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DRAFT MINUTES
REGULAR MEETING
September 13, 2012
CITY COUNCIL CHAMBERS
7:00 PM

Chairman Richard S. Jowdy called the meeting to order at 7:02 pm. Present were Jowdy, Herb Krate, Michael Sibbitt, Rodney S. Moore, Joseph Hanna. Absent was Alt. Rick Roos. Staff present were Sean P. Hearty, Zoning Enforcement Officer, Secretary Patricia Lee. Krate made a motion to hear tonight's items. Sibbitt seconded the motion. Motion carried unanimously. Jowdy explained the process for a public hearing to the audience; the applicant, the petitioner, questions; sign in and identify yourselves, he said.

NEW BUSINESS:

#12-33 – Peter DeLucia, 59 West Wooster St. & 1-3 Division St. (H15345 & H15346), Secs.5.E.3., 5.H.2. & 8.A.2.c.(4), reduce minimum side yard from 20 ft. to 1.6 ft. for roof overhang; and minimum front yard on West Wooster Street from 20 ft. to 8 ft. to allow off-street parking in required front yard for two parking spaces, and to reduce bottom edge of excavation from 5 ft. to 1 foot to property line for proposed parking lot. (RMF-4 & CN-5 Zones) Jowdy introduced this application at 7:03 pm, and Peter Buzaid, Attorney, took the mic and signed in. Buzaid identified himself and asked if the commissioners all had a copy of the plan and the map. Jowdy had two questions about the map. Mr. DeLucia is a principal in the Division Street entity. Hopefully you are all familiar, Buzaid said, with this neighborhood village. Buzaid explained what DeLucia intends to do behind his building: parking. The property on West Wooster Street is really in two zones; 1-3-5 Division Street. The point is to put parking behind Division Street. The access to that parking lot is from Division St., not West Wooster Street, so one aspect to look at is that there will be no traffic on West Wooster Street, plus additional parking for patrons of 1-3 Division Street. There is limited parking in that neighborhood; it's all on the street. This would take some parking off the street and put it behind. Screening, plants and/or a fence would be installed on West Wooster. Hardship is that the property lies in two different zones; you would allow the development of this piece into the commercial zone. Buzaid responded to Krate's question about what piece DeLucia bought. Jowdy said the majority of that lot is in the CN-5 Zone. The smaller part is in the RMF-4 Zone. The entire parking area is in the CN-5 Zone. Krate asked to see the CN-5 zoning regulations, which Hearty provided. Krate said all the retail places that are there are allowed in the CN-5 Zone. Moore asked about parking behind the building, and Buzaid and Moore discussed the shaded green area. Krate said that's going to be a green belt, I assume. My client intends a fence or plantings. Krate said he'd better decide soon because we are going to require that. Hanna asked Buzaid about being in favor of the fence. Jowdy asked Hearty about what the City would like to see regarding the zoning line. Jowdy asked is there anyone who wishes to speak for or in opposition to this variance? Buzaid said I have a petition signed by 10 neighbors who are in favor of this. Some are property owners; not all. They are all business owners. Two of the ten are property owners, Buzaid said. Paul Rotella is an adjacent property owner, Jowdy and

Buzaid agreed. Jowdy and Buzaid discussed the surrounding neighbors. Krate said I wish people would put their address in (on the petition). Anyone else in favor of this application, Jowdy asked. Andrew Buzzi identified himself and listed the properties he owns on Division Street and the type of units there. You're not associated with the applicant, Krate asked? We've worked together to improve Wooster Village, Buzzi replied. Little by little we have talked to our tenants, and we've made improvements to the parking as it exists, and he discussed the issues there, one of which is no off-street parking in the village. By granting this petition, we could bring in better tenants, good business, and improve safety, and get parking off the street. It would enhance the safety of the area. Jowdy asked are there any questions from the board? Anyone else in favor of this petition? Anyone in opposition, Jowdy asked. Sean Deakin came forward and said I own property on 50 Washington Avenue. Krate joked we don't like people named Sean. Peter Buzaid did a very good job tonight, Deakin said, and Mr. DeLucia has done a good job and actually some great streetscape to the area, making it more welcoming. The key is the purpose and intent of this neighborhood, which Deakin quoted, "of the immediate neighborhood", to avoid unnecessary traffic congestion. By definition alone, we can't allow this to happen, Deakin continued. The definition of this district is the purpose is to serve the residents of that neighborhood. Krate discussed not increasing or decreasing traffic. That whole area has been a bottleneck of congestion, and people circle around looking for a space to park, Krate said. A traffic study here would fail, Deakin said. In reality, Krate said, he has presented a hardship. Deakin and Krate discussed the pieces, the acreage; that residential piece is bigger. Deakin asked the commissioners to look at what exists, and what if he comes back in a year or so. Krate asked Deakin to explain what he is saying at the dais. Jowdy, Krate, Hanna and Deakin discussed the parking, traffic, the CN-5 zone, the increase in population in the area. He's not changing the zone; he's making it more conforming. Krate continued saying that adding parking off the street if usually looked upon well. Tell me why we wouldn't approve something like this, Krate asked Deakin. Show me some real harm to the neighborhood. Deakin referred to the zone definition. Krate said he has presented a legal hardship to the commission that his property lays in two zones. Deakin and Krate discussed the property exit onto Division Street, the driveway owned by DeLucia; he owns this also. Hearty said no, he doesn't. Buzaid joined all at the dais, and said if you go to the property, it's all paved. Now it is just one common driveway; the bold black line is the parking. Deakin said I understand. Krate said keep in mind that we are going to require screening if this is granted. Jowdy said you can also ask them what they want to do. Deakin described the businesses that currently exist, which I have visited a lot. You really could not see the small strip mall. He's done a great job beautifying the area. Deakin said this will bring in dumpsters, "all of that". Buzaid said we will respond at the conclusion to these questions. Krate said we can require plantings; the height of plantings. We are generally accommodating to someone who wants to get stuff off the street, parking especially, Krate said. Deakin said I am pro-business, pro-development; I respect Mr. DeLucia, but the definition itself. Jowdy said sometimes the strict application of the regulations creates the hardship. Krate said a lot of that traffic comes from out of the area, you would have to admit. People drive everywhere they have to get to. Sesame Seed, if they did not have rear parking, you would have chaos over there. Deakin said I would say we have chaos. Krate said he's not asking to increase the use of anything. Deakin and Krate continued discussing the issues, such as you now have a strip mall, a dock for loading and unloading, a new business possibly coming in and complying. Jowdy has approximately 40 to 70 seats at Sesame Seed, so how do you relieve it. Krate said we would like to have people come together; I have difficulty understanding why people would be opposed to something that would improve the area. He's allowed to put in what he's allowed to put in, Krate said. The City did take parking away from him in the front of his building. Krate said I'm just trying to be rational about this. Deakin said I am too. Deakin said there are businesses that have been there for years. Hanna said but he's not changing anything. Deakin said if the

parking is the hardship, which Moore clarified reading from the application, I think I've said my piece. Hanna, Jowdy, Deakin, and Krate agreed to hear what some other people have to say, at Moore's suggestion. Russ Newbold came forward and signed in at 7:40 pm. Newbold said I live at 16 West Wooster Street, directly across the street from DeLucia, on the corner, and we see everything, which is good and bad. I'm a consulting architect; we've worked together and he's a good man; we've enjoyed a good relationship working together. Being a person working in historic preservation, I may be more sensitive to the character of the district, and Newbold explained why he enjoys living on the corner of Washington Avenue. And I want to protect that, Newbold said. The amount of parking and the visual degradation that the parking would do. That's what you see, and that's what announces you are there. The 80-year-old hedge was a wonderful buffer; "this is a great little area". With removal of that hedge, you are back down on Main Street. Krate and Newbold discussed replacing that hedge. Newbold continued discussing a huge visual hardship; a fence would only conceal part of that. Jowdy, Krate and Newbold discussed the previous hedge height, and what if he had to plant another 8-foot tall hedge. Newbold said let me show you what I've brought, and he distributed photographs and a plan; what the commission may require; the provisions or conditions that will be attached to any variance if it is granted. Krate said to Newbold we would prefer that you had talked face to face beforehand. The commissioners and Newbold argued and discussed the proposal. Newbold said I suggest that we make a compromise with the parking. Krate said we would be willing to set this aside and take the other variances, and you two go into a room and work it out. Hearty said I'd have to analyze it, to Mr. Jowdy. Sit down and see if you can meet someplace in the middle, Krate said. We will suspend this, if you want, until you folks work it out, and Newbold agreed. There's a room next door, Krate said. Jowdy said if we had what we had there before, I'm only telling what you said; you work out something like that. Hanna said I thought architects liked trees. Newbold said we love trees. Newbold described what he encountered since he is a corner lot with two front yards. The setback provides a visual buffer, more pleasing to the eye, and you don't see a lot of cars, Newbold said. Dolores Barrett identified herself and said why don't you go up there and look at it. The commissioners responded we did. Barrett listed the old businesses that used to be there. I think you gentlemen already have your minds made up. I don't like the way the Common Council and ZBA decides, Barrett concluded. Krate made a motion to suspend the public hearing. Joe Hanna seconded the motion. Motion carried unanimously at 7:55 pm. Jowdy reintroduced the problem later in the meeting. Buzaid said there are people in opposition. Newbold said we have decided to agree to disagree. This is what I proposed to Mr. DeLucia that we feel is a compromise. Newbold said we lost that landscaped buffer. Krate said it's a hedge, and discussed it with Jowdy and Sibbitt. Newbold described the 4-foot hedge in front that we lost. I proposed to Pete (DeLucia) that he get some spaces, but not all that he proposed. 7 of his proposed 11 parking spaces; I don't think that it's unreasonable, Newbold said. Krate suggested what if we didn't grant the variance to the first two, and we granted the rest, he asked Newbold. And we require a hedge restored along both sides, not less than 6 feet to start with, and to grow higher. And we don't have to grant this portion of the variance, Krate continued. I came somewhere in the middle, Krate said. I'm just talking; I'm looking for a solution that does not have anybody angry. If you're both not happy, then we've done our job, Krate said. Newbold said that proposal would be better than nothing; better than what he's proposed. Chairman Jowdy said thank you very much. Anyone else want to come up, Jowdy asked? I'm Lesley Newbold, the next speaker said; Russ' wife and she gave the history of the house they bought. We have three children, and we want it remaining a neighborhood, and not seeing a parking lot. Let me just finish. You guys don't live there. That restaurant stays open until about 2 am every night, and she described the nationalities of the patrons that go there. I want it to remain a neighborhood. I think we are trying to come to a compromise; it remains a neighborhood. My children and I don't want to move, and I want it to stay that way, Lesley Newbold said.

Newbold had one more question about concealing the mechanical equipment; any condition that you can put on for that. Newbold said they were all concealed by the hedge, and Krate and Jowdy disagreed. They can't keep refrigerators and crap out here permanently; that's a violation, isn't it, Krate asked. Newbold provided photos. Krate said I saw something else that is disturbing. Hearty said that refrigerator has been taken away. Krate said we understand your concerns with that, and hopefully we be able to address some of them. Newbold showed to the commissioners what he proposed to conceal it; a lattice enclosure. Ok, that's beyond your purview, Newbold said; it was on my mind. Peter Buzaid took the mic at 8:31 pm, agreeing that the aesthetics of the neighborhood are very important. Krate said there is a visual problem. My client would like to put a wall of arborvitae to prevent people from walking through there, and the same rows of arborvitae on the eastern boundary. Krate suggested how about we take it (the hedge) past the house. Buzaid came to the dais and showed how he proposed the arborvitae to be planted. There are not a lot of parking spaces involved in this little project, only 11. There is presently a lawn there, and has been there for decades. The screening we are proposing will screen that ugly back of the building. The dumpsters will be removed. One dumpster will be put there to be commonly used, permanently, Buzaid said. Motion to close the Public Hearing by Krate. Second by Joe Hanna. Motion carried unanimously at 8:35 pm. We will go into our voting session. (Tape 2, side A, installed.) Krate said I'm not making a motion. We are in a discussion now with # 12-33; we are open now for discussion, Chairman Jowdy said. Krate said I would like to discuss, and I would like to try your minds: if we denied the parts of the variance that sets aside the 20 feet to 1.6 ft., and 20 feet to 8 feet, but we grant that he install an 8-foot arborvitae. Chairman Jowdy said I want to know the detrimental effect at 8 feet back; what is the benefit of doing the two parking spaces. Hanna, Krate, Jowdy discussed changing the language of the variance request. They'd be 17 feet back, Joe Hanna and Krate agreed. Hanna said I'm fine with that. Krate asked about the commissioners' feelings about a screen hedge. Hearty said, point of order, you can't modify the application without the agreement of the applicant. You can't reopen it; you closed it, Hearty said. What if we vote to reopen the hearing, Krate asked Buzaid. Hearty said you can continue it, deny it, or continue it with modifications. Redesigning the application is not your purview, Hearty said. Motion to **continue** by Krate. Sibbitt and Hanna seconded the motion. Motion carried unanimously at 8:44 pm.

12-34 – Gregg & Barbara Seabury, 63 Wildman Street (J14246), Sec. 4.B.3., to reduce minimum lot frontage from 75 ft. to 69 ft.; to reduce side yard setback from 15 ft. to 12 ft. for two-family dwelling (RMF-4 Zone). Jowdy introduced this item at 7:56 pm, and Gregg Seabury came forward and identified himself and signed in. I'm not usually on this side of the dais, Seabury said. What my wife and I did was purchase this property a few years back thinking we could develop it into a two-family house at some point down the road. We are also asking a variance for the side yard. It's now a single-family house, Seabury said to Krate. You are trying to make that legal; Krate said, tell us what is your hardship? Seabury replied the pre-existing location of the dwelling is the hardship. Krate said why is that not an economic hardship? Krate explained the new zoning regulations were passed about 5 years ago, and we left a window in there for people who owned property for many years. But we've been asked by the City to not increase density; to keep one-family houses one-family houses, Krate said. We can't hear a financial hardship, and I'm not trying to be a hard ass, Krate said. The City can't take what you're thinking and suppose what could happen. The City has been very succinct with us, Krate said, so we've been pretty good about not granting frontage variances for residences. Commissioners, Seabury and Hearty discussed this all together at the dais. Hearty discussed what setbacks he'd need with the commissioners. Hearty said he's stuck. Chairman Jowdy suggested I would go get an architect. Joe Hanna said who is going to buy a home over there? Krate said that's not the issue. They have really put us in a box with this; they want to reduce the density, and

we've turned just about everybody away on it, Krate said. You have reasonable use of your property, and Krate explained the regulation purpose. Chairman Jowdy asked Hearty, if he can find 6 more feet, he's got a legal lot. Hearty said I don't believe he can, and Hearty explained he'd be increasing a nonconformity. Krate said I have no more questions. Chairman Jowdy said I would just go talk to somebody. Krate suggested you may want to continue this hearing to the next meeting. Hanna said to Seabury if you want to come back; it's a reasonable hardship. Seabury asked to continue. Krate made a motion to **continue**. Talk to Sean Hearty, Krate said to Seabury. Moore seconded the motion. Motion carried unanimously at 8:07 pm. This was continued. Krate said there is nothing left on the agenda.

12-35 – Holiday Inn, Agent: Permit Me Please, 80 Newtown Road (L11029), Sec.8.E.5.a., to reduce minimum allowed distance from front lot line for pylon sign from 10 ft. to 1.5 ft. (CG-20 Zone). Tammy Zinick said I'm representing the applicant as Permit Me Please; I'm a project consultant and I'm coming in kind of after the fact. In learning some of the history, Zinick said, this is the way the sign used to look and it was located right here. The new sign is located here. There was an approved location, but nobody oversaw the sign company installation, Zinick said, so they kept it in alignment. Zinick discussed the vicinity, the setback area, the distances, moving back almost into a parking space. The old sign was a grandfathered location. The City made them take that down, so they lost the grandfathered designation, Zinick said. Krate talked about the (possible future) widening of the road. Zinick said I've already talked to Jim Lapan (State DOT Permit Inspector); the deed from Seymour Powers; 2.6 ft. out of the easement line. We're allowed a structure in the easement line. Hearty added comments in agreement with Zinick. A sign is a structure, Zinick said. Back in '73 they put the sign in their easement line, Zinick said. Hearty said you might want to condition it with approval with engineering. Krate said I'm more concerned about the future widening of that road. Jowdy & Krate discussed the roadway, the highway line, the 10-foot requirement, if the State chose to come and build the highway. Krate said to Zinick you have nothing grandfathered in. The City took away our grandfathered hardship, Zinick said. Through a conversation in your office, Zinick said we were told to remove it. I asked specifically for something in writing, Zinick said. Why didn't your sign company put it where it should have gone, Krate said. Zinick said I have a suggestion: I will get it on paper; I will find that out. Verbally it has been said to me by three different people, Zinick said. Jowdy, Krate discussed a memorialized paper saying that they will move the sign if necessary. Zinick said that's via the State. Krate asked for a notarized letter from the State, if they will put that in writing, and if that goes in on the record; right now that's a designated highway. Good luck, Krate said. Tammy Zinick asked may we please continue this? Moore said Pat provided the old files. A woman asked Jowdy to please call her. Krate made a motion to **continue** ZBA # **12-35**. Sibbitt seconded the motion. Motion carried unanimously.

ACCEPTANCE OF MINUTES: Motion to approve the June 28, 2012, meeting minutes by Krate. Second by Hanna. Motion carried unanimously. Motion to approve the August 23, 2012, meeting minutes by Hanna. Second by Moore. Motion carried unanimously.

ADJOURNMENT: Motion to adjourn by Sibbitt. Second by Krate. Motion carried unanimously at 8:45 pm.

THE NEXT REGULAR MEETING IS SCHEDULED FOR **October 11, 2012**.

Richard S. Jowdy, Chairman