

UNAPPROVED / UNREVISED
MINUTES
INLAND WETLANDS BOARD MEETING

February 17, 2010*

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

Absent: Michael Autuori
Nelson Gelfman
Phil Mische

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

**The meeting scheduled for February 16, 2010 was postponed to February 17th because of inclement weather. A Planning and Zoning Commission public hearing was held prior to the meeting.*

At 7:36 p.m. Chairman Mucchetti called the meeting to order.

PENDING ITEMS

1. **#2009-109-SR:** Summary Ruling Application under Section 7.5 of the Inland Wetlands and Watercourses Regulations for the Town of Ridgefield for disturbance and activity in the upland review area in conjunction with installation of an in-ground gunite swimming pool with attached spa on property located at **52 Silver Spring Road** in the RAA zone. Owner: Nubia Forero. Appl./Auth. Agent: Pools by Murphy. *Received 12/8/2009, walked 12/13/2009. Discussion re outside consultant held 12/15/2009. Tabled 1/5/2010 and 1/12/2010. Draft resolution of approval requested on 2/9/10. For action.*

Chairman Mucchetti pointed out the draft resolution prepared by the Agent. The Agent stated that the tracking pad (mentioned in condition #5) should be 50 feet. The application was referred to the Peter Hill of the Highway Dept., who reported to the Agent that a section of the wall in front of the house would have to be removed by the homeowner in order to create the temporary access drive. Mr. Hill felt the area was “a bit tight,” Agent Brosius said, but Wetlands Agent/Inspector Aimee Pardee felt there was enough room for the access way. Agent Brosius stated that she wanted to review the resolution to make sure there was adequate reference to erosion control between the property to the north and this property, and that a requirement for restoration and stabilization of the temporary access drive area was noted.

Mr. Katz noted that the latter had already been addressed in condition #5.

The Chairman asked Mr. Fossi to review condition #7 to ensure that it satisfied the concerns he'd raised in the previous meeting about the Type II settling basin. Mr. Fossi said that he was satisfied with the condition.

Mr. McChesney motioned, seconded by Mr. Fossi, to approve the resolution as drafted. The motion passed, 5-1, with Mr. Chipouras voting against.

NEW ITEMS

2. **#2010-013-IW:** Proposed emergency clean-up of Rail Trail by CL&P. *Discussion c/o IWA.*

Chairman Mucchetti asked the Agent to explain the correspondence received from John Figurelli, Licensed Environmental Professional from Weston & Sampson, on behalf of CL&P, regarding the clean-up of washed-out material from the Rail Trail.

The Agent explained the damage, the cause, and proposed restoration, as seen by Mr. Figurelli. She asked that the Board approve administrative oversight of the immediate clean up, where contractors will use a vacuum type machine to suck up the material that washed into adjacent properties. There is no digging involved, she said.

Mr. Katz motioned, seconded by Mr. Chipouras, to authorize staff to provide administrative oversight of the work on behalf of the Inland Wetlands Board. The motion passed, 6-0.

The Agent noted that applications will be submitted at a later date for reconstruction of the trail and culverts.

3. **Chairman Mucchetti** asked that an item be added to the agenda, to provide an update on the 235 Wilton Road East lot (Richardson) that was subject to a Show Cause Hearing the previous week. Mr. Chipouras motioned, seconded by Mr. McChesney, to add the item to the agenda. The motion passed, 6-0.

Chairman Mucchetti explained that Mr. Richardson had visited the office immediately following the Board's meeting of 2/9/10 and he provided a check as requested, as payment of fees for retaining the Board's technical consultant. Land-Tech has been engaged to provide oversight of the erosion and sedimentation control remediation, and the consultant visited the site with staff on 2/17/10.

BOARD WALKS

There were no site 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. Katz motioned, seconded by Mr. McChesney, to approve the minutes of January 26, 2010. The motion passed, 6-0.

Mr. McChesney motioned, seconded by Mr. Fossi, to approve the minutes of February 2, 2010. The motion passed, 6-0.

Hearing no further discussion, the Chairman adjourned the meeting at 7:44 p.m.

Respectfully submitted,

Linda Caponetti
Recording Secretary

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PLANNING AND ZONING COMMISSION MEETING

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James McChesney
Rebecca Mucchetti, Chairman
Patrick Walsh, Vice Chairman

Absent: Michael Autuori
Nelson Gelfman
Phil Mische

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

** The meeting scheduled for February 16, 2010 was postponed to February 17th because of inclement weather. A continued public hearing was held prior to the meeting.*

At 7:45 p.m., Chairman Mucchetti called the meeting to order.

PENDING ITEMS

1. **#2009-101-SP:** Special Permit application under Section 9.2 required by Section 3.3.D.1 to permit an accessory dwelling unit within the existing residence located at **40 Ritch Drive** in the RAA zone. Owners/Appls.: Sylvie Metzner and Thomas Tuohy. *Received 11/10/2009. Walked 11/22/2009. Public hearing commenced 12/8/2009, continued to 1/12/2010 and 2/16/2010. 65-day action period ends 4/22/2010. For action.*

Chairman Mucchetti noted that the public hearing had been closed, and asked for discussion on the application.

Mr. Katz said he felt comfortable approving the application considering the reports from Zoning Enforcement and the Health Department. He motioned, seconded by Mr. Walsh, to approve the application as presented, with standard conditions. He requested the approval be a final.

The Planner was in agreement, but she recommended, based on discussion with the ZEO, that there be a condition for annual inspection in conjunction with the timing of the affidavit of ownership submitted by the owner (the affidavit is a requirement in

the regulations). Mr. Katz suggested that the inspection be “annual, at the discretion of the office.”

The Chairman asked what the process for renewal with an accessory apartment was. The Planner said there is an affidavit form. The applicant needs to understand the process, the Chairman said.

The motion was amended with the condition, and passed by a vote of 6-0.

2. **#2010-001-VDC:** Village District application under Section 8.3 of the zoning regulations for signage on building located at **17 Governor Street** in the CBD zone. Owner: Joseph Gavin Donnelly Trust. Appl.: Results Personal Training, LLC. *65-day action period ends 3/11/2010. Received 1/5/2010. Tabled 1/12/2010. VDC report received 1/14/2010. Tabled 1/26/2010. For discussion/action.*

Chairman Mucchetti recognized Attorney Robert Jewell and applicant J.R. Mikhael of Results Personal Training.

Mr. Mikhael said that he would like to have his sign on the soffit of the building, similar to a neighboring store, Melage Wines. The Chairman noted that the VDC had asked for a hanging sign. Mr. Mikhael said that he would agree to a hanging sign if he could change the color of the sign. Photos of the plaza and a graphic rendering of the proposed sign were distributed.

Mr. Jewell said that the applicant’s sign meets the zoning regulations and asked the Commission to approve it despite the VDC’s objection. He noted that other signs in the plaza are on the building soffit or in other colors, and the applicant would like permission for the same.

It was determined that there are two distinct soffits on the building. Mr. Fossi clarified that the applicant is proposing to hang the sign on the building soffit, not on the overhang soffit.

Mr. Chipouras asked for continuity of signage with the businesses adjacent to this one, which were uniform.

Mr. Mikhael noted that his business and the adjacent ones are not street facing, with one of them not visible at all from the street. This makes the continuity of signage less important, he felt. Additionally, he is trying to build a brand, he said, and the sign needs to be in the colors of the company.

Various locations for signage on the building were discussed. Mr. Jewell said the applicant’s proposed location is not as obvious as the hanging signs.

Mr. Chipouras said that the Results brand is seen on the window, and does not need to be duplicated in the hanging sign.

Mr. Mikhael said that the sign helps to eliminate a lot of [his] marketing, because it says a lot about the brand, and the signs on the window were placed in response to VDC suggestions, he said.

The Chairman recapped, saying that the applicant would like the Commission to approve his signs as requested. The VDC requests uniformity. The applicant wants to stand out.

Mr. Katz noted the deficit position of the Commission in trying to decide the matter without a “mock up of what the VDC would want.” “Absent some serious violation,” he said, he would like to allow the applicant the sign he wants. Mr. Katz wanted a drawing from the VDC.

Mr. Fossi said they simply wanted a sign similar to the OmniCare sign, blue with gold lettering. That was confirmed by the Chairman, referring to the VDC minutes.

Mr. Katz asked the applicant why that was not acceptable to him. He said he was willing to compromise. He would accept the hanging sign if it could be in the colors of Results.

Mr. Fossi asked if the PZC has control over color. The Chairman said the VDC does.

Mr. Jewell disagreed, citing the “enabling statute” to enact VDC regulations only “where there is construction or substantial reconstruction or rehabilitation of the building.” That is not the case here, he stated.

There was considerable disagreement. Mr. Chipouras felt there was substantial reconstruction. Mr. Jewell refuted that.

The Planner felt it would apply to aesthetic exterior changes. She read the statute Mr. Jewell referred to in full, accurately claiming that Mr. Jewell had stopped reading prematurely, omitting critical information.

Mr. Jewell disagreed, citing the Practice Book. He said other conditions did not apply unless you met the first two criteria, which were new construction or substantial reconstruction, which he felt did not apply. The regulations governing signage in general refer to size and location only, he said.

Mr. Walsh said that would include determination of the location of the sign on the interior soffit, the exterior soffit or hanging from the overhang.

Mr. McChesney said the only things not within the Commission’s control would be the lettering and color. Mr. Jewell agreed.

The Planner cautioned the Commission about accepting the applicant's attorney's interpretation of zoning regulations. She cited Sec. 8.3.d 4 in the Village District Regulations, which states the requirement for signs to have harmony of design and integrate with the building and site. She believes that sign design and color can be regulated by the Commission.

Mr. Walsh said he was trying to narrow down the discussion to what he felt was at issue, which was the location of the sign.

The Chairman said the VDC wanted the sign color to match the surrounding signs. Mr. Walsh said they are old and faded, and matching them would be impossible.

Mr. McChesney noted the lack of uniformity in the four signs on the building including Bissell's Pharmacy.

Mr. Fossi said the Commission has "a history of approving signs in the colors that represent someone's logo. They are all over town." He cited many examples. He saw no reason to hold this applicant to a different standard, he said.

Mr. Katz said he was generally in favor of supporting the VDC's recommendations, but, in this case, he would side with the applicant.

Mr. Walsh asked if the sign would be lit. It would not, but there are existing walkway lights under the overhang, Mr. Jewell said.

Mr. Fossi confirmed that the size of the sign would be 72 in. x 12 in., in conformance with the size of all the other hanging signs.

Mr. McChesney motioned, seconded by Mr. Fossi, to approve a hanging sign to be mounted on the brackets used by the former tenant, and permitting the sign to be the colors and design proposed by the applicant. The motion passed, 6-0.

3. **#2010-009-REV(SP):** Revision to Special Permit under Section 9.2.A.7.e of the Ridgefield Zoning Regulations for a change of use from retail to restaurant requiring additional parking located at **107-109 Danbury Road** in the B-1 zone. Owner/Appl.: Copps Hill Common, LLC. Auth. Agent: Donnelly, McNamara and Gustafson, P.C. *65-day action period ends 4/15/2010. Received 2/9/10. For discussion/action.*

Chairman Mucchetti recognized Attorney Robert Jewell, for the applicant. She noted at the table the application, a diagram of the parking layout, and the submission of the various easements involving the parking. The Commission discussed the request in reference to Sec. 7.3.C.3 of the regulations. The Chairman was concerned that the application was for a non-restricted "Change of Use" of space at the shopping center, and not for parking.

She addressed Mr. Jewell, saying that the Pre-Concept discussion had implied that the use would be just in the evening, with no daytime burden on the existing parking. The application has no hourly limitation or restriction to the change in use, and she feared that an approval, as presented, would introduce a limitless burden on the parking.

Mr. Jewell's impression of the Pre-Concept discussion was that the idea was favorably received, and there was reference to the easement as being sufficient to obviate any need to further address parking, regardless of time of day. Therefore, a more general application was constructed without mention of parking, he said. He noted that Mr. Zemo had had discussions with potential businesses (the Wine Bar included), but nothing had been "reduced into writing."

Mr. McChesney felt that the reciprocal agreement eliminated any need for concern over parking.

Mr. Walsh asked why an application was needed if a change of use would not require parking decisions/adjustments.

The Planner said that the regulations require that the Commission acknowledge by Special Permit that there is the filed easement. There is currently nothing that acknowledges this reciprocal agreement, she said.

Mr. Walsh asked if the Commission must be satisfied that sufficient parking exists. "Do we still fall under Sec. 7.3.C?" he asked.

The Planner said Sec. 7.3.C.3 is the appropriate regulation under which this application falls. She read the regulation, which addresses shared parking with reference to time of day. The Planner suspected that, during heavy usage hours, people will more than likely have to park in the reciprocal easement area (next to Kohls).

The Chairman wondered why the easements have never come up before, when there had been numerous applications brought forward which would have been affected by them. Mr. Jewell said that he uncovered the easements within the normal context of preparing the application. He thought the easements "were common knowledge," he said. The Chairman said this valuable information would have greatly helped in many prior applications.

The Planner was "extremely perplexed" that the easement had not been mentioned in prior applications. If the easements were in the record, they should have been at play in prior discussions, such as the one regarding the expanded outdoor use and loss of two parking spaces at Southwest Café. The Planner stated that the Commission needs to approve the parking to serve the Change of Use, not the Change of Use itself. The Change of Use is permitted as of right provided that parking is adequate.

The Chairman asked if that meant that the application is incorrect.

Mr. Katz felt it was important that the application be crafted correctly, saying that the easements were acknowledged by the Commission, nullifying the need for a Change of Use application. The Planner said that the Commission is acknowledging that the easements demonstrate parking is adequate for the proposed uses on the site.

The Chairman was still not satisfied that the application, a Revision to a Special Permit for a Change in Use. The stated purpose of the application and what the decision is referencing were not clear for the record, she felt. Mr. Katz agreed. The Planner acknowledged that the application was not worded correctly. The Chairman said the application before the Commission, which does not address parking at all, is the one they should be dealing with.

Mr. Jewell said that his understanding is that the Change of Use is done administratively, but that the parking comes back as part of a Special Permit or a Revision to a Special Permit.

The Chairman maintained that none of that was addressed in the application at the table. A discussion took place as to how this problem might be addressed at the table that evening.

Mr. Jewell defended the application, saying that it referenced the Pre-Concept meeting where parking was elaborately discussed. He also submitted what he called, “the original [essentially] parking easement,” along with the amendment removing its expiration. He asked if he could orally amend the application if the Commission feels that the discussion of parking isn’t implicated.

The Chairman said that the Commission is satisfied that the issue of parking has been addressed. Her concern is that the decision should address the application in front of them.

The Planner summarized that, according to the zoning regulations, the Special Permit and Sec. 7.3.C.3 pertains to the Commission’s acceptance of cross-easements [filed in the office of the Town Clerk] as proof that there will be adequate parking for the proposed mixed uses in the shopping center. The Commission is not approving the change of use, but the Commission needs to consider the parking requirements for the proposed mixed uses, and then confirm that parking is sufficient on-site in combination with additional parking on the adjacent property, provided for in the easement.

Mr. McChesney motioned, seconded by Mr. Chipouras, to approve the application by acknowledging the easement as providing for sufficient parking for the proposed mixed uses on the site.

Chairman Mucchetti felt that the application did not properly reference the section of the regulations that pertains to the request. The Commission finally agreed to table

final action on the motion, to allow the applicant's counsel to prepare a request for correction of the Special Permit request. At the same time, the Planner will draft conditions for the Commission's consideration of final approval at the meeting on March 2nd.

NEW ITEMS

4. **#2010-010-REV(SP):** Revision to the Special Permit application under Section 9.2.A.7.e of the Ridgefield Zoning Regulations to convert temporary canopy to permanent canopy on building located at **59 Ethan Allen Highway** (Little Pub) in the B-1 zone. Owner: Club Ched, LLC. Appl./Auth. Agent: Little Pub, Douglas Grabe. *65-day action period ends 4/22/2010. For receipt/discussion/action.*

Chairman Mucchetti recognized Douglas Grabe, owner of the Little Pub restaurant.

Mr. Katz motioned, seconded by Mr. Fossi, to approve the application as presented. The motion passed, 6-0.

5. **#2008-093-REZ-SP-S:** Gino's Way (aka **213 High Ridge Subdivision**), proposed modification of erosion and sedimentation control requirements. *Discussion c/o P.D.*

Chairman Mucchetti asked the Planner to explain the request.

Planner Brosius referenced the Commission's approval of the erosion control plans for the subdivision, which limited the number of lots that may be disturbed at any one time to two. The request is to permit a third lot to be disturbed during construction. The Planner said she asked for input from Zoning Enforcement Officer Richard Baldelli and Wetlands Inspector/Agent Aimee Pardee, and the recommendation is to permit administrative approval (staff) for as many as three lots to be disturbed at one time [not counting lots that are built-out and completely stabilized], provided that the site technical monitor (Land-Tech) can certify that erosion and sedimentation is under control.

Mr. Walsh motioned, seconded by Mr. Katz, to approve the request with the condition suggested by the Planner. The motion passed, 5-0-1, with Mr. McChesney abstained.

6. **#2010-011-REV(SP/VDC):** Revision to Special Permit under Section 9.2.A.7.e as required by Section 5.1 of the Ridgefield Zoning Regulations to permit signage on awning in addition to wall sign, and Revision to previous VDC approval to re-locate proposed awning with signage for expanded restaurant, on property located at **24 Prospect Street (Piccolo Pizza)** in the CBD zone. Owner: Pretty LLC. Appl.: Matthew Criscuolo. *For receipt/discussion/action.*

Chairman Mucchetti noted that the applicant is scheduled for Village District Consultant review on the 23rd, and the item was tabled. The application was received and will be discussed on 3/2/10.

7. **#2010-012-REV(SP):** Revision to Special Permit under Section 9.2.A.7.e as required by Section 3.3.D.2 of the zoning regulations (major home occupation) to modify the condition requiring that produce for-sale be grown on the premises, on property located at **34 Craigmoor Road and North Salem Road**, “Garden of Ideas.” Owners/Applicants: Ilsa Svendsen and Joseph Keller. *For receipt/discussion/action.*

Planner Brosius gave a brief history of the requests from the owner/applicant for growing produce in various locations offsite. She explained that staff had discussed the request, and it was determined that the Revision to the Special Permit was not the proper application process. The request will need a variance from the Zoning Board of Appeals. To keep record-keeping in order, it was determined that the Commission would receive the application and then the applicant may withdraw it. This is the preferred action, rather than Commission denial of the application.

The desire to allow more locally-grown produce was expressed by many on the Commission, but Mr. Walsh noted the complication of allowing increased intensity of a business use in the middle of a residential area.

Mr. Fossi motioned, seconded by Mr. Chipouras, to acknowledge receipt of the application. The motion passed, 6-0.

8. **#2010-014-REV(SP):** Revision to Special Permit under Section 9.2.A.7.e pursuant to Sections 3.1.C and 3.2.C.5 of the zoning regulations, to modify the approved frontage of the town park property according to boundary line settlement agreement, for parcels located on **Rippowam Road** in the RAAA zone. Owner/Applicant: Town of Ridgefield. *For receipt/discussion/action.*

Chairman Mucchetti asked the Planner to explain the request. She noted a letter at the table from First Selectman Rudy Marconi.

The Planner explained that the boundary line between the park and the neighboring property owner had been determined through a negotiated settlement, and the Commission’s task is to formally authorize, under the Revision to the Special Permit, that the resulting 25+ feet of frontage for the park off Rippowam Road is an approved accessway according to Section 3.2.C.5 of the zoning regulations. The Commission would be approving that the access to the park conforms to the requirements for a minimum 25 feet width. Disagreement about the property line arose because existing maps of the properties were old and inconclusive. The Town and the neighbor have agreed on where the property line should be going forward, and the maps show the agreed location.

Mr. Walsh asked if a referral was needed, because there is a conveyance of Town land. The Planner noted that this is a negotiated settlement, and the application for Revision to the Special Permit supersedes the need for the referral.

Mr. Katz motioned, seconded by Mr. McChesney, to determine that the proposed map change is in conformance with the requirements in the zoning regulations as an approved accessway, pursuant to Sec. 3.2.C.5. The motion passed, 6-0.

COMMISSION WALKS

The Commission had previously scheduled the following items for site walks on **February 21, 2010:**

- **#2010-002-SP: Special Permit 180 Barlow Mountain Road, Morris**
- **#2010-006-SP: Special Permit 196 North Salem Road, Engstrom.**

REQUESTS FOR BOND RELEASES/REDUCTION

There were no requests for bond release or reduction.

CORRESPONDENCE

Chairman Mucchetti pointed out the following correspondence:

- Memo from the Fire Marshal pertaining to 196 North Salem Road
- Real estate sales information about Ridgefield property sales in 2009
- Quarterly Newsletter of the Connecticut Federation of Planning and Zoning Agencies

MINUTES

Mr. McChesney motioned, seconded by Mr. Katz, to approve the minutes of January 26, 2010. The motion passed, 6-0.

Mr. Fossi motioned, seconded by Mr. Chipouras, to approve the minutes of February 2, 2010. The motion passed, 6-0.

Hearing no further discussion, the Chairman adjourned the meeting at 8:52 p.m.

Respectfully submitted,

Linda Caponetti
Recording Secretary