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ZONING BOARD OF APPEALS  
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**DRAFT MINUTES**  
**October 13, 2011**  
**COMMON COUNCIL CHAMBERS**  
**7:00 PM**

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Present were Chairman Richard S. Jowdy, Herb Krate, Michael Sibbitt, Alt. Rod Moore, Joseph Hanna.

Absent was Alt. Rick Roos. Gary Dufel has resigned as he is reassigned to work out of the United States.

Chairman Jowdy read the Legal Notice into the record calling the meeting to order at 7:05 pm.

Krate made motion to hear tonight's list of petitions. Sibbitt seconded the motion. Motion carried unanimously.

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

**CONTINUATION OF PUBLIC HEARING:**

**# 11-30** – Neil Marcus, Esq. (Batista), 395-397 Main St. (H12217, H12218), Sec.5.A.3., to reduce required lot size from 20,000 sq.ft. total to 17,452 sq.ft.; to reduce min. front yard setback on Main St. from 25 ft. to 4.35 ft.; to reduce min. front yard setback on Patch St. from 25 ft. to 0.75 ft.; Sec.5.H.2., to allow two parking spaces in a front yard on Patch St.; Sec.5.H.1.b., to eliminate requirement for a 20 ft. deep continuous planting strip along Patch St.; to reduce requirement for a continuous planting strip along Main Street from 20 ft. deep to 5 ft. deep; Sec.8.B.1.a.(1).(a)., to reduce requirement for 100-foot setback to 81 ft. from intersection of Patch Street and Main Street for new driveway (CG-20 Zone). Jowdy read the legal notice into the record. Neil Marcus, Attorney, signed in. Have you all heard this? You are all familiar with the site. It's two separate lots being combined into one. Marcus reviewed the variances being requested to the commissioners, one through seven, as shown on the map. Those are the variances. The proposal is to take down the two existing structures that are there. Marcus described the entrances and exits, the L-shape of the building. I have not heard any comment in opposition, Marcus continued. The day after the first hearing we got a resounding favorable opinion in The News Times. Dick, you remember what the north end of Danbury looked like, Marcus said to Jowdy. We'll let you know the board's decision, Jowdy said. Krate made a motion to close this public hearing. Hanna seconded the motion, and the motion carried unanimously. In the voting session later, Krate made a motion to **approve** the requests: Sec.5.A.3., to reduce required lot size from 20,000 sq.ft. total to 17,452 sq.ft.; to reduce min. front yard setback on Main St. from 25 ft. to 4.35 ft.; to reduce min. front yard setback on Patch St. from 25 ft. to 0.75 ft.; Sec.5.H.2., to allow two parking spaces in a front yard on Patch St.; Sec.5.H.1.b., to eliminate requirement for a 20 ft. deep continuous planting strip along Patch St.; to reduce requirement for a continuous planting strip along Main Street from 20 ft. deep to 5 ft. deep;

Sec.8.B.1.a.(1).(a)., to reduce requirement for 100-foot setback to 81 ft. from intersection of Patch Street and Main Street for new driveway (CG-20 Zone), per plan submitted. This is an improvement to the health, safety and welfare of the area. Moore and Hanna seconded the motion. Motion carried unanimously at 7:40 pm.

**NEW BUSINESS:**

**# 11-31** – Brian R. Smith, Agent, 108 Newtown Rd. (M10029), Sec.5.H.1.b., to reduce width of continuous perimeter planting strip from 20 feet at certain points; Sec.5.H.2., to allow parking within a portion of Pocono Lane front yard; Sec.3.E.9.b., to allow automotive service equipment within 14.1 feet of Pocono lot line (CG-20 Zone). We're going to move you to the end of the meeting, if that's all right. Attorney Smith returned to the microphone at 7:16 pm. Smith identified himself representing Four Star Realty, LLC, here seeking three variances fronting on Newtown Road. Smith reiterated the three requests. This property historically has been a service station: in 1983 it was allowed for gas, service and sales. The hardship is the three front yards. It's commercially zoned. I would like to ask the engineer to explain. Krate asked why have you not consolidated these two lots? Gary Michael, Jr., Attorney At Law, signed in. He said I am a member of Four Star Realty, LLC; the parcel before you. The condition of the previous approval was to merge the two parcels, and to be honest, with the economy, with the market, we did not have a user in place for a fast food client, Michael said. We have had very preliminary discussions simply to keep the two parcels as they are: two parcels. Gary Michael, Sr., signed in at 7:20 pm, saying I am a principal involved in Four Star Realty, LLC. We have a definite tenant for this site now; we do not have a tenant for this site. Gary Michael, Sr., explained trying to limit the amount of traffic going in and out. For all intents and purposes, it's going to be used as one site, but two parcels. Krate asked about the tenants, the two parcels; just gas pumping for now. Smith explained that we are adjusting the lot lines: "Site Photos I". Jowdy said so it's almost one user on two parcels. Timothy Onderko, PE, from Langan Engineering in New Haven, signed in. I think you are familiar with the site. It used to be a former residence on Lot 28 which has been demolished. Onderko discussed, regarding Lot 29, the front lot, the existing three curb cuts which he described. The existing building is the car wash building, and is nonconforming. There's also an encroachment along Newtown Road of about two feet, that gradually gets better, but never becomes conforming. We'll be taking down both structures. He discussed the non-conformities. A more modest and reasonable access to the site (will be achieved) with the improvements proposed; the improvements on Pocono and Mountain View, and the air pump. Krate asked where are entrances and exits? Onderko explained the traffic circulation proposed, the rumble strip, and no driveway on Newtown Road. You're going to bring it off the right-of-way, Krate said. Attorney Smith took the mic again saying the proposals are less nonconforming than what exists. Krate said you have to go to the State too. Smith replied, yes, and we have to go to the City Planning Department as well. It's been used as a gas station for over 20 years. Krate remarked anything is better than what's there. Are there any other questions? Krate made a motion to close this Public Hearing. Hanna seconded the motion. Motion carried unanimously at 7:30 pm. In voting session, Jowdy re-read the requests. Krate made a motion to **approve** Sec.5.H.1.b., to reduce width of continuous perimeter planting strip from 20 feet at certain points; Sec.5.H.2., to allow parking within a portion of Pocono Lane front yard; Sec.3.E.9.b., to allow automotive service equipment within 14.1 feet of Pocono lot line in the CG-20 Zone, per plan submitted. It reduces the amount of nonconforming issues on this parcel. Hanna seconded the motion. Motion carried unanimously.

**# 11-32** - Brian R. Smith, Agent, 5 Mountainview Road (M10028), Sec.5.H.1.b., to reduce width of continuous perimeter planting strip from 20 ft.; Sec.5.H.2., to allow parking within

a portion of Mountainview Terrace front yard setback; Sec.5.H.1.c., to reduce required width of residential buffer landscape strip from 20 ft. to 18.8 ft. for retail store (CG-20 Zone). Jowdy said this will be continued to November to be re-advertised. Krate said we are going to hear it at 7:30 pm, which Sean P. Hearty confirmed. Jowdy read 11-32 requests into the record for a retail store. Brian Smith, agent and attorney, again identified himself for Four Star Realty, LLC. I'll ask that the relevant portions of the prior hearing be incorporated into this variance request. Timothy Onderko, PE, Senior Project Manager, can explain what is being proposed for this site as well. It's a very similar situation to lot 29; we again have requirements for planting strips on all sides. How much less, Krate asked? 20 is required, and 7.5 feet is being provided at a minimum, Onderko said. The lot line is being revised to create a conforming lot; the proposed building will be fully conforming. The last piece is a reduction in the width of the residential buffer landscape strip between the residential zone. We have the right-of-way width. There's actually a new street there. Krate and Onderko discussed the site. We're providing 18.8 feet. The only objection we got before was about noise from the people behind the site. Gary Michael, Jr., reassured the commissioners that nothing noisy will go in there; we try to be good neighbors. Sibbitt said I have a question: I only count twenty parking spaces, but the map says 21. Yes, Onderko said; you are correct. The map is incorrect. I would argue that it is a typo, Onderko said. That should be a ten. The table "Zoning Chart" is incorrect. The map is correct. You will submit a new map, if we approve this. Krate made a motion to close the Public Hearing. Hanna seconded the motion, and the motion carried unanimously. Jowdy read the requests later in the voting session. Open for discussion or vote, Jowdy said. Make sure you put in 7.5 feet on the strip. Hanna made a motion to **approve** Sec.5.H.1.b., to reduce width of continuous perimeter planting strip from 20 ft.; Sec.5.H.2., to allow parking within a portion of Mountainview Terrace front yard setback; Sec.5.H.1.c., to reduce required width of residential buffer landscape strip from 20 ft. to 18.8 feet for a retail store in the CG-20 Zone, per plan submitted. There will be a requirement that applicant provide a new map, due to the typo error on the plan, as a **stipulation**. Krate seconded the motion. Motion carried unanimously at 7:44 pm.

**# 11-33** – NEMCO LTD. Partnership, 7 Federal Rd. (K12161), Sec.5.A.3., to reduce front yard setback from 25 ft. to 6 ft.; to reduce rear yard setback from 30 ft. to 5 ft. for new propane tank (CG-20, IL-40 Zones). Jowdy introduced this variance application at 7:14 pm, the second item of business. Norbert Mitchell, III, and Matt Mitchell took the mic and signed in and identified themselves. We're seeking the front and rear yard variances for a new tank. It ends up in the same spot. But it's pre-existing, nonconforming. Jowdy said we know the site. Rod Moore and Matt Mitchell discussed the tank and the fire suppression. Hearty said the Fire Marshal said the location is basically okay with him, Jimmy Johnson. It could be a caveat in the approval. Motion to close the Public Hearing by Krate. Sibbitt seconded the motion. Motion carried unanimously. Jowdy re-read this request later in the voting session. Moore made a motion to **approve** to reduce front yard setback from 25 ft. to 6 ft.; to reduce rear yard setback from 30 ft. to 5 ft. for new propane tank in the CG-20 and IL-40 Zones. Safety will be vastly improved; it's pretty much in the same location; pending Fire Marshal final approval. Hanna seconded the motion. Motion carried unanimously at 7:41 pm.

**ACCEPTANCE OF MINUTES:** August 25, 2011 (The September meetings were cancelled.) Motion to accept minutes as presented by Krate. Second by Hanna. Motion carried unanimously.

**ADJOURNMENT:** Motion to adjourn by Krate. Second by Hanna. Motion carried unanimously at 7:46 pm.