



CITY OF DANBURY
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ZONING BOARD OF APPEALS
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DRAFT MINUTES
October 11, 2012
COMMON COUNCIL CHAMBERS
7:00 PM

Chairman Jowdy called the meeting to order at 7:05 pm. Jowdy said we have a four-man board. Present were Chairman Richard S. Jowdy, Michael Sibbitt, Rod Moore, Joseph Hanna. Absent were Herbert Krate, Alt. Rick Roos. Moore made a motion to hear the agenda as listed. Hanna seconded the motion. Jowdy reiterated the right to withdraw to postpone an application until we have a five-person board.

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

CONTINUATION OF PUBLIC HEARINGS:

#12-33 – REVISED APPLICATION: Peter DeLucia, 59 West Wooster St. & 1-3 Division St. (H15345 & H15346), Secs.5.E.3., 5.H.2. & 8.A.2.c.(4), reduce minimum side yard from 20 ft. to 1.6 ft. for roof overhang; and minimum front yard on West Wooster St from 20 ft. to 12 ft. to allow off-street parking in required front yard for one parking space, and to reduce bottom edge of excavation from 5 ft. to 1 ft. to property line for proposed parking lot. (RMF-4 & CN-5 Zones) Chairman Jowdy introduced this continuance with revisions.

Attorney Peter Buzaid said I would like to continue for a five-man board. Hanna made a motion to close this discussion. Sibbitt seconded the motion. Motion carried unanimously.

Continued, Hearty said, in the voting session.

12-34 – Gregg & Barbara Seabury, 63 Wildman Street (J14246), Sec. 4.B.3., to reduce minimum lot frontage from 75 ft. to 69 ft.; to reduce side yard setback from 15 ft. to 12 ft. for two-family dwelling (RMF-4 Zone). Chairman Jowdy introduced this continuance and reiterated that there is only a four-man board. Gregg Seabury said I am here, and he signed in. Sean Hearty said the board requested I look at this; there is no property available on either side. Seabury said that's where I was about to start. Seabury gave some history, and you commissioners recommended I sit down with Mr. Hearty, and we found there really was not anything I could do, and Seabury explained why. That is in essence my hardship. These other buildings grew up afterwards. All I'm asking is for six feet. The other part of the hardship is the pre-existing location of the house, so I'm asking for a variance on the front and on the side as well, Seabury continued. I come to appeal to your judgment. Moore asked the house is currently a single-family? Would there be any other variances required later to your knowledge? Seabury replied no. The intent is to try to build something for my daughter & son-in-law when he comes home from the service. He was serving in Afghanistan. I believe he has just re-enlisted. Jowdy said it's been there from 18' something. Seabury said I'm up for discussion on the back. Hanna asked the house is nonconforming now, right? Seabury said there's plenty of room in the back, and in the front of the house. Hanna asked you will have parking in the back? Yes, Seabury said. There are multiple multi-family houses on that street, and that's light industrial across the

street by the railroad track. Jowdy said we did not want to make it a dense area, and he and Seabury discussed the proposal. It is a big lot, Jowdy said. Mr. Hearty had nothing to add. Jowdy asked is there anyone who wishes to speak for or in opposition to this variance request? Hanna made a motion to close item #12-34. Second by Sibbitt. Motion carried unanimously at 7:17 pm. In the voting session later, Jowdy said the lot is the largest lot on the street; I think we should take everything into consideration. Moore discussed the zone, the character of the neighborhood; he is not proposing anything out of character with the neighborhood. Moore made a motion to **approve**. It is within the neighborhood's character, on one of the largest lots in the area; this is per plan submitted. Hanna seconded the motion. Motion carried unanimously at 7:52 pm.

12-35 – Holiday Inn, Agent: Permit Me Please, 80 Newtown Road (L11029), Sec.8.E.5.a., to reduce minimum allowed distance from front lot line for pylon sign from 10 ft. to 1.5 ft. (CG-20 Zone). Chairman Jowdy introduced this continuance. Lee said Tammy's not here yet. We'll let that go, Jowdy said. (The item was moved to the end of the agenda.) Zinick said I didn't need the rabbit's foot. Jowdy told her we only have a four man board. Tammy Zinick said I'm here. Do you want me to refresh the board? Zinick gave the history of the old sign, the replacement sign, the easement. When they put up the new sign, we are 2.6 feet into the setback area. The new sign is a little bit smaller than the old sign, and she described the dimensions. We are now down to 10 feet, 9 inches; it is more modern; they've made a lot of improvements over there. One of the gentlemen last meeting asked about what if there was a highway expansion, Zinick said. Jim Lapan has told me that what they have taken is enough. Zinick distributed Aaron Steeves' letter from the Bureau of Highway Operations, State of Connecticut Dept. of Transportation. If they were to have to widen the road, Route 6, they've used what right-of-way they have, Zinick said. Our ten-foot easement line has been in place I think since 1973. If they need to widen in the future, they have to purchase that property from the Holiday Inn. Like they did in New Milford, Zinick added. They had no objection, Jowdy asked. Oh, no, Zinick replied. I believe that the new sign is in the same sight line; everything is pretty much in a straight line. Sibbitt said I have a question: are these pictures representing what is actually there now? When I drive by, I see it is closer to the road, Sibbitt said. Zinick said I just took this picture; it is close to the parking lot. Sibbitt and Zinick discussed the scale, the feet from the parking lot. On the picture it shows that it is right on top of the parking lot, Sibbitt said. The picture and the map don't match. If you were to place the base closer to the parking lot; I don't really have an answer for you on that, Zinick said to Sibbitt. Jowdy, Moore, Hearty and Sibbitt discussed the map versus the photograph. Hearty said let's just look at the map and not the picture. Till these two match, Zinick said, you will not approve it, you are saying, she said to Sibbitt. Hanna and Sibbitt discussed the picture; Moore said any approval will be per plan submitted. Zinick said this is the old sign location. This is pushed up further. Jowdy said that looks like the old sign. The new sign, Jowdy said, is farther back. Zinick, Sibbitt and Hearty discussed the old sign photographs versus the new sign location. Sibbitt asked why is this one circled? Zinick said this is the one that has been up for a year. That's why I was brought in. But it is still pretty much in the same location, the base. Sibbitt said the new sign has not been put up yet. Zinick said it might be having a new face. They don't want to move the pylon. Sibbitt said, Sean, you need to go out and check that. Zinick joked about coming back in two weeks. Zinick said let me get that clarification, and I apologize for this. I'll give you the State letter. Zinick said I wish to continue. Jowdy and the commissioners discussed the intersection, Eagle Road. They pushed it up the corridor for the new pylon sign, Zinick said. Sibbitt said I know that they did not follow the map at all; that is not located where the map shows it is. Jowdy said if it's there, you might have a point. If it is not there, Hanna said you took the picture from way far back. Zinick said I would like a **continuance**. Sibbitt made a motion to table.

Moore seconded the motion. Motion carried unanimously.

NEW BUSINESS:

12-36 – Stephen Surace, Powell Street (I05154), Sec.4.A.3., to reduce both side yards from 15 ft. to 9.5 ft.; to reduce rear yard setback from 35 ft. to 21.3 ft.; Sec.3.I.1.b., to allowed increased projection into rear yard from 10 feet to 24 feet for proposed single-family residence (RA-20 Zone). Chairman Jowdy introduced this new business at 7:19 pm, and Thomas Beecher, Attorney, signed in, stating I am representing the applicant. With me tonight is Mike Mazzucco, Beecher said, and we will go ahead with the four-man board, Beecher added. Beecher distributed a hand-out from Vision Appraisal. Mr. Surace could not be here tonight because his son is getting married out of State. The lot presently has a nonconforming home, which will be replaced with a new home with a code-compliant septic system, with improved setbacks: 9-1/2 feet for the new home; 21.3 feet for the new home. If you look at the photo you can see how close the present home is to the western boundary, Beecher. The star shows the Surace property. The home is not really over the line. You can't always believe what Appraisal says, Beecher said. What we are really doing is twisting the home around 45 degrees, and taking it away from the west boundary, and taking it away from the rear boundary. It is a modest proposal. He is not asking for the moon, here. We are not asking for coverage, Beecher said. Michael Mazzucco, PE, identified himself, stating the small lot is located on the Lake; you can see the existing dwelling and what we are proposing. We did soil testing. We were able to get a code-compliant septic system. It is served by a community water system. We pushed the house from Powell Street, switching the driveway over, and keeping the house generally in the same location, Mazzucco said. The current septic is how old, Jowdy asked? Most of those old homes have cess pools, Jowdy said. As Tom said, it's a modest house, Mazzucco said. Jowdy said you are saying that the safety, health and welfare of the area are improved. Beecher and Mazzucco agreed. Mazzucco said we are improving the nonconformity. Any questions from the board, Jowdy asked? Beecher listed the hardships; the lot would be more compliant now, with a huge back yard below the 440 line, so you have an appearance of a large lot. A deck can protrude 10 feet, but that proposed deck is more compliant than they are now. The hand-out that I gave you shows that nine other variances have been granted in that neighborhood, so this variance is actually beneficial and totally consistent with the neighborhood. Mr. Dennehy at 4 Powell Street has sent a message that he is in favor of the renovation, and Mr. Matt Blasco at 105 Powell Street has sent an e-mail in favor too. I am submitting copies of the actual variances that go along with the map. The project will be more conforming. Jowdy asked is there anyone who wishes to speak for or in opposition to this variance request? We will inform you of our decision, Jowdy said. Motion to close this Public Hearing by Moore. Hanna seconded the motion. Motion carried unanimously. In the voting session later, Jowdy summarized the lot; the improvement to the old septic system. Moore said the proposed house will be more zoning compliant with setbacks. Hanna made a motion to **approve** to reduce both side yards from 15 ft. to 9.5 ft.; to reduce rear yard setback from 35 ft. to 21.3 ft.; to allow increased projection into rear yard from 10 feet to 24 feet for a proposed single-family residence, per plan submitted. The hardship is this is an improvement to the setback, the septic system, and a major improvement to the neighborhood. Sibbitt seconded the motion. Motion carried unanimously.

12-37 – John E. Baretzky, 41 Hillandale Road (F07023), Sec.4.A.3., to reduce front yard setback from 40 ft. to 24 ft.; to reduce side yard setback from 25 ft. to 11 ft. for open deck (RA-40 Zone). Jowdy introduced this item at 7:22 pm, and Mr. Baretzky said I am representing myself, and signed in. I am requesting a variance to rebuild an open deck to

replace a deck that was required be torn down. It is also on a corner; it has two front yards. So I am requesting a variance so I can put on the deck larger than the five feet permitted. I am asking for a 12-foot by 24-foot deck on the back of the house. Tammy Zinick for #12-35 arrived at 7:30 pm.) Jowdy asked is there anyone who wishes to speak for or in opposition to this variance request? We'll inform you of our decision. Motion to close the 12-37 Public Hearing by Sibbitt. Hanna seconded the motion. Motion carried unanimously. In the voting session later, Jowdy said this area has been before us many, many times, and he summarized the petitions. Moore made a motion to **approve** to reduce front yard setback from 40 ft. to 24 ft.; to reduce side yard setback from 25 ft. to 11 ft. for an open deck. The hardship is the current lot size; it was up-zoned. It will have no effect on the welfare, health and safety of the community or the character of the neighborhood, per plan submitted, Moore said. Second by Hanna. Motion carried unanimously at 7:55 pm.

ACCEPTANCE OF MINUTES: Motion to accept the minutes for the 9/13/12 meeting as presented by Hanna. Second by Sibbitt. Motion carried unanimously.

ADJOURNMENT: Motion to adjourn by Sibbitt. Second by Moore. Motion carried unanimously at 7:59 pm.

NOTE: THE NEXT REGULAR ZBA MEETING IS SCHEDULED FOR **October 25, 2012**, Room **3C**.