



CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

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ZONING COMMISSION
(203) 797-4525
(203) 797-4586 (FAX)

MINUTES
JANUARY 22, 2012

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

Present were Sally Estefan, Walter Hoo Jr., Rick P. Jowdy, James Kelly, Alan Kovacs, Marina Loyola, Robert Melillo, and Alternates Kevin Haas and Elmer Palma. Also present was Planning Director Dennis Elpern.

Absent were Theodore Haddad Jr. (due to family emergency), Terry Tierney, and Alternate Robert Oravetz (out of town on business).

He then asked Mr. Haas to take Mr. Haddad's place and Mr. Palma to take Mr. Tierney's place for the items on tonight's agenda.

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

Chairman Melillo announced that Mr. Haddad's mother had passed away and the Commission observed a moment of silence to honor her memory.

Mr. Haas made a motion to accept the December 11, 2012 minutes. Mrs. Estefan seconded the motion and it was passed unanimously. Chairman Melillo said the January 8, 2012 minutes are not yet completed, so they will table the acceptance until the next meeting.

PUBLIC HEARING:

7:30 PM – Petition of Ervie Hawley Jr. for Change of Zone from R-3 to RH-3 at 39-41 Hospital Ave. (#J12009, #J12010 & #J12011).

Mrs. Estefan read legal notice, Chairman Melillo staff report dated 1/16/13 and Mr. Kovacs Planning Commission recommendation which was positive.

Attorney Paul Jaber spoke in favor of this petition. He said with him this evening were Benjamin Doto PE and David Hawley. He said this request is to rezone these parcels from multi-family to multi-family that also allows business and medical offices. The applicants want to demolish the two dwellings and construct a 7,000 sq.ft. medical office. He said Doctors Bombeck and Kramer, who are back surgeons, will occupy this new building for their practice.

This site is across the street from CT Family Orthopedics and the Hospital. The property on the east and north are zoned R-3 and everything else is RH-3 and used for medical purposes. He said these homes are multi-family and non-owner occupied. They are also in the severe state of disrepair; there is asbestos and they have been deteriorating for quite a while. He said the largest employer in the area is now Danbury Hospital, which is in the midst of a massive enlargement project. He said everything in the area is being converted to medical use and land for physicians to acquire is in big demand. Danbury Hospital is expanding and recently acquired New Milford Hospital as part of their network, so this area is being pressured to accommodate more medical services. He said Mr. Hawley visited every property owner in the immediate vicinity and had them sign a petition in favor of this change so there should be no opposition. He said Mr. Elpern's staff report really sums this up very well.

Benjamin Doto PE, said he prepared a conceptual site plan to show how this could be developed if the zone change is granted. He said this is pretty straightforward; the driveway would be on Forest Ave., similar to the CT Family Orthopedics building. The parking would be behind the building; there are no wetlands or steep slopes. The site is deep enough so the driveway can be located more than 100 ft. from the intersection. There will be minimal earthwork necessary; they will install sidewalks and both water/sewer connections are available and approved. Chairman Melillo asked if this would have any impact on the students arriving or being dismissed from Broadview. Mr. Doto said that is one of the reasons they are putting the driveway on Forest Ave.

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

Mr. Kovacs made a motion to close the public hearing. Mrs. Estefan seconded the motion and it was passed unanimously. Mr. Jowdy then made a motion to move this matter to Old Business. Mr. Kelly seconded the motion and it was passed unanimously.

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CONTINUATION OF PUBLIC HEARING:

Petition of First-Cut Holdings, LLC, Sawmill & Turner Rds. (Portion of #A17001) for Change of Zone from IL-40 to RMF-6.

Mr. Kovacs read Planning Commission recommendation which was positive. Chairman Melillo read the Planning Dept. Staff Report dated January 11, 2013 and a letter from the Town of Ridgefield.

Attorney Paul Jaber summarized what was discussed at last meeting. He also distributed a letter from Tighe & Bond that was in response to a traffic question that was brought up at the last meeting. This letter was labeled Exhibit C. He also submitted a copy of the letter from the Town of Ridgefield, and additional letters from Toll Brothers, Mulvaney Properties, and Belimo as adjoining property owners. These letters were labeled Exhibit D.

Attorney Jaber then said that the Crown Point development changed the complexity of the road. He discussed the compatibility of the surrounding developments and said the current streetscape is all residential, so it would be a mistake to mix it up. The Farrington property is still zoned IL-40 but it is highly unlikely that it will be developed as it has a really large wetland on it as well as rocky ledge and steep slopes. He then spoke about the proposed development of the subject property, saying the applicant is committed to a density of seventy units. He said the applicants are committed to Danbury and have more to lose if they don't abide by this number. This density is slightly less than at Crown Point and the residential development on the Ridgefield side is a cluster with the homes built on quarter acre lots. He reiterated what he said at the previous meeting; that the known is better than the unknown. The risk is the non-compatible industrial uses that could be put on this property. Although some of the other permitted uses would be profitable for the developer, they might not be acceptable to the residential neighbors. He added that it is hard to limit a property to one or two uses that are acceptable to the neighbors, because who knows when one of them will be interested in this property. He said the main issue that the Planning Commission discussed when making their recommendation was compatibility. Both the Planning Commission and the Town of Ridgefield felt that a residential use had more chance of being compatible with the surrounding development. He pointed out that the surrounding parties had all submitted letters in favor of the change to residential.

Mr. Jowdy asked if they really could fit ninety-plus units on this site with all the wetlands. Attorney Jaber said there is always a way that things like this can be done, but it is irrelevant because this Commission cannot do contract zoning. Mrs. Loyola asked how this would be beneficial to the City of Danbury and its residents. Attorney Jaber said he had discussed this at the last meeting. It would have a positive tax impact, it will be compatible with other development in the vicinity, and the traffic generation would be much less with a residential development than it will with an industrial use. He continued saying if you add up the real estate, motor vehicle and sewer/water use taxes, and then deduct the cost of schools and fire and police protection, the City comes out ahead. Mr. Kovacs asked if the sewer pump house would have to be upgraded to support the proposed development. Mr. Doto said it would not because when it was upgraded for the Belimo project, they included the proposed residential use. Chairman Melillo reminded the Commission members that their purview is to look at the permitted uses in the zone. He added that they should not focus on the proposed number of units because that can always change. He reminded the Commission that if the zone change is granted, they also have to go the Environmental Impact Commission at the same time the site plan is being reviewed.

Mr. Kelly asked if the tenant on the Mulvaney property is Bidel. Attorney Jaber said it is. Mr. Kelly pointed out that this area could be a site of bio sciences with first class industry on it. Attorney Jaber said only four or five acres of the site are buildable and The Reserve has over one million square feet approved for that kind of business. He added that a couple of businesses have purchased property within The Reserve and are committed to developing it. Boehringer purchased most of the land surrounding The Reserve to keep their site not visible

from the street. He said this is proof that the mix of residential and office does work. He said Belimo made the point during their Planning Commission hearings that the live/work concept is becoming very popular, starting in the southern states.

Chairman Melillo asked Mr. Doto to give a rough estimate of how the proposed development would compare in size with the existing homes in the neighborhood. Mr. Doto said the buildings are the same size; keeping this at seventy units allows for them to be spread out with plenty of open space. He said the dwellings in the Ridgefield are allotted 10,000-12,000 sq.ft. per unit and this development will allow 8,300 sq.ft. per unit. Mr. Doto said at this stage, this is all conceptual, if this zone change is approved, they have to submit to both EIC and Planning.

Chairman Melillo asked if there was anyone else to speak in favor of this and one person came forward. Joe Guidos, said he is a neighbor in Turner Hill development and he feels this land is better as RMF than IL40. He asked some questions about the Belimo approval. Mr. Elpern suggested he contact the Planning & Zoning Office to get that information.

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

Mr. Kovacs made a motion to close the public hearing. Mr. Jowdy seconded the motion and it was passed unanimously.

Chairman Melillo said there are eight members present tonight who are eligible to vote. If they table this tonight; Mr. Kelly could watch the video from the first public hearing and then there would be nine. He asked Attorney Jaber if his clients wanted to go ahead with eight or wait until there are nine. Attorney Jaber asked his clients and they said to go ahead and vote tonight.

Mr. Jowdy made a motion to move this matter to Old Business. Mrs. Estefan seconded the motion and it was passed unanimously.

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OLD BUSINESS FOR DISCUSSION AND POSSIBLE ACTION

Petition of Ervie Hawley Jr. for Change of Zone from R-3 to RH-3 at 39-41 Hospital Ave. (#J12009, #J12010 & #J12011).

Chairman Melillo said they had heard this petition earlier this evening. He asked for discussion and or comments. Mr. Jowdy made a motion to approve this petition for the following reasons.

These lots are in a prime location to be used as physician's offices. Danbury Hospital is the area's largest employer and is in the midst of a major expansion. This area is being pressured

to accommodate more medical services and the RH zone is a reasonable extension of the existing R-3 zone. This will be in character with the existing neighborhood which consists of a mix of residential dwellings and physician's offices.

Mr. Palma seconded the motion and it was passed unanimously.

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Petition of First-Cut Holdings, LLC, Sawmill & Turner Rds. (Portion of #A17001) for Change of Zone from IL-40 to RMF-6.

Chairman Melillo asked Mr. Palma to take Mr. Kelly's place on this matter. Mr. Hoo made a motion to approve this with a strong recommendation that the applicant limit the proposed development to seventy units and that a landscape architect be used to be sure this development is compatible with both Danbury and Ridgefield. The following reasons were given for the motion:

- It is compatible with the surrounding development and will probably not be a greater intensity than if it remains IL-40.

Mrs. Estefan seconded the motion. Mr. Haas asked Mr. Elpern if they did choose to build ninety units, would that make it a special exception for the trip generation. Mr. Elpern said it would, probably at about 87 units. Chairman Melillo said the recommendations were included in the motion to offer suggestions and to have them on the record. He then took a roll call vote on the motion. It was approved with five AYES (from Mrs. Estefan, Mr. Hoo, Mr. Jowdy, Mr. Kovacs, and Mr. Palma) and three NAYS (from Mr. Haas, Mrs. Loyola, and Chairman Melillo).

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NEW BUSINESS:

Petition of WestConn Properties Inc., 10 Meadow St. (#J13181) for Change of Zone from R-3 to CG-20. Public hearing scheduled for February 26, 2013.

Mrs. Estefan made a motion to refer this to the Planning Commission. Mr. Palma seconded the motion and it was passed unanimously.

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ZBA Referral: Application #13-06 – Generali Investments LLC, 51 Padanaram Rd. (#H09075), USE VARIANCE to Sec. 5.E.2., to permit driving school in the CN-20 Zone. ZBA Public hearing scheduled for January 24, 2013.

Chairman Melillo said the ZBA Subcommittee consists of Mr. Jowdy, Mrs. Estefan and Mr. Kovacs and they are just getting this tonight. Mr. Jowdy said they are all familiar with the subject property and if they take a recess, they could discuss it. Chairman Melillo said that since the next meeting is not until February 26<sup>th</sup>, it probably would be a good idea to act on this tonight. Mr. Jowdy made a motion to take a five-minute recess at 9:05 PM. Mrs. Estefan seconded the motion and it was passed unanimously. At 9:10 PM, Chairman Melillo called the meeting back to order and took attendance to confirm that everyone had returned.

Mr. Jowdy said this is the site of the former Dairytown. It is on the corner of Padanaram Rd. and Jeanette St. The business that wants to go in here is presently located at 45 Padanaram Rd. which is a strip center. They have been looking to relocate and feel this site is perfect because it is serviced by a traffic signal. Their present location was approved by the Planning Commission about nine years ago, but since that time the Regulations have been changed and this is no longer permitted in the zone. He then made a motion to give a positive recommendation for the following reason:

- This use has existed at 45 Padanaram Rd. since 2003 when it was approved as a special exception use. Since then the Zoning Regulations have been amended and this use is now non-conforming. The subject site is more desirable for a driving school as it is located at an intersection which is serviced by a traffic light. Additionally, this use is compatible with the development that already exists on Padanaram Rd.

Mr. Kovacs seconded the motion. Chairman Melillo asked Mr. Elpern if he had any comment on this. Mr. Elpern said he does not believe in Use Variances because they give one property rights that another property located in the same zone does not have. Chairman Melillo called for a vote on the motion for a positive recommendation and it was passed unanimously.

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#### OTHER MATTERS

Richard Hunt, 5 Robinson Ave., came forward and asked to speak. Chairman Melillo apologized to Mr. Hunt because he has set up the meeting with the Zoning Officer but he will address it after tonight's meeting. Mr. Hunt said he just wanted to point out the following issues which need to be addressed:

- 1) The City needs special laws for repeat offenders
- 2) The Zoning Regulations needs to define what a family is
- 3) His neighbor claims that he has no written leases and he does not know his tenants names. Doesn't the City have a requirement that a landlord obtain this information from his tenants?
- 4) He said his neighbor has had his property surveyed and submitted a fraudulent survey to the City land records. He said when he submits certified records, they are accurate and true.

At this point, Chairman Melillo asked Mr. Hunt to refrain from pointing fingers at anyone who is not here to defend themselves. Mr. Hunt said the City needs to prevent these fraudulent surveyors from filing their documents. Chairman Melillo pointed out that land surveyors are State licensed. Mr. Hunt said the City Council needs to implement penalties and fines and give the Zoning Dept. some enforcement power. Chairman Melillo read the definition of family from Sec. 2 of the Zoning Regulations. Mr. Hunt responded by saying the City needs to make special regulations that address these absentee landlord situations because under State law, landlords are not responsible for their tenant's actions. Mr. Elpern then suggested that Chairman Melillo set up a meeting with the Zoning Enforcement Officer, himself, and Mr. Hunt to discuss these matters further.

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Chairman Melillo noted that there was nothing under Correspondence or For Reference Only and then said there would only be one meeting in February this year. He explained that City Hall is closed for a holiday on the night that the Commission would normally meet so the next meeting is scheduled for February 26, 2013.

At 9:45 PM, Mr. Kelly made a motion to adjourn. Mrs. Estefan seconded the motion and it was passed unanimously.