

APPROVED / REVISED
MINUTES
INLAND WETLANDS BOARD

February 27, 2007

Present: Michael Autuori
Joseph Fossi
Nelson Gelfman
John Katz, Vice Chair/ Secretary
James McChesney
Rebecca Mucchetti, Chairman
Patrick Walsh
Lillian Willis

Absent: Walter Slavin

Also Present: Betty Brosius, Inland Wetlands Agent
Richard Baldelli, Zoning Enforcement Officer

A Planning and Zoning Commission public hearing was held prior to the meeting.
At 8:30 p.m. Chairman Mucchetti called the meeting to order.

PENDING ITEMS

There were no pending items.

NEW ITEMS

There were no new items.

BOARD WALKS

There were no walks to be scheduled.

REQUESTS FOR BOND RELEASE OR REDUCTION

There were no requests for bond release or reduction.

CORRESPONDENCE

There was no correspondence to discuss.

MINUTES

The minutes of February 20, 2007 were distributed.

Hearing no further discussion, the Chairman adjourned the meeting at 8:31 p.m.

Respectfully submitted,

Betty Brosius
Inland Wetlands Agent

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MINUTES
PLANNING AND ZONING COMMISSION

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Present: Michael Autuori
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Absent: Walter Slavin

Also Present: Betty Brosius, Director of Planning
Richard Baldelli, Zoning Enforcement Officer

A public hearing was held prior to the meeting.

At 8:32 p.m. Chairman Mucchetti called the meeting to order.

PENDING ITEMS

1. **#2005-028-Regs** Comprehensive update and proposed revisions of the zoning regulations for the Town of Ridgefield, including the following zone changes: (1) eliminate the DPD (Design Professional District) zone, to be re-zoned to B-3 (General Business and Industry); (2) Change R-5-1 and R-5 zones (10 and 15-unit multi-family) to MFDD (Multi-Family Dwelling Development); (3) Change CAH (Congregate and Affordable Housing) and RCDD (Restricted Corporate Development District) to ARHD (Age-Restricted Housing District); (4) Change CCF (Continuing Care Facility) zone to RAA, (5) Establish the CBD (Central Business District) as a Village District in accordance with 8-2i of the CGS. *For discussion/action.*

Chairman Mucchetti noted that the public hearing had been closed, and discussion could begin. Consultant Glenn Chalder of Planimetrics was present for the discussion.

Mr. McChesney referenced the 10-page hand-out of comments prepared by the Planner. He suggested that the comments made by legal counsel should be adopted as recommended, and any comment mentioned as an “error” should be corrected. The Commission should review the remainder of the comments table, item by item, to determine if the recommendations can be adopted as stated, or modified. Chairman Mucchetti suggested that this would be a good way to begin the discussion, and acknowledged that there may be additional items to discuss as well.

On page 2 of the hand-out, **Mr. McChesney** asked about the reference to page 36 and the “Adaptive Reuse of Buildings” section. He asked why this regulation should be limited to properties on State highways – why not on Town roads? There was some discussion about the fact that the State highways include all of Branchville Road, West Lane, and Route 116, as well as Route 7 and Route 35. Adaptive reuse for businesses on some of these State highways might be inviting intrusion of commercial use into the very rural residence zones.

Dr. Autuori suggested limiting the scope to properties on Route 7 only. Consultant Glenn Chalder explained how the regulation works in Wilton, and emphasized that the proposed use has to meet strict review by the Commission within limited standards and controls. Richard Baldelli, Zoning Enforcement Officer, noted that many of the State roads cover large areas that are rural and residential, and may not be appropriate for business. Mr. Katz said that this regulation might be attractive to persons leaving town who wanted to increase the value of their homes for sale by turning them into legal business uses. Mrs. Willis said that Wilton has approved some nice projects under this type of regulation on Route 7, and the proposed regulation might do the same in Ridgefield. Mr. Fossi agreed.

After some discussion, the consensus was to change the regulation as suggested by Dr. Autuori so that it pertains only to U.S. Route 7 properties, and to leave the remainder of the language as proposed.

Mr. McChesney referenced page 52, and the need to determine a percentage for maximum or “not to exceed” floor area ratio for municipal or governmental facilities in residence zones. The Planner noted that counsel has a general objection to giving the Commission unlimited discretion to determine allowed increases or decreases in standards. It was agreed that staff would have to research existing examples in Town, to make an appropriate recommendation.

The comments referencing page 60 suggest defining “public water and sewer” more definitively. **Mr. McChesney** said that “public water supply company water supply” was confusing, and all agreed. The Planner said the intent of the definition is to specify “public” company water supplies, as opposed to water supply systems created by groups of homeowners who might form a private water supply company. Mr. Katz pointed out that Aquarion is a “public” company because it sells stock as a public company. Mr. Chalder suggested checking for the statutory terminology for a public utility.

Mr. Katz asked to address the same concept for sewers, and referred to remarks made earlier in the letter presented by the Ridgefield Open Space Association. The concept of limiting multi-family to those areas that may be served by sewer by are not currently on-line is really a financial decision, not a zoning decision. Anyone who can afford to extend the sewer, whether it is in Ridgefield or to Danbury, can in effect turn a residentially zoned property, or in the case of 8-30g a non-residentially zoned property in any zone, into a high-density use that we would not have intended in our hard-fought

regulations. He is wondering if there is a way to further restrict that, by delineating what we mean by “served by sewer,” if we mean sewer by currently existing sewer districts.

Mr. Walsh asked how that would change if the Board of Selectmen wanted to extend the sewer district, because the PZC does not have the power to determine the limits of the sewer district, the Board of Selectmen does. So if the Selectmen decide to extend the sewer district, why would the PZC necessarily be excluding the possible use there?

Mr. Katz said he didn’t think you would necessarily exclude the use. It is the Water Pollution Control Authority who decides whether to expand the sewer district, and they frequently rely on the opinion of the under-lying land use agency to which application would be made for the project that might ensue, were the district to be extended. It gives the PZC a potential of additional level of control over where this proliferation of high-density housing might occur. It is one more stone in the wall of protection against increased density in the Town of Ridgefield which, he says, will be the death of this town.

Mr. Walsh asked how the language should read? The Planner said she would caution the Commission carefully about this, because there are several things to consider. The Plan of Conservation and Development is where the Commission usually states where increased development should occur. She said that legal counsel may have to be consulted about adding limiting language in zoning, to limit sewers. The Board of Selectmen and the WPCA have purview of the extension. However, the Plan of Conservation and Development clearly references the Commission’s ability to issue a report when a proposal is referred by the Selectmen to the Commission as required under Sec. 8-24 of the Connecticut General Statutes. This referral is required before any action is taken.

Mr. Katz suggests that the language reference allowing development in “existing sewer districts,” so if they extended the sewer district, then it would be in an “existing sewer district,” after the 8-24 referral. The language would indicate what the Commission expects, that there is an “existing sewer district.”

Dr. Autuori thinks that John’s position is the best, or as a fall-back position the language should specify the “Ridgefield” municipal sewer. **Dr. Gelfman** agrees with Dr. Autuori, but cautions that the Commission should not throw down any “red flags” or create rules that are going to lead to litigation. Dr. Autuori says that in the next several years the Ridgefield plant will have to be upgraded to meet DEP requirements, and there is the potential for some symbiotic development that would be involved with that. He thinks that if the language refers to the Ridgefield municipal sewers, we have a margin of safety and will not raise the red flag that Dr. Gelfman is worried about.

Mr. Chalder emphasized that for a new development to occur, a zone change has to take place, and the Commission has the maximum legislative discretion of all, so even if they do have sewer it doesn’t mean that you have to change the zone.

Mr. Katz points out that under 8-30g, however, the lack of sewers can be critical if an 8-30g application is proposed, and the Town should not be so afraid of lawsuits. The Commission needs to be prepared to make Ridgefield grow in the best interests of the residents, and the best interest of the residents is no growth. We need to do everything we can to achieve that. Dr. Gelfman points out that the Commission does not want to foreclose negotiations by its actions.

Chairman Mucchetti asks how Mr. Katz's suggested wording for "existing public sewers" affects property that is intended to be sewer, but is not currently connected. How does that property fall within the definition? Mr. Katz says that the property is not currently in the existing sewer district. Mrs. Mucchetti said, in that case Mr. Katz's language would not have her support. Chairman Mucchetti says there are properties that have long been shown on the WPCA's maps as intended to be sewer, but there is currently not enough capacity in the plant, and were capacity to become available, the intent was to connect them. There was a lot of discussion when the line was taken out to the high school, that it might potentially offer capacity for communities who would want it. She says that John's suggested language would limit that.

Mr. Katz disagrees for two reasons. The Planner has already brought out the controlling one – the Plan of Conservation and Development shows the areas that the Planning Commission sees as desirable for sewers. The Zoning Commission is in charge of an 8-24 referral if there were a proposal to extend the sewers, and obviously one would think that the Zoning Commission would follow the suggestion in the Plan of Conservation and Development, and that would then become part of the existing Ridgefield sewer district. "Existing" and "Ridgefield" are the controlling factors here.

Chairman Mucchetti says she thinks a hair is being put on the table that could be split, if the situation was one in which the person who was putting the hair on the table wanted it to be split, but if not it would be fine. Mr. Katz says that would be one person, and there would be eight other votes that might be in disagreement. Chairman Mucchetti prefers to leave the language as it is.

Mr. Katz would like the matter referred to counsel, to ask if it would be inappropriate for the Zoning Commission to state in its regulations that multi-family development be confined to areas served by the existing Ridgefield sewer district. Mr. Chalder asks if "existing" means as of 2/27/07? Mr. Katz says no, we mean "existing" as in Webster's dictionary. Mrs. Willis suggests using the word "delineated." The Planner references the Chairman's earlier comment about properties that were previously designated as "to be sewer," but the lines are not currently extended to those areas. Those are "existing sewer districts." Were the plants not able to handle the projects within the district, those plants would have to be expanded. They are evaluating the downtown plant right now, because it is already at 90% capacity. There are properties currently in the district that may or may not, even at this point, be served for large capacity. Mr. Katz says that language should reference the "existing or planned for" sewer district, with the "planned for" referring to the Plan of Conservation and Development. The Chairman asks if it would include areas that the WPCA has designated as "planned for," and Mr. Katz said

the Commission would not have anything to say about it. Mr. Katz says that he is trying to get a handle on those areas where the Commission still has some statutory control over what happens. It is necessary for the Commission to clarify what it says, and if it says “existing or planned for” we have both the recommendations that the POCD made, and the regulations promulgated by the Zoning Commission tonight.

Chairman Mucchetti agreed that she and staff would consult with counsel on the language. The Planner asked again if Mr. Katz’s language referred to districts “planned for” in the POCD, and would it include areas not in that Plan that are in the WPCA records? Mr. Katz agreed that if the WPCA has identified an area, then it is a “planned for” sewer district.

Dr. Gelfman says the critical issue is “Ridgefield” sewers, but Mr. Katz says that issue is actually more complicated to control.

The regulations should be corrected in all places where the requirement for “public water and sewer” is found.

Chairman Mucchetti referenced the comment for page 59 of the proposed regulations, and the suggestion to change the maximum permitted density for independent living units in the ARHD zone as 3 units instead of 5.5 units. Consensus was to change the density to 3 as suggested. Dr. Gelfman is concerned about wetlands and steep slopes and how that might affect density. The Planner noted that subtraction of these environmental constraints prior to determining density would be a separate regulation.

Mr. Katz asked about the density of 8 units per acre for congregate living. He is concerned about separate living units that might not be appropriate at that density. The Planner stated that “congregate” indicates shared services such as dining rooms and recreational areas, and buildings are not typically set up as individual units. Mr. Walsh said there is a state statute that defines “congregate” and indicates shared services in the definition. The Planner also indicated that this is a Special Permit review by the Commission, where there is discretion to approve or deny a proposed design. Mr. Chalder offered to add the words “within a single structure” to define congregate living units, to discourage individual unit design.

The Commission acknowledged that changes pertaining to recently passed amendments should be corrected as noted in the comments table.

Mr. McChesney pointed out the recommendation on pages 4 and 5 of the table, referring to page 99 in the proposed regulations, to establish a “not to exceed” 25% percent reduction of the number of required parking spaces for mixed uses. The Commission agreed that this was reasonable.

Chairman Mucchetti referenced page 9 on the comments table, pertaining to page 125, and asked if the statement, “Applications subject top the provisions of the Section shall be referred to the Village District Consultant...” should be changed to “...may be

referred.” The Planner pointed out that the referral is mandatory under 8-2i. The other suggested changes, she said, indicate that the AAC may be the Village District Consultant, but the Commission may decide to designate a different set of individuals as the VDC, including perhaps a member of the Historical Society.

The last correction is on page 44 of the proposed regulations, where an accessory structure in the front yard of a residence should be noted as requiring a Special Permit. Accessory structures are permitted with a zoning permit provided that they are not in the front yard.

Mr. Katz suggested that the letter submitted by ROSA at the public hearing be discussed. He asks, for instance, if the 8-foot setback requirement for Conservation Cluster PRDs should be changed to 12 feet, as per the ROSA letter. It was agreed by the other Commissioners that most of the ROSA comments are on the list of items to be discussed at a later date. The Planner said that some of their points have already been addressed. For instance, they questioned the 55-and-older and the 62-and-older provision, saying that currently 55-and-older is not permitted at present. Why is it included in the new regulations? The Planner pointed out the age restriction is defined by federal law, and theoretically any multi-family development could be age-restricted under the federal legislation. In addition, the 5.5 density for independent living units has been changed to 3 units/acre as suggested.

The Planner said that the suggestion to define “buildable area” is a good one, and that is on the list of future considerations. **Chairman Mucchetti** emphasized that the topics for future discussion is not, in her opinion, a “casual list.” Many of the items should be dealt with as soon after the adoption of the new regulations as possible.

Mr. Katz asks, since some of these “hot” issues are in front of the Commission now, why shouldn’t they be addressed now, before the document goes to print? Chairman Mucchetti said there are other issues that are even “hotter” than those brought forth by ROSA, and these issues will be dealt with as soon as possible. Mr. Fossi pointed out that several issues would require separate public hearings altogether. Dr. Autuori pointed out that the change to 3 units/acre in the ARHD zone is partially addressing the ROSA letter. The Commission agreed.

The Planner said she had talked to Dr. Ben Oko of the Conservation Commission about the way that the Commission looks at PRD proposals. Some of the Conservation Commission’s concerns about quality of open space, access to open space, and planning for protection of open space are better addressed by the P&Z Commission now, having learned from past problems, even without changes to the regulations. The pre-application covers many of these issues, too.

Mrs. Willis asked about the Smart Growth comment. The Planner said this issue is handled to a certain extent in the POCD, but there are no specific regulations that would qualify as “smart growth.” Mrs. Willis suggested that the statement about “access to services” for high-density development could be tweaked a bit, to make it more clear.

Chairman Mucchetti noted that the 8-foot setback issue for the Turner Hill development had been exhaustively discussed by the Commission already, in previous public hearings. The new regulations include the amendment adopted by the Commission. She repeated that the substantial issues on the “future” list will need thorough review and discussion.

Dr. Autuori says that under “smart growth,” the whole concept of large-lot subdivisions would change, which are, in general, antithetical to smart growth. It is a total philosophical change, not a small “tweak.”

Chairman Mucchetti asked the Commission to go over the proposed map changes. The changes were noted by the Commission, and had been thoroughly described in the public hearing notice. The Planner commented on the proposed changes.

Chairman Mucchetti asked the Planner to describe the process that would follow tonight’s discussion. The Planner said that there were some items needing clarification and opinion from counsel, and these items might be brought back next week, if time permits. The Planner said that a final draft would need to be prepared with help from the consultant.

Mr. McChesney asked about the letter received that afternoon from Shipman & Goodwin, and the Chairman said the issue of the HOD zone and the court order would be addressed with advice from counsel. Mr. Chalder pointed out that the proposed PDD (Planned Development District) might have addressed this parcel, but it was not included in the final draft. The HOD could have become PDD. The Planner said that the applicant for the HOD development has requested a building permit, so they have “vested” their right in the approved plan. They will be non-conforming if the HOD is not adopted in the new regulations, but that may not necessarily violate the court order. Counsel’s opinion will be needed to confirm.

Mr. Chalder said he was not sure that his presence would be needed at future meetings and commented that it had been a pleasure working with the Commission and staff. He pointed out that the Commission would need to pick an effective date for the new regulations, and suggested a 30-day to 45-day period following adoption, to give enough time for people to react under the current regulations if needed. If a building permit is issued under the current regulations, they are “vested” with those regulations. Some people may have been working with architects for a long time under the old regulations, and a 2-week window for adoption of the new regulations might not be fair.

Chairman Mucchetti said that Commission was grateful for the opportunity to work with Mr. Chalder on these regulations, and reminded the Commission that we had essentially run out of money to pay for the final few months of his services. It is hoped that Planimetrics might work on another project in the future.

NEW ITEMS

There were no new items.

COMMISSION WALKS

There were no walks to be scheduled.

REQUESTS FOR BOND RELEASES/REDUCTION

There were no requests for bond release or reduction.

CORRESPONDENCE

Correspondence was included in the packet, but none was discussed.

MINUTES

The minutes for February 20, 2007 were distributed.

Hearing no further discussion, the Chairman adjourned the meeting at 9:28 p.m.

Respectfully submitted,

Betty Brosius
Director of Planning