



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

ZONING COMMISSION  
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MINUTES  
MAY 13, 2008

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The meeting was called to order by Chairman Ted Farah at 7:30 PM.

Present were Theodore Haddad Jr., Patrick Johnston, Richard P. Jowdy, David Manacek, Robert Melillo, Larry Stramiello, Andrew Wetmore, Ted Farah, Alternates Victoria Hickey and Jacqueline Perez-Ares. Also present was Planning Director Dennis Elpern

Absent were Anthony DiCaprio and Alternate Thomas Spegnolo.

Mr. Stramiello led the Commission in the Pledge Of Allegiance

Chairman Farah noted for the record that the regular meeting scheduled for May 27, 2008 has been cancelled. The next regular meeting will be held on June 10, 2008.

Mr. Johnston made a motion to accept the minutes of March 25, 2008. Mr. Wetmore seconded the motion and it was passed unanimously.

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OTHERS MATTERS

Mr. Wetmore read the following statement into the record: "I would like to go on record to address complaints that were made about my actions after the April 8, 2008 meeting. I apologize if my untimely exit of the building at the same time as the applicant was misinterpreted as my having an inappropriate conversation with him or any member of the Halas family. I just happened to be leaving the building at the same time after the meeting. I had no previous meetings with the petitioner or his family. I was not traveling with them, nor had I ever met the family or knew the applicant prior to the presentation of the petition at the April 8<sup>th</sup> meeting".

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OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

Petition of Michael J. Halas d/b/a Halas Farm Market to Amend Section 4.A.5.f.(9) of the Zoning Regulations. (Clarify farming operations permitted in the RA zones). Public hearing closed 4/8/08 - 65 day decision making period will be up 6/12/08.

Chairman Farah asked Ms. Hickey to take Mr. DiCaprio's place for this matter. He asked if anyone was ready to make a motion. Mr. Johnston then made a motion to deny this petition for the following reasons: It is not in the best interest of the City,

it will create a traffic hazard, and it could be considered contract zoning. Chairman Farah asked for a second and no one responded, so he seconded the motion for the purpose of discussion. He then asked for comments from the Commission members on this petition.

Mr. Johnston said this is not the right forum for this proposal because it is not city-wide; it is specific to this property. He added that they will set a precedent if they change the Regulations for specific properties. Additionally it is not beneficial or safe for the public. He said he has walked the property and the road and thinks this will be a hazardous situation. Mr. Melillo said he disagreed with Mr. Johnston and will vote against this motion. He added that the majority of the speakers were in favor of this with exception of one person. Mr. Jowdy said he too is against this motion because it seems some things are site specific and some aren't. He said this is simply a case of a Danbury resident who wants to continue a dying breed and we need to keep this going.

Mr. Johnston said he is not against the farm; he would like to see them continue. The reason he is against this is because it is site specific, the presentation was site specific. He said it was like an "infomercial". No other properties were included in the presentation. He is not against farming but the traffic is a big issue, he believes this is a public safety hazard and it will be dangerous. He added that he was upset by the behavior of the speakers during and after the meeting and there may have been more people in the audience who would have spoken in opposition but they were intimidated by the applicant and his team. He reiterated that this is a site specific application. Ms. Perez-Ares asked him to clarify why this property would be more dangerous than any other one on this road. Mr. Johnston said it is crossing the road that will cause the problems because this is a blind corner with a 45 MPH speed limit.

Chairman Farah did a roll call vote on the motion to deny. The motion was denied with one AYE (from Mr. Johnston) and eight NAYS (from Ms. Hickey, Mr. Haddad, Mr. Jowdy, Mr. Manacek, Mr. Melillo, Mr. Stramiello, Mr. Wetmore and Chairman Farah).

Mr. Stramiello then made a motion to approve this petition for the following reasons:

- There was positive support from the public, the Planning Commission gave it a positive recommendation and it would enable a long standing business to operate more efficiently.

Mr. Melillo seconded the motion. Mr. Johnston asked to amend the motion to include these conditions: there will be no customers allowed on property and equipment and materials must be stored within a permanent structure. Mr. Haddad asked for clarification of any proposed insertions to what was proposed. This led to a barrage of suggestions as to how the language should read. They asked Mr. Elpern to interpret what the meaning of the original language was. Mr. Elpern suggested that if they wish to add amendments of this nature they should not vote tonight because they need to take the time to make the additional language clear.

Mr. Melillo asked Mr. Elpern if doing this type of substantial change would require them to open the public hearing again. Mr. Elpern said he would have to check with Corporation Counsel on that question

Mr. Haddad said he is in favor of the petition but does not want to see a store on the new property, so he wants to clarify exactly what they are approving. Mr. Jowdy said he too thinks they should try to understand the intent of the applicant. Mr. Johnston said he is trying to get away from a giant pile of mulch appearing on the site. He added that he thinks equipment on the site should be stored in a permanent structure, but would be willing to agree to the outside storage of the mulch in a controlled manner.

Chairman Farah reminded the Commission that they are discussing an amendment to the original motion. Mr. Stramiello said his original motion was to approve as written and he did not want to amend it. This was followed by several suggestions of language to be added. Mr. Elpern again suggested that they not do this tonight as writing regulations is not something to be done on the fly. He said they should have the changes in front of them, so if they let him know what they want, he will draft the language. Again, someone asked Mr. Elpern to interpret what the applicant meant by the proposed language. Mr. Elpern said that the problem with his doing that is someone else could interpret it in a different way and not be wrong. He added that if they want it to be specific, they should let him draft the language to say what they want it to and that can not be done on the floor tonight. After some more debate about possible changes to the language, Mr. Haddad said they should not let this linger to the next meeting since the season is already in full swing. Mr. Johnston said they don't need to rush to judgment; they need to make an informed decision.

Mr. Elpern then suggested they consider adding the phrase "*but not sold or picked up by customers*" after the words temporarily stored. The language would then read as follows: Products intended for retail sale, as permitted in subsection (8) above, and farm machinery used for the operation of the farm, may be temporarily stored, *but not sold or picked up by customers*, on a lot zoned RA-40 or RA-80 which lies adjacent to but separated from the lot containing the farm and/or retail sales operation by a public right-of-way, provided the lot is under the same ownership as the owner of the existing farm and/or retail sales operation and is no less than 40,000 square feet in area. All new structures primarily used for housing said products and farm machinery shall meet the general use regulations specified for the zoning district in which they are located; all existing nonconforming structures may be used to house said products and farm machinery. No outdoor storage of said products and machinery may be closer than (1) 40 feet from a front lot line, 15 feet from a side lot line and 5 feet from a rear lot line and (2) 50 feet from the boundary of a lot containing a dwelling(s) in existence on the date of this amendment.

Mr. Melillo said he was comfortable with the suggested language and also that he did not withdraw his second on the original motion. Mr. Johnston then made a motion to amend the original motion to add the language as suggested by Mr. Elpern. Mr. Manacek seconded the motion and it was passed with six AYES and three NAYS (from Mr. Jowdy, Mr. Melillo and Ms. Hickey). Mr. Melillo asked for a point of

clarification. He asked Mr. Elpern if he is still recommends them not voting on this tonight. Mr. Elpern said since they have come to an agreement on how to amend the language, they can go ahead and vote.

Chairman Farah did a roll call vote and the motion to approve this petition as amended was passed unanimously with nine AYES (from Mr. Haddad, Mr. Johnston, Mr. Jowdy, Mr. Manacek, Mr. Melillo, Mr. Stramiello, Mr. Wetmore, Ms. Hickey and Ms. Perez-Ares).

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ZBA Subcommittee/ZBA Application for Use Variance: #08-20 - His Vineyard d/b/a His Vineyard Christian Fellowship, 22 Shelter Rock Rd. (#L15006), Request to vary Sec. 6.A.2.a., to permit a church use in the IL-40 Zone. Zoning Board of Appeals public hearing scheduled for April 24, 2008.

Mr. Elpern said although they have received an opinion letter from Corporation Counsel, they do not need to act tonight. The ZBA does not have a meeting until June 12<sup>th</sup> and our next regular meeting is June 10<sup>th</sup>. He said the Planning Dept. staff is generally opposed to use variances because they constitute spot zoning and give a particular property rights that others don't enjoy. He asked the Commission members to be sure to read the letter from Corporation Counsel. Mr. Melillo made a motion to table this matter until the next meeting. Mr. Johnston seconded the motion and it was passed unanimously.

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Petition of Sheridan Commons LLC, 12 Home Pl. (portion of #J14161) for Change of Zone from R-3 to RMF-4. Public hearing closed 4/22/08 - 65 day decision making period will be up 6/26/08.

Mr. Melillo made a motion to table this matter until the next meeting to allow the members that need to listen to tapes to do so. Mr. Jowdy seconded the motion and it was passed unanimously.

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There was nothing under New Business or Correspondence and under For Reference Only there were listed two public hearings scheduled for June 10, 2008.

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