



**CITY OF DANBURY**  
155 DEER HILL AVENUE  
DANBURY, CONNECTICUT 06810

ZONING COMMISSION  
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**MINUTES**  
**MARCH 9, 2010**

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The meeting was called to order by Chairman Robert Melillo at 7:35 PM.

Present were Anthony DiCaprio, Theodore Haddad Jr., Walter Hoo, Robert Melillo, Gary Renz, Terry Tierney, and Alternates Elmer Palma and Thomas Spegnolo. Also present was Planning Director Dennis Elpern.

Absent were Ted Farah, Rick Jowdy, Alan Kovacs and Alternate Patrick Venuti.

Chairman Melillo said Mr. Farah and Mr. Kovacs had business commitments and Mr. Jowdy and Mr. Venuti are out of town. He then asked Mr. Palma to take Mr. Kovacs place and Mr. Spegnolo to take Mr. Farah's place for the items on tonight's agenda.

Mr. Haddad led the Commission in the Pledge of Allegiance.

Chairman Melillo said they would table the acceptance of the February 9, 2010 minutes as they were not ready. He then said both of the attorneys representing the old business matters on tonight's agenda had requested the Commission table any action until there were more Commission members present to vote.

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**PUBLIC HEARING**

7:30 PM – Petition of Matthew Stanczak d/b/a Stanziato's, 35 Lake Ave. Ext. (#F16002) for Special Permit for Beer & Wine.

Mr. Renz read the legal notice. Matt Stanczak said he has taken over the former Tamales space and would like a beer and wine permit. He knew that Tamales had held a full liquor license but he is only interested in beer and wine. He said this is a simple place, serving pizza and salads. He distributed menus to everyone so they could see exactly what he is serving. Mr. Haddad pointed out that the previous approval had been limited to a service bar only. Mr. Stanczak said he has no problem with the same condition being put on his approval. Chairman Melillo asked what his hours of operation will be. Mr. Stanczak said he will be closed Mondays, and open Tuesday through Sunday for lunch and dinner. He anticipates closing around 9 or 10 PM at night.

Chairman Melillo asked if there was anyone to speak in opposition to this petition and there was no one.

Mr. Elpern read the general requirements from Sec. 3.F.2. of the Zoning Regulations.

Mr. Haddad made a motion to close the public hearing. Mr. DiCaprio seconded the motion and it was passed unanimously. Mr. Haddad then made a motion to move this matter to item number three under Old Business on tonight's agenda. Mr. DiCaprio seconded the motion and it was passed unanimously.

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OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

Petition of The Windmere LLC, 44 Old Ridgebury Rd. (#C16006) for Change of Zone from IL-40 to RMF-4. Public hearing closed 1/26/10 – 65 day decision making period will be up 3/31/10.

Court Mandated re-hearing of the 2007 Petition of Cioffoletti Construction Co, Inc., Shelter Rock Rd./Parcels A & B a/k/a 18 Plumtrees Rd. (#L13121 & #L13122) for Change of Zone from IG-80 to RMF-10. Public hearing closed 2/9/10 – 65 day decision making period will be up 4/14/10.

Mr. DiCaprio made a motion to table both of these matters as requested by their attorneys. Mr. Spagnolo seconded the motion and it was passed unanimously.

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Petition of Matthew Stanczak d/b/a Stanziato's, 35 Lake Ave. Ext. (#F16002) for Special Permit for Beer & Wine.

Mr. Haddad made a motion to approve this petition with the following condition: there is to be no sit down bar, there is to be a service bar only. He gave the following reason for this motion:

- The proximity of such premises will not have a detrimental effect on any church, school, or charitable institution. Nor will it have a detrimental effect on the immediate neighborhood concerned, due consideration having been given to the character of the surrounding neighborhood.

Mr. DiCaprio seconded the motion. Chairman Melillo asked for discussion and there was none, so he did a roll call vote and the motion to approve with condition was passed unanimously with eight votes (only eight members were present).

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NEW BUSINESS:

Mr. DiCaprio made a motion to add the following matter to tonight's agenda:

ZBA Referral – Application #10-08 29 Federal Road LLC, 21 Federal Rd. (#K11123), Use Variance to allow sale of used automobiles in the IL-40 Zone. ZBA public hearing scheduled for 3/11/09.

Mr. Spagnolo seconded the motion and it was passed unanimously. Chairman Melillo said the secretary had let him know today that she had forgotten to put this on the agenda. He said since two of the members of the ZBA subcommittee were not going to be present, he took a ride by the site so that they could still talk about it this evening. He said this is the building located next to F & M Electric. It was used as a deli for many years, but is vacant now. Mr. Haddad remembered that this Commission had approved a grocery beer permit for the deli a while ago. He asked what the application listed as a hardship. Mr. Elpern read from the application,

prefacing it by saying that this is not a valid hardship: *“The subject property is in an area of Federal Road that is dominated by new and used car sales. The property owner is asking for use of its property consistent with neighboring property owners. The subject property has no City water or sewer, which limits the reasonable uses of the property allowed in the IL-40 zone. A zone change was considered, but that would most likely be considered spot zoning. The proposed variance makes more sense than a zone change because it would not open up the parcel and/or area parcels to the other allowable uses in a new zone, allowing only the use of the parcel for used car sales, which is consistent with the use of nearby properties on Federal Road.”* Mr. Haddad asked Mr. Elpern if sewer and water are available in this area and Mr. Elpern said they are. All they would have to do is apply for the extension to this specific property. Mr. Elpern then said this is an inappropriate request as are almost all use variances. He added that granting use variances is a bad idea because it allows one property owner uses that are not allowed in the zone and it essentially creates a spot zone. And in this case that was their reason for not going for a zone change although that is the proper thing to do in this situation. Mr. DiCaprio then said based on what has been discussed, he would make a motion to give this a negative recommendation for all of these reasons. Mr. Haddad seconded the motion and it was passed unanimously.

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There was nothing under Correspondence or For Reference Only. Mr. Haddad said under Other Matters, he wanted to congratulate Mr. Palma on the birth of his third child.

At 8:00 PM, Mr. Haddad made a motion to adjourn. Mr. Spegnolo seconded the motion and it was passed unanimously.