



CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

ZONING COMMISSION
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MINUTES
MARCH 25, 2008

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The meeting was called to order by Chairman Ted Farah at 7:35 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 Victoria Hickey, Jacqueline Perez-Ares and Thomas Spegnolo. Also present was Planning Director Dennis Elpern.

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

Mr. Johnston made a motion to accept the minutes of March 11, 2008. Mr. Melillo seconded the motion and it was passed unanimously.

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PUBLIC HEARINGS:

Petition of the City of Danbury by Dennis I. Elpern, Planning Director for Change of Zone from IL-40 to RMF-4 for 28-40 Maple Ave. (#13023).

Mr. Wetmore read the legal notice. Mr. Melillo read the Planning Commission recommendation which was positive.

Dennis Elpern explained that approval of the February 5, 2008 bond referendum included funding for the construction of a pocket park on City-owned land at the corner of Garamella Blvd. & Maple Ave. This small parcel of land was once part of a larger area zoned IL-40, but was cut off from the bulk of the zone when Garamella Blvd. was constructed. Consequently, the land is still zoned IL-40, even though it is physically separated from the IL-40 zoning district but lies across Maple Ave. from a neighborhood zoned RMF-4. The IL-40 zoning district does not allow parks. This petition would rezone the land to RMF-4, a zoning district which allows 'parks, playgrounds and recreational facilities' as permitted uses. The rezoning would allow improvement of this parcel in conformance with the wishes of the people of Danbury. He referred to the map provided by the City Engineering Dept. There was a brief discussion about where exactly this parcel is located.

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

Mr. Melillo made a motion to close the public hearing. Mr. Wetmore seconded the motion and it was passed unanimously. Mr. Haddad then made a motion to move

this matter to item one under the Old Business on tonight's agenda. Mr. Johnston seconded the motion and it was passed unanimously.

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Petition of the City of Danbury by Dennis I. Elpern to Amend Section 10.B.2. of the Zoning Regulations. (Amend Fee Schedule).

Mr. Wetmore read the legal notice. Mr. Melillo read the Planning Commission recommendation which was positive.

Dennis Elpern explained that these fees are for fees charged for applications, permits and the sales of regulations, maps, etc. The idea is that the fee for an application is supposed to help defray the cost of the review and the paperwork involved in it. When we looked into this, we discovered that there are even some reviews that we do that there is no fee attached to. And some of these are quite labor intensive. Additionally the last time any of these fees were increased was in February 2003. These fees are comparable to what the other municipalities in the area are charging; some are even charging more. In closing, he said that the Mayor and the Finance Director both endorse these increase. Mr. Haddad asked if these fees are the only ones that someone trying to get a project built would have to pay. Mr. Elpern said these are all of the Planning and Zoning Department fees. They would still be responsible for other City Department's fees. Mr. Wetmore asked if changing these would impact potential development. Mr. Elpern said no because these are a normal routine part of the development process. There were no other questions.

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

Mr. Melillo made a motion to close the public hearing. Mr. Wetmore seconded the motion and it was passed unanimously. Mr. Jowdy then made a motion to move this matter to item two under the Old Business on tonight's agenda. Mr. Melillo seconded the motion and it was passed unanimously.

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Petition of Murad Realty Company, Carol J. & John T. Benusis, DMD & GRM Rentals LLC to Amend Section 5.D.2.a. & 5.D.4 of the Zoning Regulations. (Add Medical Offices < 3,000 sq.ft. to CL-10 Zone).

Mr. Wetmore read the legal notice. Mr. Melillo read the Planning Commission recommendation which was positive. Chairman Farah read the Planning Department Staff Report dated March 17, 2008.

Attorney Paul Jaber said the applicants consist of several West St. property owners; one who has a vacant store they would like to use as a medical office. The others are #68, where there has been a small medical office for at least 35 years and #70, which has contained a medical office for over 50 years as well as some other small

offices. He pointed out that both the Planning Dept. and the Planning Commission support this petition. He said last year in June 2007, the CL-10 regulations were amended to eliminate medical offices. He said he would start with West St. and then discuss the other five locations in the City that are zoned CL-10. He said that according to the Plan of Conservation & Development, West St. is located in the urban core of the City. He said the urban core has the lowest income levels in the City although a significant portion of Danbury's population lives in there.

Attorney Jaber continued saying that West St. is split between the RH-3 and the CL-10 zones. The predominant commercial use on West St for the past 50 years has been small medical offices consisting of sole practitioners and their assistants. He cited the Pershing Building at #7 and the professional building at #8 were always filled with med offices. Many local doctors spent their entire careers on West St. He added that compared to either Sandpit or Germantown Rds., this is affordable rental space. He said this is the best use for the economic viability of this area. These smaller offices allow people to get these services within their own neighborhood. He said the trip generation table is based on all day traffic, but when a traffic engineer looks at a use that generates traffic all he looks at is the peak times. Based on the numbers, it looks like a medical office generates a lot of traffic but if it is a small one and you spread the amount of traffic out through the day, it is not really that much of an increase. He then described the other five areas of the City that are zoned CL-10; saying many of them contain uses which were made non-conforming by last year's amendments to the Commercial zones. There are 2-3 lots on Lake Ave. Ext., across from Mill Ridge that contain Dunkin-Donuts and McDonalds, which both previously were permitted but now are non-conforming. The next is the intersection of White and Wildman Sts. Danbury Orthopedics is located here; it is the largest medical office in the City. There also are some auto repair shops, which are now non-conforming due to the changes to the Regulations. Then, Berkshire Shopping Center was rezoned to CG-20 in September 2007. Additionally, these changes also put limits on the size of the buildings permitted in this zone, which also limits the uses. Another is Expect Discount and the Starbucks that was approved for that site last year both become non-conforming. And then all of North St. Shopping Ctr. as well as the Burger King across the street are both non-conforming now. The last site is on corner of North Main St. and Golden Hill; the Atrium building and the hotel are non-conforming. He said he had hoped to explain that these are all different from the applicant's properties. On the proper roads small medical offices would not be harmful and it is a use that clearly fits the purpose and intent of the CL-10 zone. Mr. Melillo asked if the existing CL-10 districts presently have medical offices within them. Attorney Jaber said yes they do and many of them are also located around shopping centers. He said the Commission should look at how these sites are used historically, because that is important before changing regulations.

Attorney Gary Michael Jr. said he is a principal in GRM properties, one of the applicants. He said he can remember walking from Deer Hill to the dentist's office as a child. The 3,000 sq.ft. limit is a good size for sole practitioner's office. This will benefit the public because these smaller medical offices need to be permitted somewhere.

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

Mr. Elpern said the intent is for the Commission to be able to use the light commercial district to restrict development where we don't want an increase in traffic. He added that was why we made the changes to the Commercial Regulations last year. Uncontrolled development is a growing issue and we are trying to implement the tools to deal with it by using the Regulations. There are only a half dozen of these light commercial zones in the City. He said he has no problem with the properties zoned CL-10 that are non-conforming coming in and asking for a rezoning like the Hawley's did on Newtown Rd. He said if it is done that way, the Commission would have some control over the changes. He said he had hoped that they would not have to sit through a critique of the zoning changes that were made last year. Mr. Johnston said thinks there are still plenty of uses and does not want to go back to the way it was before. He said he would rather look at these on a case by case basis. Mr. Wetmore asked if one of the reasons these changes were made was to lessen the traffic intensity. Mr. Elpern said that was one of the reasons and also because it was not really a "light" commercial zone before the changes were made. He wanted this zone to meet the purpose and intent of a light commercial district.

Mr. Jowdy made a motion to close the public hearing. Mr. Manacek seconded the motion and it was passed unanimously. Mr. DiCaprio then made a motion to move this matter to item three under the Old Business on tonight's agenda. Mr. Johnston seconded the motion and it was passed unanimously.

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OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

Petition of the City of Danbury by Dennis I. Elpern, Planning Director for Change of Zone from IL-40 to RMF-4 for 28-40 Maple Ave. (#I13023).

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

- The rezoning would allow improvement of this parcel in conformance with the wishes of the people of Danbury.

Mr. Melillo seconded the motion and it was passed unanimously by roll call vote.

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Petition of the City of Danbury by Dennis I. Elpern to Amend Section 10.B.2. of the Zoning Regulations. (Amend Fee Schedule).

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

- These fees are comparable to what the other municipalities in the area are charging and the last time any of these fees were increased was in February 2003.

Mr. Melillo seconded the motion and it was passed unanimously by roll call vote.

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Petition of Murad Realty Company, Carol J. & John T. Benusis, DMD & GRM Rentals LLC to Amend Section 5.D.2.a. & 5.D.4 of the Zoning Regulations. (Add Medical Offices < 3,000 sq.ft. to CL-10 Zone).

Mr. Melillo made a motion to approve this petition with the format proposed by the Planning Department for the following reasons:

- Historically, these types of small offices have been located in the Light Commercial zones. This use as defined here is consistent with the Plan of Conservation & Development and will not generate significant traffic.

Mr. Johnston seconded the motion and it was passed unanimously by roll call vote.

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NEW BUSINESS:

Petition of the City of Danbury by Dennis I. Elpern to Amend Secs. 2.B., 3.H., 3.J. & 10.F. of the Zoning Regulations. (Amend Definitions, Lot Requirements, Maximum Height Requirements and Certificate of Zoning Compliance). *Public hearing scheduled for April 22, 2008.*

Petition of the City of Danbury by Dennis I. Elpern to Amend Secs. 3.E.9., 10.A.1., 11.C. of the Zoning Regulations.(Amend Auto Service Stations & Garages, General Provisions for Zoning Commission & Planning Commission, & Motor Vehicle Related Businesses). *Public hearing scheduled for April 22, 2008.*

Mr. Melillo made a motion to refer these petitions to the Planning Commission for their recommendation. Mr. Johnston seconded the motion and it was passed unanimously by voice vote.

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Chairman Farah noted that there was nothing under Correspondence or Other Matters. Under For Reference Only were the public hearings scheduled for April 8, 2008 & April 22, 2008.

At 8:55 PM, Mr. Wetmore made a motion to adjourn. Mr. Johnston seconded the motion and it was passed unanimously by voice vote.