

APPROVED / REVISED
MINUTES
INLAND WETLANDS BOARD MEETING

February 2, 2010

Present: Michael Autuori
Peter Chipouras
Joseph Fossi
Nelson Gelfman
John Katz
James McChesney
Rebecca Mucchetti, Chairman
Patrick Walsh, Vice Chairman

Absent: Phil Mische

Also Present: Betty Brosius, Inland Wetlands Agent
Linda Caponetti, Recording Secretary

At 7:30 p.m. Chairman Mucchetti called the meeting to order.

PENDING ITEMS

NEW ITEMS

1. **#2009-119-PR: 35 Wilton Road East** Owner: Colonial Road Associates, LLC.
Acknowledge scheduled Show Cause Hearing.

Chairman Mucchetti asked the Agent to explain the reason for scheduling the Show Cause Hearing.

Agent Brosius referred to a letter sent out to the builder on 2/1/10 by Wetlands Inspector/Agent Aimee Pardee, and a call from the department instructing him to attend the IWB meeting of 2/9/10. She commented on the long-term frustration of staff in working with the builder to maintain proper erosion control on the site, citing the need for continual monitoring and inspections. She felt that there may be some lack of understanding as to what is required to properly implement and maintain erosion and sedimentation control measures. The Agent reported that the builder was working to “clean the site up,” and she did not want to shut the job down. She felt the public meeting was sufficient to impress on the builder the need for keeping the site in better shape than what was depicted in the photos of the aftermath of the January 25th significant rainstorm – circulated at the table.

Mr. Katz asked why the site wasn’t shut down. He was infuriated that this builder had continued to disregard required procedures.

The Agent explained the difficulties for both the applicant and staff when a job is closed down. It sets up an entirely new application process and leaves the site in an unfinished condition.

Mr. Katz asked if the site could be shut down until the builder repairs the damage and installs the necessary erosion control measures.

The Agent said the wetlands permit could be suspended, (which would hold up the building permit), until such time as the builder remedies the situation.

Mr. Katz stressed the need for the Town to take action of some kind. The Agent suggested suspending the wetlands permit.

Chairman Mucchetti asked if the action to Show Cause had to be interrupted to suspend the permit.

The Agent said the action to suspend the permit would not take place until the following week, so the Show Cause action would not be interrupted.

Mr. Chipouras asked what would happen to the site if the permit is suspended. The Agent said the builder would be required to remedy the situation before the building permit can be implemented. Mr. Chipouras asked who would be monitoring the work. The Agent said that it would be staff and also Richard Kent of Environmental Design Associates, who had been notified by staff. She said that Zoning Enforcement Officer Baldelli had asked the builder to submit a revised erosion and sedimentation control plan by the following meeting. Mr. Chipouras asked if a fine was being imposed. The Agent said, "We don't have a fine system. I think we need to consider that."

Mr. Katz felt that, with offenders like this, the job should be suspended first and then they should be brought in to show cause. The suspension could be lifted as a result of their appearance before the Board. He felt the current plan was too lenient. It costs the Town a lot of man hours and is ineffective, he said.

The Agent asked if Mr. Katz was suggesting that the plan of action for this specific job be reworked. He said that, in this particular case, work is in progress and the plan of action is in place. He asked that the Town's procedure for dealing with such cases be reviewed and modified with an eye to deterring repetitive offenders.

Dr. Gelfman cited the extremity of the Jan. 25th storm and said it caused damage elsewhere. Mr. Katz said that this was not this builder's first offense. Yes, there is an excuse "for a modest change" in the erosion due to the severity of the storm, Mr. Katz said. Dr. Gelfman said that this storm caused sites to wash out all over town.

Agent Brosius read from the regulations the procedure for suspension and revocation of a permit. There is a specific and lengthy process which needs to be followed.

Mr. Katz was adamant that the Town was wasting time and money giving slaps on the wrist which were, in all probability, laughed at by continued offenders. The Agent said she did not disagree.

The Chairman said that there has been an “historic effort within the staff to try to ...exhaust all opportunities and possibilities for reaching” solutions. “This has gone a long way within the community, and the office is held in high regard because they don’t give knee jerk responses by revoking permits. I think that this is a process that serves the Town and the Commission and the Board well.” In instances where all else fails, there are processes in place for remediation.

The Board acknowledged the scheduling of a Show Cause Hearing for February 9, 2010. All steps had been taken by the department to properly notify the affected parties, as required in the regulations

BOARD WALKS

There were no Board walks to be scheduled.

REQUESTS FOR BOND RELEASES/REDUCTION

There were no requests for bond release or reduction.

CORRESPONDENCE

There was no correspondence.

MINUTES

Mr. McChesney motioned, seconded by Dr. Autuori, to approve the minutes of January 12, 2010. The motion passed, 8-0.

Hearing no further discussion, the Chairman adjourned the meeting at 7:43 p.m.

Respectfully submitted,

Linda Caponetti
Recording Secretary

APPROVED / REVISED
MINUTES
PLANNING AND ZONING COMMISSION MEETING

February 2, 2010

Present: Michael Autuori
Peter Chipouras
Joseph Fossi
Nelson Gelfman
John Katz
James McChesney
Rebecca Mucchetti, Chairman
Patrick Walsh, Vice Chairman

Absent: Phil Mische

Also Present: Betty Brosius, Director of Planning
Linda Caponetti, Recording Secretary

At 7:44 p.m., Chairman Mucchetti called the meeting to order.

PENDING ITEMS

1. **#2009-108-REV(SP):** Revision to Special Permit under Section 9.2.A.7.e of the Ridgefield Zoning Regulations to allow a 2nd free standing sign to identify tenants located at **635 Danbury Road** (Stonehouse Commons Building #1) in the B-2 zone. Owner/Appl.: Roland Hagman. *65-day action period ends 3/11/2010. Received 1/5/2010. Walked 1/10/2010. Tabled 1/12/2010. AAC report received 1/14/2010. Tabled 1/26/2010. Acknowledge withdrawal.*

Chairman Mucchetti noted that the application had been withdrawn.

Mr. Katz asked why the application was withdrawn.

The Planner explained that the owner is in Hawaii and had delegated to the sign contractor the responsibility for getting the sign permit. The contractor had been unable to get agreement among the tenants on the sign itself or who would pay for it.

Mr. McChesney asked why two different addresses for the property had been given. The Planner said that there are multiple tenants. The primary address is 635 Danbury Road.

Dr. Autuori motioned, seconded by Mr. Chipouras, to acknowledge the withdrawal of the application. The motion passed, 8-0.

2. **#2010-003-VDC:** Village District application under Section 8.3 of the zoning regulations for an awning with signage on building located at **388 Main Street** in the CBD zone. Owner: Joseph H. and Ellen Donnelly Trust. Appl./Auth. Agent: Weichert Realtors. *65-day action period ends 3/18/2010. Tabled 1/12/2010. VDC report received 1/14/2010. Tabled 1/26/2010. For discussion/action.*

Chairman Mucchetti referenced the VDC review of the application for an awning at the new Weichert Realty location at 388 Main Street. She noted that an approval was granted for a black awning with gold lettering, as recommended by the VDC. The original application was for yellow and white stripes with black lettering. The VDC recommended design approval as presented for this sign, but wished to know the applicant's plans for signage at the rear of the building facing the parking lot. It was noted that the rear of the building does not fall under VDC purview. However, photos were available and were circulated.

Planner Brosius explained what had been proposed, a gold background with black lettering. She reiterated that VDC approval is not needed because it cannot be seen from the street.

Mr. Walsh commented on the different signs.

The Chairman explained how the applicant had originally applied for the striped awning, consistent with the company's logo. The VDC "balked at the stripes," she said. The company acquiesced to the VDC recommendation for the front awning, but will retain more of the company's traditional look on the sign facing the parking lot.

The Chairman explained how a quorum was reached at the VDC review.

Mr. McChesney motioned, seconded by Mr. Chipouras, to approve the application, as shown in the photo, with black awning and gold lettering. The motion passed, 8-0.

3. **#2010-005-PRE:** Pre-Submission Concept under Section 9.2.E for a proposed change of use requiring additional parking located at **107-109 Danbury Road** in the B-1 zone. Owner: Copps Hill Common, LLC. Auth. Agent: Donnelly, McNamara and Gustafson, P.C. *Received 1/26/2010. For discussion.*

Chairman Mucchetti introduced Stephen Zemo, property owner, and Attorney Robert Jewell, his representative. She noted that numbers and information were available at the table to assist the Commission in its review.

Mr. Jewell gave a brief overview of the reason for the pre-submission concept meeting, which is primarily to review parking requirements for a proposed Change of Use at Copps Hill Plaza. The former Books on the Common consisted of two ±1000 sq. ft. spaces. The space being applied for (M and L2 on the map) consists of one 1000 sq. ft. space plus one 400 sq. ft. space, for a total of 1400 sq. ft. There has been

an inquiry from someone wishing to operate a wine bar, taking the use from retail daytime use to predominantly evening hours for restaurant use. Mr. Jewell detailed the parking requirement changes, based on zoning regulations: 4.25 spaces per 1000 ft. for retail, and 15 spaces for 1000 sq. ft. for restaurant. For the space applied for, this equates to a total difference of about 15 spaces, Mr. Jewell said.

Mr. Jewell felt the application would involve an administrative approval for the change of use, but, the change in parking would involve the Commission's discretion, Mr. Jewell thought. Thus, the Pre-Submission Concept.

The Chairman reminded the Commission that it has within its discretion to wave up to 25% of the parking requirement for mixed uses if it feels there is sufficient parking, even though the numerical quota is not met.

The Planner explained that, "if this is approvable by the Commission [under the regulations], then it's appropriate for this Pre-Submission Conference to establish that [the Commission] can approve this change. If it's beyond what [the Commission is] permitted to approve under the zoning regulations, then... a variance might be required."

The Planner said that the numbers she came up with for required parking spaces for both retail and service uses were slightly different than those arrived at by Mr. Jewell and Mr. Zemo. She explained that her calculations may be different because she based them on using the retail service calculation for the fitness center, but looking at the fitness center separately because the use is undefined in the zoning regulations for parking. She cited all her parking calculations, which totaled 173.03 spaces as the required number. The restaurant use would require 22 additional spaces, totally 195. The allowable 25% reduction would reduce that number to 146. In addition, the Talbots store had a variance that allowed for a 16 space reduction in parking, reducing the number of required spaces to 130, there are 119 spaces on the site, creating a deficit of 11 spaces. The fitness center had been calculated at 26.4 spaces, which may be high, the Planner said. If the applicant can provide information as to what is a reasonable number of spaces for the fitness center, that may make up the deficit.

Mr. Jewell asked if the calculation for the fitness center should be based on square footage or number of employees and typical number of customers.

The Chairman noted that the number was not a precedent number. She also noted recent calculations that were gathered for the discussion for Southwest Café's expanded outdoor seating. The number of spaces allocated for the fitness center at that time was not a question. The Planner said that the retail calculation may have been used. Mr. Jewell said he believed it had been.

Mr. Katz asked if the applicant had any reciprocity with the Kohl's parking lot down below.

Mr. Jewell said, “Yes. There is an easement.” Was it a parking easement, he was asked. “It’s a reciprocal parking, vehicular, and pedestrian easement and it’s pretty comprehensive,” Mr. Jewell said. It grants, for the mutual benefit of each business, to their business invitees, easements or rights of way in common to one another over, upon, and across the sidewalks, access way and parking areas located on each others’ properties....”. It incorporates the Copps Hill Area Mini Plan of Development. It states that the customers basically have carte blanche rights to park in spaces allocated for any of the businesses, Mr. Jewell said. The parking for employees and business owners was more restrictive.

Mr. Katz, in applying the above to the zoning regulations, cited the specific places in which he felt it applied; he is talking about paragraph C.2 being controlling Paragraph C.5 is ancillary, if pertinent at all, as it is clearly talking about daytime mix of uses, he said. “This situation should be comprised of a) experience, and b) a way to apply our regulations to that experience,” Mr. Katz said. Citing the 25% leeway, the predominantly evening use, and the availability of the Kohl’s lot, Mr. Katz felt that this Pre-submission Concept legitimately fit the qualifications of paragraph 2 of the regulations.

Mr. Walsh said this was the first time he had heard of an easement for reciprocal use. If that, in fact, exists, there would be no reason to deny the request for a change of use.

Mr. Fossi agreed, saying that the easement makes all the difference. Even so, he was confused by the calculations. Mr. Jewell answered his questions.

The Planner explained how to procedurally move forward. A letter from the applicant should request a Revision to the Special Permit to allow this particular use, based on its meeting the conditions of C.2 because of the reciprocal easement, she said, and a copy of that easement should be provided by the applicant for the file.

Mr. Jewell said the original one was limited in its duration, but the 2002 amendment makes it “in perpetuity.” “That procedure would then create this file, which would then answer questions going forward for various changes of uses on the site,” the Planner said. She felt it was important to not “have to revisit this time and time again.”

Mr. Zemo said that it was a struggle to have to give up the daytime use, but, in this market, “you’re running out of ideas. What’s surviving is food,” he said.

The Chairman felt the concept of a wine bar was an exciting addition. She also complimented the marketplace concept of the commons.

Mr. Zemo clarified that there was an interest (in the wine bar), but he did not have a signed lease as of yet. This may die at the legal negotiations, he said.

Discussion continued. The Chairman and Mr. Zemo discussed the Zandri easement with the property to the north. Although, the Chairman stated, “It’s not necessary, Mr. Jewell, because there’s more than enough parking down at the bottom of the Kohl’s lot.”

Mr. McChesney suggested, when the application is made, the easement with Kohl’s should be mentioned and also the fact that there is an easement with the old Zandri property next door, if in fact it exists. In that way, there would be a record in the file for the future.

The Planner said the Commission needs to consider whether or not a daytime restaurant is appropriate for that location. What is being asked for is an evening use. “Is there enough parking to support a daytime restaurant as well,” she asked.

Mr. Walsh said, “Why wouldn’t there be?” citing the Kohl’s parking lot. With that reciprocal agreement, he felt the daytime/nighttime issue was irrelevant. There’s free flow traffic and free flow parking, he said.

The reason the Planner gave for bringing up the issue was because of the specific reference in C.2 of the regulations to “predominantly evening use” as opposed to “predominantly day-time use” with regard to shared parking. The daytime/nighttime is tied to the easement, she said, and is relevant. Using C.5 of the regulations, it could be claimed that the parking allotment for the fitness center is too much.

Mr. Katz said he did not mean to imply that C.2 and C.5, or the Commission’s ability to use them, are mutually exclusive.

The Chairman cited the importance of having such a thorough conversation as had taken place, so the public understands that it’s not a snap your fingers and we’re done.

The result of the discussion was an agreement by the applicant to submit a Request for Revision to the Special Permit to be reviewed on February 9th. A copy of the easement agreement with the nearby Kohl’s parking lot owners will be provided. The Planner volunteered to draft conditions appropriate to an approval of the application, based on the Commission’s favorable review of the facts, and there being no objection to the proposed changes.

4. **#2009-016-POCD: PLAN OF CONSERVATION AND DEVELOPMENT**, Proposed placement of “green building” language in Housing and Business Chapters and other issues. c/o P.D. and Chairman. *For discussion.*

Chairman Mucchetti referenced a memo and draft pages of the Plan that were distributed to the Commission, pertaining to adding paragraphs about “green” building techniques for new residential and commercial construction. She said that, if

the Commission supports the modified language, the Consultant would incorporate it into the draft being prepared for the public hearing.

Mr. McChesney felt that the terms “green building” and “LEED” were not adequately defined, although p. 83 explained the latter. He asked if the sidebar would be in the final draft.

The Planner said there is a reference for LEED standards to “See p. 83.” She suggested modifying the reference to say, “See sidebar, p. 83.” That was agreed to.

Mr. Katz offered some changes to the photos and captions for accuracy, specifically stating that the Governor House (depicted) is built to LEED standards, but is not certified. The Planner said that she has heard architects confirm this. It was agreed that the only reason the builder did not apply for certification was because of cost. The building meets the LEED standard.

The Chairman discussed the revised introduction to the document suggested by Mr. Mische, who, unfortunately, was not at the meeting. The Planner felt there were a few errors in the modified introduction, cited by the Chairman. It was decided that the original introduction should be included in the draft, and left unchanged.

Mr. Katz said that, in the context of the POCD’s intent, the broader statement “is more in keeping with the legislative intent,” and the POCD is not intended to be a historical document.

The Chairman noted that there had been some “sharp comments about the quality of the writing in the POCD,” and Ms. Samokar was concerned that “the clients aren’t satisfied with the product.”

Mr. Katz said he was satisfied with the document as it stands.

Mr. Fossi said he had read it from cover to cover and thought “it did exactly what we hoped it would,” and was relatively easy to understand.

Dr. Autuori said he was satisfied, as well.

There was general excitement about the newly improved cover, with the picture of the fountain.

NEW ITEMS

5. **#2010-006-SP:** Special Permit application under Section 9.2 required by Section 3.3.D.2 of the Ridgefield Zoning Regulations to conduct a major home occupation on property located at **196 North Salem Road** in the RAA zone. Owner: Inga Engstrom. Appl.: J S Dental Manufacturing, Inc. For receipt, schedule walk and public hearing.

Chairman Mucchetti asked for acknowledgement of receipt of the application, and suggested a site walk for February 21, 2010, and a public hearing for March 9, 2010.

Mr. Walsh motioned, seconded by Mr. Fossi, to acknowledge receipt of the application and to schedule the site walk and public hearing, as suggested. The motion passed, 7-0-1, with Mr. McChesney abstained.

6. Discussion of proposed Community Garden on **Farmingville Road**, c/o P.D.

The Planner referenced a Ridgefield Press article about the proposed Community Garden to be located in front of the Farmingville School. The purpose of including the item on the agenda was to make the Commission aware of the plan, and to state for the record that Planning and Zoning staff had determined that no Commission review or approval is required for the proposed public garden.

The Planner asked for the Commission's confirmation of staff interpretation of the regulations, that the community garden is an as-of-right use requiring no Commission approval. There was unanimous agreement, and positive support expressed for the project.

COMMISSION WALKS

The Commission scheduled the following item for site walk on **February 21, 2010**:

- **#2010-006-SP: Special Permit 196 North Salem Road**, Engstrom.

The following item had been previously scheduled for site walk on **February 21, 2010**:

- **#2010-002-SP: Special Permit 180 Barlow Mountain Road**, Morris

REQUESTS FOR BOND RELEASES/REDUCTION

There were no requests for bond release or reduction.

CORRESPONDENCE

Chairman Mucchetti pointed out the following correspondence:

- Danbury News-Times article about the proposed Norwalk River Trail System
- Announcement of the **Route 7 Corridor Study Public Information Meeting**, to be held in the Wilton High School Cafeteria, February 25, 2010, from 6:30-8:30
- Letter from ZEO Richard Baldelli to Fire Chief Heather Burford, re thanks for help and cooperation received from the Fire Marshal's office.

Hearing no further discussion, the Chairman adjourned the meeting at 8:30 p.m. The meeting was reconvened at 8:31, for the sole purpose of approving the minutes of January 12, 2010.

MINUTES

Dr. Autuori motioned, seconded by Mr. Fossi, to approve the minutes of January 12, 2010. The motion passed, 8-0.

Hearing no further discussion, the Chairman adjourned the meeting at 8:32 p.m.

Respectfully submitted,

Linda Caponetti
Recording Secretary