



CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

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

MINUTES
JANUARY 18, 2005

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The meeting was called to order by Chairman Jack Knapp Jr. at 7:35 PM.

Present were Theresa Buzaid, Christine Cuhsnick (arrived at 8:05 PM), Theodore Haddad Jr., Patrick Johnston, Richard P. Jowdy, Jack Knapp Jr., Lenny Silva Jr., and Alternates Jean Anderson, Ted Farah and Helen Hoffstaetter. Also present were Planning Director Dennis Elpern and Assistant Corporation Counsel Robin Edwards.

Absent were Donald Kennedy and Dr. Joseph Mooney.

Chairman Knapp introduced the new alternate member, Ted Farah. Mr. Farah will be filling the vacancy created when Mr. Kennedy was moved up to a regular member to take Kevin Hearty's place.

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

Chairman Knapp said the next regular meeting is scheduled for next Tuesday, January 25, 2005. He added that all of tonight's public hearings were rescheduled from the January 11, 2005 meeting, which was cancelled due to the weather.

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PUBLIC HEARINGS FOR CONSIDERATION AND POSSIBLE ACTION:

7:30 PM - Proposed settlement (Stipulated Judgment) of Codfish Hill Construction LLC's appeal from the denial of its petition to change the zone of properties located at 55 & 57 Padanaram Rd and 2 Jeanette St from RA-40 to RMF-6.

Chairman Knapp read the legal notice, the Stipulation as revised through today, and the report from the City Traffic Engineer. He asked if there was anyone to speak in favor of this petition.

Charlotte Barrows, 55 Hospital Ave., said she has been interested in age-restricted housing for several years. But what has been approved so far is priced beyond what most senior citizens can afford. This sounds like something good at a more reasonable price. And with no children permitted, there will be no need to build more schools. Additionally, the traffic impact should be minimal with the limited number of units.

Arlene Strucky, 180 Southern Blvd., said she volunteers at Senior Center and hears all the time that there is no affordable housing available for seniors. She said this would be a great thing to

see get built. Mr. Haddad asked if they had missed some information regarding the pricing of these units since it is not spelled out in the stipulation. He said everyone is mentioning the reasonable pricing although there has been nothing documented regarding it. Chairman Knapp said there has been nothing stated in the file or on the record regarding the price of the proposed units.

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

Mr. Haddad asked if it is critical that the traffic report is referenced in the Stipulated Judgment. Mr. Elpern said with only nine units, there will not be a flood of traffic coming in and out of this place. He said the last two conditions in Mr. Mohamed's report should be incorporated into any motion on this matter. This will be an administrative review not a Commission matter due to the small size of the project. Attorney Robin Edwards then said they did incorporate Mr. Mohamed's comments into the REVISED stipulation, which was distributed this evening at the beginning of the meeting. She said as long as they reference the REVISED stipulation in the motion, it will include those comments.

Mr. Jowdy made a motion to close the public hearing. Mr. Johnston seconded the motion and it passed unanimously by voice vote. Chairman Knapp pointed out that since this matter is listed as for possible action, there is no need to move it to Old Business for Possible Action in order for them to take action on it. He added that if someone makes a motion now, they can vote on this. Chairman Knapp then asked Ms. Hoffstaetter to take Dr. Mooney's place, Mr. Farah to take Mrs. Cuhnsnick's place and Mrs. Anderson to take Mr. Kennedy's place for the vote on this matter.

Mr. Johnston made a motion to approve the REVISED Stipulated Judgment including the amendments made by the City Traffic Engineer for the following reasons:

- The addition of senior (age restricted) housing will benefit the community and this complies with the Housing for Older Persons Act and Federal Housing Act. The small number of units should not overburden the traffic on Padanaram Rd. and by approval of this motion; the Commission hereby authorizes Corporation Counsel to execute the Stipulated Judgment on behalf of them.

Mr. Jowdy seconded the motion. A roll call vote was taken and the motion passed with eight AYES (from Mrs. Buzaid, Mr. Haddad, Mr. Johnston, Mr. Jowdy, Chairman Knapp, Mrs. Anderson, Mr. Farah and Ms. Hoffstaetter) and one NAY (from Mr. Silva).

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Mrs. Cuhnsnick arrived at 8:05 PM.

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7:45 PM - Petition of Frank O'Brien to Amend Sec. 6.A.2.b. of the Zoning Regulations (Add "Indoor Go-Kart Facility" to the IL-40 Zone as Special Exception Use).

Mrs. Cuhnsnick read the legal notice regarding this petition. Mr. Elpern then explained that attempts to contact this applicant were unsuccessful last week when we had to cancel the

meeting and we have heard nothing from him. The petition was submitted by mail and there is no phone number or address on it, so we have no way to contact him.

Mrs. Cuhsnick made a motion to continue this until next week's meeting. Mr. Johnston seconded the motion and it was passed with eight AYES (from Mrs. Buzaid, Mrs. Cuhsnick, Mr. Johnston, Mr. Jowdy, Chairman Knapp, Mr. Silva, Mrs. Anderson, and Ms. Hoffstaetter) and one NAY (from Mr. Haddad).

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8:00 PM - Petition of the City of Danbury by Dennis I. Elpern, Planning Director to Amend Secs. 2.B. 4.G.3., 4.H.5.j., 5.H.3., 6.C.4.& 8.E. of the Zoning Regulations (Amend Sign Regulations).

Mrs. Cuhsnick read the legal notice regarding this petition. Chairman Knapp read the Planning Commission recommendation, which was negative with the suggestion that additional language be added to protect the integrity of the district's height limitation.

Mr. Elpern spoke in favor of this petition. He said two things prompted the new language: the Lamar petition and the latest Court decisions requiring us to insure that our regulations remain current. He said the Statutes give us the right to regulate signs on the basis of height, but not being able to regulate content has made writing these regulations all the more difficult. He said the provision for the relocation of billboards has been a big part of this proposal. He said they wanted to limit where billboards can be located to only on lots that abut I-84 and Rt. 7. Also, no placement on lots that are non-conforming regarding the lot area, no side or rear yards, not within 10 feet of the front property line or within 100 feet of a residential district. At this point, Mrs. Buzaid asked why there is nothing in these regulations that says signs have to be in English. Mr. Elpern said we couldn't have anything like that in the regulations because we are not allowed to regulate content. He said that would be dealing with freedom of speech issues and we cannot touch those. Mrs. Buzaid said she does not want to see signs that she cannot understand and it is not fair to the elder generation (like our parents) to have to look at signs in another language. Mr. Elpern said she can ask that it be added, but he cannot support that idea and it is not advisable since we cannot regulate content. Mr. Elpern discussed the height concerns and said that the Planning Commission had recommended limiting the maximum height of the billboard to the maximum height permitted in the zoning district. He said this was one of the things they had discussed when they denied the Lamar petition and the Commission had chosen this language. Chairman Knapp reminded the Commission that they had gone over this new language point by point and had told Mr. Elpern what they wanted in this new petition. Mrs. Anderson said she wanted to reiterate her concern about the Rt. 7 area because of its proximity to the Airport approach zone. Mr. Elpern responded saying that if they are to be located within the approach zone, they will need approval from the Aviation Commission.

Attorney Rob Accomando said he represents Lamar Outdoor Advertising and introduced Jack Goncalves from Lamar. He said they are completely in favor of this petition and are satisfied with the efforts from Mr. Elpern and Attorney Edwards. He said if this were approved, there would be an immediate benefit to the City. He said regarding the Commissioner's concerns regarding the English language issue, he agrees with Mr. Elpern that content is protected and what will be on signs is beyond the scope of what these regulations address. Mrs. Buzaid again said she would like to know what a sign says and English is our native language. She said she just does not want

to look at signs that she cannot understand. She added that she does not care about the content except that she wants to be able to read it in English. Attorney Accomando said they tried to keep these regulations about what can be done, not about prohibitions. Mrs. Buzaid said she just feels signs should be in English. Mr. Jowdy suggested that she could make an amendment to the proposed language. Mr. Elpern said if you say everything must be in English, does that mean we exclude Latin or Hebrew? Mrs. Cuhsnick asked Attorney Edwards if this kind of change could cause a potential lawsuit. Attorney Edwards said content is not before them this evening, so they really should not be discussing it. She said they had labored long and hard on these regulations and content is a difficult issue because it is not just what is there, but how you say it. She said trying to address content could lead to all kinds of first amendment issues. It might be appropriate at another time to do look at this issue but now is not that time. Chairman Knapp asked Mrs. Buzaid if she had participated in the previous petition, and she said she had recused herself since her husband does business with Lamar but this is not a Lamar petition so she does not have to recuse herself this time. Chairman Knapp asked her if she was present for the discussions regarding this issue. She said she left the meeting where they held the public hearing, and did not remember the Commission ever discussing this with Mr. Elpern.

Attorney Rob Accomando said regarding the height question, Lamar is not looking to go as high as possible, they are just looking to go to an "appropriate height". He said this would be defined as easy to see without making a driver uncomfortable or distracting him from the road. Mr. Johnston asked if there was a normal height. Attorney Accomando said there is no normal measure from the top of sign; they just want to get the whole sign face in the viewable area. He added that this measurement is topographically driven, whatever is appropriate for the site. He said it usually is about fifty feet from the grade, but that is not cut in stone and they are comfortable with these regulations as they are drafted now. They were comfortable with the language that they had previously written which was the same as what the Planning Commission had suggested. He said they think that once these regulations are implemented, there will be a tangible difference from what is here now. Mr. Jowdy asked Mr. Elpern is any consideration was given to what the Planning Commission had suggested. Mr. Elpern said we did not make any changes in response to that recommendation. Mrs. Buzaid asked if that means billboards can be higher than a building. Mr. Elpern said that in some cases that is true. Mrs. Buzaid asked why they were not considering this recommendation. Mr. Elpern said because on the night they denied the Lamar petition, the Commission specifically told him what language they wanted in this new petition and that was not included. He explained that he had offered the Commission various options and they had voted on which choices they wanted in this new petition. He said of course they could amend this language but also if it is needed the applicant can apply to the ZBA for a variance to this regulation. He said it is impossible to write regulations that will address every situation within the City. Mrs. Cuhsnick said she is not comfortable with changing any of this language since the Commission spent a more than reasonable amount of time on this. Additionally, since Mr. Elpern and Corporation Counsel Robin Edwards have worked long and hard on this, she would like to move forward tonight.

Mrs. Buzaid asked if there were minutes of this meeting where the Commission had set their priorities as to what they wanted in this new petition. Chairman Knapp asked the secretary to check on that. The secretary checked and this discussion took place at the October 12, 2004 meeting. Mrs. Buzaid was present at this meeting where Mr. Elpern presented the alternatives to the Commission and asked for them to tell him specifically what language they wanted. It was after the discussion that the Commission voted to deny the Lamar petition. It was stated in the

minutes that Mrs. Buzaid was present although abstaining from that matter. The minutes of the October 12, 2004 meeting were have been distributed and accepted by the Commission.

Attorney Accomando said although they had originally come in with different ideas, they are comfortable with this language now. If there is a situation where they cannot meet or actually exceed the requirements, they will go to the Zoning Board of Appeals to request a variance. Chairman Knapp asked if there were any further recommendations or changes. Hearing none, he said they should move forward and asked if there was anyone to speak in opposition to this petition.

Joel Urice, 44 Olympic Dr., said it seems as though they are giving Lamar everything they asked for originally. They wouldn't be here tonight if Lamar hadn't brought in the original petition. This change is good for Lamar but not necessarily the people of Danbury. He asked that the Commission deny this and leave billboards as the non-conforming use they always have been.

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

Mr. Elpern rebutted saying we did not give Lamar everything they wanted. They wanted unlimited replacements anywhere they chose and they did not get that. He added that is why it took so long to get to this point, because there was much compromise on both sides. If this is passed we will see some combining of billboards along I-84 and Rt. 7, but we also will see some of them being taken down.

Mr. Johnston made a motion to close the public hearing. Mrs. Cuhsnick seconded the motion and it was passed unanimously. Mr. Johnston made a motion to take a five-minute recess. Mrs. Cuhsnick seconded the motion.

Chairman Knapp called the meeting back to order after the recess. He asked Mrs. Anderson to take Dr. Mooney's place and Ms. Hoffstaetter to take Mr. Kennedy's place for the discussion and possible vote on this matter. He then reminded them that since this matter is listed as for possible action, there is no need to move it to Old Business. He asked if anyone wanted to make a motion so they can discuss this.

Mr. Johnston made a motion to approve this petition based on the recommendations of this Commission. Mrs. Cuhsnick seconded the motion.

Mr. Jowdy asked if this means we would end up with more or less signs. Mr. Elpern said it would net out to an even amount. Chairman Knapp said the overall square footage would not be increased. Mr. Elpern said the number of billboards cannot increase, but we will see an influx of them along I-84 and Rt. 7 since they will be consolidating other sites into these areas. Mr. Jowdy asked again if we are talking about a specific number of billboards. Mr. Elpern said Lamar had done a count, but the City has not. He added that to say this will be cleaning up is a judgment call, because in some areas there will be more but there also will be some removed. Mr. Jowdy pointed out that the public never notices what is taken away; they only notice what is added. Mr. Johnston said he understood that these changes would net out to less signs but some would be of a bigger size. Mr. Elpern said they still cannot exceed the overall size limitations. Mr. Haddad pointed out that this would affect all billboards in the City, even the ones not owned by Lamar. He

added that there are some billboards that are not located in these two specific areas. Chairman Knapp asked if anyone had anything else to say and there were no further comments.

Chairman Knapp then called a roll call vote and the motion to approve this petition was passed with six AYES (Mrs. Cuhsnick, Mr. Haddad, Mr. Johnston, Mr. Silva, Ms. Hoffstaetter and Chairman Knapp) and three NAYS (from Mrs. Anderson, Mrs. Buzaid and Mr. Jowdy).

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OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

ZBA Referral: #04-98 – Kenneth Anderson, 22 Patch St. (#H12224) Use Variance, Sec.5.A.2., to permit the use of a two-family residence in a CG-20 Zone. *ZBA public hearing was opened at 12/9/04 meeting. This matter was continued at the 1/13/05 ZBA meeting pending receipt of this recommendation.*

Mrs. Cuhsnick made a motion to table this until next week’s meeting when the subcommittee would present a report and make a recommendation. Mr. Johnston seconded the motion and it was passed unanimously by voice vote.

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Chairman Knapp reviewed the Communications, which consisted of twelve Cease & Desist Orders and the For Reference Only, which listed the public hearings scheduled for January 25, 2005 and February 22, 2005.

At 9:35 PM, Mr. Johnston made a motion to adjourn. The motion was seconded by Mr. Jowdy and passed unanimously.