



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

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

MINUTES – REGULAR MEETING  
**January 8, 2009**  
COMMON COUNCIL CHAMBERS  
7:00 PM

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Chairman Richard S. Jowdy called the ZBA meeting to order at 7:00 pm. Present were Chairman Jowdy, Michael Sibbitt, Herb Krate, Joseph Hanna and Gary Dufel. Absent were Alternates Rod Moore, Jack Villodas and Rick Roos. Staff present were Sean P. Hearty, Zoning Enforcement Officer, and Patricia Lee, Secretary. Herb Krate motioned to hear tonight's new and continued business. Michael Sibbitt seconded the motion. The motion carried unanimously. Chairman Jowdy explained the procedure for Public Hearing to the audience, and asked all speakers to sign in.

**NOTE:** THE NEXT REGULAR MEETING IS SCHEDULED FOR **January 22, 2009**. The December 2008 meetings, 12/11/08 and 12/16/08 were cancelled due to weather.

CONTINUATION OF PUBLIC HEARINGS:

**#08-49 – CONTINUED:** Joaquin Granja, Meadowbrook Road (J09004 & J09011), Sec. 4.A.3., reduce minimum lot area from 20,000 sq.feet to 14,331 sq.feet, minimum square from 100 feet to 85 feet, and Sec. 3.H.3., reduce minimum lot frontage from 50 feet to 9 feet (RA-20 Zone). Chairman Jowdy introduced this continuation at 7:03 pm, reading the requests. Robert Riley signed in at the microphone, and handed a letter to Commissioner Krate from Mr. Granja. I was before this Commission, Riley began, and due to inclement weather it's been ongoing. I'm very happy to be here, and Mr. And Mrs. Granja are in compliance with what the esteemed Commission has asked, which Riley explained about the City sewer and Mr. Granja's willingness to abide by any conditions. Mr. Fagan is here tonight to present the site plan which we wanted to do that, because Mr. And Mrs. Granja want to be so neighborly, to make sure that the property will have trees lined all the way back, and make sure he's in compliance with every issue, including his immediate neighbor who spoke the last time, Riley said. He would go overboard to make sure he's in compliance. I'm only here as a mentor and friend of Mr. Granja, who was hurt severely and is in the process of going blind due to his disability. I know that's not the hardship. Riley thanked the Commissioners, and reiterated the condition about the City sewer. We went way above. Thank you for your consideration, Riley concluded. Krate said I do have a letter here. Hearty said there is in fact a lateral (sewer) line in, so yes. Paul Fagan, LS, signed in at 7:07 pm, identified himself and gave his address. We've developed a conceptual plan, which he distributed to the Commissioners. Krate suggested give one to Mr. Wolfe too. Fagan said we've developed a three bedroom one-family dwelling, and he discussed the setbacks, front, rear and side. Also, there was a question on the Pina house: we are approximately 50 feet from that house. There was a discussion about the 9 feet driveway, but the City does not have a minimum driveway width for a single-family home, so the driveway is adequate. Krate and Fagan discussed a drainage issue. Fagan said we do have to go to the Planning Commission, and they will insist there be

zero runoff onto the Wolfe property. I've developed a couple of profiles, which Fagan explained. The back of this house will have a walk out basement in this corner. The foundation will be fully exposed only in this corner. Fagan explained the profile map and what the neighbors would see, including the growth of the evergreens, providing a pretty good barrier. You would not see a very high house in here, once those evergreens are in place, Fagan continued. There being no questions, Jowdy asked is there anyone who wishes to speak for or against this application. Robert Wolfe took the mic, saying he is representing my daughter Caroline Wolfe and her husband, and I want to thank Mr. Riley for his opening statements; and having seen these plans at Mr. Fagan's office the other day, and I understand this has to go to Planning, and this issue of drainage in the southeast corner will be addressed at that time; assuming that the plans are all conditions, Wolfe said. Krate said a variance is approved subject to the plan submitted. Jowdy asked is there anyone else wishing to speak for or in opposition to this variance at 7:15 pm. After a brief break, the Commissioners reconvened regarding #08-49 Granja at 8:31 pm. Jowdy reviewed the application and testimony. Krate motioned to **approve** #08-49, to reduce the minimum lot area from 20,000 sq.feet to 14,331 sq.feet, minimum square from 100 feet to 85 feet, and Sec. 3.H.3., to reduce minimum lot frontage from 50 feet to 9 feet in the RA-20 Zone. This is per plan submitted with the updated map, Krate continued, which includes updated plantings, and a sewer hookup. Hanna seconded the motion. The motion carried unanimously.

**#08-60** – CONTINUED: New Cingular Wireless PCS, LLC ("A.T.& T."), 115-119 Mill Plain Rd. (C14070), Sec.5.B.3., to reduce rear yard setback from 30 feet to 1 foot for wireless telecomm. equipment shelter relocation (CA-80 Zone). Chairman Jowdy introduced this next continuance. The applicant had provided a letter which we have read, Jowdy said. Anthony B. Gioffre, Attorney with Cuddy & Feder, LLP, identified himself and gave a history of the petition, and the alternatives that have been considered. The proposal before you is the best available option, after we investigated the alternatives, and Gioffre explained why, including the degraded signal level. We also included some photographs. It will generally be in the same location where it exists now. We respectfully submit that there is no impact to any neighbors. If you have any questions, I will answer them; I also have my team here to answer any questions, Gioffre said. Gary Dufel asked Gioffre some questions about the fence line, and why not remove the fence. Gioffre explained why to Dufel, using the plan on the easel. Dufel asked what is the fence for; what is on the other side of the fence? George Pendleton, the engineer took the mic and explained the fence issue, a screening enclosure for the cables, to Dufel. Dufel asked what are these two boxes and what's the purpose of those? Why are they on that side of the building? You could bring the whole building forward if they were on the other side of the building. Pendleton explained about the cables. On plan SK-3, Dufel asked about the 5 feet setback to the rear: but if you just moved it back 8 inches, you'd have four foot four. Gioffre, Dufel and Pendleton discussed the dimensions for Option 2; shifting this back, getting more inches. Gioffre said, "We could do that". Option 3 is exactly that, Pendleton explained. The three gentlemen discussed the options, the air conditioning units, the airflow around the units, what has to happen for that to work, the required fence, and the maintenance of the A/C units. Dufel said we are looking to correct somebody's mistake here. Pendleton, Dufel, Krate and Attorney Gioffre discussed plantings and the public thoroughfare, moving the dumpster; we don't own the dumpster; the dumpster is on a concrete slab. Gioffre asked Dufel not to interrupt him, as he had not interrupted Dufel. Why aren't you looking to move the dumpster, Dufel asked. Did you explore that with the property owner? Why are you not looking at that? Is it cost? And could that solve the problem? Gioffre and Pendleton reiterated that they do not own or control the dumpster, and it's set on a concrete slab. Pendleton discussed the drop-off

grade, but said we did not specifically talk to the owners. Gioffre said the building is pre-fabricated. Pendleton explained the access required around the cabinets. Dufel asked have you been in this building? Pendleton replied I've been in many of them, and explained the different providers' various building sizes. Krate said we went through that a few times. Krate said to Dufel it's not a tower. It's a fake chimney. Krate said it happens to be a good location; it's not an offensive location. Dufel said I would like to talk about that later. Gioffre said it would technically put us in violation of the Planning Commission approval if we removed those plantings, and Pendleton elaborated on this. Dufel asked, "What happened?" Why was this mistake made? Was the survey that was in error provided by the hotel owner? I'm asking the engineer, Dufel said. Pendleton explained how the discrepancy evolved to the Commissioners at 7:35 pm. Dufel asked did Cingular consultants did create the error? Attorney Gioffre said to Dufel I have no idea why you are asking the engineer. Jowdy said let's get back to the issue, as Dufel and Gioffre argued. Gioffre reiterated the benefits of the petition. Jowdy and Krate discussed the plantings. Dufel said we'll talk about it. Richard Jowdy asked is there anyone in favor or in opposition at 7:39 pm. Later in the voting session, Jowdy reviewed the request. Krate explained it's the lesser of the evils, Gary, and Krate explained why. There's nothing back there. Dufel said if they came before us the first time with the right dimensions, we would have approved it. Krate said the Siting council will shove this down our throats. And it's not an ugly cell tower. Dufel said we have to convince ourselves; they are trying to sugar-coat it; do we deny it without prejudice? There are no trees in front of the dumpster. What do we care about trees to hide a dumpster? Krate explained the precedent of requiring a planted screening to these installations; visually, it's less offensive; I would much prefer not to change that standard for a particular case. Krate made a motion to **approve** New Cingular Wireless PCS, LLC ("A.T.& T."), 115-119 Mill Plain Road, to reduce the rear yard setback from 30 feet to 1 foot for wireless telecommunication equipment shelter relocation. This is due to an error on a plot plan on an original variance, which came before us when, Krate said. This is per plan submitted and will not be a detriment to the welfare, health and safety of the neighborhood. Joe Hanna seconded the motion. The motion carried unanimously at 8:37 pm.

NEW BUSINESS:

Application for CERTIFICATE OF LOCATION APPROVAL, Consumers Petroleum of CT, Inc., 27-29 Tamarack Avenue (I10042, I10043), for Retail Gasoline Dealer License (CG-20 Zone). Jowdy read the request into the record as Paul Jaber, Attorney at Law, took the dais. Jaber identified himself and explained why he is here, to approve the location of the gas station. Jaber described the vicinity and said the applicant wishes to expand his operation. Jaber gave the history of merging the two lots together and reconstructing the facility including significant improvements to access and egress and traffic movement. The new approval adds an improved entrance, which Jaber described. Jaber discussed the north entrance. The lots would be merged, and he discussed the traffic. Krate said it's certainly an improvement over what was there. How much closer to the school do you get? Gary raised that issue at the last meeting that you had (see previous variances ZBA #06-46 and # 07-68), and Jaber explained the grades, the site going up; we tried to relocate it based on Gary's comments. We brought it to Mrs. Emminger and she discussed it with me. So we could not move it from that location. The existing tanks are right about in here, referring to the map on the dais. Dufel said I'm terribly disappointed that you could not get these tanks moved; it was a reasonable request. Jaber explained that they tried to move them, thus the application was continued. Jowdy interjected the distance of the building that exists; still quite a ways away. Jaber explained the distance that the engineer was unable to move it due to the grade. The pitch is down. Krate said, okay, you're right. What's the difference in the detention area, Krate asked? Dufel asked about the detention system, an

overflow to a storm drain system. Jaber discussed the outlets, the storage, the catch basin on Tamarack, the treatment before releasing it. Dufel discussed the topography with Jaber at 7:49 pm. Chairman Jowdy asked if there were no more questions, is there anyone who wishes to speak for or against this application. Thank you. Jowdy reviewed the application in the voting session. Krate said it's 100% better than what is there: more room for cars to negotiate and a traffic pattern that makes sense; a much better program than what they have now. We got the Fire Department to sign off on the last one, and Krate and Dufel discussed the history of the previous variance. Jaber spoke up from audience about the change in the zoning regulations that took place. (Tape #2, side A installed) The Commissioners discussed the relative dangers and the improvements. Krate made a motion to **approve** the application for Certificate of Location Approval, Consumers Petroleum of CT, Inc., 27-29 Tamarack Avenue, for a Retail Gasoline Dealer License. Hanna seconded the motion. The motion carried unanimously.

**#08-61** – Union Savings Bank of Danbury, 223 Main Street (114296), Sec.8.E.4.a.(7).(b)., to allow a wall sign to be located higher than 20 feet above ground level (C-CBD Zone). Jowdy introduced this variance request at 7:50 pm. Herbert Glick signed in, (Tape 1 flipped to side B). I have some handouts that I will distribute now, Glick said. Glick identified himself, representing Union Savings Bank. The bank needs visible signage to carry on its business. He discussed the vicinity and the height zoning regulation, and said this building is further restricted in this zone. It will be blocked by trees on Delay Street and behind the bank. Glick presented his photographs to the Commissioners and his discussion. Krate asked how high is the sign? Glick addressed the height question, the issue of the tree from different angles, with or without leaves; a young tree which will continue to grow; precedents in the neighborhood; the Savings Bank of Danbury, The Danbury Ice Arena, and in the plaza itself at 235 Main Street a sign over 20 feet high as well. The last page summarizes my points, Glick said. Jowdy said, when the trees grow higher, you are not going to come back and ask to move the sign? Krate joked you should live so long. Glick discussed pruning the tree in the future. Dufel had a question for Sean P. Hearty: could you give some background why the 20 feet height restriction was put in place? Hearty explained the sign height as one goes down Main Street; for continuity more than anything. Dufel asked is there anyone here from the bank? Marie O'Neill signed in. Dufel said to O'Neill when I go to my bank, I know it's there; I don't need a sign to tell me it's there. Why do you need a sign so high? Marie explained the specific need for this location: orientation office, for vendors, where they must park, for the mortgage closings. Dufel said these trees, are they going to grow much higher? It's an appropriate question; all right, I'm through, Dufel said. Chairman Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal at 8 pm. Jowdy gave the review of this request in the voting session. Krate remarked it makes sense since it's not your average branch. Krate made a motion to **approve** allowing a wall sign to be located higher than 20 feet above ground level on the rear of the building, per plan submitted. Sibbitt seconded the motion. The motion carried unanimously at 8:43 pm.

**#08-62** – Carlos Bahia, 4 Wood Street (1090990, Sec.4.A.3., to reduce front yard setback from 30 feet to 15.8 feet for covered porch (RA-20 Zone). Carlos Bahia took the mic and signed in, saying when I did the roof on my house we extended the little roof over my entrance, and it was a little bit wider than my original plan. We need protection from the rain and snow; it improves the curb appeal for my house, and I have a couple letters from my neighbors. Jowdy said we have two letters in favor of the variance. Bahia said my neighbors are very happy and thanked me for improving the neighborhood, and it protects it a lot. Jowdy asked are there any questions? Is there anyone who wishes to speak in favor or opposition to this application at 8:03 pm? In the voting session later, Jowdy

reviewed the issue. Krate made a motion to **approve** the petition to reduce the front yard setback from 30 feet to 15.8 feet for a covered porch, per plan submitted. It will not affect the welfare, health and safety of the neighborhood. Dufel seconded the motion. The motion carried unanimously.

**#08-63** – Viemar Properties, LLC, 7 Park Avenue, Sec.4.C.3., to reduce minimum front yard setback on Harding from 20 feet to 15.5 feet for enclosed porch for new access stairway (R-3 Zone). Michael Lillis, PE, of CCA, LLC, signed in, as Krate asked to see the previous variance that was granted here (see ZBA # 07-64). Lillis identified himself on behalf on Viemar Properties, and gave the history of the Park Avenue construction. A closed staircase was installed, and they utilized the footprint of an open porch in that area, and thought everything was okay, and they also installed an overhang. When it was constructed, it was found that the 2 feet was not conforming. Krate said we approved it for a three-family. Sean P. Hearty explained that this was a rooming house, and you approved it for a three-family, and gave a history of the discussion of the stairway, and the Fire Marshal's request for a covered stairway. Something changed; there was no malicious intent, Hearty said. Krate said I remember at that hearing that I warned the applicant not to come back. Dufel said if you're talking to an engineer, you're getting a straight answer. Krate asked someone neglected to put this on the plan? Lillis replied I don't have a good explanation for you. Krate said if the Fire Marshal didn't ask for this, you'd have a problem. Hearty said there were a lot of conditions put on that variance. Lillis next described the photographs he provided. Jowdy asked is there anyone who wishes to speak for or against this application? Jowdy explained the covered porch on the former rooming house. Krate motion to **approve** # 08-63, to reduce the minimum front yard setback on Harding from 20 feet to 15.5 feet for an enclosed porch for new access / fire stairway. Hanna seconded the motion. The motion carried unanimously.

**#08-64** – Anthony & Deborah Turco, 34 Hillandale Road (F07017), Sec.4.A.3., to reduce required rear yard setback from 35 feet to 26.5 feet; to reduce side yard setback from 25 feet to 15.6 feet for a sunroom addition (RA-40 Zone). Dufel asked that the Commission hear this Turco application before the Franklin Street request. The Commissioners agreed. Anthony Turco signed in and identified himself and his address. I'm here to ask for two setbacks. It's an open deck, elevated, at the present time, Turco said. Krate and Dufel had questions about the deck and the prefabricated room. Dufel asked why do you need it? Turco said his step kids are coming back to live there. Dufel, Krate and Turco discussed kids always coming back. Jowdy asked is there anyone who wishes to speak for or against this application. Hanna made a motion to **approve** # 08-64 to reduce required rear yard setback from 35 feet to 26.5 feet; to reduce side yard setback from 25 feet to 15.6 feet for a sunroom addition, per plan submitted. This will not have a bad effect on the welfare, health and safety of the community. Krate seconded the motion. The motion carried unanimously at 8:45 pm.

**#08-56** – Nick Tsakonitis, 36 Franklin Street (H13036), Sec.4.C.3., to reduce required side yard setback from 15 feet to 6.1 feet on west side; to reduce rear yard setback from 25 feet to 12.6 feet on west side; to reduce side yard setback from 15 feet to 0 feet between point A & B; Sec. 8.A.2.c.(4), to permit grading within 5 feet of prop. line for construction of retaining wall & parking structure between point A & C; Sec.8.A.2.c.(4)., to permit grading within 5 feet of property line for construction of a parking structure on west side; Sec. 8.C.2., to reduce aisle width from 24 feet to 20 feet; Sec.3.G.3.b, to increase maximum allowed height for an accessory use from 15 feet to 31.5 feet (R-3 Zone). Jowdy introduced this request at 8:13 pm, and Robert Aldridge came forward and signed in. Jowdy read the

requests. Explain all of these numbers for us, please, Jowdy said. Aldridge said there is currently no parking whatsoever for five apartments. They all park on the street, and it's a narrow street, and he knocked down the retaining wall to the east side of it, so he has to replace that wall anyway. Jowdy said so this parking deck is in the rear of the building, with seven parking spots. Krate, Aldridge, Jowdy, and Dufel discussed the vicinity, the number of apartments in the existing apartment building, and the cantilever there. Aldridge explained how the wetlands will be protected. Dufel said so you're going to have columns; it's going to be on grade and three columns, almost like a commercial establishment; this is quite an expense. Aldridge said there have been several car accidents out in front here. Krate asked Hearty is this a legal five-family? Hearty replied I'm assuming it's a legal five-family; I did not research it. Aldridge said it's a legal six; it's was purchased as a six-family. It's already been to Wetlands Commission, Aldridge said. Jowdy stated how getting cars off the street would be beneficial; it's a busy corner and I drive it every day. Dufel asked to go through each variance, referring to the plans provided. Aldridge & Dufel discussed the details of each petition, the retaining wall, the contours, the elevation of the deck, cantilevered out, the grading within five feet of the property line; the people next door have overfilled their lot; the need for a retaining wall; the grade is up; the size of each parking spot, the turn-around; the height of the west corner. Krate asked how many spaces per apartment should there be? Now he has none. Hearty said two spaces are required for each apartment. Krate was concerned about the whole feasibility of the project; I want to get Sean's answer, and I'd like to get more history on this building. Dufel and Hearty discussed why this has been sitting around for so long; a parking deck is a big, big project. Krate asked also to get the Fire Department's take on this, please. I want to make sure that we are not fixing one problem and creating another one, Krate said. Dufel and Krate and Hanna discussed the neighborhood. Hearty asked for some flagging at the corners. Krate said I definitely want to look at this; it's new territory at least for me. Krate asked to continue this; to go slowly and cautiously on this one; you're not going to pour concrete now. Jowdy asked is there anyone who wishes to speak for or against this application at 8:29 pm. This one is **continued**.

ELECTION OF OFFICERS: Hearty said you don't really have any by-laws. Corporation Council recommended a Chair and a Vice Chair. Krate nominated Richard Jowdy. Sibbitt said I think we should nominate Krate for Chairman. Hearty said do you accept the nomination? I want to get this over with. Jowdy stated I've been here for 35 years. Dufel asked, Mr. Jowdy, do you want the job? Mr. Krate, you're considering? Krate said I respect someone who has had this position for so long. So we have to vote. Dufel said all in favor of Mr. Jowdy, raise your hand. Show of hands raised were unanimous for Jowdy. Dufel joked I want to be treasurer. Dufel said I nominate Herb Krate as Vice-Chairman. Krate said I accept. Dufel closed the nomination. Hanna seconded the motion. Krate joked I win by default.

ACCEPTANCE OF MINUTES: 11/13/08 Meeting: Motion to accept the meeting minutes as presented by Krate. Second by Hanna. The motion carried unanimously.

ADJOURNMENT:  
Motion to adjourn by Hanna. Second by Sibbitt. The motion carried unanimously at 8:52 pm.

This is a DRAFT only, not yet formally adopted and approved by the Commission.

Richard S. Jowdy, Chairman