



CITY OF DANBURY
155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

ZONING COMMISSION
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MINUTES
AUGUST 26, 2008

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

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

Absent was Richard P. Jowdy and David Manacek.

Chairman Farah asked Ms. Hickey to take Mr. Manacek's place and Ms. Perez-Ares to take Mr. Jowdy's place for the items on tonight's agenda.

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

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Chairman Farah asked for a motion to accept the minutes they had received. Mr. Melillo said there was one correction to the July 8, 2008 minutes, since Chairman Farah was not present at that meeting. The secretary said she would make the correction.

Mr. Wetmore made a motion to accept the May 13, 2008, June 10, 2008, June 24, 2008, July 8, 2008 (as corrected) & July 22, 2008 minutes. Mr. DiCaprio seconded the motion and it was passed unanimously.

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**PUBLIC HEARING:**

7:30 PM - Petition of Perch LLC, 116, 118 & 122 Coalpit Hill Rd. (#K17014, #K17013/1 & 2, & #K17012) for Change of Zone from RMF-10 to IL-40.

Mr. Wetmore read legal notice. Mr. Melillo read the Planning Dept. Staff Report dated August 18, 2008. Chairman Farah read the Planning Commission recommendation which was positive. He noted that the Commissioners and the applicant had received a packet of information from Mr. & Mrs. Lahoud, 116 Coalpit Hill Rd., with several attachments.

Attorney Fran Collins said he represents Perch LLC who owns two office condominium units in the four unit building located at 118 Coalpit Hill Rd. He submitted a letter (Exhibit A) from Jason Milligan who owns the other two units and is in support of this petition. He said last

year these three parcels were rezoned from IL-40 to RMF-10. He said Perch LLC never consented or asked to be an applicant for the previous petition. Attorney Collins then introduced the members of Perch LLC, who do business as New England Land Surveying. As he introduced each member, he then asked them if they had received notice of previous proposal. The members were Matthew Reynolds, LS, Mark Dixon, LS and Robert Beninson, LS, all of whom testified that that they had not been notified of the previous application. Mr. Beninson said that application was flawed in the preparation. Mr. DiCaprio then asked if Perch was listed as applicant, with the Lahouds' acting as the agent. Attorney Collins said they were not authorized to act as an agent for Perch. Mr. Haddad then said the Commission must have acted in the best interest of what was submitted. Mr. Melillo asked if Perch LLC gets all of their mail at the Coalpit Hill Rd. Attorney Collins said they get their mail there.

Chairman Farah asked if there was anyone to speak in opposition to this and several people came forward.

Nancy & David Lahoud, 116 Coalpit Hill Rd., said they have copies of the letters that Mrs. Lahoud sent to the Perch as well as to Ms. Reynolds. She said she does not recall saying that she had their agreement, so that might be an error in the minutes from that meeting. She said none of the four letters she sent to the individual owners of the units at 118 Coalpit Hill Rd. were returned to her so she assumed everyone had gotten them. She said she thought she had done everything right, the notices were in the News-Times and she had notified everyone. She then asked that they leave her property zoned RMF. Mr. Lahoud then said they are surrounded by condos and that was another reason why they felt this was the right thing to do. He said it is difficult to believe that Ms. Reynolds got her letter but the members of Perch did not. He said he asked their mailman about how the letters are sorted and found out that they are not done by hand, everyone uses machines for this now. Mr. Haddad asked if they were here to defend that they did everything correctly. Mr. Lahoud said he is defending their position and they don't want to have to remove their apartment. Why are they being penalized because Perch did not come forward to stop their property from being rezoned? He said that he resented Attorney Collins use of the word fraud. Mr. Johnston then asked Mr. Elpern if the Lahoud's would they have to remove the apartment if the zone is changed back. Mr. Elpern said no, since the work was done when the property was zoned for it and also they have received the c/o from the Building Dept., so the apartment is legal.

Karyn Reynolds. 122 Coalpit Hill Rd., said the notices were sent out and she had gotten hers. She said if the zoning of her property reverts back to the industrial, she would be penalized because she was not ever able to take out a home equity line because of the industrial zoning. When her property was rezoned last year, she finally was able to get a home equity loan. She said her property was zoned industrially when she bought it, but she did not realize what that meant at that time.

At 8:28 PM, Chairman Farah announced they would take a five minute recess. He called the meeting back to order at 8:33PM. Chairman Farah then took a roll call vote to be sure that everyone came back from the recess.

Attorney Collins spoke in rebuttal to the opposition's comments. He said he never said the word fraud although he did suggest misrepresentation. He said no one can explain why his clients didn't get their letter. Mr. Melillo asked Mr. Elpern if Perch was listed as one of the applicants on this petition. Mr. Elpern said we have no written authorization from them requesting or agreeing to be included. He added that anybody can request a rezoning for any property at any time. Mr. Wetmore asked if this has ever happened before and Mr. Elpern

said not that we have known of. Mr. Johnston asked if since the applicants have said they were not representing Perch, doesn't that just make this a matter of notification. Attorney Collins said the argument is about whether they received notice. Mr. DiCaprio said the fact that they were listed as a petitioner says that they were representing them without their knowledge. Mr. Stramiello asked if there is any reason why they have to change all of them back to industrial. Mr. Melillo asked Attorney Collins if his clients would be satisfied if just their property was rezoned to IL-40. Attorney Collins said the Commission cannot do that and if they do, his clients would appeal it.

Mr. Johnston made a motion to close the public hearing. Mr. Melillo seconded the motion and it was passed unanimously. Mr. DiCaprio made a motion to move this to Old Business. Mr. Haddad seconded the motion and it was passed unanimously.

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OLD BUSINESS FOR CONSIDERATION AND POSSIBLE ACTION:

Chairman Farah said although they had moved the petition they heard this evening to Old Business, he would like to speak to Corporation Counsel before they vote on this. Mr. DiCaprio made a motion to table the petition. Mr. Wetmore seconded the motion and it was passed unanimously.

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NEW BUSINESS:

Petition of Attorney Neil Marcus as Agent to Amend Sec. 5.A.2.a. of the Zoning Regulations. (Add "Granite, Marble & Tile Sales establishment including shaping of stones and similar processes" as a permitted use in the CG-20 Zone) Public hearing scheduled for October 14, 2008.

Mr. Melillo made a motion to refer this to the Planning Commission. Mr. Wetmore seconded the motion and it was passed unanimously.

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There was nothing listed under Correspondence or Other Matters. Under For Reference Only were listed two public hearings scheduled for September 9, 2008.

At 9:45 PM, Ms. Perez-Ares made a motion to adjourn. Mr. Johnston seconded the motion and it was passed unanimously.