



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

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

MINUTES  
**March 8, 2007**  
COMMON COUNCIL CHAMBERS  
**7:00 PM**

The Regular Meeting of the 3/8/07 Zoning Board of Appeals was called to order at 7:05 pm by Chairman Jowdy.

Members Present: Chairman Richard Jowdy, Herbert Krate, Michael Sibbitt, Joseph Hanna, Alt. Rodney Moore, Alt. Jack Villodas

Members Absent: Gary Dufel, Alt. Rick Roos (appeared, but obtained quorum without him).

Staff Present: Sean P. Hearty, Zoning Enforcement Officer, Patricia Lee, Secretary

NOTE: THE NEXT REGULAR MEETING IS SCHEDULED FOR March 22, 2007, 7 pm. Chairman Jowdy explained the procedure for Public Hearing for the audience, applicants, and those in opposition. Jowdy asked all speakers to please sign in.

NEW BUSINESS:

**#07-12** – James Bodner, 10 Mallory Street (H13121), Sec.4.C.3., to reduce required minimum lot width from 75 ft. to 74 ft.; to reduce required side yard setback from 15 ft. to 11.5 ft. to legalize 2-family residence (R-3 Zone). Chairman Jowdy introduced the Bodner application at 7:06 pm. Jim Bodner identified himself at the mic and signed in. Bodner said it has been a two family for probably 50 years. We need 74 feet in front. On the side there's an existing driveway that's been there forever. Krate asked when was the house built. I'm confused, Krate said; all this is existing. Bodner said it has a stone foundation; it was built that long ago. It was built as a two-family, and the Halpin's then lived there as a one-family, but it's always had a kitchen downstairs and a kitchen upstairs. I want to legalize it, Bodner continued. The Building Department told me it's not a legal two-family. Moore, Jowdy, Bodner and Krate discussed the history of the home, varying the sideline, pre-existing, nonconforming. Krate asked why would he have to come in now for the side yard? Sean Hearty explained that our regulations changed, so he's coming in now to legalize it to today's regulations. Krate asked how long have you owned house? Bodner replied about a year. Jowdy asked if there are any members of the audience who wish to speak for or in opposition to this request? There were none. During the voting session at 8:24 pm, Jowdy said the house was always there. It is

an RH-3 zone. Moore said to Jowdy, I want state the since there are 6 members here, you have to say who will not vote. Jowdy said Rod's not voting on 07-13, and Jack is not voting on 07-12. Jowdy asked are there any questions. Krate said it's always been there. A motion to **approve** was made by Krate. I'd rather make it legal than not legal; Krate read the variance request. It's a pre-existing house originally. There's no change in the actual building, and it has two kitchens. This will be per plans submitted, Krate continued, and will not detrimentally affect the welfare, health and safety of the neighborhood. Hanna seconded the motion. The motion carried unanimously with four aye votes, and Villodas abstaining.

**#07-13** – Heather Nelson, 11 Elizabeth Road (J09078), Sec.4.A.3., to reduce rear yard setback from 35 ft. to 22.8 ft. for attached garage; to reduce rear yard setback from 35 ft. to 31.7 ft. for residence expansion; to reduce min. front yard setback from 30 ft. to 25 ft. for covered porch (RA-20 Zone). Jowdy introduced this request at 7:11 pm, as Ralph J. Gallagher, Jr., PE, signed in at the microphone. Gallagher identified himself, saying he represents Heather Nelson, whose application is before you this evening. The plans show an existing dwelling, very tight to the side. There is a one-car garage that's kind of falling down. Gallagher explained what they want to do, including a two-car garage, and why the variances are requested. Gallagher summarized, so again it's an existing house; they want to cantilever out the back, and make a two-car garage, and add the front porch. The half acre lot is a long triangular lot, so the setbacks almost converge on each other. There's a three bedroom septic in there. They will re-do the upper floor, and they want to have a 26 foot second floor, the garage and the porch, Gallagher concluded. Jowdy asked if there were any questions from the Commissioners. Jowdy said the configuration of the lot itself causes the hardship. Gallagher said we have letters from the three neighbors in favor of this request, and he held them up. The fourth neighbor is the City of Danbury, Great Plain School, Gallagher said. Jowdy said okay, we've got all your papers. The Commissioners rearranged their seating. Hanna moved next to Jowdy. Jowdy asked are there any members of the audience who wish to speak for or in opposition to this request at 7:16 pm. At the voting session, Jowdy reviewed the request. The testimony is that the configuration of the lot is like a piece of pie. The only physical increase will be for the increase to a two-car garage, Jowdy said. Krate made a motion to **approve** per plan submitted. The hardship is the configuration of the lot. This was seconded by Hanna. The motion carried unanimously with Moore abstaining.

**#07-14** – Gus Spranzman, 16-18 Boulder Ridge Road (I05100, I05101), Sec.3.H.3. & Sec.4.A.3., to reduce req'd. min. lot width of lot **9R** from 50 ft. to 38.3 ft.; and to reduce req'd. min. lot width of lot **10R** from 50 ft. to 36.0 ft. to existing nonconforming lots to permit installation of septic systems (RA-20 Zone). Chairman Jowdy introduced this item and read the variances requested. Andrew Jesser, representing Gus Spranzman, identified himself and said I have the original map here of the original subdivision from Mr. Moody when he originally did the setbacks. All the lots in the neighborhood are basically 50 ft. by 150 feet. We don't know what kind of septic system is there, Jesser said. Krate asked is there a house on 9R? Jesser said we intend to build on that property. Krate said try to hear me out: you intend on building on Lot 9R, but you're putting 10R septic system on lot 9R. Jesser explained we're planning on a land swap, since we didn't have the area to put in a new septic system per our engineer Mr. Gallagher. Here's a photograph of the house that we're proposing, plus a new septic for this system, a land swap with an easement, the right to cross; that gives us enough room to get our galleys across here on lot 9R and lot 10R. Jesser said we have community water, in answer to Mr.

Jowdy, and there are 55 gallon drums in the ground now for the septic. Krate said what I don't understand is, where are you giving lot 10R the land that used to be lot 9R? Jesser brought old plan to panel and explained the equal land exchange; just enough room to give us our septic fields here. Jesser said we have gained all our septic setbacks. The only thing we're asking for is a variance for the sideline. Jesser explained the requests on this corner right here, and this corner right here. Jowdy, Krate and Jesser discussed a legal lot, and creating another lot up here. Jowdy said we have a letter of opposition, and he reviewed lot lines, and said these originally were cottages; now they've become year round homes. Most of the houses are converted. We are not proposing to put in a house that is not in character with the neighborhood, Jesser said. We are just developing a lot that we own. Villodas had question on the lot shape. Jesse said the lot widens as it goes back. Moore asked that would be a shared septic system? Jesser replied no, sir, we're going to add on to the property by a few feet. The lots will be the same. Krate asked why can't you put the septic on the lot as it is? Jesse said I don't have the area. Krate said I'm confused; he's got an existing house on lot 10R. Show me on here what you're doing. Jesser explained we don't have enough area here. Krate said you're showing less area here; something's wrong; forget about the equal land swap. Krate said show me why you can't put a septic in here. Jesser tried to explain again. Krate said here's your lot. Jesser said we don't have enough area to get the septic there; this is the way Mr. Gallagher set this up. Jowdy, Krate and Jesser discussed the request; the hardship is that he can't locate a septic here. Why? There's not enough area with it being squared off. Krate said I don't buy that; I don't believe that, unless there's an ulterior motive. Hanna asked does the land slope? Krate said he's got to come in here and show us. Hanna said there are certain setbacks for a septic system, and this plan does not show the slope of the land. Krate said you're still not answering my question. You're looking for relief on everything else. Jowdy said you're creating another lot, that's why you're doing it. Jesser said it's an existing lot. Jowdy said but not a buildable lot. Jesser said the integrity of both lots will remain. Krate insisted you can't get two variances on two separate lots, and explained "your problem". You have to come here with a hardship without including lot 9R. You're going to have to come back for building variances also, Krate added. No, sir, I don't need a variance on the building, Jesser said. All I'm asking for is a variance for the septic. Krate reiterated you can't have two hardships under one umbrella. You have failed to show me why you don't have reasonable use of that lot. Jesser said I understood that I can't ask for a variance on a septic system. I'm just asking for two side line variances. And I'm going to give the right to cross the land. Jowdy and Hanna discussed this at the panel. Jesser explained the footage that he has. Krate said why don't we see it? Hanna asked for clarification on the plan. Jesser discussed his galleys. Hanna asked is it a pump system? Jesser said we want to improve the neighborhood. Krate said I'm concerned with your ability to put a septic on 10R. What are the setbacks on the galleys? So why can't you run a galley? Jesser replied it's a pump up system. Hanna said let him handle the septic separately; this is irrelevant now. Krate argued that it is relevant. Gus Spranzman signed in and identified himself. Spranzman said what Mr. Gallagher has said is there's a new code, and it's got to be more than 30 feet, so that preempts us from putting the septic on the lot. Krate said so this is really all about making lot 9R buildable. Krate continued I want to see plans from Gallagher, me, personally, showing me why he cannot locate the septic field in the area he's got in here on lot 9R. And then if he wants to come back in to make it buildable. He can't get two variances on two lots with one variance. Sean Hearty said it could go either way; it's up to the Board. Sibbitt questioned Jesser about the plans, which Spranzman explained. If this land was a percent less, Jesser explained how it could be perfect, but it's because of the

slope. It's the natural slope of the land. Krate asked why could it not be graded. Hearty said both lots are linked; both lots must come in together, because your decision is affecting two lots. It has to come in as one, Hearty said. Krate said now he's telling me that 9R is the problem. Hearty repeated they are linked. Krate reiterated I don't understand why he can't get a septic in. Jesser explained we needed more land to make it work. Krate continued to discuss the issue with Sibbitt, Spranzman, Jowdy, Hanna, Hearty and Jesser, the side line setback, and the lot line shift. Hearty said you guys are well within your purview. Where is the hardship, the law being changed? It's 9R versus 10R. "You don't know the difference between 9 and 10", Gus Spranzman said to Jesser. Jesser said were about 350 feet away from the Lake. Villodas and Hanna discussed the proposed land swap. Commissioners all began talking among themselves. Krate said now I understand; it wasn't presented that way. Secretary Lee said the EIC regulation states 200 feet to Candlewood Lake. Jowdy said there is a letter that I've got to read. Krate said first let's see who else is in favor. Krate asked the audience are there any in opposition? Three hands were raised. Jowdy read Radachowski's letter in "vehement opposition" into the record, and his reasons. There is an aging community well system. Developers are attempting to maximize their profit. This lot, with no water or sewer, is too small to handle a residence, and to protect the Lake. Krate noted there are some facts that are incorrect in the letter.

Penny Reitelback of 9 Beach Drive signed in and identified herself, stating I'm an adjoining property owner there. Reitelback said I'd like to point out that the slope is actually a good 8 feet above, making a septic system questionable. I think this is the tip of the iceberg. The intent is not to improve the septic system to improve the protection of the Lake. The intent is to make a lot buildable. Reitelback said; this lot is less than .2 of an acre. Krate replied they are permitted reasonable use of their property. Reitelback said her lot is about twice that size. Snug Harbor was built as year-round houses, she said. Krate explained to her the reason for the existence for the ZBA; if the property was pre-cut and zoning changes were made to that area, so there is no misunderstanding, to grant relief if upzoning takes place. He is well within his rights to do it, Krate said. All of that being said, Krate said, your objection is so noted. Jowdy asked has there been problem with the water system? Reitelback said to Jowdy I'm not part of that water system.

Greg Lownds, President of the Boulder Ridge Association, identified himself saying Laura asked me to go, and I am the President of the Association. We have 14 homes on one well. We gave these men a letter saying we don't want another home on the well system. Lownds said two other homes have been put on, and they both were required to put their own water system in. Krate and Lownds discussed operating a water system. Krate said how you have the right to deny water to anyone; unless I'm crazy, I know what the State regulations on water are. (Krate is President of the Lake Waubeeka Association.) Lownds said I talked to lawyers, and they said it's a can of worms there. Lownds said if you're under a certain amount; we were below the amount of people required for it to be a State mandated system. Krate said you may be in for a rude awakening one day. Lownds replied, basically, I'm a working guy and I took over the well system. Jowdy, Lownds, Jesser and Spranzman discussed the well distance from the septic. We had to drill another well, Lownds said. Jowdy said granting the variance, then, could affect the welfare, health and safety of the people who are there now. Hanna had a comment, to which Jowdy replied here's the property line. You said the well is across the road in the pachysandra. Krate said let's just move on. Lownds said our well was set up for summertime use. Moore asked lot 10R is one of the 14 homes on this well? Lownds replied yes.

Laura Genestra, of 14 Boulder Ridge, the lot next door, identified herself and signed in. Genestra said I just oppose it. I comply with what was said in (Radachowski's) the letter. That's it.

Krate said I have a question for Sean Hearty on the setback to a community well. Hearty said your granting a variance will not supercede the regulations of the Health Department and sanitarian. Jowdy said we're not going to approve something if we know there's a violation on the regulation, which he discussed with Hearty. Spranzman asked can we table this? Can we wait till the end? Krate replied your only chance to talk to us is now. Spranzman said if we didn't have that 3' 6" to worry about, than we would not have to be here. Krate advised you should do due diligence and note the distances from the well. Jowdy said I suggest you consult an attorney who knows the regulation. Krate said I don't know that you need to consult an attorney. Krate said I want Syd Rapp to, on this plan, locate where the septic will be on this plan, and it's relation to that well. Hearty said I recommend we **continue** this instead of withdrawing it. Krate said if you guys want to continue this, that's fine. Jesser agreed, we'd like to continue this. Spranzman said okay; we'll come back 3/22/07 with the right information. Krate asked Secretary Lee to talk to Peter Dunn, Sanitarian. Sean Hearty said I will take care of talking to Peter Dunn. Jesser added, just so you know, we did offer the property for sale to the neighbors before.

**#07-15** – Angela DeLucia, 35 Locust Avenue (J12124), Sec.4.C.3., to reduce min. lot area from 11,250 sq.ft. to 8193 sq.ft.; to reduce minimum lot width from 125 ft. to 66.4 ft.; to reduce min. south side yard from 15 ft. to 9.9 ft; to reduce min. north side yard from 15 ft. to 11.0 ft., to renovate from 2 to 3-family dwelling (R-3 Zone). Jowdy introduced this at 8:05 pm and read DeLucia's request. Peter Buzaid, Atty., signed in, identified himself, said "good evening" and that he represents Angela DeLucia. The house is currently used as a two family. They would like to renovate the house and make it a three family. It was originally constructed in 1880's, next to firehouse on Locust Avenue. Krate asked what is your hardship. Attorney Buzaid said the hardship is the unusual shape of the lot. Up until the zoning regulations changes, we would not need the variance. It would have all conformed before the zoning changes. Krate asked why don't you now have reasonable use of this property. Buzaid said at least nine other homes on this same street are three family. Buzaid said it's mostly economical; I'm not going to deny that. It will be three separate units, and the parking would be moved to the rear. Jowdy asked if there are any questions. Jowdy asked if there were any members of the audience who wish to speak for or in opposition to this request. At the voting session at 8:29 pm, Jowdy reviewed this request, since #07-14 is continued. Krate said I think the attorney failed to show a hardship. I really don't understand why we would grant this, given the fact that he has reasonable use as it is, Krate said. This would increase density, not decrease density. Krate continued I'll make a motion to **deny** the variance. No hardship is demonstrated; there is reasonable use under today's regulations. Sibbitt seconded the motion. Villodas said I second that. We have two seconds, Jowdy said. The motion carried unanimously, with Joe Hanna recused.

**#07-16** - Nejame Development, LLC, 10 South Cove Road (I09149), Sec.4.A.3., to reduce minimum square side dimension from 100 ft. to 45 ft.; to reduce front yard from 30 ft. to 24 ft.; to reduce rear yard from 35 ft. to 7 ft.; to increase building coverage from 20% to 26% for new single-family residence and lot line revisions (RA-20 Zone). We will vote on them separately but hear the collectively. Krate said as long as we have a full board, I will step down. Most of us were here, so you can begin where you left off. Mazzucco identified himself and described the vicinity and the history of the three to one vote denying the previous three applications (#07-08,

#07-09, #07-10) . Jowdy said the board was concerned, if you could put houses on these lots as is, and by adding extra property to them, you will make them more useable and they'll look better. Mazzucco asked that the old exhibits be accepted to use in these three new applications. There's been a house on the middle lot since 1958 when that map was created. There is regulation 9.B.1., which states that if lots are shown on an existing map, but they don't meet the area requirements anymore, provided that three factors are met, which Mazzucco read (Sec.9.B.1.a., b, and c.), and Mazzucco gave a copy of that regulation to Jowdy. Anticipating the board's question, Mazzucco said, I brought in some plans from a designer, if we were to try to build on that as it is, you could construct a vary small house, and he enumerated the side yard and rear yard setbacks that would result. This would be a perfectly functional, useable house. The garage is at ground level. That can be done. For the vacant lot on the other side the same situation applies: it can be built. This house works; it's a suitable dwelling. Remember last time we talked about wanting an expansion on the existing house, and that could be accomplished quite easily, Mazzucco said. What I did not explain very well the last time was that the three lots were created back in the 50's, and under that regulation I just read, we should be allowed to build, and there's an opportunity to do it in a better way. By subtracting some area from the larger lot, that's really it. The hardship is that the area was upzoned, and should the houses on the smaller lots be relatively confined in their area, when we could take land from the larger lot to create more reasonable lots, and Mazzucco discussed the changed lot lines on the plan before the panel. Using the oversized lot in the middle would make the houses even more esthetically pleasing and more appropriate for their occupants. Jowdy said you have explained that you could put three houses on the lot without a variance, but it would be a lot easier. We're not giving anything more to the developer; there is City water and sewer on the lots, for the record, Jowdy said. Villodas had a question on the three dwellings. Mazzucco replied referring to the area on the plan that explains the variances requested. Tom Nejame came forward and explained that the homes that we propose on the three lots, the whole objective is trying to get the actual houses on the lots with the least variances possible. Nejame and Ward discussed this. Moore added, so it's less bad and more good. Sibbitt asked why does the house on 13R have to be so big? Mazzucco replied it's roughly the same as what's proposed on the others. Mazzucco and Sibbitt discussed house size at the panel. Mazzucco asked is there a particular dimension you're after? Sibbitt said it looks kind of big. Mazzucco said in terms of coverage for that lot, what's allowed is 20%; what's proposed is 26%. Because we're upzoned into that, the size of the house is consistent with the size of the homes in the neighborhood. Jowdy concurred, so the house conforms with the neighborhood. Mazzucco, Lee and Hearty noted a typographical error on the 07-16 agenda: 10% should be 20%. Krate stepped down for this voting session. Jowdy reviewed the request and its history of the last denials without prejudice. Jowdy said he's proven he could put three houses there, making it better for the neighborhood. Moore made a motion to **approve** #07-16 per plan submitted. Hanna seconded the motion. The motion carried unanimously with Krate recused.

**#07-17** – Nejame Development, LLC, 12 South Cove Road (I09150), Sec.4.A.3., to reduce min. square side dimension from 100 ft. to 80 ft.; to reduce min. lot size from 20,000 sq.ft. To 10,226 sq.ft. for expansion of existing single-family residence and lot line revisions (RA-20 Zone). (Application heard collectively with #07-16 and #07-18.) Moore made a motion to **approve** #07-17 per plan submitted. The hardship is the pre-existing lots, and he will attempt to improve on the three lots in question. Hanna seconded the motion, and the motion carried unanimously with Krate recused.

**#07-18** – Nejame Development, LLC, 13 South Cove Road (I09140), Sec.4.A.3., to reduce min. square side dimension from 100 ft. to 62 ft.; to reduce min. front yard from 30 ft. to 23 ft.; to reduce min. side yard from 15 ft. to 12 ft.; to reduce min. rear yard from 35 ft. to 29 ft. for new single-family residence and lot line revisions (RA-20 Zone). (Application heard collectively with #07-16 and #07-17.) Jack Villodas made a motion to **approve** this request per plan submitted. Hanna seconded the motion, and the motion carried unanimously with Krate recused.

ADJOURNMENT: Motion to adjourn by Moore. Second by Hanna. Motion carried unanimously at 8:36 pm.

Respectfully submitted,

Patricia M. Lee, Secretary