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ZONING BOARD OF APPEALS
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DRAFT MINUTES – REGULAR MEETING
Zoning Board of Appeals
July 23, 2009
Room **3C**
7:00 PM

Chairman Richard S. Jowdy called the ZBA meeting to order at 7:05 pm. Present were Jowdy, Herbert Krate, Joseph Hanna, Gary Dufel, Alt. Rick Roos. Absent were Michael Sibbitt, Alt. Rodney Moore.

Staff present were Sean P. Hearty, Zoning Enforcement Officer, Secretary Patricia Lee. Chairman Jowdy explained the procedure for Public Hearing to the audience, the requirement to sign in and identify oneself, the opposition, and the later voting session for the decisions.

Krate made a motion to hear tonight's agenda. Roos seconded the motion. The motion carried unanimously.

CONTINUATIONS OF PUBLIC HEARINGS:

#09-18 – Nelson G. Moore, Joe's Hill Road (portions B13002, B13028), Sec.8.B.1.b.(3)., to increase allowed grade for portion of driveway from 12% to 16% for new single-family dwelling (RA-40, RA-80 Zones). Extension letter received 6/25/09. Chairman Jowdy introduced this application continuance at 7:06 pm. Attorney James Jowdy, representing Nelson Moore, identified himself and gave his address on West Street. This is a continuation of a prior hearing, and Jowdy gave a brief history of what had taken place so far and what his client is seeking to do. He described the current driveway being eliminated; it will all be grassed over there. The commission at the last hearing asked about what other alternatives might exist. We sought to provide some engineering information, and we were able to make some variations to this drive, which would yield an 8% grade. After speaking with the City engineer, there was a concern raised, and we developed a different plan which allows for a 3% grade at the entry level, going to 8%, then going to the 16% grade that we had originally requested. I will call on Mr. Fagan to explain the metamorphosis of this application. Paul Fagan (surveyor) signed in and identified himself and his address, Surveying Associates, PC. He had initially planned on using the existing driveway; to use that driveway at the entrance and just modify that existing drive. Mr. Krate asked me if we had any flat area at the bottom and I told him we didn't. Using the new plan on the easel, Fagan said after review with the engineering department, we had to go back to the 16% for approximately 50 feet of the driveway. That's why we are here now. Krate asked what is the topography? I guess the driveway will have a wall next to it. What's on the left side of the driveway? Krate continued: is it a fall off? Paul Fagan said no; no one will slip off the drive in the winter. Dufel asked about the cut and the grade. Fagan said there will be more information when it goes for a re-subdivision when it goes in to Planning. The drive itself will be fixed. But the grading up in here could change. Dufel said I asked a question the last time we met (5/28/09): I asked, what is the hardship? You are listing "the road is there"; there are certain hardships allowed, and no where does it say "it's existing". Fagan

replied the topography is the hardship. Krate agreed: it's obvious. Paul, you know that means absolutely nothing when you come in with a new project. Paul Fagan said I apologize for that; okay, I understand, in response to Dufel. Sean P. Hearty discussed the sight lines, saying engineering does not ordinarily review single-family home proposals, but we will be addressing that later on, Gary, and that will happen in this case. Richard S. Jowdy asked about the grade remaining even more severe than it is now. Krate said that's really irrelevant. Jowdy said the code was not in at that time. Krate said when we look at it as a new project, we look at what it will be, not what was. Fagan addressed Krate's question and Richard Jowdy replied. Sean Hearty responded to Krate's question: would they approve a subdivision with that grade? Hearty said yes, Gary, the plan is changed, as Gary rolled up the plan before him. James Jowdy said this would be in keeping with the neighborhood, in fact it would enhance the neighborhood, and I would recall what we said: it's been 60 years without an accident. Krate talked about a flat area before an active road and what if one should hit a piece of ice. Jowdy said this is not the fault of the owner or previous owner. In the voting session later, Chairman Jowdy reviewed the applicant's request. I think they conform to the most they could do and it's a better situation than it was before. There's been no accident for 60 years; this is open for discussion. Dufel said there's been no evidence supplied that has been no accidents. It is now going to be proposed to be used as a full time house. There are reasons the City has grade regulations; to me it's safety, and I'm not convinced that they have done enough, Dufel said. Gary Dufel said that's how I feel. Chairman Jowdy asked to be allowed to finish his comments on this. This is open for a denial and / or vote. Krate made a motion to **approve** the petition, per plan submitted. I note that this plan has been run by the City engineer and they have come to a basic agreement. Sean Hearty interjected that engineering had no stance on this application. Krate said no stance was taken by engineering, and at least the entry into the public road meets all the criteria. Hanna seconded the motion. The motion carried with four yes votes; one nay vote (by Dufel). This is passed, Herb Krate said.

#09-25 – POSTPONED: 26.4 Olympic Drive, LLC, 93 Ball Pond Rd.(C05093), Sec.8.B.1.b.(3)., to permit increase for **93**-foot portion of driveway grade from 12% to 15.4% (RA-40 Zone). This is **postponed** to the next regular meeting at the request of Joe DaSilva, Attorney.

NEW BUSINESS:

#09-33 – Michel Gauthier, Arch St. (H12050), Sec.4.B.3., to reduce minimum front yard setback from 20 ft. to 10 ft.; to reduce required minimum rear yard setback from 25 ft. to 5 feet; to increase maximum building coverage of lot area from 30% to 30.2% for a new single-family residence (RMF-4 Zone). Chairman Jowdy introduced this petition at 7:22 pm. Roos handed out the maps to the commissioners. My name is Bryan Perry, and I am here as a friend, not as a builder. It was pre-existing nonconforming; there was not much we could do. We could meet the side lines just by a fluke. Krate asked was this lot cut off another lot? It was, Perry said. To the best of my knowledge, it was cut well before zoning; a long time ago. Why I don't know. It's narrow. No body cared about zoning when it was cut, Perry said. Dufel asked for the lot size. 3824 square feet, Perry said, per Syd Rapp (surveyor). Dufel asked about the garage. Perry said it will be under; it's a raised ranch, to keep the house short; three bedrooms. Dufel said I'm not going to argue with you; your math's pretty good. Dufel said you don't have much to work with here, do you? No, Sir, Perry replied. The deck is another means of egress. Jowdy asked are there any other questions? Is there anyone who wishes to speak for or in opposition to this proposal? A couple from the audience came forward and signed in; Bill Evans and his wife from 2 Arch Street. I don't know any legal stuff. We've lived there for 30 years; all the houses are off

the road; 5 feet in the back yard, but property-value wise, there's water coming off that. Mrs. Evans said it fills up with water. Krate responded that's not our purview. He's legal in the back. He's entitled to reasonable use of his land, Krate said. It's a modest house. It's probably in keeping with the neighborhood. Mrs. Charlene Evans said I know Mrs. Kondrat used to own that lot, and she did not intend it to be a building lot. Krate replied it is what it is. Dufel asked does the applicant want to donate it to the City? Krate said the fact that he's closer to the road does not mean you will look out the window and he's right there. Chairman Jowdy asked is there anyone who wishes to speak for or against this proposal? Bryan Perry said I want to address the water. Commissions said you have to take that up with Planning. Chairman Jowdy reviewed what he's asking for in voting session later in the meeting. Krate made a motion to **approve** the setback requests and the maximum building coverage, for a new single-family residence. This would be per plan submitted. The hardship is the pre-existing nonconforming lot. Roos seconded the motion, and the motion carried unanimously.

#09-34 – 67 Cedar Drive, LLC, 67 Cedar Dr. (aka, 61 Cedar Dr.) (K04168), Sec.4.A.3., to reduce side yard setback from 15 ft. to 10.5 ft. for handicapped accessible ramp (RA-20 Zone). The Chairman introduced this variance application at 7:31 pm. The applicants signed in including James Strub, Attorney at Law, and he stated his Waterbury address on behalf of the applicant. We are looking to reduce the side yard setback to 10.5 feet, Strub explained, using this for a handicapped-access ramp. The diagram in the center is the proposed conditions; on the side is the existing conditions. The current encroachment, Strub continued. Dufel interrupted, saying I'm trying to catch up; you going to bring the walkway through and then your variance is over here? Strub described the topography going down to the lake. Krate asked what is the purpose of the ramp? A member of the LLC is handicapped; I can't say if they are residing there. We have a side elevation of it, which the applicant placed on the table. Sean Hearty said it will have to meet the current building code. Dufel asked why couldn't you make the house narrower, so you don't need a variance? Erich Diller spoke up, saying the house is two rooms wide. We are using part of the existing foundation, and he explained the layout to Rick Roos. So the house will be wider than the deck, Roos confirmed. Diller discussed the existing dimensions, and Krate had a question about the 440 line. Strub said we will have to go to the wetlands commission, no doubt. Dufel said you've created the hardship. Strub said the existing conditions make the hardship, combined with decreasing the existing nonconformity with the square footage. Dufel said you're a lawyer; you can make a better argument than that. At least show me you have other options. How much do you have to cut off the house so you do not have to come back here for a variance? Diller and Jowdy and Dufel discussed the house size, the house's age, replacing the house, the existing shed; 24 feet wide is a narrow house; not that big, and not that small, Chairman Jowdy said. I'm just saying a 30-foot wide house makes it more reasonable to live in. Dufel said to the Chairman, you know, Mr. Jowdy, we cannot consider a hardship that is self-imposed. I'm interpreting this as self-imposed. Krate asked Hearty, what's the regulation for an open ramp? Sean said I'd let it project into the side. The deck protruded out farther, and Sean explained the problem. Krate suggested just leave enough room to get around the corner, and then you don't need us. The ramp is permissible. Just leave enough room to make the corner, Krate reiterated. Attorney Strub said we will **withdraw** this. Thanks for the brain storm. Krate explained there are new regulations in place for ADA (Americans with Disabilities Act) ramps and he described them. Sean Hearty said it's workable.

#09-35 – David A. & Helena M. Abrantes, 27 Chestnut St.(J13019), Sec.6.A.3.,to reduce the minimum required lot area from 40,000 sq.ft. to 10,799 sq.ft.; to reduce minimum side yards from 20 ft. to 6.3 feet on the west side, and to 15 feet on the east side; to reduce minimum lot width from 150 ft. to 60 feet; to reduce minimum required rear yard setback

from 30 feet to 6.5 feet for a dwelling with detached radio & TV studio & garage (IL-40 Zone). Chairman Richard S. Jowdy introduced this application at 7:43 pm. Ferreira signed in stating he is representing the Abrantes. Krate asked Ferreira what has changed from the last time you were here? Ferreira said the last time the problem was the proposal was too big. You wanted it to go smaller. After meeting with the planning and zoning staff, we reduced the proposed building: 524 square feet off the building, and we removed the jog here on the front. This will be a two story building. The van will be packed with equipment. The neighborhood is iffy there, plus there must be two extra car spaces for the employees. Krate said you did what we asked you to do. Ferreira described the parking spaces for the business and the house. Chairman Jowdy said there are nine parking spaces all together. Jowdy and Ferreira discussed the business and the people there working the radio and TV station. Dufel said the entrance drive is not fully on the property. Is there an easement that allows you to access the drive legally? Ferreira explained that Abrantes owns both the lots. Sean Hearty said an easement will be required. Ferreira said nothing is being shifted. Gary Dufel asked Ferreira to describe the surrounding area, the structures. Ferreira explained what exists across the street, the railroad tracks; behind it is a huge storage area for construction. Lostocco stores trucks there. Krate stated it's a mixed use. Sean Hearty said this still has to go through planning; just keep in mind that the parking may change, spots, plants, trees. Chairman Jowdy asked is there anyone who wishes to speak for or in opposition to this proposal? Krate made a motion to **approve** the Abrantes' requests (Tape 1 flipped to side B) for a dwelling with detached radio & TV studio & garage, per plan submitted. I'd like a footnote added that it was reduced in size from the original application. Roos said note also that the parking might change per Planning Commission requirements for foliage or islands. Roos seconded the motion, and the motion carried unanimously.

ACCEPTANCE OF MINUTES: Motion to accept the June 25, 2009, minutes as complete by Krate. Second by Joe Hanna. Motion carried unanimously.

ADJOURNMENT: Motion to adjourn by Krate. Second by Rick Roos. Motion carried unanimously at 7:57 pm.

The next regular meeting of the ZBA is scheduled for **August 27, 2009**.