



**CITY OF DANBURY**  
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ZONING BOARD OF APPEALS  
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DRAFT MINUTES – REGULAR MEETING  
**October 10, 2013**  
City Council Chambers  
7 pm

ROLL CALL: Acting Chairman Herb Krate called the meeting to order at 7:00 pm. Present were Krate, Michael Sibbitt, Joseph Hanna, Alt. Anthony Rebeiro, Absent were Chairman Richard S. Jowdy, Rodney S. Moore, Alt. Vincent DiGilio, Alt. Rick Roos.

Staff present were Sean P. Hearty, Zoning Enforcement Officer, Secretary Patricia Lee. Krate opened the meeting. Joe Hanna made a motion to hear tonight's applications. Sibbitt seconded the motion. Motion carried unanimously with a four man board. Krate explained that a four man board requires a unanimous vote to approve. No one indicated a desire to withdraw. Krate explained the procedure for public hearing to the audience.

CONTINUED PUBLIC HEARINGS: NA

NEW BUSINESS:

**# 13-37** – Patrick T. Murphy, 6 Vista Street (106197), Sec.4.A.3., to reduce front yard setback from 30 ft. to 14 ft. for proposed new dwelling (RA-20 Zone). Herb Krate introduced this petition at 7:02 pm, and Mr. Murphy came forward, identified himself and signed in. Tell us what you propose. We are looking to build new 4-bedroom dwelling on that lot. Krate and Murphy discussed the septic location, and Murphy handed his plan by Ralph J. Gallagher, Jr., to the commission. We already knocked down the existing home, Murphy said in answer to Joe Hanna. Krate asked is there anyone who wishes to speak for or in opposition to this variance request? Motion to close the public hearing by Sibbitt. Second by Hanna. Motion carried unanimously. During the voting session, Krate reviewed the issue, saying it is in keeping with that neighborhood. Joe Hanna made a motion to **approve** to reduce the front yard setback from 30 ft. to 14 ft. for proposed new dwelling, per plan submitted. This will be less nonconforming for the new structure. Second by Rebeiro. Motion carried unanimously.

**# 13-38** – Jose C. Oliveira, 118 East Pembroke Rd. (G07091), Sec.4.A.3., to reduce minimum side yard setback from 25 ft. to 21.0 ft. for new single-family residence (RA-40 Zone.) Krate introduced this petition and Melvin Euven took the microphone and signed in. He identified himself. I'm designing the building, Euven said. The

goal here is to design a building that is in conformity with the neighborhood. Herb Krate asked what is your hardship? To have it face the street, Euven said; every building faces the street, so to stay in keeping with the neighborhood character. The septic plan was done by Michael Mazzucco, PE. Paul Hiro generated the A-2 map. Hanna asked this is all new construction? Euven said yes. Hearty provided a scale to Krate. This lot gets a little wider toward the rear? According to this, you have almost fifty feet. Herb Krate said you're talking about four feet. He needs the space, and he want to face the building, for what he's trying to build, Euven said. Hanna said he could push the house 4 or 5 feet back; if you go deeper, you could pick up more feet. Herb Krate said you could pick up ten feet. Krate said you haven't given me a real hardship. If it's a self-imposed hardship, we can't grant it. You have a set of guidelines; granting a hardship when there's no need to do that, you could make it so it would fit within the setback regulations. You're not that far off now, Herb Krate continued. Krate described shifting it. You can't have a self-imposed hardship. You are choosing to build this house in such a fashion that you need relief, Krate said. Euven described the topography when it rains for a couple of days; the front is much higher; 6 feet or more. Hanna asked about the septic. Audience members asked the commissioners to speak into the microphones. Hanna and Krate said you could make this work, and you don't need a variance. Krate said part of the problem is you're coming in, and you don't have enough of a background for zoning to present this. Krate explained what might create a real hardship. Hearty said the board is looking for you to slide it back a little more. Would you like to look at that? Euven asked to continue this. This is continued to the next meeting, Krate announced. Three members of the audience came forward and asked if they could speak. Krate let them come up and sign in: Lois Gillespie, Francine Quinn, Marjorie Cutler. Ask your questions, Krate said. We are basically opposed to a house being built on the lot. Krate replied he has a right to put a house there. He does not have the right to put a house there that does not meet the setbacks, Krate added. The ladies discussed the issues of concern: any water coming down, the high water table, the 50 year old septic systems. Hearty said the running stormwater; there are running springs in the land up there. Hearty discussed the new code preventing the increase of runoff coming off, the discharge. Hearty and Krate discussed an engineered system would have to be created so that would dissipate the runoff. Cutler asked which side of the house would that be on? Hearty and Krate discussed how this could be engineered. If our wells are in the back, the women said. Hanna said it has to be so many feet from the septic. Eight feet of sand filters it out, Krate said. We have hard pan, not sand, the ladies said. In order to get the septic permit, they have to dig holes and see how long the water will take. You could speak to Peter Dunn (City Sanitarian). Krate said if he shrinks it down four feet, he does not have to be here. The three ladies said we know Peter (Dunn) very well. Thank you at 7:23 pm. Krate said you are **continued**.

**# 13-39** – Mark & Melani Saltzman, 22 Cannon Dr. (G07043), Sec.4.A.3., to reduce minimum required front yard setback from 40 ft. to 32.3 feet for residential addition (RA-40 Zone). Krate introduced this variance application at 7:25 pm after introducing 13-40 in error. Mark Saltzman took the mic saying my wife is outside. The kids are all right, Krate said. Saltzman said the application tonight is to reduce the front yard setback. It's a pre-existing nonconforming lot, and I also have a septic plan, if you would like to see it. The septic is in the back, Krate said. Saltzman said it's a one story addition on a two story house, a playroom and a study. I have no questions, Krate said. It's reasonable. Is there anyone who wishes to speak for or in opposition to this proposal? We will inform you of our decision. Motion to close the public hearing by Joe Hanna. Second by Sibbitt.

Motion carried unanimously. In the voting session, Krate said this is a pre-existing lot. Rebeiro made a motion to **approve 13-39** to reduce the minimum required front yard setback from 40 ft. to 32.3 feet for a residential addition. Joe Hanna seconded the motion. Motion carried unanimously at 7:58 pm. So approved, Krate concluded.

**#13 -40** – New England Land Trust, LLC, 64 Lake Ave. (G15121), Sec.4.C.3., to reduce minimum lot width for a 3-family residence from 100 ft. to 55.81 ft.; to reduce minimum side yard setback from 15 ft. to 11.5 ft. on east property line and from 15 ft. to 11.5 ft. on west property line; Sec.3.H.3.b., to reduce minimum lot width at rear yard setback on an interior lot from 50 ft. to 49.44 ft. for residential conversion (R-3 Zone). Krate introduced this item as Attorney Andrew J. Buzzi, Jr., set up his projector. Krate restated the petition. Buzzi and John discussed. I am the owner of the property with my wife, Buzzi said. Krate said I'm only going to be half on camera now. At 7:30 pm, Buzzi began his presentation and handed out his back-ups, he said, as sometimes the electronics don't work. This has been a commercial building since my father and grandfather built it, about 1970. My father was a real estate agent, who later went in to the insurance business. Krate asked was this before us before? Hanna said yes. A few years ago, Buzzi said. I started my practice in the basement there until about 2009, and then I moved over to North Street. The tenants moved out this summer. I would like to bring this building into the same type of use as the surrounding area. The zoning was changed. It's an R-3 residential zone now. It's got City water, but in the back it's got a septic, Buzzi continued. As it is not on City septic, I would like to attach it to the City septic system, and convert the pre-existing nonconforming use to a residence. I have two letters from the neighbors; the landowner to the left is my sister. My father owns this piece and this piece over here. Buzzi described what he himself owns. It's a large 3-family building. It's a legal condominium. I rent out all three units. Buzzi described the surrounding lot uses. We are asking for reduction in the lot size; it's larger than most of the existing three-family lots around here. There were all existing, except for this one. These are older houses. I need the variance to put three families there, Buzzi said. Since then, the regulations have changed. Hanna said you have two different things. Buzzi said I have three things. It came before you before and it was denied, Buzzi and Hearty and Krate agreed. What changes, if we denied it then? After a year, he can come back to you, Hearty said. Buzzi said actually it's been three years. Buzzi said the differences between the two and three family requirements are minor. Hearty referred to his zoning regulation book and shared it with the commissioners. Krate said did they learn you in law school what you need to get a hardship? Krate said we are supposed to grant only the minimum, and you have jumped over a one family and a two family. There is a reason why that regulation was put in: the density in Danbury was getting too dense: every service that was supplied; the fire department, the impact on emergency services is increased when density increases. We can grant a variance, but we are supposed to grant you the minimum variance, Krate explained. I understand where we are going with this; it's consistent with the comprehensive plan. I am not proposing to overcrowd this, Buzzi said. This is a one or two person unit, Buzzi said. Krate challenged the number of people living in the units in that neighborhood. Where's the third living quarters? In the lower level, Hearty said. They are very small units, Buzzi said; efficiency apartments. Krate said why can't you live with reasonable use of your property as a two-family. Buzzi said I am not using an economic hardship. I am being consistent with the area. Krate and Buzzi discussed two versus three family as a reasonable use. Once we grant that, Krate said, we no longer control how many people are going to be in there. Krate described what he has seen when

he goes out in the field. Buzzi asked the commissioners to show them some pictures from Pleasant Street, 53 Pleasant Street; the first house that my father bought in Danbury. I love Pleasant Street; this is 170 year old house. It was old and aging. I took it apart and tried to preserve everything that was great about that house, so I could rebuild it and keep the character of the neighborhood and be safe. He showed the Pleasant Street second and third and first floor apartments; the staircase; the new electric service; this is what the house looks like today. We have a legacy here; I put in a nice safe building here. (Tape flipped to side B). Krate and Sibbitt discussed the back. Buzzi said I used Paul Fagan; he is a great guy and has been working for my Dad forever. Krate said 49.44 inches is on the map. Why can't you do it for two families, Krate asked. Hanna said it would be cheaper for you too. Buzzi explained putting a two bedroom in there. Hearty said three efficiencies. They are three studio apartments; no bedrooms. Walk in closets, but no bed, Hanna said. Buzzi described the top floor; the only wall here is for the bathroom. I actually put the furniture in. That's your perception, Krate said. There will be less people here under this plan, that's why I proposed it this way, Buzzi continued. Hearty discussed the definition for "efficiency" apartments. Hearty read the efficiency definition, and advised the board at 7:56 pm: *A dwelling unit that has only one combined living, dining and sleeping room with a minimum floor area of three hundred (300) square feet, and which may also contain additional rooms with kitchen and bathroom facilities.* Buzzi said it increases the safety on that corner. It's right on top of the hill there. I have plenty of parking in the back, Buzzi continued. For the record, we do have two letters in favor of this; both are family. Hearty said they are abutters. Any questions, Krate asked? Motion to close the public hearing by Sibbitt. Hanna seconded the motion. Motion carried unanimously at 7:55 pm. Is there anyone who wishes to speak for or in opposition to this proposal, Krate asked. Later in the voting session, Krate said you heard all the application and we are open for discussion and / or a motion. Joe Hanna made a motion to **approve** three efficiency apartments: to reduce minimum lot width for a 3-family residence from 100 ft. to 55.81 ft.; to reduce minimum side yard setback from 15 ft. to 11.5 ft. on east property line and from 15 ft. to 11.5 ft. on west property line; to reduce the minimum lot width at the rear yard setback on an interior lot from 50 ft. to 49.44 ft. for residential conversion in the R-3 Zone, per plan submitted. The **stipulation** is that the three apartments are efficiencies. Second by Sibbitt. Krate asked Hearty about the measurement in the back; it's not that wide. Is it protocol to follow the same angle that the road is on? Krate said we may be approving something that is not right. Hearty looked at the plan. Sibbitt said that's what I asked him earlier. Buzzi said this is Mr. Fagan. Krate said I've never seen that before. Hearty said that is where the point starts. Krate said that can't be right then. Hearty said Mr. Fagan is correct; it's measured from the front street line. Motion carried unanimously by four at 8:03 pm.

ACCEPTANCE OF MINUTES: September 26, 2013. These meeting minutes could not be approved with this four-person board this evening.

ADJOURNMENT:

Motion to adjourn by Sibbitt. Second by Hanna. Motion carried unanimously at 8:04 pm.

THE NEXT REGULAR MEETING IS SCHEDULED FOR OCTOBER 24, 2013.