



**CITY OF DANBURY**  
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DANBURY, CONNECTICUT 06810

ZONING BOARD OF APPEALS  
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DRAFT MINUTES – REGULAR MEETING  
**December 10, 2009**  
COMMON COUNCIL CHAMBERS  
7:00 PM

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**ROLL CALL:** The meeting was called to order by Chairman Richard S. Jowdy at 7:03 pm. Present were Jowdy, Herb Krate, Joseph Hanna, Gary Dufel, Alt. Rodney Moore. Absent were Michael Sibbitt, Alt. Rick Roos.

Staff present were Sean P. Hearty, Zoning Enforcement Officer, Patricia Lee, Secretary. Herb Krate made a motion to hear tonight's agenda. Michael Sibbitt seconded the motion. Chairman Jowdy explained the Public Hearing procedure for the public, and asked everyone to sign in and identify themselves.

**NOTE:** THE NEXT REGULAR MEETING IS SCHEDULED FOR JANUARY 14, 2010. Distribution of **2010** meetings schedule.

**NEW BUSINESS:**

**#09-47** – New England Land Trust, LLC, 64 Lake Avenue (G15121), Sec.4.C.3., Sec.3.H.3.b., to reduce minimum lot width for a two-family residence from 75 ft. to 55.81 ft., and the minimum side yard from 15 ft. to 11.5 ft. on the east property line, and from 15 ft. to 11.5 ft. on the west property line; to reduce the minimum lot width at rear yard setback on interior lot from 50 ft. to 49.44 ft. (R-3 Zone). Chairman Jowdy introduced this petition and read the requests. Andrew Buzzi, Attorney, from 69 North Street, identified himself and signed in. I did not make enough copies. I have three letters in support from all the abutting land owners, Buzzi said. Krate read the names of the abutting neighbors; one a sister of the attorney, Deborah Buzzi, 60 Lake Avenue, and one the father of the attorney, Andrew J. Buzzi, President of the Eastern States Development Corporation. Marie Russo is not related to me, and Buzzi explained where she lives, 59 Lake Avenue, across the street. Buzzi explained who owns which buildings in the vicinity. The real estate office is still in the basement; Mutual Real Estate, from the early seventies. My aunt still handles the rental properties. Buzzi gave the history of the buildings, the Northeastern Insurance Agency. In 1993 my law practice began sharing space with the real estate office, then I bought the building, and my aunt only comes on the weekend and meets people there. I recently moved my practice to North Street, Buzzi continued. Krate asked why can't it remain a one-family? You have reasonable use of the property as a one-family. Buzzi explained that six months after it was built, they changed the zone to a multi-family zone. Now what I would like to do is discontinue the office use, making it a more conforming use, which is sufficient for a hardship for a variance. I understand economics are not a basis for a variance. Krate and Buzzi discussed the new regulation setbacks, front, side and rear; the lot itself tilts in a little bit, it's 49.44 feet, Buzzi said. It's a very small variance, making it a multi-family use, consistent with everything else on the street. Gary Dufel had a question on the new building: it's going to be the same building; no new building. So you're not proposing a new structure. Buzzi said I'll fix it up on the outside and the inside. Sean, I

have a question, Gary Dufel said. I want to make sure things are calculated right: the width calculation is matching the angle of the street; is this proper protocol? Sean Hearty explained the conversion from professional offices, even though they are measuring the lot width on an angle. Herb Krate reiterated I'm having difficulty understanding why he does not have reasonable use. Jowdy discussed the lowered density with the residential use rather than the office space. Hanna asked what about when another family moves in? Hearty gave the driveway width. Buzzi said having had my business there for almost 20 years, we had people coming in and out of that area, next to the Abbott Avenue stoplight. Jowdy discussed going to a residential use rather than going to an office use, stating this is my opinion only. Buzzi said I'm not planning on changing the outside. Herb Krate said to Buzzi Zoning changed the width requirement for a specific purpose. One-family gives you reasonable use of that property. We're not supposed to take the economics into consideration, Krate said. Buzzi said in that case it will stay what it is now, and it fits into the welfare, health and safety of the neighborhood. I think the safety would improve. I think that's an accurate statement; certainly less cars going in and out of that area, Buzzi said. Moore said to Buzzi you're suggesting it's the lesser of two evils, our decision. Buzzi said yes, and it is consistent with the plan for the City of Danbury. Buzzi said thank you at 7:18 pm. Chairman Jowdy asked is there anyone who wishes to speak for or against this application.

During the voting session, Jowdy reviewed this request to reduce minimum lot width for a two-family residence from 75 ft. to 55.81 ft., and the minimum side yard from 15 ft. to 11.5 ft. on the east property line, and from 15 ft. to 11.5 ft. on the west property line; to reduce the minimum lot width at rear yard setback on interior lot from 50 ft. to 49.44 ft. for a two family residence. Obviously that is an old real estate and law office, Jowdy said. I think that this one might have a consideration. Krate said I have a real problem with that because we have had people come to us bleeding, and we have turned them down. He has reasonable use. The minute he changes that use, he loses that use, Krate continued. He can no longer go back and use this as offices. What's going to remain in the basement? Sean Hearty replied he can't have a mixed use in this zone. Jowdy and Krate debated the issue. Sibbitt and Krate said, in his own words, he said he wants to make more money. Dufel said you're forgetting the whole neighborhood is in favor of this; they are all related to him. Krate made a motion to **deny** the request to reduce minimum lot width for a two-family residence from 75 ft. to 55.81 ft., and the minimum side yard from 15 ft. to 11.5 ft. on the east property line, and from 15 ft. to 11.5 ft. on the west property line; to reduce the minimum lot width at rear yard setback on interior lot from 50 ft. to 49.44 ft. It doesn't conform to the requirement for a two-family, and the owner now has reasonable use of the property. Joseph Hanna seconded the motion. The motion carried unanimously. Chairman Jowdy explained his reason for his positive vote.

Is your club open yet, Krate asked Hearty.

**#09-48** – Mr. & Mrs. Ruben L. Bush, 19 & 21 East Pearl Street (H15330), Sec.4.B.3., to reduce west side yard setback from 15 ft. to 12.2 ft. for residential addition (RMF-4 Zone). This item was introduced by Chairman Jowdy at 7:19 pm and he read the petition. Charles Bush signed in and identified himself at the podium; here on behalf of my parents at East Peal Street, and I would like to give you photographs of the neighboring properties in support of this petition. Bush described the medical histories of his mother and father, his mother currently being in the hospital. Now my mother has to go back and forth down to do laundry. There is a 5-foot by 5-foot section at the rear section of the house that can be extended back, filling in that corner and making the end two inches closer to that line. Gary Dufel asked Bush to clarify the plan at the dais for him, and what are you going to end up with over here? Bush went over the plan with Dufel; we will fill in that area and the number

of feet back and over. Dufel asked will it be single-story? Okay, I understand. We would not be conflicting with the current pattern within the neighborhood, Bush concluded. Chairman Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal? Krate made a motion to **approve** #09-48 to reduce the west side yard setback from 15 ft. to 12.2 ft. for a residential addition. The hardship is that his parents are aging and in poor health. This is per plan submitted. Joseph Hanna seconded the motion. The motion carried unanimously, with Moore abstaining.

**#09-49** – Edward M. & Rosa M. Walsh, 14 Pleasant Drive (I07167), Sec.4.A.3., to reduce the minimum rear yard setback from 35 ft. to 20.4 ft. for a residential addition (RA-20 Zone). Chairman Jowdy introduced this at 7:23 pm. Rosa and Edward Walsh identified themselves and signed in. In the file, there is a letter showing no opposition, Walsh said. That neighbor is not related to us, the applicant said. Ed Walsh described the layout to the Commissioners. Rosa said it's increasing the living space. It's off of Pleasant Acres. Moore said it's a great cut-through. Rose displayed the photo of the rear neighbor, and Krate asked for the dimension coming out. Dufel said you're bogarting it, Herb, referring to the plan. Jowdy explained the front setback, so it's not like you're encroaching on yourself. Krate said you are increasing the setback in one spot and reducing it in another. Jowdy reviewed this request later in the voting session. Krate made a motion to **approve** the Walsh's request to reduce the minimum rear yard setback from 35 ft. to 20.4 ft. for a residential addition. The hardship is the location of the septic, and they are trying to add some living space to a modest dwelling. Hanna seconded the motion. The motion carried unanimously.

**#09-50** – 29 Federal Road, LLC, 21 Federal Road (K11123), Sec.6.A.2.a., **USE** Variance to allow sale/rental of automobiles in the IL-40 Zone. Chairman Richard Jowdy introduced this variance application at 7:25 pm, and described the vicinity on Federal Road. Allan Morgan, representing 29 Federal Road, LLC, identified himself and said, as you can see, this property many years ago was Federal Auto Sales. You probably all know it as a deli; we just decided to discontinue the use as a deli, and we have the opportunity to have a used car tenant, which we believe is consistent with the neighborhood. Morgan listed the car dealerships and businesses in this area: United Brazil, Modzelewski's, Val's Tire and Alignment, the gentlemen's club and then Saturn. Who is going to operate the car lot, Krate asked? Jimmy's Auto Sales, from South Street, Morgan replied. Jowdy said the use of the property is hindered by the zone location you're in. Dufel asked Sean Hearty about the nonconforming use across the street. We have no record of this building ever being an auto dealership, Hearty said. Dufel asked why is this for a variance and not for a zone change? Hanna and Jowdy said if they went for a zone change, they'd have to change the whole area zone. Dufel said you know from past applications how I feel about hardships. He should go to the Zoning Commission to ask them to amend the regulations to allow car sales in the zone. Jowdy said the hardship is that the surrounding businesses are all car sales, and there is no water and sewer there. Dufel stated the hardship is that there are car sales across the street, looking at the variance application. Krate said the variance application was not prepared by an attorney. I don't know why the Zoning Commission has not addressed it; from there to White Street should all be CG-20. Dufel said I'm not comfortable granting a variance when the Zoning Department should address this. Krate said unfortunately there is no hardship on that application. Jowdy discussed the use. Morgan said we did have a pre-existing nonconforming use. So we are just going for a different nonconforming use there. When you stand on the site, all you see is cars, Morgan added. Chairman Jowdy asked are there any more questions from the board. Dufel listed the options that this board has: send it back to the Zoning Commission and get the use added to the zone; go back to the Commission and get the zone changed; or stay the

course and ask for a variance. Morgan questioned the commissioners about what may happen if the variance is turned down, and going then to Zoning for a zone change. Krate said Zoning should take this issue up. Morgan said I know I am not an attorney; I did not make up a good hardship; I just came up with an honest hardship. Krate said to Morgan you have not come through with a reasonable hardship, and just because you can't rent it to this guy, does not give you a hardship. Jowdy, Krate, and Morgan discussed possibly withdrawing this application tonight. Morgan said I will respectfully **withdraw** it. Krate concluded that gives you a lot of wiggle room; that's for an attorney to tell you.

ACCEPTANCE OF MINUTES: Herb Krate made a motion to approve the October 8th, 2009, minutes as presented. Sibbitt seconded the motion. The motion carried unanimously. Did we have a ZBA meeting in November?

Sean P. Hearty brought up the subject of Crystal Bay. While excavating for the garages, they hit a bury hole. The only way they could do it is to slide it down 22 feet; slide the building down 22 feet. The building inspector is saying it is a better building practice to just move it back; moving it from the approved variance. He recommended that the new structure not be atop the bury hole due to footing problems. Krate said I'm not sure we have the authority to approve this. Hearty said neither am I. So I would like them to go to the ZBA and for the Site Plan approval at the same time, Hearty said. Dufel asked Hearty do you think we would have had any objections to our putting the building there? Sean said our business is slow lately. What do you want me to do? Krate reiterated I don't think we have the authority. Dufel and Hearty and Krate discussed expediting a revised approval. That was an aging community and they wanted to get the cars out of the weather. Why don't we leave that in their basket? Hearty asked the commissioners do you care if they knock off two of these structures? Hearty and the commissioners discussed the options; eliminating the garage at two spots and allowing open parking at the bury hole, or move two of the garage stalls to the south; or they can wait, and come back to the Zoning Board of Appeals for the proper variance. The ZBA concluded that either option was feasible and the applicant should develop and application and submit it.

ADJOURNMENT: Motion to adjourn by Krate. Second by Rod Moore. The motion carried unanimously at 7:56 pm.

*HAPPY HOLIDAYS!!*