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DRAFT MINUTES – REGULAR MEETING
January 14, 2010
COMMON COUNCIL CHAMBERS
7:00 PM

Chairman Richard S. Jowdy called the 1/14/10 ZBA meeting to order at 7:00 pm. Present were Jowdy, Herb Krate, Michael Sibbitt, Gary Dufel, Alt. Rodney Moore. Absent were Joseph Hanna and Alt. Rick Roos.

Staff present were Sean P. Hearty, Zoning Enforcement Officer, & Secretary Patricia Lee. Commissioners all observed a moment of silence for the people of Haiti, following the devastating earthquake of January 12, 2010, at Herb Krate's request.

Krate made a motion to hear applications #**10-01** through #**10-05** on tonight's agenda. Sibbitt seconded the motion. The motion carried unanimously. Jowdy explained the Public Hearing procedure for the audience and requested all to identify themselves, sign-in, and added this meeting is being recorded.

NEW BUSINESS:

#**10-01** – Alison & Kevin Zaloski, 66 King Street (C07034), Sec.4.A.3., to reduce min. front yard setback from 50 feet to 42 feet to enclose front porch (RA-80 Zone). Chairman Richard S. Jowdy introduced this application at 7:03 pm. Alison Zaloski came forward, said good evening, identified herself. We're asking to reduce the minimum front yard setback. We would like to have access to the stairway, and we cannot when the front door is open. We are just enclosing the existing structure. Krate asked her why do you have a one foot differential; the plan is showing 43 feet. Zaloski answered that the surveyor had counted the overhang on the house. Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal? Later in the voting session, Krate made a motion to **approve 10-01**, 66 King Street, to reduce the minimum front yard setback from 50 feet to 42 feet to enclose the front porch in the RA-80 Zone, per plan submitted. Moore seconded the motion. The hardship is it's a pre-existing house and it will make it safer, Krate said. The motion carried unanimously at 8:08 pm.

#**10-02** – Angel M. & Rosa M. Pesantez, 9-11 Morris Street (H14101), Sec.4.C.3., to reduce minimum side yard setback from 6 feet to 1.3 feet for detached accessory use (R-3 Zone). Chairman Jowdy introduced this item and Ben Doto, PE, set up the easel and the Pesantez's came forward. Doto signed in and said good evening and identified himself and his firm and his applicants. The reason we're here tonight for what is called shed #2 on this property. The shed is already there, without permits. The applicants were notified by the City. The setback is for shed two. Shed one is outside of the setback. Mr. Pesantez has owned the property for 8 years. There are some severe grades on the lot, and there is also parking in the rear. Krate asked what is the purpose of the two sheds. Doto replied for storage of snowblowers, equipment; it is a multi-family house. It's roughly 18 feet by 11-1/2 feet. The

other shed is slightly smaller. In the photos I have here, there's a view of the house on Morris St. You really can't see it (the shed) from the street. He described the view in each photograph. There are examples of other detached accessory uses in the neighborhood close to the property lines. Krate asked what was the reason for this? Did you issue an order? Hearty replied I don't think a Cease was ever issued. Doto said they were notified, and we checked to see if they complied with zoning. Krate said here's my problem with this: I don't see that you need that many square feet of shed. Doto said this is a pre-existing four-family house. Moore asked how long has shed two been in existence? Two years ago, Pesantez answered. One is for equipment for the tenants, and the other shed is for our equipment. The tenants do not have a basement. Krate said I get very cautious with stuff like this. You're in a residential neighborhood. We start approving these accessory outbuildings for storing for equipment; I get the deep feeling that there's going to be a business being run out of this, and that makes me very uncomfortable. Moore asked Mr. about the tenant. Pesantez said that the first floor tenant uses the whole basement, and explained the need for two sheds. Gary Dufel said I've got a concern too; if this had come to us unbuilt, I know I'd be asking a lot of questions; and we've lost that opportunity completely. I don't have empathy for something that could have been on another place on the property, Dufel said. And the location of the house is wonderfully situated. Krate and Ben Doto discussed the issue. I've seen too many nice neighborhoods turned into construction businesses, Krate said. Jowdy said it's a four family house, and it's a corner that is not really affected. Krate said my issue is here. You've got storage here already; they want more square footage for more storage. I have a shed at my home that stores everything I need to store. Doto said the zoning regulations do speak to detached accessory uses, and we are at 50% of the primary house, about 600 square feet. So we do meet the City's regulation with respect to square footage. We're not asking for a variance with respect to that, Doto said. Doto continued discussing the topography; if you had to locate a shed on that lot, the back of the property drops off; it's steep too. So again I'm just presenting what's there. Jowdy said if there is anyone here who wishes to speak for or against this application, please come forward one at a time. Linda Peryer said I live behind this building, and I received this (notice) a week ago. The second building, it's a business. They have plows, sanders, trucks, and the first shed has been up a short time, Peryer said. The second shed was up as of last Saturday. I have photographs from my yard. It is an eyesore. Krate said to the applicants I am going to give you the opportunity to come straight. The applicant said the shed has been there for 8 years. Dufel said we have a lot of nice church goers here tonight, and somebody is not telling the truth. Linda Peryer said that garage was not there for eight years; I've been there for 12 years. Peryer said they have cement mixers there. The two applicants signed in. Dufel said you have been very astute. Chairman Jowdy said thank you very much. Is there anyone else who wishes to speak for or against this petition? Krate asked the speaker do you have pictures? We only like pictures. The next speaker, Gary Hage, said I'm owner of 13 Morris Street. Doto said he's not in here. Do you know when that building went up? It has not been there for years: I would say 3 to 4 months, Hage said. Krate said so last year was right. Hage said this is not a normal shed; it is built out of concrete blocks and they have a concrete business back there. And he does not have enough parking for his tenants, so he could have used this for parking. Hage said it's an eyesore, like the lady said, and I think they use it to store equipment. Jowdy asked is there anyone else who wishes to speak for or against this petition? Ben Doto said I'm going to respond, and I'll let Jose respond about the equipment. One of the plows is my tenant's, and the other plow is mine, Pesantez said. We do not keep the concrete mixers back there in the summer, but in the winter, we work far away from Danbury. Jowdy said being no more questions from the board, the board will inform you of their decision. In the voting session, Krate made a motion to **deny with prejudice**, to Angel M. & Rosa M. Pesantez, 9-11 Morris Street, to reduce the minimum side

yard setback from 6 feet to 1.3 feet for a detached accessory use. I will be very candid: I don't see a hardship, Krate continued, and I think an effort is being made to run a business out of this residence. Dufel seconded the motion, stating I vote to approve the denial, but base it on, if we had had a chance before it was built, and we lost that opportunity. Moore concurred. Krate said I accept your amendment. The motion to deny with prejudice carried unanimously.

#10-03 – Lisa Bannon, Northwest Passway (I04001), Sec.4.A.3., to reduce the front yard setback from 30 feet to 22.6 feet; to reduce the rear yard setback from 35 feet to 15 feet; to increase the building coverage from 20% to 29.2% for a residential addition (RA-20 Zone). Krate said I never heard of the Northwest Passway in Danbury. It's actually called Shady Knolls Road, Lisa Bannon said. Krate said I've only been here 47 years. Frank G. Fowler, III, PE, LS, identified himself at the mic, saying he is representing the Bannon's. He reviewed the variances requested. He has actually two different lots that were created in 1930, Fowler said. Dufel said there is a two-story frame residence that may or may not have variances attached to it. You are asking for a setback for an addition that is bigger than the existing house, Dufel said. Fowler distributed sheets to the commissioners and gave the lot sizes. Dufel asked they are proposing to build on both one and two? Fowler said on the second sheet you can see his house is on lot #1, and the other lot is vacant. The point being that those are much larger homes on the neighboring lots. It's the two lots: the sum of the two. The square footage of all of those lake lots is shown. Krate remarked it's almost as old as I am. Chairman Jowdy said you can build on that lot now. Fowler said not really. The 440 line is the property line. We submitted a site development plan to the Health Department, and I actually have a copy of that plan. Krate said we won't approve it if they (First Light) won't. Fowler replied I'm aware of that. He reviewed the septic, the stormwater receptors on the plan. Dufel said what I don't like is the coverage; have you looked at keeping within the coverage regulations? Why is it a hardship not to do that? It's an awful big addition, and it's sufficed for 50 years? 80 years? Krate said that does not bother me. We are not going to approve this until we get approval from the Candlewood Lake Authority and the First Light. If we give you a variance, then basically if they like it or not, you could go ahead. And we want to preserve the Lake as much as possible. Fowler described another small lot in the RA-20 zone. Chairman Jowdy discussed what would be a reasonable size home on one of these small lots, but that's beside the point. Hearty said so we are continuing this until the next meeting. Secretary Lee asked Fowler to keep in touch with her regarding meeting schedules. **Continued.**

#10-04 – New Hope Baptist Church, 4,6,8-10, 12,14 Dr. Aaron B. Samuels Blvd., 22 Williams St., 9 East Pearl St.(H15318,I15017,I15018,I15019,I15020,I15021, I15026),Sec.4.B.4.f.(5)., to allow that vehicular access to the site not be provided directly from a collector or an arterial street (RMF-4 Zone). Before taking the microphone, Paul Jaber submitted 13 letters from parishioners in favor of the applicant. Jaber asked the commissioners do you want to take note of what they said? Krate said, wait; you're on the clock. You *do* want me to read all the letters. Attorney Jaber identified himself and his applicant. In addition to myself, Jaber said, there is Reverend Ivan Pitts who will have some comments when I finish. Also many parishioners of the church are here and I hope they all get up and speak. The applicant wishes to create a child day care center, and in order to do this they need to get a variance from Section 4.B.4.f.(5)., to allow that vehicular access to the site not be provided directly from a collector or an arterial street. Dr. Aaron B. Samuels Boulevard is not an arterial street or collector road. One of the numerous conditions of a day care center in this particular zone is that access be from a collector or arterial road. Dufel asked how big a day care center? Attorney Jaber replied the maximum permitted would be 48 kids, and they discussed the traffic and volume of the church, and Dr. Pitts

stood up. Attorney Jaber said we have a chart; the reverend has a chart, and he has sought the experience of other day care centers in Danbury, and this chart will show you the maximum number of children plus nine employees. Krate said I assume that most of the people using this day care will be parishioners. Attorney Jaber said it will serve the community, and Reverend Pitts discussed the numbers. Jaber said you seem to hit on the arterial roads. I thought it was interesting, but I will share a point with you. The regulations and subdivisions regulations were all written by the same person. Jaber explained the difference in interpretation of the access requirements for day care versus a subdivision. Jaber gave some history about New Hope Baptist Church, which has been at this site since 1895. Jowdy said you and I were born very near to this property. The church has put its most recent facility up, and it's wonderful, if you drive by. Jaber stated when this requirement regarding arterial and collector streets seems to have come up. Krate asked Sean Hearty about the traffic versus safety for this requirement. Hearty replied it was for a surge in traffic (Tape #1 flipped to side B). Jaber said this is not an obscure request. My own kids went to St. James Nursery School, and my grandchild goes to a day care associated with a church. Secondly, we believe the reason for the requirement is really a safety reason or a volume of traffic reason. The Reverend charted the twice-daily traffic for the children and the nine employees, based on the experience for other day care centers in the area. Four parent trips, two staff trips, and so on, spread out over a 3½ hour period. In the evening, it's somewhat the same way. Business peak hours are 4 to 5 pm. Krate interjected there should be one 7:30 pm spot left for that one parent who forgets to pick up their kid. Jaber said it's not all coming down one street to converge on the site, and he described access from Orchard Street, Williams Street, West Wooster Street, Spruce Street, Pearl Street; there are lots of different ways this traffic gets spread out. Moore said this chart is based on 48 children. Pitts answered Moore questions regarding time. We'll open at 6 am, Pitts said. Jaber added we think this is a safer situation. Gary Dufel asked to see the neighbors' letters. Third, there's a limit on size, Jaber continued. Fourth, there are 23 other day care centers in town, and 6 are located (25%) on non arterial roads. This church existed. It is common to have day care facilities in churches, and we believe the safety aspect is better here. Krate said you have no more questions from me. Chairman Jowdy clarified the more beneficial structure of the plan. Rev. Ivan Pitts said as you come down from Division Street, all the drop offs will be in the parking lot off of Aaron B. Samuels Boulevard. It will be one-way traffic, and speed bumps will be installed. Krate said we are only interested in the one thing your variance pertains to: the access. The drop off is not your issue for us. Pitts said, but I prepared for this (laughter). Chairman Jowdy said if you can enhance the safety factors. Pitts said there is no regular conflict of usage, so we would not increase traffic from that perspective. Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal? Don Taylor, of 94 Great Plain Road and owner of 21 Williams Street, stood up and said he's been the owner for approximately 7 years. The church has been a great neighbor. Blind Brook neighborhood is a very strong and proud neighborhood. The access there is very good by the various roads that Attorney Jaber had mentioned, Taylor continued. It's certainly a benefit for the neighborhood and for my property. They let my tenants park over there when it snows, Taylor concluded. Chairman Jowdy asked again if there is anyone who wishes to speak for or in opposition to this proposal at 8 pm. Well done, Mr. Jaber, Krate said. Chairman Jowdy reviewed the petition at 8:15 pm in the voting session. Krate made a motion to **approve** this variance as the church predates any zoning regulations, day care is part of a church community, and the church has proven to keep the area very nicely. So I motion to approve the request to allow that vehicular access to the site not be provided directly from a collector or an arterial street, per plan submitted. Michael Sibbitt seconded the motion. The motion carried unanimously.

#10-05 – Emilio & Rebecca Krausz, 2 Marion Street (H23044), Sec.4.A.3., to reduce the minimum east front yard from 30 feet to 20.3 feet; to reduce the minimum south front yard from 30 feet to 12.5 feet; to reduce minimum north side yard setback from 15 feet to 13 feet for single-family residential rebuild (RA-20 Zone). Jowdy read the Krausz requests at 8:01 pm, as they signed in. Good evening, Ms. Krausz said. I'm looking to rebuild our existing house at Lake Waubeeka. Some of you are familiar with this. It will be on the same foundation; the footprint is going to increase in size 2 feet that way and 2 feet this way. Dufel said explain what's different. Rebecca Krausz said it is a pre-existing nonconforming building. We will make it less nonconforming on three sides with these variances. The new footprint is in the solid lines (on the map). We're improving that setback. The reason we want to rebuild is that we want to make the main floor of the house handicapped-accessible for my father-in-law. It starts to impede on the front yard setback because of the way the road goes. It's way beyond where the street actually is. Krate said that's because it's a right of way; all the Waubeeka roads have a 50 feet right of way. It happens to be along your property line. Krate said okay; if there are any questions I can answer the rest. I'm sure the Zwang's would be here if they were opposed, Krate added. Chairman Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal at 8:06 pm. That ends the normal session this evening. In the voting session, Chairman Jowdy reviewed the Krausz' variance requests. Krate made a motion to **approve** the three requests, per plan submitted. Second by Rod Moore. The motion carried unanimously. The overhangs are included, Rebecca Krausz said.

#10-06 – POSTPONED to February: Michael A. Zarour, Executor, Estate of Lillian G. Zarour, 9 Hobson Street (G15317), 37 Victor Street (G15235), Sec.4.C.3., to reduce minimum front yard on Hobson from 20 feet to 11 feet; to reduce min. req'd. lot area of 3750 square feet per dwelling unit to 3333 sq.feet for 3-family residence (R-3 Zone).

ACCEPTANCE OF MINUTES: December 10, 2009. Motion to accept these minutes as complete by Krate. Second by Sibbitt. The motion carried unanimously.

ADJOURNMENT: Motion to adjourn by Krate. Second by Michael Sibbitt. The motion carried unanimously at 8:15 pm.

NOTE: THE NEXT REGULAR MEETING IS SCHEDULED FOR **February 25, 2010.**

Richard S. Jowdy, Chairman