CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

ZONING BOARD OF APPEALS
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DRAFT MINUTES – REGULAR MEETING
December 9, 2010
COMMON COUNCIL CHAMBERS
7:00 PM

Chairman Jowdy called the meeting to order at 7:02 pm.
Members Present: Chairman Richard S. Jowdy, Herbert Krate, Gary A. Dufel, Joseph C. Hanna, Alt. Rod Moore.

Members Absent: Michael Sibbitt, Alt. Rick Roos

Staff present were Sean P. Hearty, Zoning Enforcement Officer, Patricia Lee, Secretary.

NEW BUSINESS:
Krate motioned to hear tonight's business. Hanna seconded. The motion carried unanimously at 7:02 pm. Jowdy explained the procedure for Public Hearing to the audience.

#10-46 – Robert & Sharon Sass, 92 Carol St.(H22100), Sec.4.A.3., to reduce existing front yard setback from 24.7 ft. to 2 ft.; Sec.3.G.3.(d)., to reduce north side setback from 15 ft. to 11 ft.; Sec. 3.I.1.(b), to allow a detached accessory building to be located between dwelling and front lot line (RA-20 Zone). Chairman Jowdy introduced this petition at 7:03 pm. Eedeet Hadaya introduced herself on behalf of the Sass's. The proposal is to add an addition to a home built in 1951; it is already in the front yard setback, already nonconforming. They wish to add a second floor, a wrap-around porch and enlarge a screen porch. It will still have 3 bedrooms. The B100 was done by Joe Gallagher, and a new septic design; it is a very tough, steep site. The south side drops. In the back is the reserve area for the septic system. Jowdy asked how many bedrooms? It has 2 existing bedrooms. We're going to stay with three bedrooms. Dufel said you are asking for 11-feet septic, not nine feet, and uncovered stairs. Dufel said I don't have it. Sean Hearty looked at the plan. Krate asked that's a staircase also? By zoning, it's uncovered, it does not need a variance, Sean Hearty said. This is the right plan. Dufel noted some day they will want to cover it. Due to the steep slope on the south side, we cannot push the carport back any further. Krate and Hadaya discussed parking, and providing off street parking for the benefit of the neighborhood. Dufel asked about the pictures and the carport. This is a picture from the road. Herb Krate asked her to bring the photos to the panel, and Krate, Dufel, Hadaya, and Jowdy discussed the location of the road; 25 feet from the center line of the road. Dufel asked why could it not be back a little farther. Hadaya said to Dufel it's a sheer drop, starting about here. Jowdy asked are there any more questions from the board? We will take everything into consideration. Is there anyone who wishes to speak for or against this

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application, Jowdy asked. In voting session at 8:25 pm, Jowdy reiterated the requests and distance from the road. Krate said I make a motion to **approve** reducing the existing front yard setback from 24.7 ft. to 2 ft.; reducing the north side setback from 15 ft. to 11 ft.; and to allow a detached accessory building to be located between dwelling and the front lot line, per plan submitted. The building is to be an open carport; it is in keeping with neighborhood, with four sides open. It will not be a detriment to the welfare, health and safety of the community, Krate said. Hanna seconded the motion. The motion carried unanimously.

#10-47A – Cajado, LLC, 174-176 Osborne St.(J12194), Sec. 5.A.3., to reduce front yard setback from 25 ft. to 7.0 ft.; to reduce minimum side yard setback from 20 ft. to 18.0 ft to proposed roof overhang for patio cover (CG-20 Zone). Helena Abrantes and David Abrantes came forward and signed in at 7:10 pm. The commissioners reviewed the plans from the ZBA file. We currently have a green tent up in response to Dufel's question, the Abrantes' said. We're asking for this to be put in there; it would look much better, and it would be safer. It's slippery in the wintertime, and it does not take away any parking. Krate and Dufel discussed the distance, the patio, a guard rail around it, barrels with trees in them to protect all of the patrons; much safer in the rain. Sean P. Hearty said it will have to go through Planning. Dufel asked Hearty about outside eating, and Hearty explained what other issues the applicants will face. In the future, Dufel asked, what triggers that? Hearty explained once ZBA approves this, it is no longer a zoning issue. It's a habitable issue. Krate asked about it going further. Dufel asked about the materials, the roof, the shingles, four columns, like little pillars, and the roof above it. Jowdy asked about the square footage. We have 50 parking spaces already, so we had no problem opening up the patio, Helena Abrantes said. In the wintertime, it's open. Jowdy asked their intent; that's a very busy street. Krate said I have a problem allowing a permanent structure that close to the road. Hearty said you guys can stipulate. I don't want to see a structure seven feet from the roadway, Krate said. Hearty said you can condition it; that would stand up. Jowdy asked is there any in favor or in opposition at 7:17 pm. Jowdy paraphrased the request later in the voting session; very close to the road, on Osborne Street. Krate made a motion to **approve 10-47A**, to reduce front yard setback from 25 ft. to 7.0 ft.; to reduce minimum side yard setback from 20 ft. to 18.0 feet to proposed roof overhang for patio cover. This is to be an open structure, and at no time is it to be converted into the building proper. Hanna seconded the motion, and it carried unanimously.

#10-48A – 41 South LLC, 41 South St.(K15111), Sec.5.E.2., to allow USE of premises for sale & repair of autos & trucks in the CN-5 Zone. Jowdy introduced this petition as Paul N. Jaber, Attorney at Law signed in. Jaber identified himself representing the applicant, the principal is Anthony Rizzo. Jaber described the vicinity, and what businesses are in that intersection. The property has been recently been blacktopped, cleaned up and has a four-bay garage. It's zoned CN-5, approximately 29,000 square feet. We believe that this is a continuation of a nonconforming use that has continued through this year. Jaber explained what he supplied with the application, and it indicates the history of what existed, 1988 through 1999. After 1999, or at that time, the building was purchased by Barry Read. Read operated a variety of things there: repair, mini junk yard and sales there. But he did have sales, because when Rizzo approached him to purchase it, he showed that sales happened there. Those sales took place without a license, Jaber said. There was never a discontinuance of that use. Jaber distributed two sheets showing a before and after; it was cleaned up quite a lot. Dufel asked the dates of the photos. Jaber replied that the '09 photo would be typical of the last 10 years. Jaber said he continued to have the sale and repair at that site for those 10 years. The zoning regulations permitted sale and rental and repair of automobiles until 2007, until it was removed from the CN-5 Zone. Jaber discussed

the surrounding uses; we did not put the (owners') names down. Starting from Liberty Avenue, Jaber discussed each existing use in that vicinity and across the street. You can see you've got 5 or 6 uses; it was always automobiles uses, the '80s through 2007. I'm not sure about Mr. Read's operation. We would simply like to continue that use of sales and auto repair in that building. You can see how it's been cleaned up. If there are any questions, I'd be happy to answer. Jaber replied to Dufel it was purchased in 2008. There are four bays on the site. Dufel asked Hearty why this use was taken out of the CN-5 zone. Hearty said I really can't. A lot of uses were changed in the last couple of years. They are coming in to get you to approve. The City is saying that use stopped, Hearty said. Dufel asked about the location permit, license, and how often they must be renewed. Hearty said rarely. Dufel said there's nothing that would inform the City that someone was operating without a permit through the MVD. Sean P. Hearty explained only when there's a change of ownership. The previous tenant was difficult to deal with. Jaber said we felt it was a continuing use. Dufel said but you knew there was no license. Jaber discussed the traffic, Critelli Auto Body improvements; a similar use as that was there prior. The area's quality will only improve; traffic is much less with this use. Dufel said here's my quandary: if there is no continuing use at all, then we have no ability to give a variance. Jaber and Jowdy and Hearty said you can grant a use variance in this zone. Dufel said then you're just asking for a variance. To me it's for a court to decide if it's a continuous use. Jaber said to Moore, it's impossible to be that exact. Critelli was told he had to do his improvements when he came in. Jaber explained about monitoring wells requirements. Jowdy asked if the Commissioners had any other questions. In the later voting session, Jowdy said I know that area, but there was no license on it. Krate said given that neighborhood, it's probably more in keeping with the neighborhood; it's surrounded by like businesses; it's sometimes broad brush zoning changes. Krate made a motion to **approve** to allow the use of premises for sale and repair of autos & trucks in the CN-5 Zone. It goes to Zoning and Planning. This is per plan submitted. It will not affect the health, welfare, and safety of the community. Hanna seconded the motion. The motion carried unanimously.

#10-49 – Frederic & Ellen Baff, 65 Newtown Rd.(L12017), Sec.5.A.3., to reduce side yard setback from 20 ft. to 8 ft.; Sec.8.C.1.c., to allow parking in a front yard setback reduced from 25 ft. to 8 ft.; Sec.5.H.1.b., to eliminate requirement of continuous 20 ft. front yard landscape strip; Sec. 8.C.3.b.(1)., to eliminate requirement of landscape island, and to reduce number of required street trees from 4 to 2 (CG-20 Zone). Jowdy introduced this application (Tape flipped to side B) at 7:32 pm. Benjamin Doto, III, PE, identified himself and his address at the microphone, Ken Siegel, the architect, and Dr. Baff, and Doto described the vicinity at Plumtrees Plaza. Doto described the slightly larger footprint, the same number of exam rooms; we currently encroach in that side yard setback. The other variances we are asking for are for island and parking and reducing the number of street trees. We have to do a full landscape plan, and Doto explained why. We want to maintain a similar footprint as we have, and to keep our aisle open. It's really a paved area anyway; adding a handicapped-accessible spot. The hardships really have to do with the small lot and the pizza shape of the lot. It is served by a septic system; there is no City service. That's one of our other hardships. Dr. Baff is here. March will be his 30th year, Doto said. It will be a vast improvement over what is there; it's a redundant variance; the 20-foot continuous front yard landscape strip. I would like Ken Siegel to go over what he has, Doto said. Dufel said I don't know if the others want to hear the architect's plan; it looks attractive. Dufel asked how did this piece get divided off. Doto said I cannot answer that. Fred Baff stood, and said it originally was a residence, then a Marcus Dairy drive-thru. I don't know why the Hawley's did not pick it up, Baff said. Dufel said I'd like to spend more time on the landscaped area; it looks like an opportunity to make it more green. Doto explained the City requirements for four deciduous trees; we can't double count an island

tree. Dufel said so you're putting them in every 40 feet. Doto explained we need to have this 20-foot strip in the area within that 25 foot wide setback, under the new regulations. Krate said Dr. Baff will keep it up, and Baff nodded. Doto explained how it may look 5 to 10 years down the road, when you have to cut some of those trees down. We have to hire a landscape architect to come on, and she will select the trees as well. We are not asking not to do landscaping; we just don't want our hands to be tied. Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal. In the voting session, Jowdy said the hardship is the shape of the lot. Krate said what they are putting there is better. Krate made a motion to **approve** at 8:31 pm to reduce the side yard setback from 20 ft. to 8 ft.; to allow parking in a front yard setback reduced from 25 feet to 8 feet; to eliminate the requirement of a continuous 20-foot front yard landscape strip; to eliminate the requirement of a landscape island, and to reduce the number of required street trees from 4 to 2. He has a tree there. Moore said one of those is a planter tree. Krate said this is per plan submitted with no stipulation. Hanna seconded the motion. The motion carried unanimously at 8:32 pm.

#10-50 – Danbury Fair Mall, 7 Backus Ave.(F17002), Sec.8.E.3.a.(3)., to reduce sign spacing requirements for signs, 1, 6, and the existing pylon sign of not less than 100 feet (CG-20 Zone). Jowdy introduced this item at 7:44 pm, as Maura Ruby, General Manager for the Danbury Fair Mall, signed in and introduced herself. We submitted a package to you to replace some additional signage on the property on this 24-year-old development. We want to improve the visibility of that entrance on southwest side, across from Sugar Hollow Road, adjacent to the FYE (store), Ruby explained. Krate asked do you have any drawings of what you are putting up. We are doing seven signs, Ruby said. These are colored photos of the signs, and Ruby distributed the mock-ups. Seven signs total; sign six and sign one need the variances, Ruby said. The others are compliant, Ruby continued. She explained to Dufel and Krate that sign one is a new addition and where it's going. Ruby and the commissioners discussed the vicinity, the triangular area. The pylon sign is really for visibility off the highway, Ruby said. Hearty explained to Krate the size of the directional signs. Krate said an engineer did that, Gary. Krate said I have no other questions. Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal at 7:49 pm. Jowdy described the sign requests later in the voting session. Krate said I think this will help traffic flow. Krate mad a motion to **approve** reducing sign spacing requirements for signs, 1, 6, and the existing pylon sign of not less than 100 feet, per plan submitted. There are basically three signs within less than 100 feet, Moore said. Hanna seconded the motion. The motion carried unanimously.

#10-51 – Danbury Hospital, Hospital Ave.(I12001), Sec.4.D.3.a., to increase max. allowed building lot coverage to 50% of lot area for additional parking (RH-3 Zone). Jowdy read the petition into the record, as three gentlemen came forward: Brian Smith, and Attorney Kyle Slocum, and the President of Danbury Hospital Morris Gross. Attorney Smith said these are just the first steps in the expansion of the hospital. The first is expanding the hospital garage. The second application is extending the hospital itself. Brian R. Smith, Attorney, gave some history of the numerous variances and the numerous parcels acquired by the hospital. However, there might be some adjustment to the footprint. Dufel asked is this about two legal pieces of property? Smith said yes, and clarified the parcels for Dufel; and I will explain the reason when we get there. Kyle Slocum, licensed landscape architect, said this is an enabling project for the hospital expansion. The hospital is bound by municipal properties, and it is heavily terrained or developed. We've got to put the parking someplace else. If you are familiar with the hospital, this is our blue garage, which we hope to expand horizontally and vertically. Dufel asked about a new layer as well as an expansion. What parking do you expect to lose, Dufel asked. Krate said I think we are going to have to

incorporate the whole expansion process into this discussion. Slocum described the vicinity, the blue garage today, the area that will be expanded, the tower expansion that is proposed for the hospital; bringing it in to contemporary standards for hospital care. There will be the same number of beds, but right-sizing the facility to what is on par today. Slocum showed the new tower expansion on the easel; a 12-story addition at its greatest point, to allow us to have the real estate we need; and land is in limited supply to accommodate the growth. Krate asked about a new sheltered entry into the hospital building. Slocum described the green roof, the convenience for the patients; the parking management on campus, moving staff to the other side of the hospital. We are proposing to change the terrain in here: you will see the front door of the hospital from Hospital Avenue. Dufel said the doctors' lot will be shifted into the garage. A much different patient experience, Slocum said. Dufel asked what's the net change in parking. Slocum said there is a net increase to accommodate the future growth of the hospital. Krate said those are questions we are interested in. Slocum said there is a net gain in capacity. Smith found the answer in his paperwork. Slocum said there will be 300 net useable spaces. Dufel noted how Hospital Avenue is always lined with cars; will this change? The Emergency Department will be moved away from Locust Avenue toward Hospital Avenue. Morris Gross, President of Danbury Hospital, identified himself at the mic, and described the parking management issues that will be improved, and what will happen here. The thing that is important to understand: what is the purpose of that main building? There are approximately 68 double beds at the hospital. That is a major complaint area. People do not want to share a bedroom. (Tape #2 installed, side A). Gross continued to explain the increase in beds, additional storage; hallways are not crowded; lounge areas, decompression of the tower. He listed some of the departments. You are adding a net, I think, of 42 beds. Gross discussed the current Emergency Room accommodations. We are increasing the number of treatment bays dramatically, going to 70 treatment bays; hard wall bays. Gross explained how people will come in the Emergency Department; it will have its own turn-off for that. There will be parking for the Emergency Department adjacent at the base of the blue garage. Dufel asked what will become of the Emergency Department's existing space. Gross said we've not exactly decided; loading docks, research, expansion; we have not exactly decided, but the area will be dramatically reduced in traffic. Krate shared his family experience in the current ER; just a personal observation; you need sheltered parking for that Emergency Department. Gross explained where people can park for the Emergency Department that is proposed, segregating the Emergency Department from the main entrance. Locust Avenue does not have enough frontage.
Dufel asked about the phasing of this project; just the big picture. Slocum gave the dates they are hoping for through 2014, and then create the room for this to occur, and the hospital entrance while construction is going on. Dufel asked is it conceptual, or is this the plan? Slocum said this is the plan. Krate asked when will the Emergency Department start building. After the final construction of the tower, Slocum replied. Dufel questioned the scope of the growth. Hearty explained the part of the building coverage and the City's work on what is a structure and what is building coverage. Smith added we have two applications to expedite the project and to do the heavy construction in the summer when the school is out of session. We have to go through Planning with a Special Exception. That's why we did it that way. At 8:34 pm, Jowdy re-introduced this application. Krate made a motion to **approve** to increase the maximum allowed building lot coverage to 50% of the lot area for additional parking per plan submitted. Hanna seconded the motion, and the motion carried unanimously.

#10-52 – Danbury Hospital, Hospital & Locust Ave. & Osborne St.(I12001, J12232), Sec.4.D.3.a., to increase maximum allowed building coverage to 50% of lot area for hospital expansion; Sec.8.C.5.a., to reduce required number of loading spaces for hospital

expansion from 8 to 1 (RH-3 Zone). At 8:15 pm Attorney Kyle Slocum answered Dufel's question about loading spaces. The hospital functions on a central receiving location off-site. Dufel and Slocum discussed the receiving needs on Locust Avenue and the mechanical needs of the building. Gross, Slocum and Smith expanded the discussion about the decompression of the hospital. It has worked well for us over the years. Slocum said there are four loading docks at this location. Krate said I've encountered trucks several times on Locust Avenue, and Gross explained why he sees that. Krate said try to get that traffic off the street. Dufel asked about the duration of construction, and Gross explained when the phases would become operational, through 2014. Gross said I've been at the Hospital 37 years. The Hospital has changed a lot. The Emergency Department is congested, as you know, supporting the community. Smith said the hardship reason is that the topography is very steep, so the Hospital has very little property. Smith discussed the soil conditions and ledge. Jowdy and Krate said we are going to vote on them separately. Smith amplified the hardship on the **10-52** petition. Moore said I would like to look at the maps for the second application. Jowdy asked is there anyone here who wishes to speak for or in opposition to this request at 8:24 pm. Krate said the community has outgrown the space for the Hospital. Jowdy reviewed the request at 8:36 pm in the voting session. Dufel said I don't think we must act on their expertise. Krate made a motion to **approve** increasing the maximum allowed building coverage to 50% of lot area for Hospital expansion; to reduce the required number of loading spaces for Hospital expansion from 8 to 1, per plan submitted. Moore seconded the motion, per the conceptual plans. The motion carried unanimously at 8:37 pm.

ACCEPTANCE OF MINUTES: Krate made a motion to approve the October 28th meeting minutes as presented. Hanna seconded the motion, and it carried unanimously. Krate made a motion to approve the November 18, 2010, meeting minutes. Moore seconded the motion. The motion carried unanimously. Jowdy said, one comment for the record: I met with the Mayor, and he suggested I remain the Chairman.

ADJOURNMENT:

Motion to adjourn by Krate. Second by Rod Moore. The motion carried unanimously at 8:40 pm.