



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

ZONING COMMISSION  
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MINUTES  
SEPTEMBER 28, 2010

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The meeting was called to order by Chairman Robert Melillo at 7:30 PM.

Present were Anthony DiCaprio, Ted Farah (arrived at 7:40 PM), Theodore Haddad Jr., Richard P. Jowdy, Alan Kovacs, Gary Renz, Robert Melillo, Terry Tierney and Alternates Elmer Palma, Thomas Spegnolo and Patrick Venuti. Also present was Planning Director Dennis Elpern.

Absent was Walter Hoo.

Chairman Melillo asked Mr. Spegnolo to take Mr. Hoo's place for the items on tonight's agenda.

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

Mr. Haddad made a motion to table the acceptance of the minutes. Mr. Kovacs seconded the motion and it was passed unanimously.

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PUBLIC HEARINGS:

7:30 PM – Petition of the City of Danbury by Dennis I. Elpern, Planning Director to Amend Secs. 2.B., 4.B.2., 4.D.2. & 4.G.7. of the Zoning Regulations. (Add "Housing Redevelopment Option" to RMF-4 & RH-3 Zones)

Mr. Renz read the legal notice for these hearings. Chairman Melillo read the Planning Commission recommendation which was positive.

Dennis Elpern spoke in favor of this petition. He said he worked on this amendment for a long time because there were no examples or model regulations anywhere that he could follow. He said this concept is specifically geared toward the older parts of the City that are in a deteriorated state or substantial disrepair. Usually in these situations, the land owner finds themselves in a difficult situation because if they renovate or reconstruct, they lose the non-conformity. And that loss makes it not worthwhile for them to rebuild a safe and code compliant structure. He said the RMF 4 and RH3 zones were chosen because they are located primarily in the older parts of the City. He said they did not include the other two RMF zones because they are mostly located outside of the urban core or consist of relatively new developments. The final determination as to where or not a building is eligible for this is totally up to the Planning Director. It excludes housing that is less than fifty years old; structures less than fifty years old usually just need maintenance. Also excluded are buildings that are listed on the National Register of Historic Places because we don't want to destroy them.

Another point is that these structures cannot be made more non-conforming than they are. The site design standards also apply to other multi-family zones in the City. They are not getting a break on the distance between building setbacks but they are getting a break on parking for visitors or parking facilities within specific distances. He added that they are hoping this will encourage the property owners to build larger units instead of efficiencies. Parking for residents of the building has to be on-site because we already have problems with street and front lawn parking in many of the multi-family zones. This is meant to be an incentive for developers to tear down some ugly dilapidated buildings and replace them with attractive units. Mr. Haddad asked about the height limitation. Mr. Elpern said it cannot exceed what is existing. Mr. Haddad then asked about the open space. Mr. Elpern said we are requiring 500 sq.ft. per unit in an effort to encourage flexibility in design on these tight development sites. Mr. Haddad said this is no guarantee that this will encourage larger units. Mr. Kovacs asked what happens if a building with two units in it only needs to rebuild one dilapidated unit. Mr. Elpern said they would be handling these requests on a case by case basis, so it would be addressed at that time. There were no other questions from the Commission members, so Chairman Melillo asked if anyone else wanted to speak in favor of this change..

Paul Rotello, 13 Linden Pl., said he is speaking in general, not opposed, not in favor. Said he manages properties in these zones, so these regulations would benefit him. He then said zoning is supposed to keep communities current. He added that this is a big deal because it allows a property owner to turn the clock back. He said it might not be a good idea for citizens of Danbury. He suggested this might encourage people to tear down an old Victorian in order to build a new box structure. He said that he would like to see an intermediary who would look at applications, something like an architectural review board. He asked for a clarification from Mr. Elpern as to the definition of street wall. He added that this is a good idea, but he would like to see an architectural review board for oversight.

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

Mr. Elpern said this applies only to deteriorated housing. If the structure is sound they are not going to get approval. He read the definition of deteriorated housing from the amendment packet: "*A residential building containing dwelling units, either occupied or vacant, in which the entire building has been either condemned by the City of Danbury, or is substantially unfit for human habitation, unsafe, or is in a state of dilapidation, deterioration, or substantial disrepair.*" He said they have to meet all of the criteria. If the parking requirements cannot be met, then they would have to reduce the number of units. He said the City is not going to sacrifice on-site parking or setback requirements. He said the street wall is defined as "*A wall or portion of a wall of a building that is facing and parallel or nearly parallel with an adjacent street.*" The street wall is an existing requirement in all of the other multi-family zones. He added that we want to see the buildings go across the front of the lot and not be built sideways on the lot. He added that this can all be fine-tuned, if someone has a better idea, he is willing to listen. This is an opportunity to tear down dilapidated housing and rebuild it. Mr. Farah asked if an example would be some of the older buildings around the hospital. Mr. Elpern said yes, the hospital is always looking for housing for nurses and other medical professionals. So that is a benefit that could be realized from these regulations.

Mr. Haddad made a motion to close the public hearing. Mr. Farah seconded the motion and it was passed unanimously. Mr. Haddad made a motion to move this item to Old Business. Mr. DiCaprio seconded the motion and it was passed unanimously.

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7:45 PM – Application Certificate of Location Approval for a Used Car Dealer’s License for Archie’s Auto Service, 233 White St. (#J13146). This location was previously approved w/stipulation on it. Rescheduled from August 24, 2010 meeting.

Chairman Melillo said this had been originally scheduled for the August 24, 2010 meeting. No one was present at that meeting so the Commission voted to continue this to tonight’s meeting. The history of this site is that Zoning Board of Appeals had approved this for a General Repairer’s license in the past, but they put a stipulation on that approval prohibiting display and/or parking of autos in the front yard. The applicant is requesting an upgrade to a Used Car Dealer’s license and asking that the stipulation be removed. This was referred to Corporation Counsel who determined that the Zoning Commission should hear it and make a decision based on circumstances today. He added that all Commission members were provided with the back-up documentation that explains all of this.

Attorney Frank Scinto from Gager, Emerson, Rickart, Bower & Scalzo, said the first thing is that they need to correct the applicant’s business name. It should be “Archie’s Auto Service, Inc d/b/a Archie’s Auto LLC”. He referenced the existing conditions site plan that was submitted with this application.

He pointed out the other businesses on White St. that have front yard parking saying it is not really fair that his client should be denied the same. He said the parking lot behind the building is used on Wednesday night and Sunday daytime for parking by the church located on the adjacent lot.

Mr. Renz asked if the cars currently parked in front of this establishment are for sale. Attorney Scinto called upon the applicant, Joao Fieschi, to answer this question. Mr. Fieschi said the cars in front are the customer’s cars to be worked on, his inventory is in the back. One of the Commission members asked if it is an exception to have the cars parked in front since it currently is prohibited. This question was not answered. Mr. Spagnolo asked how many cars he would have on display at any time. Mr. Fieschi said probably five or six. Chairman Melillo asked if the rear parcel is part of this parcel or contiguous. Attorney Scinto said it is contiguous to this parcel but all under the same ownership. Mr. Kovacs asked he has access to park in the rear. Mr. Tierney suggested moving the display cars in the back lot. Mr. Fieschi said if they are in back of the building then the public cannot see them.

Chairman Melillo asked Mr. Elpern for staff comments. Mr. Elpern pointed out that Sec. 5.H.2. of the Zoning Regulations states “*No off-street parking, storage or display of motor vehicles shall be permitted in the required front yard setback of any use in any commercial zoning district. All parking areas in commercial zoning districts shall meet the requirements specified in Section 8.C.*” He added that this means the Commission cannot remove the stipulation because the Regulations prohibit it parking in the front yard in all commercial zones.

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

Mr. Elpern reiterated that Sec. 5.H.2. of the Zoning Regulation precludes parking and display of motor vehicles in the required front yard. He added that this Commission does not have the power that the ZBA has; to vary or waive the requirements in the Regulations. So they cannot remove the stipulation or approve the upgrade without a stipulation. There was no further discussion

Mr. DiCaprio made a motion to continue the hearing pending receipt of more information. Mr. Spegnolo seconded the motion and it was passed unanimously.

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OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

Petition of the City of Danbury by Dennis I. Elpern, Planning Director to Amend Secs. 2.B., 4.B.2., 4.D.2. & 4.G.7. of the Zoning Regulations. (Add "Housing Redevelopment Option" to RMF-4 & RH-3 Zones)

Chairman Melillo seated Mr. Palma for Mr. Farah because he arrived during the hearing and was not here for all of it. Mr. Haddad made a motion to approve this for the following reasons:

- The implementation of these regulations will encourage property owners to replace or repair pre-existing structures that need updating since they will not lose any of the non-conformities that may exist in these structures.

Mr. Tierney seconded the motion and it was passed unanimously with nine AYES (from Mr. DiCaprio, Mr. Haddad, Mr. Jowdy, Mr. Kovacs, Mr. Renz, Mr. Tierney, Mr. Palma, Mr. Spegnolo and Chairman Melillo).

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Chairman Melillo asked if there was anything to discuss under Other Matters and there was nothing. He added that there was nothing under For Reference Only, so they might cancel the next meeting. He said the secretary would notify them.

At 8:45 PM, Mr. Jowdy made a motion to adjourn. Mr. Renz seconded the motion and it was passed unanimously.