



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

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

**MINUTES**  
**FEBRUARY 14, 2006**

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The Executive Session was called to order at 7:05 PM by Chairman Jack Knapp Jr.

Present were Theresa Buzaid, Anthony DiCaprio, Ted Farah, Theodore Haddad Jr., Helen Hoffstaetter, Richard P. Jowdy, Donald Kennedy, Jack H. Knapp, Robert Melillo, and Alternates Jean Anderson and Victoria Hickey. Also present was Planning Director Dennis Elpern.

Absent was Joseph Notaro, Jr.

Mr. Melillo made a motion to go into Executive Session to discuss Scuppo Road LLC. v. the Danbury Zoning Commission. Mr. DiCaprio seconded the motion.

At 7:20 PM, Mr. Farah made a motion to come out of Executive Session. Ms. Hoffstaetter seconded the motion.

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The regular meeting was called to order by Chairman Jack Knapp Jr. at 7:30 PM.

Present were Theresa Buzaid, Anthony DiCaprio, Ted Farah, Theodore Haddad Jr., Helen Hoffstaetter, Richard P. Jowdy, Donald Kennedy, Jack H. Knapp, Robert Melillo, and Alternates Jean Anderson, Victoria Hickey.

Absent was Joseph Notaro.

Chairman Knapp led the Commission in the Pledge Of Allegiance.

Chairman Knapp then announced that Mr. Haddad had recused himself from the Executive Session as he did when the original petition was heard. Mr. Farah made a motion to not take any action on what was discussed during the Executive Session. Mr. Melillo seconded the motion.

Ms. Hoffstaetter made a motion to accept the January 10, 2006 minutes. Mr. Melillo seconded the motion.

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PUBLIC HEARING:

Mrs. Buzaid and Mrs. Anderson both excused themselves and left the meeting as they are both abstaining from this matter. Chairman Knapp asked Ms. Hickey to take Mrs. Buzaid's place for the items on tonight's agenda.

7:30 PM – Petition of the City of Danbury by Dennis I. Elpern, Planning Director to Amend Secs. 3.C.2. & 4.A.7. of the Zoning Regulations. (Deer Hill Avenue Overlay Zone).

Mr. Farah read legal notice. Ms. Hoffstaetter read the Planning Commission recommendation which was positive. Chairman Knapp read the brief Planning Department Staff Report and the HVCEO notice which says this is "Of local concern, but without intermunicipal impact".

Dennis Elpern spoke in favor of this petition. He explained that an overlay zone applies only to a portion of the land within a zoning district. He said the purpose and intent is to recognize the historic character of this area and to protect property values. The area of the proposed overlay encompasses all properties fronting on Deer Hill Avenue from Wooster St. to Southern Blvd. which are zoned RA-8. It does not affect other properties in the City zoned RA-8. He then reviewed the list of permitted and special exception uses. He read through the additional provisions for special exception uses and said the accessory uses are controlled to maintain the nature of area. This proposal complies with the Plan of Conservation & Development as this area is shown on the land use map as a single family zone and this is a means to help protect residential neighborhoods. He said a portion of Deer Hill Ave. lies in the urban core district. He then said that in 1984/1985 the Danbury Preservation Trust did a survey of older properties in Danbury and found that 45 of the 66 properties included in this proposed overlay zone have historic value. He submitted copies of the pages from the Preservation Trust record books as an exhibit. He said these amendments are designed to protect the character of this area and they will. Mr. Haddad asked if the consistency with the POCD means they can change areas to protect them. Mr. Elpern said it is consistent with the POCD and that is one reason why they should approve this. Ms. Hoffstaetter asked about if the minimum lot width is consistent with the existing properties and Mr. Elpern said it is. Chairman Knapp asked if there was anyone else to speak in favor of this.

Attorney Robert Talarico, 10 Deer Hill Ave., said there is no doubt that one of the motivating factors for this amendment was the subdivision application for 20 Deer Hill Ave. He said they should consider the uniqueness of Deer Hill as it is unique in that some families have raised three generations on this street. It is important to encourage people to remain as homeowners here to help maintain the viability of the inner city. They need help from the City in order to protect these strong historic neighborhoods.

Bernie Pane, Deer Hill Ave, said he owns the biggest piece of property on the street. He said in the 38 years he has lived there, he has never tried to rape and plunder his property like others from out of town have tried to do. He said he could have split up his property at any time but chose not to because he appreciates the beauty of this street.

Jehad Sebbagh said he is a long time Danburian, but has lived at 99 Deer Hill Avenue for only the past three years. This is one of the most beautiful streets in Danbury and it deserves to be preserved. This last change the Commission made to the multi-family zones will go a great way to preserve older neighborhoods, but this street requires additional protection above and beyond that. No one ever thought 20 Deer Hill would happen, but now that it has, everyone is concerned. He said when he is showing someone around Danbury, he always drives down Deer Hill Ave. to show off what a beautiful street it is.

Jane Ryan, 1 Deer Hill Ave. said her family has lived on Deer Hill since the 1880-1890's. She said she was able to play in the surrounding alfalfa fields as a child because there was only one house on this end of the street.

Chairman Knapp asked if there was anyone to speak in opposition to this and Attorney Neil Marcus came forward. He described the historical background of his office building located at 158 Deer Hill, the Congregational Church on the corner of Deer Hill and West St. and the office building at 152 Deer Hill that was restored by George Davon. He said he has real problems with this proposal. He questioned what specifically in these regulations will promote traffic safety and protect historic factors. He said it is difficult to determine what these regulations are really intended to do. He said there is nothing to protect historic factors, citing Ridgefield's regulations which contain design criteria and regulate existing structures. He said this proposal is lacking in that area. And adding a lot width requirement will do nothing to protect property values. He then suggested that 20 Deer Hill Ave.'s property value will drop down to \$400,000 or \$500,000 if this is approved, because appointing a historic district will reduce property values. He said if you want to protect property values you would need to write a regulation specifically designed to do that. He said that Attorney Talarico had said this proposal came about because of the 20 Deer Hill subdivision application. If that is true, then this is retaliatory zoning, and that is one of the three terms that a zoning commission never wants to hear: spot zoning, discriminatory zoning and retaliatory zoning. He submitted a copy of the map for the subdivision that was denied by the Planning Commission. He said there are several lawsuits pending to appeal that decision. He then said this could be spot zoning since the only property subject to these new regulations is 20 Deer Hill Ave., unless several people tear down their houses. Even if it only affects two properties, it is still spot zoning. He said this also is discriminatory zoning because it discriminates against new construction. You cannot discriminate against new construction but not against the old. He said that many people who live on Deer Hill Ave. have no idea what this regulation will do. It will limit all new construction even something as simple as trying to replace a garage. He said the people who spoke this evening were against the subdivision creating additional lots on Deer Hill Ave. They want to encourage people to live in the City but not on the street that is the jewel of the city. Said most of Bernie Pane's property is located outside of the proposed overlay zone. He said that the purpose of the proposed regulations is to prevent the 20 Deer Hill request for subdivision from happening again. He described how the original subdivision application was submitted and treated as "normal" until the Mayor determined that there should be a public hearing held. He said so now this Commission can become a party to all the litigation and all of this just to prevent two new houses on Deer Hill Ave. This is improper because it does not do what it says it is designed to do. He reiterated that this proposal is all of these things: spot zoning, discriminatory zoning and retaliatory zoning. This proposal is part of the overall design of the City to prevent the development of 20 Deer Hill Ave. If it has to go

back to the Planning Commission, they will have to deal with these new regulations. Using a rough sketch, he demonstrated that even a small house on cannot meet these proposed setbacks. He said this is the worst zoning amendment that he has ever seen, and he has seen people try to block development before but this is a sham. In closing, he suggested they take a ride up and down Deer Hill Ave. before they decide this. And if they decide to protect Deer Hill Ave, they should do it the right way and this amendment isn't it.

Mr. Haddad then said he didn't realize this overlay zone included a parcel that is right now in litigation with the City. He said he believed that historically they did not accept or listen to petitions regarding a piece of property. He said he wants to study this further as it is a disgrace. He continued saying that he does not understand where this is coming from and the timing of this is absolutely horrible. Chairman Knapp asked Mr. Haddad to direct his comments toward the questions and answers. Mr. Haddad said he does not know if he wants to participate in this matter. Chairman Knapp asked if there was anyone else to speak in opposition and there was no one. He then offered Mr. Elpern the chance to rebut the opposition's comments.

Mr. Elpern pointed out that when Attorney Marcus talks about his office being located on Deer Hill, it is not part of the RA-8 district, nor is it part of the proposed overlay zone. He said in preparing this proposal, he deliberately eliminated a number of uses which would attract traffic to a single family neighborhood. He said maintaining the character of Deer Hill Avenue will protect historic factors. Permitting only one single family home per lot and requiring it to face the street protects the historic character of the area. The property values would remain high because this will eliminate things that would be intrusions into a single family neighborhood. The purpose of this is to prevent proposals that will undermine the character of this neighborhood. This is not directed any specific property and it does not constitute spot zoning since the area included in the proposed overlay zone is not a small area. Spot zoning is rezoning to a zone that is not compatible and that is not the case here. He said the proposed changes recognize existing development patterns and reinforce them. He said this proposal is related to the normal policing powers of the State and all of the things stated in CGS are being upheld. He said this is not discriminating against new development since the bulk of Mr. Pane's property is within the overlay zone. In closing, he said it is regrettable that any effort of the City to protect this area is being considered unseemly.

Mr. Farah made a motion to close the public hearing. Mr. Melillo seconded the motion. Mr. DiCaprio said based on Mr. Haddad's comments, maybe they are not ready to close the hearing. Suggested they keep it open so they can explore this and speak to Corporation Counsel. If they close it then they will not have the benefit of advice from Corporation Counsel. Chairman Knapp said he will personally speak to Corporation Counsel and arrange to have someone at the next meeting. Mr. Farah withdrew his motion to close the hearing. Mr. Melillo withdrew his second. Mr. DiCaprio made a motion to continue the public hearing. Mr. Farah seconded this motion.

Mr. Elpern asked if they wanted to state the purpose of continuing the hearing before they vote on the motion. Mr. Haddad asked if Corporation Counsel could be at the next meeting to discuss this. Chairman Knapp said he had already said he would get someone from Corporation Counsel's office to be at the next meeting. This was followed by a discussion as to the purpose of continuing the hearing. Mr. DiCaprio amended his motion to say the hearing would be

continued to allow them the opportunity to confer with Corporation Counsel and Staff and possibly whoever else they choose to hear testimony from. Mr. Farah accepted this amendment to his second.

Mr. Melillo asked if continuing this hearing means that only Corporation Counsel can address them. Chairman Knapp said that is what they are deciding on now. Mr. Haddad said they really need to decide if they should hear only from Corporation Counsel. Mr. DiCaprio again tried to clarify by stating that their main intent in continuing this is to discuss it with Corporation Counsel and possibly others. Chairman Knapp called a roll call vote and the motion was passed unanimously.

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NEW BUSINESS:

- 1) ZBA Referral: Application #06-15 – Transfer Systems Inc., 307 White St a.k.a. 14 Beaver Brook Rd. (#K13016), Use Variance to Sec. 6.A.2.(a) in acc. w/ Sec. 9.C.2.a. & b., to permit expansion of non-conforming use. (IL-40 Zone). *ZBA public hearing opened January 26, 2006. Continued pending receipt of this recommendation.*

Chairman Knapp asked the subcommittee (Mr. DiCaprio, Mr. Farah and Mr. Melillo) for their report. Mr. DiCaprio said that the applicant wants to change the way the trash is transported to Bridgeport. Currently it is transported by trailer truck, now they want to package the trash into shrink wrapped bundles and transport them by train. The variance would allow them to construct areas to bundle the trash and load it onto the trains. The City would benefit from this change because there would be reduced truck traffic on the roads and the shrink wrap process would also eliminate any odor issues. There were no questions or comments from the Commission members.

Mr. DiCaprio made a motion to give this a positive recommendation for the following reason:

- The proposed change in the manner by which the trash is processed will be beneficial to the City.

Mr. Farah seconded the motion and it was passed unanimously with nine AYES (from Mr. DiCaprio, Mr. Farah, Mr. Haddad, Ms. Hoffstaetter, Mr. Jowdy, Mr. Kennedy, Mr. Melillo, Chairman Knapp, and Ms. Hickey).

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The Correspondence consisted of nine Cease & Desist Orders and one EIC/Order to Correct. There was nothing listed under for Reference Only.

At 9:30 PM, Ms. Hoffstaetter made a motion to adjourn. Mr. Farah seconded the motion.