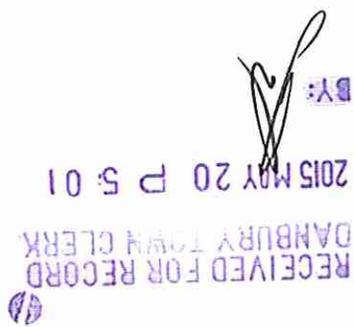




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DRAFT MINUTES – REGULAR MEETING
REVISED

April 23, 2015
CITY COUNCIL CHAMBERS
7:00 pm

Present were Chairman Richard S. Jowdy, Joseph Hanna, Michael Sibbitt, Anthony Rebeiro, Alt., Rodney S. Moore

Absent were Herb Krate, Rick Roos, Alt.

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

Chairman Richard Jowdy called the meeting to order 7:04 pm. Joseph Hanna made a motion to hear tonight's two items. Michael Sibbitt seconded the motion. Motion carried unanimously. Jowdy said I have a few announcements: Herb Krate is not with us, and Alt. Tony Rebeiro is here. All the members and Rodney Moore have listened to the tapes. Also the minutes of the last meeting will be incorporated into tonight's minutes. Hearty gave direction to Richard Jowdy for the agenda. Do the sign application first (# **15-13**), Hearty said.

CONTINUATION OF PUBLIC HEARING: NA

NEW BUSINESS:

15-13 – BW Willow Grove, LLC, 46 Briar Ridge Road (C16023), Sec.8.E.2.b., to allow existing second sign at SW corner to remain on Briar Ridge Road; to replace said sign with single-faced sign structure exceeding 6 ft. in height (RMF-10 Zone). Jowdy introduced this petition at 7:06 pm. Dan DeStefano introduced Beechwood Residential, LLC, and signed in. We recently purchased these apartments about 3 months ago. There was a second property identification sign erected before we bought the property. We ask to keep it. It's primarily a cul de sac with local traffic. I have pictures too, DeStefano said. Jowdy said you say you want the other sign. DeStefano said the first sign we need at the driveway. The second sign allows people to find it. There's a dead end sign right before our driveway to defer people from going further down the road. I've highlighted it here for you. The top left corner in yellow; the green line is our boundary. The one on the left is what's there now. The hardship is that there was traffic control equipment installed recently for Boehringer. Moore asked how high would it be. DeStefano replied 11 feet. It will still comply with the square footage. Right now it's six feet high, and it's going up an additional five feet. Rebeiro asked the square footage of new sign? DeStefano said 24 sq.ft.; I could pass this around. Jowdy asked is there anyone who wishes to speak for or in opposition to this variance request at 7:12 pm. Jowdy asked the first speaker where do you live. Paul Heery signed in, and said I live at 1007 Briar Woods Lane. Heery clarified his address. Briar Woods is the closest neighbor to that association. The president of the Briar Woods Homeowner's Association is in opposition. The proposed sign will be 11 feet in height, and will create an eyesore. It is shaped like a basketball backboard. This section of Briar Ridge Road is a dead end.

There is no reason for incidental traffic to go down this road, Heery continued. If someone is looking for the apartments, and they know Willow Grove, they will know where it is, Heery said. The sign that currently exists in this location; the original application was in March. The sign in place was never permitted. It was put in place illegally and improperly. That first application was then withdrawn (ZBA 15-11). Jowdy asked who sees the sign? Roughly 12 units will see the sign, Heery replied. Hanna had a question about the existing sign. Heery said the existing sign is for Willow Grove. The sign is at the entrance to their development. The second sign is totally ridiculous in height, Heery said. Twelve people who are neighbors will overlook this sign. Jowdy asked if there were questions from commissioners. Heery asked number one, reject this application. Number two, we request that the Zoning Board take the sign down. Heery said to Hearty, okay, we will do so; we will request the illegal sign be taken down. Hearty said we are aware of it. DeStefano came back to the mic at 7:20 pm, stating it is critical that this sign is here. The lay of the land is a challenge for us. Our property is on the other side of the hill. You just don't know it's there without this sign. The sign at the driveway we want to keep, DeStefano added. Hanna asked the two signs are how far apart from each other. DeStefano looked at the site plan to determine how far apart. I don't believe that 400+ feet is correct. It looks about 200 feet, he said. DeStefano described the vicinity, the large hill, where it peaks; anyone going beyond this point, it's all local traffic. We've had people coming out to see the project; they see the Dead End sign, and they turn around. Moore had a question for DeStefano on the line of sight. DeStefano gave Moore a photo. The reason for the height is the traffic signal, Moore asked. The concrete bollards at the equipment make it difficult to see, DeStefano said. Jowdy, Sibbitt, Hanna, and DeStefano discussed the vicinity. Sibbitt said the traffic lights have nothing to do with it. DeStefano clarified it's just high enough to clear that box. Rebeiro asked him have you talked to the City about getting a regular street sign? DeStefano replied no. We are just trying to identify the property; it's for first responders as well. DeStefano said thank you. Paul Heery came back to the mic saying, point to point, from the sign in question is 476 feet. Hanna said it does not matter; the first sign is before the hill. The traffic control box has been there for a considerable time before they purchased this in 2015. This is an apartment complex. People trying to find an apartment, they do not do it by driving around. I can get step by step on my phone directions right now, Heery said. The first responders' argument is invalid. We would support going to the City for a directional sign, Heery said. The sign at the entrance is clearly identifiable; there is no doubt where Willow Grove is. Motion to close the public hearing by Sibbitt. Moore seconded the motion. Motion carried unanimously at 7:31 pm. At 11:12 pm, Hanna asked for quiet from the people exiting the chambers. Jowdy, in the voting session, reiterated the variance request. Open for discussion. Sibbitt said the sign is illegal to begin with. Moore said one of the applications is to make it legal and one is to raise the height. Sibbitt said I think it should be moved. Rebeiro said maybe a smaller sign. It's awfully big and awfully tall, and is not supposed to be there in the first place, Rebeiro said. Hearty said the signs are supposed to have a certain distance between them. Moore asked what makes this illegal. Moore asked all they need is a permit for the sign? The first request is to make the existing sign legal or go away, Moore said. The distance of separation is 300 feet, Hearty said. Hearty added I have a scale. At 11:16 pm, Hearty said it's over 480 feet at the entrance, so they have the distance. Rebeiro said the next question is if they moved it down the road. Hearty said the location and topography (are hardships). Sibbitt suggested they move it closer to the main gate. Hanna said eleven feet is too high. Sibbitt said it is being blocked. If you move the sign, you can see it, and Sibbitt compared it to the placement of the podium. Hearty said this was my assistant's case. Jowdy said he does not have a permit for the sign. The City is waiting for the result of this ZBA board, Hearty said. His testimony was more attached to the sign being blocked. Moore said we don't know. Rebeiro said if we deny it without prejudice he can come

back. Hearty agreed. Moore said if it's just doing the sign permit properly. Rebeiro made a motion to **deny without prejudice**. Sibbitt seconded the motion. Motion carried unanimously.

15-14 – Ridge Properties Joint Venture, LLP, 193 & 195 Long Ridge Road (J25003,J25006,J25007), Sec.4.A.4.a.(1)., to vary requirement for vehicular access to collector or arterial street; Sec.4.A.4.a.(6)., to vary requirement that Church site needs public water & sewer if in water company watershed (RA-40 & RA-80 Zone). Jowdy introduced this item at 7:31 pm. We had one meeting on this, and we are back now, adding we have approximately 22 letters in favor. Jowdy continued, we have approximately 60 signatures against it. Jowdy said we will entertain a motion to incorporate the records from the first application **15-08** with this application **15-14**. We also requested at the last meeting for comments from the Fire Marshal, Traffic, the Health Department. Hearty described the items: the green certified mail signed card from Redding, the Exhibit U from the previous record, the fire report, the report from Ben Doto, the report from the City engineer, the report from the City sanitarian Peter Dunn, certified copies of previous variances and meeting minutes, and comments from Dennis Elpern, Planning Director, about the roads, and a church in the RA-80 Zone. The request is that the meeting be kept open to our next meeting. The questions are as follows: the number of cars, the professional lighting, the night sky, the traffic flow, etc. Jowdy said we need to move to request comments from the Town of Redding prior to 4/27/15. Rebeiro said I move to request comments from the Town of Redding. Sibbitt seconded the motion. Motion carried unanimously. There was culvert work done there; it is a City road in our opinion, Hearty said. Respectfully submitted, Hearty concluded. This is combined with the last meeting, Jowdy said. Atty. Thomas W. Beecher took the mic at 7:35 pm. Beecher introduced his team, McCormack, Doto, Balskus, while incorporating the previous application (15-08); as a technical point it is a separate application even though it's incorporated. Beecher clarified the new Gibson letter: there was a typo in original letter; this is a clean copy. We sent out letters to all neighbors, not just the abutting neighbors, and Beecher described the meeting as trying to address the neighbors' concerns. We did listen to some legitimate concerns, so we did add some additional conditions. Beecher continued there still may be some misconceptions about the project, so we will try our best to explain ourselves. Beecher described the existing commercial use; approximately 18 acres in the RA-40 and RA-80 zone. Mr. Judge and Mr. Kelly operated The Institute, Beecher said. There's a warehouse, and a manor house. They are now at a point that they want to down size. There were 60 cars in that parking lot 5 days a week. Trucks, tractor trailers; Mr. Kelly will go over this, Beecher said. The septic is more than adequate for a small church. It is a large property so there's plenty of room for further reserve facilities for the septic. My clients are not asking for City to run water and sewer down to that small church. Beecher next discussed the zoning regulations. A church is a permitted use in the RA-40 and RA-80 zones. This is not a use variance. There are two regulations that we ask to be varied, which Beecher described, and we are not asking to run sewer and water down to this property. There is no need to do anything to Long Ridge Road. It is a change from the current nonconforming use to a conforming use as a church. Bryan Judge of the Writer's Institute signed in and identified himself. I am the owner of property, and I acquired this area in two parcels. We obtained a use variance, for an educational business and a publication business. Through the earlier meetings with us and our neighbors, the concern was clear: too much traffic, too much traffic, too much traffic. What we did in this residential neighborhood, Judge continued, 60 employee cars came and went five days a week, and some worked half day on Saturday. At the meeting with you before, we realized we had underestimated the amount of trucks and tractor trailers we had coming to our Institute. And our own truck made 4 to 5 trips to the post office every day, operating roughly at 60% until about six years ago. Our traffic

counts and employee counts are way down due to the recession, Judge said. We signed the checks; we know how many people we have; we have the parking. Most employees were associated with customer contact, 9:30 to 4:30 daily. Some arrived earlier and left earlier; that was fine. We did not create traffic jams on Long Ridge Road; there was a lot of traffic. At our peak, there was very little traffic coming down Long Ridge Road; most traffic came from Route 7. Some substantial traffic for a substantial period of time, we created, Judge continued. Jowdy asked where did your workers come from? Bethel, Danbury, New Milford, Redding, Judge replied. Jowdy said a variance was given approximately 40 years ago. Jowdy said since that time there is a lot more traffic; and Route 7 probably accommodated those trucks, and Judge agreed. You have a church; they are going to come from all over. Jowdy said the board here is not in favor one way or the other. You want to sell it, but we have to live with our call, Jowdy added. The square footage is roughly 20,000 sq.ft. total, Judge said; 18 acres. Jowdy said I don't think you are going to be able to limit the number of cars. Judge said I would like to talk about the church. Rebeiro asked Judge how do you plan to police the number of cars. Most of the church traffic will enter from West Redding Road, Route 7 or Route 53. Most people would not come down Long Ridge Road. Judge said we have looked at this; this is just a lot less intensive use. The conditions that been put on variance is no more than 35 cars per service, and that's enforceable. Also, understand it is not our variance; it is the church's variance. They understand that it's an enforceable limit. Jowdy asked about Christmas holidays, Easter. Judge replied if they had an event that exceeded these numbers, they would go elsewhere. There are 49 parking places, period, that they can use. The church in Ridgefield has been used as an example, but I've never been to that facility, so I completely understand why people are worried, Judge said. Which is why we sat down with the church and their lawyers, and set measurable limits on the size that they could be. Jowdy said down the road, if this church is purchased by another church, could that be tied in to the regulations. Beecher came back to the mic, saying in answer to Mr. Rebeiro, the issue of enforcement will be no different from any other zoning enforcement. Rebeiro said in my opinion you are asking us to allow something that now becomes the City's burden to control. Beecher said there are other churches that operate with similar conditions. This is a very small parish, so I ask you to keep an open mind on this topic. Mr. McCormack is going to answer that, Beecher replied to Jowdy. There is case law, if this were granted, and we don't challenge those conditions that we agree to put on this property, on this variance certificate, and those conditions are binding. If this application had turned into something about religion, because you would be discriminating against a church, Beecher said. Again, the answer that I've heard: if for some tremendous reason they grow that much, they will move elsewhere, Beecher concluded. Next, at 8:05 pm, Richard McCormack took the microphone, saying I represent the church. I am a congregant. Richard McCormack said I am a long time resident of Danbury, and I want to clarify some of these concerns, and address why we will remain small. The simple truth is that we are indeed Catholic. We observe the Catholic mass; all our parishioners are baptized, and many have had Catholic educations. Future plans for our congregation are to remain small; 35 cars per mass per service, as well as additional conditions willingly put on the application, McCormack said. There may become some satellite chapels, typically 2 to 8 hours away from the Long Ridge Road. It is not our plan to ever become a mega church. No large public fundraisers like bingo, Moore asked? Well, if you are intending to stay small, Moore asked, why so much property? With the purchase of the entire property, this ensures a buffer of quiet for ourselves. Our intention is to remain a small congregation and chapel, as our engineer will attest, McCormack continued, we will be as quiet as the proverbial church mouse. Jowdy had a question about retreats, because once we grant this variance, we are stuck with it. Jowdy said we are questioning those ideas as we consider this. McCormack said for larger events, we rent Ethan Allen or another hotel, as they can accommodate us. The layout of the

warehouse is not conducive to that; the footprint is going to stay the same. We are buying that for the serenity of the site. That's why we are attracted to those surroundings. I don't understand why people are so adversarial on this. Jowdy explained to McCormack about needing a guarantee. Mr. Beecher, I think, addressed that, Moore said. This cannot affect the welfare, health and safety of the area, Jowdy said. There is no animosity; that's our commission. Sibbitt said if the church did expand its membership, but from what I've read and heard, you are separated from a church in Ridgefield; then why not find a place where you could grow? I don't see why you need so much building space and so much acreage, with four to five people in a car; that could be 200 people. Sibbitt discussed the history of the attempt to kill off the Christians. We like the area, the quietude, the serenity, McCormack concluded. Beecher next highlighted the conditions that they have asked be put on any granted variance:

1. There will be no more than two masses/religious services on Sunday;
2. There will be no regular mass, religious service on Saturday;
3. There will be no more than 35 vehicles of participants for each Sunday mass/religious service;
4. There will be no more than 35 vehicles of participants for any other event or activity, excepting weddings and funerals.
5. Approval is per the site plan submitted showing a maximum of 49 parking spaces in compliance with the Danbury Zoning Regulations.
6. The granting of this Variance Application renders all prior variances as to the uses of the property null and void.

Some of the issues that have been brought up are usually reviewed during the site plan process. Those conditions will be incorporated into the site plan process as well, Beecher concluded.

Benjamin Doto, III, PE, took the mic at 8:21 pm. Doto identified himself and his Main Street address, here on behalf of the applicant; I am a civil engineer hired to determine the site compliance and accommodate the proposed new church. The existing parking facilities more than adequate, it really lends itself for the conversion. There will be no adding on buildings, tearing down buildings; with this site what you see is what you get. No cuts and fills, no grading, Doto continued. The site plan process this board understands, I know; we can't go to the site plan process unless these variances are granted. In the site plan process, Doto described all the issues that will be looked at. This is about the lowest intensity you could ask for, Doto said. Doto next discussed the Bridgeport Hydraulic watershed. Our hardship is we don't need a septic system and he described the distance away from the City sewer system. We don't need them, nor do we want them, Doto said. At the last meeting, a question came up about should the Health Dept look at this. It's an unusual case; we are not adding here. We met with the City sanitarian (Peter Dunn), and pulled the old files. The system is seven times larger than it needs to be, on March 23, 2015, we agreed. If we need more, we have 18 acres, Doto said. This uses less than a single-family house. The water is similar: we have water, wells that work fine. There's no reason to bring water to our site; we don't need it, we don't want it, Doto continued. Doto discussed the water and sewer service areas in Danbury. One more thing, I failed to mention; very important, Doto said. Despite the concerns, and this is on any site, septic are strongly preferred to City sewers, which sends it out to the Still River. We are technically in the Class I Watershed restricted site. Doto discussed the impervious surface limits. It is impossible to get a variance to watershed regulations, Doto said. Those regulations require that any parking lot you build in a watershed has to be paved. T.J. Weidl, Danbury Fire Chief, said they are able to service the site. The chapel seating exceeds what it has to be. The means to egress is to be determined; it's typically done at future procedures, Doto said. Fire has no issues; they are in compliance, and part of the fire annual inspections. Doto said I want to touch on other churches in City. This may not be a complete list: Long Ridge Methodist Church, across the street from us; on Clapboard Ridge Road,

number 90, The Church of Christ on six acres; St. Anne's at 181 Clapboard Ridge Road, with well and septic; B'nai Israel Synagogue, with well and septic; St. George's at 125 Kohanza Street; St. Nicholas on Pembroke Road with the driveway on Stacey Road. Doto added the regs say "access to", not the address. The United Church of Christ and Holy Orthodox Church on Joe's Hill Road. Doto said he next wants to talk about the road classifications; we are asking you to consider how the road functions, which he discussed: local versus through roads. Collectors are somewhere in between. Long Ridge functions as a collector road, it is our contention, Doto continued. I passed it out at the last meeting: this was already an exhibit, the Department of Transportation classification system, which considers Long Ridge Road as a major collector, based on its traffic patterns, and significant amount of through traffic. Just past that intersection, as you get down to West Redding, there's a train station; there are commuter patterns that go through here. We are not asking to change, to re-label; just acknowledge, Long Ridge Road is different, Doto said. Jowdy said it's a very narrow road; in the winter time, a truck driver said he could not get up there; it's very difficult in the winter time. Sibbitt asked about the churches on Clapboard Ridge Road: is there City water available to them? If they required City water and sewer, it would not be as expensive as bringing those to this site, Doto said. Similar to what I did looking at other churches, what about other churches on local roads, which Doto discussed, and he described the Danbury churches that also do not comply with the local road zoning regulations. Ironically, the Department of Transportation map considers Stacey Road a collector road, Doto said; very similar to our situation. In summary at 8:45 pm, Doto said in his research he discovered that the Holy Trinity Orthodox Church on Joes' Hill Road, is in a watershed, and has a well and septic. It's a new church, from scratch, Doto said; this I found since the last meeting. Variance #98-49 was granted for new construction on Joe's Hill Road, not a change of use like we're doing here, Doto continued. It's not uncommon; it's been done by the ZBA (8.13.98), and it's been approved by the ZBA. Jowdy commented about water going into the ground. Sean Hearty asked me (Doto) what the distance was from where Long Ridge turns into the site from the little one-acre lot into the bulk of the lot, and that was 375 feet, Sean, Doto stated. Doto said I'd be happy to answer any questions. If not, Doto said, I'm going to turn it over to Joe (Balskus). Thank you, Doto concluded. Joseph C. Balskus, PE, took the mic at 8:47 pm, identified himself, noted his certifications; working with CDM Smith in East Hartford, CT (Principal Civil Engineer). I've done hundreds of traffic studies, but first I want to touch on some of the things I've heard tonight. Route #7 at the Ridgefield town line, had 30,900 trips per day which decreased in volume in 2007. They have come up a little bit; but they are still down. Data is what drives me, Balskus said. My second point is the monitoring: how do we know there are 35 cars in the parking lot? The applicant is required to count the cars and submit a report telling you, showing you, that there are only 35 cars there. The applicant can self-monitor his parking. Balskus said I did a GPS directions, and said get me to the church. It would take 16 minutes on Route 7, 21 minutes on Brushy Hill Road, and 23 minutes on Long Ridge Road. You are going to go the fastest way, especially to a church, Balskus continued. The data tells you, you are not going to come down Long Ridge Road unless you live on Brushy Hill Road or on Long Ridge Road. I will hand out copies of the March 12th letter you had previously, and the report dated today, the traffic statements. 35 vehicles is a small amount coming on any road; it's a small amount, Balskus reiterated. There are no trucks to the church. The 4/23 statement talks about the land use, the train station that Ben (Doto) talked about; the communities that the church members reside in today are listed. I know as a traffic engineer, based on these, you are not going to use Long Ridge Road north of the church. A couple cars would use Long Ridge Road; not the majority. Balskus discussed the volumes, the hourly volumes; he described the report; the analysis of the intersection on Sunday morning. Also what has the Department of Transportation counted on these roads, Balskus continued; what

these roads carry; the daily volumes. Balskus said I love driving, and I drove Long Ridge Road obviously; it is a special road. You cannot go very fast: the curves, it's narrow, it's scenic. All these roads are collectors and arterials that are listed as scenic roads in Connecticut. It is tough to walk or ride a bike, but we are not going to use that portion of Long Ridge Road. Balskus next discussed trip generation, and probable choice of itineraries; again, it is not a lot of traffic. (Refer to Balskus analyses, Exhibit Z and Exhibit AA, submitted 4/23/15.) So we are not impacting the intersection; you won't notice, Balskus said. The cars are gone like that (snap), and we're talking about 35 cars. Balskus next discussed the sight lines, and clearing vegetation on the church property to maximize the sight lines. We are not daily; we are not trucks. We are adding such a low volume, and it will not be north of the site; it will be south. Are there any questions, Balskus asked the commissioners at 9:06 pm. Hanna asked about classifying the roads. Balskus discussed the City and the Department of Transportation classifications; (it pertains to) getting funding in the future, and he listed the factors that one uses in classifying a road.

Beecher came back to the mic at 9:07 pm, saying just bear with us; we are trying to provide information that people requested. Beecher discussed road classifications by the City or by the Department of Transportation; for 250 feet of roadway we are asking for the variance. Joe's Hill Road has the exact same two variances. No where in the zoning regulations are those road classifications defined, Beecher said.

Regulations do not address a church as small as this chapel on Long Ridge Road. The variances should be granted, Beecher said. It's once a week; one morning a week, and you just heard from a traffic expert. That's what this application is all about. Variance applications often refer to a small lot or the unusual shape of a lot as a hardship. The size of our parcel is the hardship, Beecher said. The impact on the neighborhood is in perfect harmony with the neighborhood. The use would be in harmony far more than the use that exists now. Regulations always favor replacing a nonconforming use with a conforming use, Beecher said. Maintaining that use is also a hardship. Beecher discussed the law in the State of Connecticut: the courts have held that even without a hardship, it is favorable to convert a nonconforming use to a conforming use. Beecher cited the Stancuna case: the law says that this is a valid ground for granting this variance. The Zoning Enforcement Officer has never had a complaint with the Joes' Hill Road site, which was built from scratch. Beecher's last point is watershed, as Ben (Doto) pointed out, watershed regulations discourage sewers in a watershed, so the Zoning Regulations effectively bar a church in a watershed (applause at 9:16 pm).

Is there anyone who wishes to speak for or in opposition, Jowdy asked at 9:16 pm. Okay, you are for the application, Jowdy said. Someone asked are you a Danbury resident? Anita Monteith, of 1301 Branford Drive in Danbury, identified herself. Beecher said she does not have to be cross examined by the audience. I've been asked to re-read my previous letter into this record (see Exhibit D, dated 3/12/15), and my ex-husband tried to put the scenic road status in place. Long Ridge Road is protected by an ordinance. Monteith asked the Chairman to ask the audience to be quiet at 9:20 pm. There's a limitation to just four priests and a limit of 35 cars. There will be no development of the property behind the house. Monteith read a brief note from Monique Wedell into the record. A small catholic church is important and I support them; it's appropriate for the neighborhood. It will enhance this unique country road in southern Danbury. Jowdy asked her about the use of word "development", and Anita Monteith explained she is afraid of any alternative development of that property. I heard that the property was also approved of for condos, I was told several years ago. Monteith concluded at 9:25 pm. Anyone else in favor, Jowdy asked.

Louise Wicks signed in and gave her address, saying I'm here to express my wish to have the variances granted. I think the church would be very great neighbors; they are not Mexicans, and they are not weirdoes, and I am in favor, Wicks concluded. Jowdy asked is there anyone who wishes to speak in opposition. Neil Marcus,

Attorney at Law, identified himself and his firm, here on behalf of the Bramson's. And this evening having heard some of the answers, Marcus said, I previously opposed the variances. Candace Fay implied it is a use variance. Marcus requested a copy of zoning regulation, 4.A.4.a.1., from Sean Hearty. The City has called these USE regulations. Marcus discussed the written regulations, where it's says it's a use variance, you require a use variance. You've then got to amend the zoning applications. That is not your job, Marcus continued. ZBA varies a regulation. A use variance is the least of my concerns, Marcus said. Marcus said we use the word USE all over the applications. These are all use variances, so we are right back where we started, and the requirement to have or not have a hardship; Marcus discussed the use variances. The argument of the Stancuna case does not apply, going back to Corporation Counsel, and the use question still exists this evening, precluding you from granting these variances, but that's not the heart of the question. Marcus next discussed the RLUIPA interpretations; a very, very unknown entity for most of our local boards and commissions. You guys all know the variance goes with the land. I can't find a case in which I could rely upon; my biggest concern here is, in your conditions of approval, on the next owner or the next user of the property, will they obey the conditions. Our traffic engineer, Joe Balskus (CDM Smith), tells us this is a collector road. Marcus discussed collector roads; go to the City Planning and Zoning departments and get the designations. You can't do that. That's not a hardship; that's a mistake. Somebody in another department made a mistake, Marcus said. I can't agree more with Tom Beecher when he says the road classifications are not defined in our zoning regulations. In summarizing, how can a septic or well issue stand as a requirement? It is a stupid requirement, Marcus said. The regulation has to be redrafted. It should not apply to 18-acre sites or sites in the watershed. The other issue of churches needing a sewer line in a watershed; that's not a hardship. You can't come to this commission; you go and rewrite this application. The more I heard this evening, the more concerned I became, Marcus said; I happen to live in Redding and work in Danbury. I think we need a variance for West Redding Road. Convince this board that we are good and well-meaning people: that is not a reason for a variance. What are we doing to our regulations if we grant these variances? I'm worried about the next group and the next group after that, Marcus said. That concerns me and that concerns the Bramson's: we remain in opposition to this application. Marcus said I would love to put my suggestions on paper to Corporation Counsel.

Matthew C. Mason, Attorney at Law at Gregory & Adams, PC (190 Old Ridgefield Road, Wilton, CT 06897), next signed in and said Mr. Marcus stole some of my thunder. He handed out a copy of the zoning regulations. In Section 4., it's crystal clear; and also Section 11.B.2., "No use variance shall be granted by the Zoning Board of Appeals unless the Board can reasonably find that...", Mason read. I submit that the applicants have not presented a legal hardship, and I believe they have not. Mason listed the issues they are complaining about, stating these apply to most of the district. He listed other addresses on Long Ridge Road that are large, so there is nothing unique about this parcel. Mason next discussed reasonable use; there's no reason why it can't be a residential use; the minimum necessary to allow reasonable use of the property, even if you deny this request. Section 11.B.1., the health, safety and welfare issues were discussed by Mason, and the intent of the regulations as he sees it. We want schools and churches in developed areas in the City. There is no established ground for legal hardships, Mason said. As a matter of law, that is not a nonconforming use, and he cited case law; a legal use pursuant to a variance. The reduction of a nonconformity is not a hardship, Mason concluded.

Candace Fay, Attorney at Law, with a law office at 118 Coalpit Hill Road, Danbury, took the microphone. I feel guilty that you guys are here at 10 pm at night to hear this application, she began. Every applicant needs to show a hardship. The seller has not been able to get a buyer; that's what the letter said. Fay cited case law Dolan vs. ZBA. I would also state that the seller did not try to sell this property as a

residential use. The application only accounts for a very small area in square footage, Fay continued. I support Mason's and Marcus' opinions. I urge the board to take the church out of the discussion, Fay said. Other uses could legally occur such as a school. That a church may purchase this property if the variance is granted is completely irrelevant; it's black letter law. His position would also be unenforceable. I would urge the board to consult with Corporation Counsel. Fay discussed the scenic road status; the distance to West Redding Road: it is 642.6 feet to West Redding Road in reality. I am not disparaging the testimony of Mr. Balskus, Fay said. I also ask the Board to use common sense regarding the increase in traffic and the widening of Route #7. I do question something about Mr. Balskus' testimony, only adding 35 cars. In fact, you are doubling the traffic on Long Ridge Road, and all the issues that this board would have to ignore that have come before the State. Fay handed Chairman Jowdy another case law file.

Gene Eriquez next came forward and signed in at 10:03 pm. Eriquez identified himself, saying he is a member of the Long Ridge Road Preservation Association, and he listed his previous history of service to the City of Danbury, including serving as Mayor for 12 years. Eriquez said he supports the City preserving the quality of life for our citizens. The southern part of our City is of great importance to this City: it's an environmentally sensitive area. The strength of any City is dependent upon the integrity of our neighborhoods that we improve as a strong City. I do need to point out to you, whether we agree or disagree, it is the zoning commission's purview to amend the regulations. So I agree this is a use variance request, Eriquez said. A couple of the issues that were presented this evening: the purpose to provide low density housing, to protect our neighborhoods, daylight, quiet, and prevent overcrowding and congestion. There are seven clear use criteria that must apply. I can assure you that the State would redesign our road classifications without even looking at them. It's a long and winding road, as the Beatles said. Neither Long Ridge Road and West Redding Road are not collector or arterial roads. Eriquez discussed putting in water and sewer, and its cost, and used Tarrywile Castle as an example. It was never contemplated to have City water and sewer. They were accommodated before as the Institute of Children's Literature to allow those applicants. Now they are asking for a use variance, Eriquez said. You have no choice other than to deny this application. This application does not rightly need to be before you. Secondly, I want to discuss the Scenic Road ordinance. Eriquez gave the history of the Long Ridge Road destination, as an irreplaceable resource, and the adverse impacts of any changes. It was adopted in 1992; the first and only scenic road. I travel all of these roads, and there is difficulty to pass each other. Eriquez discussed the curves, the new and changing views, and protecting from those alterations which would impact the scenic road designation, at 10:15 pm. Eriquez said this is a rural, old country road, and there are some significant restrictions which require planning and zoning input. There is no guarantee, in spite of Mr. Balskus' testimony. Eriquez said I request that you consider all the points made in opposition to this application; what's intended, and how they will be able to maintain and protect the area. I urge you to reject this proposal, as it is not meeting the conditions for a variance. I thank you for your time, Eriquez concluded.

Martha Rhodes took the microphone at 10:19 pm and signed in. This is to add to the petition, 209 Long Ridge Road, and she submitted a paper. Thank you for hanging in here with us. I am acting president of the Long Ridge Road Preservation Association. I want to state that the initial thought that we are against a church is not true. None of us want something worse, Rhodes said. The real issue is the sellers of the land. It is the pro vs. anti church sentiment that was proposed by the applicant. We stand corrected. We are not for or against a church. We stand for the land. The seller, which is not the applicant; if the variances are granted, they are set in stone and go with the land forever. Would the seller remove variances that would make his property more marketable? Rhodes cited condition #6: the granting of this variance application renders all prior variances as to the uses of the property null and void.

Sellers have duplicitously swayed the neighbors with veiled threats of "what if's", Rhodes continued. The applicant continues to press them as pillars of their appeal. She cited the applicant's letter. Economic conditions do not dictate hardship. The only hardship here is for the applicant, the seller. She referred to the Land Conservation Commission. The applicant's sole purpose is taking their now defunct business and getting out of Danbury, Rhodes stated. Conciliatory conditions have been offered so that the deal might go through. These are 100 % unenforceable, Rhodes said. If this is sold to BRN Associates, there is nothing the neighbors and City of Danbury can do about it, Rhodes said. The perspective buyer needs to look elsewhere, Rhodes said. Also, there is an unmistakable suspicion about BRN Associates; an oversight or evasion by omission. They omitted their weekday activities, which are logical, practical functions for any venture. Rhodes discussed what may happen if the variances are granted. A variance must be "based on hardships". Rhodes cited the superior quality of life referred to on the City website. With sincere and profound respect, I ask what does the ZBA stand for? Their business has evaporated, Rhodes continued; they have used veiled threats of what worse uses could apply; pseudo altruistic rhetoric. Consider the City's regulations, while two sellers scramble to vary the zoning regulations. Rhodes said thank you at 10:30 pm.

Diane Costello, signed in, from 66 Old Lantern Road, and said I have one simple concern and it's the access to the site. Any car entering has to cross a single lane bridge and she described the vicinity. Only one car at a time can cross this bridge. There is already a church that has a congregation; you now have a series of cars; that they would have to go one at a time. Hanna had a question for Costello. If you have even a small traffic jam. What about Christmas? What if both churches what to both have Christmas services, she suggested. The Methodist church has many activities. There's a wetland there, Costello said. Jowdy said I can assure you that everyone on this board has gone up there.

Richard Wolf, from 61 Old Lantern Rod, said all I am here to say that I want to get my name on in opposition to this proposal. It's getting late.

Bonnie Baker, from 180 Long Ridge Road next signed in at 10:36 pm. The traffic would really impact us. The quality of life (would go) down the toilet. Two services; we'd never get any rest. So I am opposed to it.

Barbara Fulton, living at 7 Wicks Manor Drive for 47 years, signed in. This is from the Marciano's and the rules that apply to each and every landowner. Also there are no fire hydrants. Thank you for your consideration.

Susan Mohn, living 35 years on Side Hill Lane in Danbury, suggested have the land benefit the Danbury Land Trust; it would greatly enhance the Land Trust. I am a member of the Danbury Land Trust.

Dwayne Perkins, from 22 Main Street, next signed in. I would like to say I stand opposed to this change. I want to touch on the scenic road classification. We do a lot of biking on Long Ridge Road. I took a picture of the area, and people ask me is that Roxbury. No, this is Danbury, Perkins said. For a few years it was me versus cars, and that's why I got my name on one of those (Common Council) chairs.

Fred Visconti (Common Council Member) signed in, from 31 Mountainville Avenue. I will not take up a lot of time, but the issue of quality of life; the protections were put into our regulations to protect our quality of life. There's no sprinkler system. It is fire safety again: if we did have a fire and we needed water, it would take probably 15 minutes to half an hour. I listened to the traffic control study gentlemen. Talk to Corporation Council, as Atty. Marcus made a real good point, Visconti said. A lot of people are involved here. Get more information and take it back.

William Wicks, from 199 Long Ridge Road, and an adjoining neighbor, said I would like to say there has been a lot of information. I went to the meet and greet meetings. The driveway has water running down, and nothing has been done about it. I watched their business grow. I watched all the damage that happened: West Redding Road and Starrs; our old stone Bridge was damaged. I did go to Mr. Kelly. A

truck went way up on her lawn and took out her bird feeder on her lawn; Jodi Robinson. And I talked to one of the owners, Wicks said. He said what do I care; I don't live here. Wicks said he had asked them to use smaller trucks.

George Kahlbaugh, of 19 Wicks Manor Drive, said he had concerns about safety, and stated the number of cars and the additional wear and tear to West Redding Road. Kahlbaugh said and other people have covered my points. Safety is a big concern. I ride my bike on Long Ridge Road like Dwayne (Perkins). It's like having a target on your back.

Ed Manuel from 138 Long Ridge Road, said there has been no showing of a hardship here, and you cannot here grant a use variance.

Jessica Palinkas said I'm just stating that I am in opposition. I live at 11 Side Hill Lane.

Marion Liberati, said I am a Danburian, from 43 Old Lantern Road, and I reiterate what Mr. Perkins said, and for 12 years I road my bike on West Redding Road. I walk my dog there. And I've never known a church that did not want to grow, Liberati concluded.

Elio Ferreira, from 18 Long Ridge Road, said I find it very strange that an organization such as this church will try to convince you and us that they will have only 35 cars. What happens to the 36th car? That is discrimination (laughter). This whole presentation has been based only on theory. He listed the size of the building and the acreage of the lot. Someone has got to pay for this. I belong to the church next door. The church is always asking for money. We had a picnic for three days to raise money, Ferreira continued. There's no way in hell that this church needs only 35 cars. I vote that you deny this application, Ferreira concluded.

Fred Dielman from 8 West Redding Road said that's going to be a hard act to follow. I want to go on record that I am against it, and for all the reasons stated by others. I am against it.

At 11 pm, Ronald Ruscoe, from 167-169 Long Ridge Road, stated I have almost the same amount of property that they have: a small farm, and I am agreeing with the former speakers, the attorneys, including Neil Marcus.

Kenneth Gucker, from 89 Padanaram Road, next signed in, stating a lot of what I want to say has already been said. The bottom line is this: you have a real estate transaction going on. A seller has always admitted that it is not going back to residential. You open the door to anything now that this requires: the fear that it be developed residentially. You're looking at the side of a mountain. If it could back to manufacturing, it would have by now, Gucker said. We have to go by the word of the church that we do not know. BRN care of Gerardo Zendejas: look it up, Gucker said. It has internet presence. The way they gather money is through speaking engagements and e-commerce. They talk about limiting the amount of cars. I talked with a deacon who is a friend of mine: you cannot restrict access. But if 300 people show up, you can't restrict it. That's where RLUIPA comes up. They have not been up front; they broke away because they were too liberal for Ridgefield. It's a nonpublic, non-profit corporation registered in Virginia. Their most important task is distributing what Bishop Richard Williamson says. This is what you are getting. I bring up the factors of the church; it is about the integrity of the church, Gucker said. Williamson has been excommunicated not once, but twice. When told that he was not allowed to do this, his attitude is that it is better to ask for forgiveness later. I urge you to look at what's been said. You've had enough lawyers and politicians, Gucker continued. The guy can't sell his land without you. This is about a land sale, Gucker concluded.

Beecher said we going to hold the hearing over (to the next meeting). Sibbitt said I have not heard one person from this church explain anything; nobody from this church is here to speak in favor of this. No one from this church is making it known that they are in favor: I find that very odd, Sibbitt added. Sibbitt made a motion to **continue** this to the May 14th meeting. Hanna seconded the motion. Motion carried unanimously at 11:10 pm.

OTHER MATTERS: NA

ACCEPTANCE OF MINUTES: February 26, 2015, and March 26, 2015, Meetings. Jowdy said we have four commissioners for March 26th. Motion to approve the March 26th meeting minutes by Moore. Second by Hanna & Sibbitt. Motion carried unanimously. The February 26th meeting minutes could not be approved by this board.

ADJOURNMENT: Hanna made a motion to adjourn. Sibbitt seconded the motion. Motion carried unanimously at 11:25 pm.

Richard S. Jowdy, Chairman