



CITY OF DANBURY
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ZONING COMMISSION
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MINUTES
MARCH 8, 2022

The web-based meeting (hosted on Zoom) was called to order by Chairman Theodore Haddad Jr. at 7:35 PM.

Present were Michael Coelho, Milan David, Candace Fay, Ryan Hawley, Rick P. Jowdy (arrived @ 7:42 PM), Robert Melillo, and Theodore Haddad Jr. Also present was Planning Director Sharon Calitro and Assistant Corporation Counsels Daniel Casagrande and Robin Edwards.

Absent were Angela Hylenski, Joseph Raya and Alternate members Bruce Bennett, Edwin Duran, and Olga Mejia.

Chairman Haddad led the Commission in the Pledge of Allegiance.

Mr. David made a motion to accept the January 25, 2022 minutes. Mrs. Fay seconded the motion and it was passed unanimously by voice vote with seven ayes.

Mr. Coelho made a motion to deviate from the order of the agenda and discuss the Old Business first. Mr. David seconded the motion and it was passed unanimously by voice vote with seven ayes.

OLD BUSINESS FOR DISCUSSION AND POSSIBLE ACTION:

Petition of the City of Danbury by Sharon B. Calitro, Planning Director to Amend Section 10.C.4.(a)(2) of the Zoning Regulations. (Amendment pursuant to Public Act 21-29: Amend Language in Additional Requirements for Approval of Special Exceptions and Special Permits relative to use of the word "character"). NOTE: AMENDMENTS TO SECTION 3.C. AND 10.B.2 INCLUDED IN THIS PETITION WERE APPROVED JANUARY 25, 2022.

Chairman Haddad said that Attorney Casagrande had issued an opinion letter in response to the Commission's question whether these amendments limit the Commission's discretion when making a decision on an application and he is going to review the main points in the letter.

Attorney Casagrande said he also was asked to render an opinion on the Commission considering the "physical site characteristics" of a zoning district rather than the

"character" of the district. He reviewed some of the points in the letter and said this change is intended to prevent any misunderstanding of the term "character". He discussed the difference between the two terms and said this new language still allows for wide discretion over zoning decisions. He said the term "physical site characteristics" is more specific than the word "character", which is considered vague and lacks a precise definition. Additionally, the word "character" is thought to be exclusionary and promote wealthy white interests and has produced discriminatory zoning decisions. The proposed replacement language still allows the municipality to ensure aesthetic conformity within development, including preservation of historical characteristics, without referring to this as "preserving character". He also said that Sec. 8-2 of the Statutes is the enabling act that gives the Zoning Commission its power, so the language in the Zoning Regulations has to be consistent with the language in Sec. 8-2. He said that the Commission really has no choice but to accept the language as proposed in this petition. In closing he said the standards in Sec. 10.C.4. of the Zoning Regulations are consistent with the standards in Sec. 8-2 of the Statutes and the language in PA 21-29 does not limit their discretionary power in any way when deciding an application.

Chairman Haddad asked for a motion so they can discuss this further. Mr. David made a motion to approve this petition. Mr. Jowdy seconded the motion. Mr. Melillo said he intended to vote against this because he does not want to see Hartford dictating policy for Danbury. He said he would rather see a definition of "character" added to the Regulations. Mr. David asked if they could opt-out of this. Mrs. Calitro said there is no opt-out on this portion of the petition. That was only associated with the parking requirement in the petition. Mr. Melillo said he understood they could leave it in there but not use the term character until it is explicitly defined in their Regulations. Mrs. Calitro said any definition that might be considered would contain the words that Attorney Casagrande had cited. These include preserving historic character of a district, addressing environmental impacts, the density of the district, and suitability of the use in the district. Also the effect it will have on property values, traffic safety and possible congestion, parking, noise, glare and everything in Sec. 10.C.4. of the Regulations. Attorney Casagrande said whether or not they change the Regulations, they are bound by the language in the Statutes. And this amendment does not curb their discretion in taking the usual standards into consideration when deciding a special exception or special permit. Mrs. Fay said she does not know if the Commission is even able to make the distinction between character and physical characteristics and maybe they should add a definition of character because then when they use the term, it will be clear what they intended. At this point, Mr. David withdrew his motion (saying that he only made it to allow for discussion) and Mr. Jowdy withdrew his second. Chairman Haddad asked if anyone else was willing to make a motion and no one responded. Mr. Melillo then asked what happens now. Mrs. Calitro said the first 65 days to make a decision will be up next week, so they would need an extension to continue this until the next meeting. Mr. Melillo asked what would happen if the extension is not granted. Attorney Casagrande said they are still bound by the Statute, and he does not see this as an impediment to them making any decisions. Mrs. Calitro (as the applicant) granted an extension of the time for the Commission to make the decision to the March 22, 2022 meeting. Chairman Haddad said this would come up again for discussion at the next regular meeting on March 22, 2022.

PUBLIC HEARINGS:

Petition of the City of Danbury by Sharon B. Calitro, Planning Director to Amend Section 3.C. of the Zoning Regulations (Amendment pursuant to Public Act 21-29: Opt out of the requirement for the allowance of accessory apartments as of right on each lot that contains a single-family dwelling.)

Chairman Haddad read the legal notice for both public hearings earlier in tonight's meeting. He then read the Planning Commission recommendation which was positive. He also read the recommendation from WestCOG, which said this was "of local interest and with minimal intermunicipal impact" so they are making no comment. He then asked Mrs. Calitro to read the staff report which was dated January 13, 2022.

Mrs. Calitro said Public Act 21-29 establishes default provisions that allow for the construction of accessory apartments on "lots accompanying single-family homes, unless a municipality chooses to opt out of this provision by January 1, 2023." It also places restrictions on conditions of approval including, but not limited to, familial occupancy, as-of-right processing, unit size, and requiring the unit to be affordable. He then said this petition would add a new Sec. 3.C.7., which would allow Danbury to opt out of the State provisions. She continued saying that while it appears that this new law is designed to provide increased housing opportunities in all Connecticut municipalities. She said that we believe the City is best positioned to address the housing needs of its residents and create regulations based on local demographics, housing conditions, and economic circumstances. Accessory apartments were permitted by special exception until 2015 when the Zoning Commission, after acknowledging nuisance and other land use related problems and abuses of the regulations by a local property owner, deleted the use. She explained that Staff and the Committee charged with preparation of the mandatory Affordable Housing Plan (required pursuant to CGS Section 8-30j), recognize that to foster the growth of housing that will accommodate and be accessible to its residents, the City should consider reinstatement of some form of regulation allowing for accessory apartments. She said the Affordable Housing Plan will become part of the new Plan of Conservation & Development. By approving this amendment and opting out this section of PA 21-29, the City will retain local control and the ability to write our own regulations, including the consideration of affordability restrictions. She added that the public act also requires that the City Council opt-out as they have with the 2017 temporary health care structures. Lastly she said that while Staff appreciates what they are trying to do, the City itself is best suited to write the specific regulations for accessory apartments.

Also speaking in favor of this petition was 6th Ward Councilman Paul Rotello, 13 Linden Place. He said Mrs. Calitro's reasoning is concrete as he has concerns about the State language because it is indicative of the State trying eliminate local control over zoning. He said Danbury is more than meeting our required percentage of affordable housing and he thinks this language is targeted more toward the communities that are not meeting their percentage. He said it would be a mistake to allow the State to dictate this as their language is one size fits all. He said allowing this as of right would be destructive to all of the single-family zoned neighborhoods in the City.

Charlie Setaro, 27 Deer Hill Ave., also spoke in favor of this petition. He said the State mandate fails to take into consideration factors such as neighborhood nuances, historic traits, physical plots, and other factors that can only be evaluated by local communities and planning authorities. The language as proposed by the State can only be detrimental to our community. He said the Planning Department staff report carefully outlines the reasons why Danbury should opt-out of this. He said regulations which will permit accessory apartments can and have been abused in the past, but he has faith in the vision and opinions of the Planning Department staff that this is better handled on a local basis. He thanked Mrs. Calitro and her staff for making all of the information available to the public.

Robert Steinberg, 159 Forty Acre Mountain Rd., said he is not opposed to the State proposal but he is not in favor of it either. He said accessory apartments, even “granny pods” are a good answer to the shortage of rental housing but this should be regulated on a local level. He said there are ways to write these regulations that will work.

5th Ward Councilman Duane Perkins, 22 Main St., said it is up to the City Council members to protect their constituents, so we cannot have apartments popping up in all of the single family residential neighborhoods. He said the City itself is more suited to determining what direction we want this to take rather than succumbing to the State mandates which could be harmful to the community as a whole.

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

Mr. Coelho made a motion to close the public hearing. Mrs. Fay seconded the motion and it was passed unanimously by voice vote with seven ayes. Mr. Coelho made a motion to move this to item two under the Old Business on tonight’s agenda. Mrs. Fay seconded the motion and it was passed unanimously by voice vote with seven ayes.

Application of Sugar Hollow Realty LLC (property owners) for Nissan of Danbury LLC, 13 Sugar Hollow Road (G17008) for a Certificate of Location Approval for a Motor Vehicle New Car Dealer’s License in the CG-20 Zone.

Chairman Haddad read the legal notice earlier in tonight’s meeting. Attorney Thomas Beecher spoke in favor of this application. He said this property is the former location of Bed, Bath & Beyond and Sports Authority. This property received both site plan and Environmental Impact Commission approvals for this project last year. He said the property is over seven acres and abuts Danbury Airport. He said this use will fit in with the character of the neighborhood as there are three more auto dealerships located within close proximity. He said there is an existing 78,000 sq.ft. building and parking area already on this property that will be split between the showroom and service area. He mentioned that the site plan approval specifically states that the cars must remain within the parking spaces and not be put on any islands or grassy areas. This use is permitted in the zone, it has received site plan approval, and there are no health, safety, or welfare issues, so this is a good fit for the reuse of this property.

Chairman Haddad noted that the site plan approval letter was included in the papers submitted by Attorney Beecher. Mr. Jowdy asked about the parking and Attorney Beecher said there are over 225 parking spaces and 186 are dedicated for sale vehicles. Mr. Hawley asked if the internal traffic flow will be changed and Attorney Beecher said it will remain the same as it was before with the exit onto Wibling Road. Mr. Coelho asked if the unloading of vehicles will take on site. Attorney Beecher it has to because the site plan approval prohibits unloading from the road. Mr. Melillo asked Attorney Beecher to confirm that this site is larger than any of the other dealerships on Sugar Hollow Rd. Attorney Beecher said it is a fairly large lot but he cannot speak to the other dealerships because he does not know the size of those lots.

Also speaking in favor was 6th Ward City Councilman Paul Rotello who said this is a good fit for the area. He added that he is past hoping that the businesses located on Sugar Hollow Rd. would be airport related. He mentioned that he remembered Fair Cadillac using a lot in this neighborhood as their overflow lot in conjunction with their showroom on Park Ave. Chairman Haddad pointed out that this site was once the home of Castro Convertibles. Mr. Rotello said he has no issue with this application.

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

Mrs. Fay made a motion to close the public hearing. Mr. Jowdy seconded the motion and it was passed unanimously by voice vote with seven ayes. Mrs. Fay made a motion to move this to item three under the Old Business on tonight's agenda. Mr. Coelho seconded the motion and it was passed unanimously by voice vote with seven ayes.

OLD BUSINESS FOR DISCUSSION AND POSSIBLE ACTION:

Petition of the City of Danbury by Sharon B. Calitro, Planning Director to Amend Section 3.C. of the Zoning Regulations (Amendment pursuant to Public Act 21-29: Opt out of the requirement for the allowance of accessory apartments as of right on each lot that contains a single-family dwelling.)

Mr. David made a motion to approve this petition. Mr. Coelho seconded the motion. These were the reasons given: The City of Danbury is in the best position to address the housing needs of its residents; based on local demographics, housing conditions, and economic circumstances. Additionally, the City currently has an Affordable Housing Plan underway which with the new Plan of Conservation & Development will relate to new housing opportunities. Chairman Haddad took a roll call vote and the motion was passed unanimously with seven ayes.

Application of Sugar Hollow Realty LLC (property owners) for Nissan of Danbury LLC, 13 Sugar Hollow Road (G17008) for a Certificate of Location Approval for a Motor Vehicle New Car Dealer's License in the CG-20 Zone.

Mr. Coelho made a motion to approve this application for the following reasons: The site has been previously approved for sales and has received site plan approval from the Planning Department for this use. Mr. David seconded the motion and added these reasons: It is in the best interest and is not detrimental to the health, safety, and welfare of the citizens of Danbury. Chairman Haddad took a roll call vote and the motion was passed unanimously with seven ayes.

OTHER MATTERS:

Revision to Official Zoning Map.

Mrs. Calitro explained that last year we found an error in the Zoning Map which dates back to a 1988 zone change petition. The petition included several properties and only some of them were approved for rezoning. When the Zoning Map was updated to reflect this decision, one of the lots that was denied was mistakenly changed to CG-20 instead of remaining as RA-8. She asked that the Commission grant her the authority to make the correction to the Zoning Map. Mrs. Fay made a motion to authorize Mrs. Calitro to rectify the error on the Zoning Map. Mr. David seconded the motion and it was passed unanimously by voice vote with seven ayes.

Chairman Haddad asked if there was anything else to discuss under Other Matters and Mrs. Calitro said that Assistant Corporation Counsel will be conducting a training session at the next regular meeting on March 22, 2022. He then said there was nothing listed under New Business, Correspondence, or For Reference Only.

At 9:15 PM with no further business to discuss, Mr. Coelho made a motion to adjourn. Mr. David seconded the motion and it was passed unanimously by voice vote with seven ayes.

Respectfully submitted,

JoAnne V. Read
Planning Assistant