



CITY OF DANBURY
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ZONING BOARD OF APPEALS
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MINUTES – REGULAR MEETING
May 10, 2007
COMMON COUNCIL CHAMBERS
7:00 PM

ROLL CALL: The meeting was called to order at 7:03 pm by Acting Chairman Herb Krate.

Present were Krate, Sibbitt, Hanna, Alt. Villodas, and Alt. Moore.

Absent were Jowdy, Dufel, and Alt. Roos.

Michael Sibbitt motioned to hear tonight's agenda. Hanna seconded the motion and it carried unanimously. Herb explained that **07-30** and **07-34** will be continued to the next meeting at request of counsel. Herb explained to the Public the procedure for Public Hearing for the ZBA, and the periods for discussion, objection and rebuttal.

Villodas arrived at 7:05 pm. Krate said, "We have our fifth member. We will continue".

CONTINUATION OF PUBLIC HEARINGS:

POSTPONED: #07-30 – Joao M. & Annabella E. DaCruz, 15 Deerfield Avenue (K11053), Sec.6.A.3.a., to reduce side yard setback from 20 ft. to 6 ft.; to reduce rear yard setback from 30 ft. to 6 ft. for mud room & 2-car garage addition (IL-40 Zone). This request is to be **amended** by Neil Marcus, Attorney, for the next meeting.

NEW BUSINESS:

#07-31 – David A. Fanning, 186 Middle River Road (C09028), Sec.4.A.3., to reduce side yard setback from 40 ft. to 24 ft. for porch addition (RA-80 Zone). Herb Krate introduced this application at 7:06 pm. David Fanning signed in and stated his name. Fanning said I'm looking to get a variance on my side yard to add a front porch. The house is actually sideways on the lot. It's an existing house already. The commissioners looked at his plans. Krate asked are there any questions from the Board? Fanning said I have some pictures, if that would help, which he handed to panel. I spoke to all our neighbors and there was no objection, Fanning said. Thank you. Krate asked if there was any members of the audience who wish to speak for or in opposition to this request. Krate said to Fanning you can either wait or call the office. We will vote this evening. During the voting session later in the meeting, Krate said this first one in voting session is a pre-existing, nonconforming house that he wants to put a porch on. Joe Hanna made a motion to **approve** the **07-31** request

to reduce the side yard setback, per plan submitted. It will not affect the welfare, health and safety of the neighborhood, Hanna said. Sibbitt seconded the motion, and it carried unanimously.

#07-32 – Martin Orellano, 20 Virginia Avenue (J11168), Sec.4.C.3., to increase maximum building coverage from 33% to 34.5%; to reduce front yard setback from 20 ft. to 16 ft. on Third Street; Sec.8.C.2., to reduce depth for parking spaces (P5 & P6) from 18 ft. to 16.5 ft. (R-3 Zone). Krate introduced this item, and Attorney Peter Scalzo corrected his pronunciation of name Orellano. Peter Scalzo signed in and identified himself and his address. I'm joined by the owner and by Paul Hiro, Licensed Land Surveyor. Martin Orellano purchased the property in 2003, which fronts on two streets, Scalzo said. It was a single-family residence. He then contracted with local contractor to expand the residence. On 11/19/04 the building permit was issued. I have copies. Based on Paul Hiro's survey, an individual named Melvin drew in some structures on his survey map. The Third Street has a 20-foot frontage, and the reason for the difference is that the original structure is angled, and this is attached to that structure. I discussed this with Sean Hearty, and he did not seem to have any issues with it. Scalzo continued, we now have a problem too with the building coverage. Also, we noticed that there is an issue with the parking spaces. I have Paul Hiro here tonight if there are any questions, Scalzo said. Krate asked was the original survey from Melvin was certified A-2 survey? Scalzo explained Melvin altered a survey. Krate reiterated Melvin did alter that survey. Scalzo said but the building department did not catch the mistake. The drawing showed 20-foot frontage. But when building was actually built, it was 19.2 feet and 19.7 feet. Moore said then, as originally submitted, this did not need a variance. Paul Hiro, LLS, spoke from the audience, this was done during the crunch period, right before the regulations changed when Wayne Skelly was buried with applications before the moratorium began. Now they require a certified survey showing existing and proposed conditions. Krate said so this is really a comedy of errors. Krate asked if there was any members of the audience who wish to speak for or in opposition to this request. We will inform you of our decision, Krate said to Attorney Scalzo at 7:15 pm. During the voting session, Krate said this is basically the one that is the snafu. Alternate Rod Moore made a motion to **approve** the requests, per plan submitted, in the R-3 Zone. The hardship is that it's all ready up and it's been a bit of a problem. Sibbitt seconded the motion. The motion carried unanimously.

#07-33 – Safet Sadiku, 7 Hillandale Road (F08100), Sec.4.A.3., to reduce side yard setback from 15 ft. to 6 ft.; & to reduce rear yard setback from 20 ft. to 6 ft. for detached accessory use/ shed (RA-40 Zone). Violation notice issued today by Sean P. Hearty, Zoning Enforcement Officer, with photographs in the file. Krate introduced this application at 7:16 pm. Come up, please. Secretary Lee asked Sadiku to sign in and state his name. Krate asked what size is this shed? You have one measurement on this, but you don't have another. Sadiku said it is 18 feet by 12 feet. Krate said we do have a cease order that was issued today by the Zoning Enforcement Officer: it seems you're running a business there on this property. That being the case, this Board cannot hear this application as there is an order on the place, and we can't hear an application with a violation order on it, Krate explained to Sadiku. So we cannot hear this tonight. Krate said these are the photos that were taken today by the Task Force of your back yard. It's a residential area, and it looks like you're running a construction business there. Secretary Lee explained to the Commissioners that you can hear this and deny it, or you can refuse to hear it until the violation is cleaned up. Krate said we'll hear your case. That's a rather large shed. Sadiku explained why he needs the shed. Krate said now I personally am reluctant to approve this as you are running a business out of your residence. Hanna asked you have a well under your shed? Sadiku replied it is just a box and a roof. Krate said you can't put a shed over a well. Hanna asked him you're going to put up a shed without a roof? Sadiku said the roof

will be removable. Krate asked are there any opposed or in favor of this application? Ann Khan, of 77 Hillandale Road, came forward and said I object to having this shed behind me. I don't know how to say his last name, but he has proceeded to cut my trees down last summer and put up a wall with no concrete, and I don't believe there's proper drainage for his yard. Krate asked Khan: he cut trees down on your property? Khan affirmed on my property. He has a lot of things in his back yard and on his back wall, Khan said, and I have three little babies. Besides the drainage issue, it's a safety issue. Khan presented her photo board, put it on the table, and described what it shows. There is not enough drainage to hold a shed back there, Khan said. Krate said we have pictures that were taken today. Krate asked Sadiku do you have anything to add. We'll inform you of our decision. Krate re-introduced this in the voting session at 7:43 pm. An order was issued on this today to cease and desist, Krate said. Is there any discussion on this? Moore asked would it be appropriate to motion to deny without prejudice? Krate replied it's up to you. Villodas asked what about that letter? Krate offered I would deny *with* prejudice. He stated just now that he sometimes runs a business out of there, Krate added. Moor made a motion to deny **07-33**, to reduce the side and rear yard setbacks. Sibbitt and Hanna seconded the motion. Krate said try your minds. The motion to **deny** carried unanimously at 7:44 pm.

#07-34 – Jose M. Agra, 73 Franklin Street (H13009), Sec.4.C.3., to reduce required min. lot width from 100 ft. to 86.81 ft. to allow conversion from 2 to 3 family dwelling (R-3 Zone). Atty. Peter Scalzo requested to **postpone** this to 5/24/07. Krate said this has been continued.

#07-35 – Juan & Maritza Palacio, 13 Carol Street (H23035), Sec.4.A.3., to reduce required front yard setback from 30 ft. to 19 ft. for front porch addition (RA-20 Zone). Krate introduced this request, saying it's at Lake Waubeeka, while Mrs. Palacio signed in. Maritza Palacio said the house before had a window. Krate asked her to wait until we have the correct paper work. OK, go. Maritza Palacio said, as I was saying, and we used to have some problems with that window so we decided to put a door there. You have a copy of the Assessor's card. And here are some pictures. Krate announced, for the Board's information I am familiar with this, and it's a reasonable request. Krate said okay; are there any members of the audience who wish to speak for or in opposition to this request? Krate told Palacio it has to be built to plan. Krate requested the correct pronunciation of her name. It's reasonable for up there; Krate said the lots are pretty small and nonconforming. I'm pretty familiar with it. Hanna made a motion to **approve 07-35** to reduce the front yard setback, per plan submitted. Sibbitt seconded the motion. The motion carried unanimously.

#07-36 – Elaine J. Wallin, 132 Federal Road (L07043), Sec.5.A.6.a., to eliminate requirement for 20 ft. wide front yard landscaped strip; Sec.8.C.1.c., to allow parking in a front yard (CG-20 Zone, RA-80 Zone). Krate introduced this request at 7:28 pm. Krate asked is there really a landscaped strip there now. Atty. Robert Talarico said "sort of". Attorney Talarico introduced himself, representing the applicant Mrs. Wallin. They've owned this for 30 or 40 years, and in all probability it will be torn down. The State, Talarico said, widened Federal Road and took a large part of her property. If you look at the map, you'll see the reference to what I call the "cliff" in the back. The proposed new building is as far back as it can go. The plans call for a two-story building with parking on the roof. They are going to put parking on the roof also, Talarico said. Krate said I have a couple of questions. I need to understand it, Bob. There will still be a buffer between the parcel and the road? Does applicant understand that they have to maintain that strip even though the State owns it, Krate asked? They will probably want a sidewalk put in there too. Talarico replied, whatever needs to be done will be done, Mr. Krate. Talarico said sidewalks historically must be within the City right of way. Krate said that's for the Planning Commission to deal with.

Talarico presented photos looking south, and photos looking north towards Brookfield. This is the last building in Danbury before the Brookfield line, Talarico said. Sherwin Williams is in Brookfield; look it's right on the line. Krate said, ok, I'm mistaken; second time this year. Talarico continued when we go for a site approval we will have landscaping like Sherwin Williams has. Hanna asked why don't they push back a little? Talarico said you'll see the zone line on the map: the property is in two zones. Hanna said you have a lot of space. Talarico said the engineer says it's not feasible because of the topography. Krate said it's a 40-foot rise in 30 feet. Hanna said people can do that everyday now; blast the rock. Krate said the only thing I question here has to do with the scope of that building, and that's the question I have: are they trying to put too much on too little? Hanna added you need to spend some money and do it right. The building should go back. You can blast the rocks and do it right. How will the handicapped turn around here, Hanna added. What if the State takes again widens the road. Krate asked if there were any other questions. Krate asked if there was any members of the audience who wish to speak for or in opposition to this request at 7:37 pm. In the voting session, Krate reiterated the requests. It's in two zones. The back end is in a residential zone, Krate said. Hanna said I think this is a pretty big building for this site. Krate said that's an extremely busy road, and I personally am not in favor of this one: I think it's too much for too little. Moore had a question on that proposed line. Krate replied I'm not sure what they are doing; let them blast out the hillside. Moore said it's ambitious. Krate added, again, too much for too little. Hanna made a motion to **deny without prejudice** to eliminate the landscaped strip, and to allow parking in a front yard. It is too much of a building for a small lot on Route 7; it's a dangerous, a busy road, Hanna said. Michael Sibbitt seconded the motion. The motion carried unanimously at 7:47 pm.

#07-37 – Andrew Stietzel & Rachel Parsley Stietzel, 6 Paul Street (H22076), Sec.4.A.3., to reduce minimum front yard setback from 30 ft. to 4½ft. for residential addition (RA-20 Zone). Krate introduced this variance request. Andrew identified himself and address. We do have two kids. Krate said I did do an on-site on this one. Again, it's up at Lake Waubeeka. Andrew Stietzel said, so I had Gail Adams draw up the site plan there, and we're asking for 8 feet from the property line. We are adding on for a bedroom, garage, living room; we have 2 little girls, and we are expecting a third. When I first bought the house, we did add on once, so I've been here before. Stietzel said to Krate, "Your grandchildren are beating up my kids". Krate asked is there any members of the audience who wish to speak for or in opposition to this request. The Board will inform you of their decision, Krate said. During the voting session, Krate asked for the proper name pronunciation. Krate said this is reasonable, and a fairly safe distance from the road. Hanna made a motion to **approve** reducing the front yard setback for the addition on this pre-existing, nonconforming lot, as per plan submitted. Sibbitt seconded the motion. The motion carried unanimously.

ACCEPTANCE OF MINUTES: April 12, 2007 Meeting

Sibbitt motioned to accept the minutes as presented. Hanna seconded the motion, and it carried unanimously.

ADJOURNMENT:

Motion to adjourn by Michael Sibbitt. Second by Jack Villodas. The motion carried unanimously at 7:51 pm.

NOTE: THE NEXT REGULAR ZBA MEETING IS SCHEDULED FOR **May 24, 2007**, 7 pm.

Respectfully submitted,
Patricia M. Lee, Secretary