



CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

ZONING COMMISSION
(203) 797-4525
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MINUTES
DECEMBER 11, 2007

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

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

Absent was Alternate Victoria Hickey.

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

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Vice-Chairman Farah said they would take care of the Organizational Business on the agenda and then the public hearing.

ELECTION OF CHAIRMAN AND VICE-CHAIRMAN

Vice-Chairman Farah asked for nominations for the position of Chairman.

Mr. DiCaprio nominated Mr. Haddad and Mr. Jowdy seconded the nomination.
Mr. Johnston nominated Mr. Farah and Mr. Stramiello seconded the nomination.
Mr. Haddad nominated Mr. Jowdy and Mr. DiCaprio seconded the nomination.

Mr. Melillo made a motion to close nominations for Chairman. Mr. Wetmore seconded the motion. There was some question as to whether there were other nominations. After much discussion, Vice Chairman Farah called the vote on the motion to close the nominations. The motion to close the nominations for Chairman was passed with five AYES (from Mr. Manacek, Mr. Melillo, Mr. Stramiello, Mr. Wetmore and Vice-Chairman Farah) and four NAYS (from Mr. DiCaprio, Mr. Haddad, Mr. Jowdy and Mr. Johnston).

Vice-Chairman Farah then called a roll call vote for the position of Chairman. There were five votes for Vice-Chairman Farah (from Mr. Johnston, Mr. Manacek, Mr. Stramiello, Mr. Wetmore and Vice-Chairman Farah) and three votes for Mr. Haddad (from Mr. DiCaprio, Mr. Haddad and Mr. Jowdy) and one abstention (from Mr. Melillo) Chairman Farah announced with a five-three-one vote, he had been elected Chairman.

Chairman Farah asked for nominations for the position of Vice-Chairman.

Mr. DiCaprio nominated Mr. Haddad and Mr. Jowdy seconded the nomination.
Mr. Johnston nominated Mr. Melillo and Mr. Wetmore seconded the nomination.
Mr. Haddad nominated Mr. Jowdy and Mr. DiCaprio seconded the nomination.
Mr. Jowdy nominated Mr. DiCaprio and Mr. Haddad seconded the nomination.

Chairman Farah asked if there were any other nominations and there were none. Mr. Wetmore made a motion to close nominations for Vice-Chairman. Mr. Haddad seconded the motion and it was passed unanimously by voice vote.

Chairman Farah called a roll call vote for the position of Vice-Chairman. There were six votes for Mr. Melillo (from Mr. Johnston, Mr. Manacek, Mr. Melillo, Mr. Stramiello, Mr. Wetmore and Chairman Farah) and three votes for Mr. Haddad (from Mr. DiCaprio, Mr. Haddad and Mr. Jowdy). Chairman Farah then announced that with a six-three vote Mr. Melillo had been elected Vice-Chairman.

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DISTRIBUTION OF ZONING REGULATIONS, PLAN OF CONSERVATION & DEVELOPMENT AND ZONING MAPS

Chairman Farah noted that the secretary had distributed all of these items to each member at the beginning of meeting. He also noted that the date of the next regular meeting was listed incorrectly on tonight's agenda.

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SETTING OF EFFECTIVE DATE FOR APPROVALS GRANTED BY THE COMMISSION.

Chairman Farah said past practice has been for the following language to be adopted: "*The effective date of any amendment duly made by the City of Danbury Zoning Commission to provisions of the Zoning Regulations or zoning district boundaries on the Official Zoning Map shall be either (1) immediately after filing of the approved amendment in the office of Town Clerk and after publication of the notice of the decision in a newspaper having a substantial circulation in the City, as specified in Sec. 8-3 of the C.G.S., whichever occurs last, or (2) any subsequent date to such actions as determined by the Zoning Commission and entered as part of the motion to approve the amendment*". Mr. Melillo made a motion to adopt this language as the policy. Mr. Johnston seconded the motion. Mr. Haddad then asked if this was the same as the previous policy and Mr. Elpern said it is. Chairman Farah called for a vote on the motion and it was approved unanimously by voice vote.

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APPOINTMENT OF ZBA SUBCOMMITTEE – THREE MEMBERS.

Mr. Elpern explained that the language in Sec. 11.B.4. of the Zoning Regulations provides for both the Planning Commission and the Zoning Commission to make recommendations on what is referred to as a Use Variance. This is a specialized type of ZBA application which has to do with the use of the property instead of the regular applications which have to do with not being able to meet the requirements of a zone. There are not many of these during the year, but they do need to set up a subcommittee of three people, who will review these referrals and report back to the rest of the Commission so a recommendation can be made to the ZBA. Mr. DiCaprio said he was doing it for the past two years and would be willing to continue. Mr. Melillo then said he also had done it for the past two years and would do it again. Chairman Farah then asked for a volunteer for the third person. Mr. Jowdy said he would be willing to do it.

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DISCUSSION OF PROCEDURES WITH PLANNING DIRECTOR.

Mr. Elpern distributed an outline of the Zoning Regulations and then briefly explained it. He discussed procedures, the State Statutes, and gave a general overview of what is expected from the Commission members.

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Mr. Melillo made a motion to accept the minutes of September 25, 2007, October 9, 2007 & November 27, 2007 with the notation that the October 23, 2007 & November 13, 2007 meetings were cancelled. Mr. DiCaprio seconded the motion and it was passed unanimously.

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PUBLIC HEARING:

Petition of Pebble Mortgage LLC, 5 Mountainview Rd. (#M10028) for Change of Zone from RA-20 to CG-20.

Chairman Farah said they would waive the reading of the legal notice as it was read into the record at the previous meeting. He then read the Planning Commission recommendation which was positive. Mr. Melillo read the Planning Department Staff Report dated November 27, 2007.

Attorney Gary Michael Jr. spoke in favor of this petition. He described the location of this parcel as between Pocono La. and Mountainview Rd. off of the Newtown Road Cut-off. He said there currently is a single family house on the parcel. He submitted articles from News-Times which were designated Exhibit A. He explained that the residents had tried to get the State to put a traffic light at the end of the road, but since the State determined that it would not be safe, they would not do it. The Mayor and the Director of Public Works came up with the solution to construct a one-way road from Pocono La. to Mountainview Rd. This would allow the residents of Pocono La. to make use of the existing traffic signal to make a safe, controlled entrance onto the cut-off. This plan does require an easement from the subject parcel which would result in the demolition of the existing house and a reduction in the area of this already non-conforming lot. He added that the

Common Council has approved the acquisition of a 31 ft. wide easement for this purpose. If this is rezoned, then the remaining portion of the lot (which is about 11,550 sq.ft.) would be conveyed to Four Star Realty and added to their adjacent lot. Mr. DiCaprio asked the reason for the zone change request. Attorney Michael said once they convey the land to the City, the remaining portion of the lot would be useless for residential purposes because it is too small to meet the minimum lot area for RA-20. He submitted a letter from the Director of Public Works which was designated Exhibit B. He then referred to a large copy of a map showing a 31 ft. area in color. He said 15 ft. will be conveyed to the City and the remaining 16 ft. will be used as maintenance and utility easement. He said this proposal furthers the objectives of the Plan of Conservation & Development because it will enhance the public safety and help with traffic congestion. He said this also will promote a more consistent zoning pattern in the area since the property on the other side of Pocono La. is zoned CG-20. Mr. Wetmore asked if anyone lives in the house presently. Attorney Michael said a 94-year old man lives there but he will be relocated. Mr. Jowdy asked about the ownership of these properties. Attorney Michael said the subject parcel and the gas station parcel are two separate entities.

Gary Michael Sr., 52 Deer Hill Ave., said he would answer Mr. Haddad's & Mr. Jowdy's question. He said once they do the roadway improvements the parcel will become non-conforming and the City is trying to make it more conforming by rezoning it. It is already non-conforming as a residential lot. Mr. Haddad asked how much bigger the front lot will be once this is added to it. Mr. Michael said even with the addition of this lot, it will still only be 4,000 sq.ft. and it has three front yards.

Mr. Elpern said the lot is already non-conforming as it exists now, and the Regulations do not allow a non-conforming lot to be made any more non-conforming than it is, so it has to be rezoned. Mr. Johnston asked Mr. Elpern to clarify why this wouldn't be considered spot zoning. Mr. Elpern said because it is non-conforming, unless they rezone the remaining parcel, they cannot do the roadway improvements. He added that this is a situation where both sides benefit from this rezoning.

Mr. Johnston made a motion to close the public hearing. Mr. Melillo seconded the motion and it was passed unanimously by voice vote. Mr. Jowdy made a motion to move this matter to number one under Old Business for Consideration and Possible Action. Mr. Melillo seconded the motion and it was passed unanimously by voice vote.

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OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

Petition of Pebble Mortgage LLC, 5 Mountainview Rd. (#M10028) for Change of Zone from RA-20 to CG-20.

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

- This petition is part of a City-initiated effort to resolve traffic problems at the intersection of Pocono Lane and the Newtown Road cut-off, since DOT has refused to put a traffic

signal at this intersection. Additionally this plan complies with the Plan of Conservation & Development since it will improve public safety and create a more consistent zoning pattern in this area.

Mr. Melillo seconded the motion and added the following reason: this plan will help to reduce traffic congestion. Mr. Johnston agreed to add this to the reasons. Chairman Farah called a roll call vote and the motion to approve was passed unanimously with nine AYES.

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Chairman Farah said there was nothing under New Business, Other Matters or For Reference Only. The Correspondence consisted of the 2008 Meeting Schedule and the Zoning Commission Bylaws.

At 8:49 PM, Mr. Melillo made a motion to adjourn. Mr. DiCaprio seconded the motion and it was passed unanimously.