



**CITY OF DANBURY**  
155 DEER HILL AVENUE  
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**ZONING BOARD OF APPEALS**  
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**ZONING BOARD OF APPEALS**  
June 27, 2019  
City Council Chambers, 155 Deer Hill Avenue  
7:00 p.m.

**ROLL CALL:**

Chairman Richard Jowdy, noting that everyone was present, called the meeting to order at 7:00 p.m. on Thursday, June 27, 2019, in Council Chambers, City Hall, 155 Deer Hill Avenue. Present were Commission Members Joseph Hanna, Herbert Krate, Rodney Moore, and Alternate Peter Delucia. Also present were Zoning Enforcement Officer Sean Hearty, Secretary Mary Larkin, applicant, and Attorneys Daniel Casagrande and Neil Marcus.

Absent were: Anthony Rebeiro, Richard Roos, and Michael Sibbitt.

*Motion to hear the Applications #19-04, 102 Long Ridge Road, and #19-07, 3 Terre Haute, was made by Herb Krate; seconded by Joseph Hanna. Motion passed unanimously.*

**ACCEPTANCE OF MINUTES:**

*Motion to accept the minutes of June 13, 2019 was made by Herb Krate; seconded by Joseph Hanna. Motion passed unanimously.*

The next regular meeting is scheduled for **July 11, 2019**.

**OLD BUSINESS:**

#19-04: Marcus, Neil R., Esq.(agent) for Berry, Martha & Gregory, 102 Long Ridge Road, (J22022), RA-80 Zone

Sec. 3.G.2. Allow accessory building to be used as a residence.

Chairman Richard Jowdy said that both attorneys, Daniel Casagrande and Neil Marcus, presented compelling arguments for each side. He said, in his opinion, this should be handled by a higher court. He said it is up to the Board. Mr. Krate said it does not fall into the purview of a variance, but of a zoning change. Mr. Moore feels that the hardship has not been established. They have a

larger-than-minimum lot that cannot be divided due to its irregular shape and the proximity of the buildings, and the Zoning Commission has decided, for a number of reasons, accessory apartments are not allowed in the RA-80 zone.

Attorney Marcus, representing the applicant, approached the Board and spoke about the last meeting and that the Board had been briefed by Corporation Counsel, and his (Attorney Marcus') brief has now been presented. He mentioned that the neighbors of the applicant had no objections to the variance. Mr. Marcus spoke about the buildings' proximity to one another, and the intensity of the lot prohibits the owner from having offices, which would be a different use in a residential area. Mr. Marcus said the only objection at the last meeting was from the Zoning Enforcement Officer, who may have felt the Board was ignoring the prior ruling of the ZBA. The prior condition said they cannot use the space for offices and cannot install running water. Mr. Marcus referred to his brief and his conclusion on the last page that allowing the homeowners to have a family member sleep and bathe in the finished area above the detached garage does not constitute a change in use of the property since it does not affect the plan of development or the zoning scheme. He continued that if the building could be shifted or attached, they would not be before the ZBA. The hardships are configuration of the lot, the topography, and the shape of the lot. Mr. Marcus argued this is not a change in use; it is a different use of the accessory building.

Mr. Krate said he is concerned about setting a precedence. Mr. Marcus said they are the ZBA and there is no precedence. Mr. Krate asked about future owners and if they rented out the accessory building? Mr. Marcus said it would be a violation.

Attorney Casagrande approached the Commission and said that Mr. Marcus' letter is very resourceful, but it does not change his opinion. Mr. Casagrande disagreed with Mr. Krate in that Mr. Moore made a point that even if it's not a use variance, they have to show a hardship. A hardship has not been determined, and if this did go to court on an appeal, the court would remand it to the Commission because the Board did not determine a hardship. He recommended that the Commission determine if this is a use variance and also determine if they established a hardship.

Motion to close #19-04 was made by Herb Krate; seconded by Peter Delucia. Motion passed unanimously. No. 19-04 was then reopened for decision with a motion by Herb Krate; seconded by Joseph Hanna. Motion passed unanimously.

*Herb Krate made a motion to deny #19-04 because a true hardship has not been established; seconded by Joseph Hanna. Motion was unanimously approved to deny #19-04, 102 Long Ridge Road.*

NEW BUSINESS:

#19-07 John Weir, 3 Terre Haute Road, (H17061), RA-20 Zone

Sec. 4.A.3 Reduce side yard setback from 15' to 11.2' for addition.

John Weir approached the Commission and stated that he would like to expand the kitchen slightly to accommodate his increasing family especially at Thanksgiving. Chairman Jowdy asked if the variance was for the reduction from 15' to 11.2'. Mr. Delucia said he drove by the property and understood the request. There being no further questions, Rodney Moore made a motion to close, seconded by Joseph Hanna; motion passed unanimously.

Motion to vote on Application #19-07 was made by Joseph Hanna; seconded by Herb Krate. Motion passed unanimously. *Motion to approve #19-07 was made by Peter Delucia, per plan submitted; seconded by Joseph Hanna. Motion passed unanimously.*

CONTINUATION OF PUBLIC HEARINGS: None

DECISIONS: See above

OTHER MATTERS: None

CORRESPONDENCE: None

ADJOURNMENT:

*Motion to adjourn at 7:32 p.m. by Mr. Moore, seconded by Mr. Hanna. Motion passed unanimously.*

Respectfully submitted,

Mary S. Larkin  
Recording Secretary