is in keeping with the neighborhood. Chairman Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal? Jowdy summarized the proceedings, the photos, the grade, and opened it for discussion in the voting session. Krate made a motion to **approve** Lewis' request to legalize three parking spaces in the front yard in the RA-40 zone, as pictured on revised plan dated 6/11/08, per plan submitted. No barriers are required. Joe Hanna seconded the motion, and the motion carried unanimously.

#### NEW BUSINESS:

**#08-34** - William & Connie Barry, 7 Crest Road (G10080), Sec.4.A.3., to reduce the minimum required side yard setback from 25 ft. to 9.8 ft. for proposed screen porch (RA-40 Zone). Jowdy introduced this item at 7:15 pm. Mr. Barry identified himself and signed in. Jowdy asked Barry to sign your name. Okay. Barry said I'd like to get the side yard setback so I could put this porch on the back of my garage. I have pictures of what I have now, and what it will look like, and a letter from my neighbor at 5 Crest Road, whom it would impact the most. Krate asked can we see the pictures, please? Barry said this is what I have now. The Commissioners viewed the photos. I want to put in a screened porch. Krate said it doesn't hurt to give us the letter from your neighbor. Chairman Jowdy asked if there anyone who wishes to speak for or in opposition to this proposal? Jowdy explained what exists in the voting session at 7:34 pm. Krate made a motion to **approve** the request to reduce minimum side yard for a proposed screen porch in the RA-40 zone, per plan submitted, to cover an existing patio. Sibbitt seconded the motion, and the motion carried unanimously.

**#08-35** – Prespa Restaurant, 44 Mill Plain Road (G15005), Sec.5.B.3., to reduce the minimum required front yard setback from 25 ft. to 5.5 ft. for an outdoor dining patio (CA-80 Zone). Chairman Jowdy introduced this item and Sean Hearty set up the easel. The two gentlemen identified themselves and signed in: Faruk Asipi and Bashkim Ismaili. Krate asked if they had had any damage from that fire. Very minimal, one replied. The applicant is Prespa Restaurant, Asipi said. We have been there a few years and renovated the interior. Our hardship is the two front yards; I'll point them out on the board: West Kenosia Avenue and Mill Plain Road. Route #84 is here. We also have a pre-existing building layout that is nonconforming. Krate asked are there cars on that road now (West Kenosia Avenue)? Nobody at all; no traffic road, Asipi replied. The applicants and Krate explained the old road way. Krate said some type of barrier will be required. Applicant said they plan a four-foot high steel barrier. Chairman Jowdy asked will you put a roof over it? We'll see how the weather reacts, Ismaili said. Jowdy asked are there any other questions? Thank you. Jowdy said is there anyone who wishes to speak for or in opposition to this proposal? Chairman Jowdy reviewed this item in the voting session, and explained about the only people using that old road. Krate asked the city never abandoned that road? Hearty explained the history. Krate made a motion to **approve** the front yard setback for an outdoor dining patio. Basically it's on a road that has been abandoned; it has two front yards, but I would ask that in any plans before Planning and Zoning, that particular attention be paid to make sure that traffic cannot injure anyone dining on the patio. Hearty and Krate discussed making it so ordered. Joe Hanna seconded the motion, and the motion carried unanimously.

**#08-36** – Estate of Dorothy M. Sweet, 47 Park Avenue (H15128), Sec.4.C.3., to reduce min. req'd. front yard setback from 20 ft. to 8 ft.; to reduce min. side yard setback from 15 ft. to 11 ft. on existing dwelling, for expansion of single-family to a three-family residence (R-3 Zone). Attorney Francis Collins came forward and signed in. Krate said I thought you came here just to learn. Collins agreed. Collins identified himself on behalf of the applicant, the estate of Dorothy Sweet. Collins explained what the petition is for; and held

up the plan. It's been a two-story dwelling since 1914. They conform to the zone in which the property is located. It is proposed to add two units to the existing dwelling, and those units are in full conformity with the existing regulations for the R-3 zone. As you can see, the existing house has a covered porch, 8 feet from the property line. The west side is 11 feet from the boundary. We thought we had a nonconforming structure, and therefore should not need a variance, which Collins explained, as long as the addition conformed. Then I had a discussion with Sean; he still thought a variance was required. We had a difference of opinion. Collins reiterated the petitions. Chairman Jowdy had a question on the use. Collins said the structure is nonconforming. It's been there forever. The additions will be conforming. Hanna asked how many units. Attorney Collins said it will stay a single family except for the additions which are two additional units. Chairman Jowdy made a point about conforming with the whole street; it has the same type of housing all along that street. Collins said I'm not sure about what changes will be made to the existing dwelling, or if it will be a condominium. Krate said they have reasonable use as a one-family residence. There is reasonable use of that property; the hardship cannot be financial, Krate said. Collins replied the zone permits three units. It's partially economic, Collins said. Sean Hearty explained the non-conforming structure. Our regulations have changed; when that use changes, the distance in setback increases. Krate said and that change was put in so that every postage stamp doesn't have a three family dwelling on it. He does now have reasonable use of that parcel. What would override that that would urge us to grant a variance, Krate asked. Sean P. Hearty explained they are attaching two units. The structure itself has the nonconformity, not the use. Hearty said to Collins I still think I'm right, by the way. Collins replied I don't disagree that he thinks he's right. I think Sean summed it up pretty well. Let the Board understand it fully, and make your decision, and that's it, Collins concluded. Krate and Jowdy discussed this plot next door to Linron Apartments. Jowdy said so actually the regulation was changed. Sean replied; no, this is an anomaly. Krate said I understand. Jowdy said I don't have any questions myself. Villodas said I understand. Secretary Lee asked the owners in the audience to sign in, Allyn Sweet and Pat Barrett, after they stated that they were in favor of the variance. Chairman Jowdy, in the voting session, explained his understanding of the old structure holding back the other development; a question between the Zoning Enforcement Officer and the attorney. Jowdy gave the description of the vicinity saying if it is okayed it will probably blend right into the area. Hanna made a motion to **approve** the variance to reduce the minimum front yard setback, and the minimum side yard setback, for expansion from a single-family to a three-family residence in the R-3 Zone. Villodas seconded the motion. The motion carried unanimously at 7:40 pm.

ACCEPTANCE OF MINUTES: 5/8/08 and 6/12/08 Meetings. Motion to accept the minutes for two meetings as presented by Krate. Second by Hanna. Motion carried unanimously.

ADJOURNMENT:  
Motion to adjourn by Krate. Second by Hanna. Motion carried unanimously at 7:43 pm.