

APPROVED / REVISED
MINUTES
INLAND WETLANDS BOARD MEETING

March 13, 2007

Present: Joseph Fossi
Nelson Gelfman
John Katz, Vice Chair
Rebecca Mucchetti, Chairman
Walter Slavin
Patrick Walsh
Lillian Willis

Absent: Michael Autuori
James McChesney

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

Public hearings were held prior to the meeting.

At 9:40 p.m. Chairman Mucchetti called the meeting to order.

PENDING ITEMS

1. **#2007-006-PR-SP:** Plenary Ruling application for regulated activities in and/or adjacent to wetlands for drainage, access drive improvements and stream channel restoration in conjunction with application for Special Permit to construct a 15,000 s.f. medical office building located at **21 South Street** in the B-3 zone on 2.42± acres of land. Owner: South Medical, LLC. Appl./Auth. Agent: Donnelly, McNamara and Gustafson, P.C. *Received 2/6/2007, walked 2/11/2007, public hearing commenced 3/13/2007.*

Chairman Mucchetti noted that the public hearing had been continued to April 10, 2007, and the item was tabled.

2. **#2007-011-SR:** Summary Ruling application for driveway and fill in wetlands, and fill, grading and house construction in upland review area on 2.152 acres of land located on **121 Sleepy Hollow Road** in the RAA zone. Owner: Katharine W. Fizer. Appls.: Charles and Katharine Fizer. *Received 2/13/2007, walked 2/25/2007 to determine significance. 65- day action period or 65-days to commence public hearing ends 4/19/2007. Determine significance/discussion.*

Engineer Ralph Gallagher, representing the applicant, gave a description of this pre-existing parcel of property, and their plans for it. He described the property, which is on the west side of Sleepy Hollow Road, as a little over 2 acres, with a

wetland that traverses it from the southeast corner. Mr. Gallagher explained that if the driveway they are planning hugs the southern property line, they will just cross a small piece of wetland.” He also explained that there is a lot of rock on the site, which they propose to use in order to armor a buffer along the wetlands. Additionally, he explained that their original plan had the wall or rock slope sitting very close to, if not on top of, the wetlands. “We were asked to pull that back,” he said, “so we’re not touching the wetland at any part. When the wetland terminates, steep rock slope ensues, so we’re just going to continue that... artificial rock on top of the natural rock slope...” so there won’t be any upland soil disturbed by any of this work.

The rock slope will then hold back the driveway, which they propose to grade and cut into the hillside, and the dwelling, centered on the rock about 35’ – 40’ above the wetland. Mr. Gallagher said that, if they were to move it back to the west, they would be into a much larger rock cut and then we’d be encroaching on the septic area... which really can’t be moved. He explained that they had had considerable trouble placing the septic because of some ledge issues in the area.

The well is proposed between the house and the driveway, he explained. There will be an erosion silt fence all along the northern edge to block anything that might silt up, “although there isn’t a lot of soil on here to silt. It will be mostly rock, with a small amount of silt,” he said. “The main thing is crossing the little piece of wetland as you come in, with the driveway hugging the southerly property line, and then turning to the north and the west and getting to the house site, which is optimally located on the site for engineering purposes...cuts and fills, things like that.”

Mr. Katz asked if it could be determined if the entirety of the driveway was within the upland review area

Agent Brosius said the upland review area is 50’ from wetlands. She asked Mr. Gallagher if he could measure 50’ on the site map.

Looking at the map, Mr. Gallagher first stated that, “At least most of the eastern edge of the driveway would be in the upland review area”. After closer inspection of the map, he concluded by saying, “Most of that driveway’s in the upland review area.”

Ms. Willis asked Mr. Gallagher to clarify what he meant when he said there would be “artificial stone on top of the natural stone”.

Mr. Gallagher said, “From the wetland, there’s a natural stone rise... some outcroppings... and, when we get our rock, we’re going to armor the edge of the driveway” with it, and some of that will be over the natural rock. They will be putting more artificial rock just to form a rock slope. Whatever’s not natural will be artificial.

Ms. Willis asked, “But, you don’t mean actually artificial, like man made?”

Mr. Gallagher replied that it would be broken, blasted rock that's in big pieces, rather than naturally occurring in the ground.

The Agent asked if they could use the rock they would be taking out, and Mr. Gallagher replied, "Yes, exactly, that's the rock we will use."

Ms. Willis asked if it was possible that she had read somewhere that they would be bringing in heavy machinery to dig in the silt fence. Mr. Gallagher said he didn't think so, adding that there are companies who do that by hand.

Ms. Willis asked if the roof drains go to the wetland. Mr. Gallagher replied that the roof drains will dump out on the northwest edge, and then fall downhill, adding that there's a lot of soil and rock. He said they could put a detention system in for that if it's a concern.

Mr. Katz added that there is the free flow of runoff through that rough terrain, which is its own filtering system. Mr. Gallagher agreed, adding, "That's what the driveway's going to do – sheet flow through that rock slope back to the wetland, rather than collect it somewhere and then have to deal with the point of discharge."

The Agent said she had a few questions. Where the silt fence is shown, there is a lot of rock, she said. She asked if it would be practical to indicate hay bale installation, as well. The Agent continued by expressing her concern with the fact that it would be difficult to install the fence if there was a requirement to follow the exact line of the wetland, because of the rock that's there. She said that the office has worked with some contractors in the field who say they can't put any silt fence in when there's rock. They have to be creative about how they weave it around through the site. Mr. Gallagher that hay bales for support is a very good point.

The other question the Agent asked was whether or not the map showed the exact house footprint. **Mr. Fizer**, the homeowner, replied, "To my knowledge, at this point, it's pretty close." "Very close," Mr. Gallagher replied.

The Agent mentioned that the Wetlands Inspector, Aimee Pardee, noticed that the end of the rock slope nearest to the house seemed to be at an elevation of about 6' or 7' higher than the grading that's shown at the end of the house. There was a concern about the transition between the rock slope and the grading. She asked if a walk out basement was planned, and what is being graded on that end of the house?

Mr. Gallagher said that on the low end, it would be a walk out. He has shown some finished grade since our meeting to define how there would be a little bit of fill on the corner, but it would be a walk out on that end. The Agent asked about the transition from the rock slope to the graded area. Mr. Gallagher said that it was a natural slope. The wall being 3' or 4' feet high would blend right back into the grades that stop. The Agent asked if the intention was to blend them together rather than having another

retaining wall. Mr. Gallagher confirmed that they would blend the rock slope into that grade.

Chairman Mucchetti then asked Douglas Barile of the Conservation Commission if he would like to read their letter dated February 27th into the record, with the hopes that Mr. Gallagher could address some of their points.

Mr. Barile read from the letter, the highlights of which follow: 1) they suggest entering the site from the southeastern corner even though it involves filling the out edge of the wetland; 2) they do not believe the use of a rip-rapped slope or the footprint of the driveway in front of the house to be the approach with the least impact. On the west side of the watercourse and wetland, the driveway widens out to 54', then gradually narrows down to 30' near the garage. "...the grading plan proposes a 10' wide shoulder between the driveway and the wetland before the grade drops down via a rip-rapped slope. This driveway and grading configuration results in impacts from clearing and filling in and adjacent to a wetland." The letter states that, in accordance with the wetlands regulations and State Statutes, the applicant should provide alternatives to this layout, and they suggest a smaller driveway or an alteration of the house design to place the garage on the southeast side of the lot; 3) they assume the placement of the house on the lot is designed to limit clearing and grading on site. If not, and the land behind the house is to be developed, they suggest relocating the house further away from the wetland. If the land behind the house will remain wooded, they suggest a limit of clearing be established on the plans and marked in the field. The Commission also noted for the Board, "While we understand that it is the Board's statutory obligation to protect wetlands and watercourses, and that protecting the wooded knoll to the possible detriment of the wetland is outside of your jurisdiction, one could argue that maintaining a larger area of natural vegetation on a steep slope, even though it is beyond your defined buffer, is of greater benefit to the regulated resources than protecting a smaller area in closer proximity." 4) they note that the garage is at elevation 872 with the northern corner of the garage set over the existing elevation of 862. With the corner of the garage at ten feet above existing grade, there is no limit of disturbance or grading defined between the proposed garage and wetland; 5) they note a cluster of phragmites off the road edge opposite the lot, and suggest the removal of this stand of phragmites to protect the disturbed areas on site and reduce the threat of colonization in downstream areas

Mr. Gallagher said he agrees with the Conservation Commission regarding Item #1. On Item #2, he explained that they are trying to get a small parking area beyond the regulated area because they are constricted when they get near the garage. "If we bring the driveway higher and keep it narrower, we don't really have any place to park," he said. It's up to the Board as to whether or not they will allow that increased width, he said.

The Chairman asked how a person would you get to the house from that point – walk up the driveway or would there be steps?

Mr. Gallagher said that there would be steps going up to the house. He addressed the Conservation Commission's concern with the placement of the house and the driveway, stressing that, "Again, we don't want to go up the hill because then we have a 'monster cut' on the high side, and we're getting close to the septic. I think that house is optimally laid out." He also noted that the Conservation Commission's review was prior to the input from the Inland Wetlands Board and their requests for some additional grades. Observations on the IWB site walk also resulted in the elimination of the 10' wide shoulder and pulling the rip rap away from the wetlands. As far as alternatives to the layout, Mr. Gallagher continued, "It's been my experience that you talk about alternatives to a wetland interference. The only interference we have is down here (at the base of the driveway) and we really don't have an alternative to that. We have a 12' wide driveway and we have to cross that piece." Although he admitted that moving the house away and the driveway away might be an alternative, once again, he noted his strong feeling that the negatives of cutting deeper into the rock on the top of the mountain far outweigh the positives.

He discussed the Conservation Commission's concern with the steep slope, and noted that, "It's stable because it's rock. There's not a lot of soil to erode, so, with the hay bales... and whatever silt fence we can put in, we're not going to have a siltation problem." Addressing the commission's Item #4, he noted there would be a walk-out basement, "so the 10' above the grade will be mitigated by the 9' of difference between the floor and the basement elevation." He said they had not put a limit of disturbance on the map, but they can file a map which shows that. Also, addressing Item #5, he said, "For mitigation purposes, I think getting rid of some phragmites on the other side of the road is a very prudent thing. That would be something that we would entertain."

There was some discussion as to whether or not the phragmites are on private or town property. Mr. Fizer, the homeowner, said "To the best of my knowledge, it's private property." Mr. Walsh asked if he thought the neighbors might want the phragmites gone.

There was more discussion. The decision was made not to get involved with that.

The Chairman asked if there were any further questions.

The Agent said that she had a question on the sequencing of the construction, and asked Mr. Gallagher to explain, for the benefit of the Board, what will be done first and in what order things will proceed.

Mr. Gallagher listed the phases in order:

- 1) installation of filter fabric and/or hay bales
- 2) construct the stone wall, rip rap the slope immediately near the wetlands
- 3) preparation of the subgrade for the driveway to get across the wetlands temporarily

- 4) prepare the septic area with septic fill
- 5) get the permits and excavate for the foundation
- 6) get the rock out and finish the rip rap slope
- 7) stabilize the driveway and the trap rock
- 8) pave the driveway and seed all disturbed areas
- 9) landscape

Mr. Gallagher summed up, saying, “This was a slight modification to the order of construction, based on the rock slope.”

The Agent attempted to clarify, asking him if, in order to use the natural stone on the site, he’ll do some of the wall first and then go back and finish the wall.

Mr. Gallagher said, “Well, we can get some off site stone just to get across, and then, when we do the driveway and house construction, we’ll get the balance of the stone to do the large area. “The key to the order of construction is being able to get in here and then go and prepare the septic with the fill, and then get the permits and then come back and do the house,” he said.

The Agent confirmed that, in this case, the septic will be done before the house.

Mr. Gallagher said that was correct. They have to do the septic preparation prior to digging the foundation and constructing the house.

Dr. Gelfman asked if this lot was the result of a re-subdivision.

The Chairman said it was not, that there was a movement of the property line.

Agent Brosius said that she had the maps, and explained that this property is noted by the homeowner as one of the Eight Lakes divisions of land. The land was originally divided in 1953. The current owner owned 3 lots which were combined and made into 2 lots (shown on a map dated 1974).

Mr. Fizer said that, originally, the land was subdivided into approximately one acre lots. “They wanted to have a minimum of one acre, because that was the zoning, I guess, in 1953,” he said. At a later date, the zoning was changed, and, as owners of the three lot parcel, they had their land changed to two lots to conform with the new regulations, he said.

The Chairman asked for confirmation, that this has been a lot of this size since 1974? **Mr. Fizer** said, “Something like that. It’s a long time ago.” **The Agent** said that most of the lots in the area are still slightly over an acre. There are some that have been combined, having two lots together, she said, as this lot has, but a lot of them are still the smaller lots.

Mr. Fossi requested that the applicant file a map showing the limits of disturbance on it. The Agent said that can be a condition in the approval.

Mr. Katz motioned, seconded by Mr. Walsh, to determine that this application should not be raised to a plenary level. The motion passed, 7-0.

Mr. Katz motioned, seconded by Mr. Walsh, to request that the Agent draft a resolution of approval with conditions. The motion passed, 7-0. The draft will be reviewed on 3/20/07, to consider for final vote.

The Agent asked if this was for a draft or a final. Mr. Katz said that it was for a final. The Agent said that she was uncomfortable with that and recommended the draft. Mr. Katz deferred. The Agent said that this will come back as a draft for a final vote next week.

Mr. Katz commented that Mr. Gallagher had done a very thorough and competent job.

BOARD WALKS

#2004-112-SR, Canterbury Lane, Lot #1. Owner: Provenzano Construction (Roger Provey). *Cancel Special Meeting for walk, c/o Agent.*

The Agent explained that there is no urgency for a sign off, as she had assumed when the property owner requested a certificate of zoning compliance. In fact, he has not yet found a buyer for the property, but he is getting ready for the potential sale and is intending to do a lot of wetlands work. The site is very disturbed right now, she reported. There is no longer a need for final sign-offs on all approvals for this lot, and there was no longer an urgency to conduct the site walk at this time.

There was some discussion and disagreement as to when the walk should take place. Eventually, the decision was made that the property will be walked at a later date, to be determined.

REQUESTS FOR BOND RELEASES/REDUCTION

There were no requests for bond release or reduction.

CORRESPONDENCE

Chairman Mucchetti pointed out the following correspondence:

- Letter dated 3/7/07 from Wetlands Inspector Aimee Pardee and Agent Brosius to Roger Provey re **Lot #1, Canterbury Lane**, stating conditions on the site that need to be corrected in accordance with a wetlands permit.
- Letter dated 3/5/07 from Wetlands Inspector Aimee Pardee to David Hrdlicka regarding wetlands violations at **230 Ridgebury Road**.

- Flyer entitled, “Homeowner’s Guide to Soil Erosion Control,” prepared by Wetlands Inspector Aimee Pardee, to explain the need for proper E&S controls and to provide information and website resources. In a memo, Ms. Pardee asked for additional input from the Board members. Many compliments were offered, noting that the brochure had been very well prepared.

MINUTES

Mr. Katz motioned, seconded by Mrs. Willis, to approve the minutes of 2/27/07. The motion passed, 7-0.

Hearing no further discussion, the Chairman adjourned the meeting at 10:09 p.m.

Respectfully submitted,

Linda Caponetti
Recording Secretary

APPROVED / REVISED
MINUTES
PLANNING AND ZONING COMMISSION MEETING

March 13, 2007

Present: Joseph Fossi
Nelson Gelfman
John Katz, Vice Chair
Rebecca Mucchetti, Chairman
Walter Slavin
Patrick Walsh
Lillian Willis

Absent: Michael Autuori
James McChesney

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

A public hearing was held prior to the meeting.

At 10:10 p.m., Chairman Mucchetti called the meeting to order.

PENDING ITEMS

1. **#2007-006-PR-SP:** Application for Special Permit under Sec. 312.0 as required by Sec. 413.0 of the Ridgefield Zoning regulations to construct a 15,000 s.f. medical office building located at **21 South Street** in the B-3 zone on 2.42± acres of land. Owner: South Medical, LLC. Appl./Auth Agent: Donnelly, McNamara and Gustafson, P.C. *65-days to commence public hearing ends 4/12/2007. Received 2/6/2007, walked 2/11/2007. Public hearing commenced 3/13/2007.*

Chairman Mucchetti noted that the public hearing was continued to April 10, 2007, and the item was tabled.

2. **#2007-013-SP:** Special Permit under Sec. 312.0 as required by Sec. 411.0.B and C to construct a 5,927 s.f. office and retail building on property located at **9 Ethan Allen Highway** in the B-1 Zone. Owner/App.: Erin Properties, LLC. Auth. Agents: John F. McCoy VII, P.E. and Douglas MacMillan. *Received 2/20/2007, walked 2/25/2007 and public hearing commenced 3/13/2007. 65-day action period ends 5/17/2007. For action.*

The Chairman asked if there would be any discussion.

Mr. Katz said that the only things he had concerns about was addressed at the public hearing.

Mr. Walsh asked if there hadn't been a few changes since the Commission had walked the property. He mentioned that, prior to that night's meeting, the applicant hadn't yet gotten in touch with Peter Hill of the Highway Department concerning the culverts on the street. Now, it appears that he has, Mr. Walsh said, and Mr. Hill wants him to install on the street and not on his property. Mr. Walsh wondered if the Commission would have to wait for approval from the State before moving on this.

Mr. Katz said, "We can't condition this on what another agency might or might not do." The Planner said that a condition is usually written that says that all approvals from the State need to be in place.

Ms. Willis asked if the planting plan would need to be corrected. She is still concerned that there is no green area on the property line abutting the street. A brief discussion ensued. A corrected planting plan can be a condition of the approval.

Mr. Katz motioned to direct the Planner to prepare a draft resolution of approval, seconded by Mr. Walsh. The motion passed, 5-1-1. Mrs. Willis voted against, and Mr. Fossi recused himself from participation in this application.

3. **#2007-009-REV:** Revision to Special Permit under Section 312.02.E. as required by Section 411.0 of the Ridgefield Zoning Regulations to permit the operation of a ski and sport retail establishment in the main building located at **32-34 Danbury Road** (formerly Pamby Motors) in the B-1 zone. Appl.: Ridgefield Ski & Sport, LLC. Owner: JMF Realty, LLC. Auth. Agent: Donnelly, McNamara and Gustafson, P.C. *Received 2/13/2007. Walked 2/25/2007. 65-day action period ends 4/19/2007. Draft resolution of approval requested 3/6/07. For action.*

Mr. Katz motioned to approve the draft resolution with changes to conditions #2, #6, and #7. In #2, he wished to strike the last sentence, replacing it with the following: "The Planning and Zoning office must be notified of any change in this lease arrangement, so the office can review parking availability." In #6, relative to non-compliant exterior lighting, he wished to add the following: "...and non-compliant lights on the subject building." There are two lights on the back of that building that are just like the ones on the body shop, he said, and they need to go, too.

The Chairman asked the Planner if she wanted some input from the Commission on the bond amount for the lighting.

The Planner said that there is a real concern that these lights need to be brought into conformance. She said that there has been an ignoring of the specific condition related to exterior lighting which was added to the 2003 approval, and it still has not been complied with. There is no Certificate of Occupancy for the work that was done on the body shop in 2003. There have been ongoing problems with seeking compliance from this property owner. However, she did not want to hold up the move of the ski shop. What she suggested is a condition stating that, if the lights are not

changed by the time the ski shop is ready to go in, the property owner shall post a bond before occupancy is allowed. Mr. Katz said he thought that was a creative suggestion.

The Chairman said that this seems to penalize the tenant instead of the property owner. The Planner said that making the property owner change the lights before the tenant goes in, would probably delay the tenant going in.

Mr. Katz suggested the following wording of the condition: “Prior to occupancy of the new retail use, the property owner must post a bond in the amount of _____ to insure compliance with the terms of the special permit for replacement of the lights.” The amount of the bond was discussed, and it was decided to use a \$5,000 amount.

Mr. Katz went back to his original changes to the conditions to address #7). He felt it needed to say at the end that “this stipulation is to run with the property.” Otherwise, you lose it if they sell the property,…” he said.

The Planner suggested wording such as “successors or assigns” Mr. Katz agreed.

The Chairman asked if the Commission was comfortable with the corrections at the table, or if a re-draft was needed. The Planner felt that this wouldn’t need to come back. For editing purposes, she offered to review it with Mr. Katz and Ms. Mucchetti, to make sure she had captured all the comments at the table.

Mr. Katz’s motion to approve the draft was seconded by Mr. Fossi. The motion passed, 6-0-1. Mr. Walsh recused himself from discussion and participation on this application.

4. **#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. *Public hearing commenced and closed on 2/27/07. Final draft with revisions requested 3/6/2007. For discussion/ action.*

Chairman Mucchetti pointed out a proposed final draft of the regulations distributed at the table, incorporating all of the changes and corrections discussed by the Commission after the public hearing. The Planner had prepared a supplemental sheet listing all of the changes.

The Planner said that the draft and the supplemental sheet hopefully reflect, line by line, the changes that have been made. She explained that the shaded areas on the sheet denote major changes reflecting discussion which went over and above what the original recommendation had been. The areas that are not shaded are more minor, and reflect what was reviewed at the public hearing. She cautioned the commissioners to pay close attention to the shaded areas.

The Chairman said that these changes, even though agreed to by the Commission, were out of context. She felt that, if that if the commissioners are going to approve them, they need to go through them in context and understand them. She did not want to rush through the approval process. She noted that it is hoped that the effective date for the new regulations would be May 1st, and that if they were approved on March 27th, then an effective date of May 1st can be met.

Mr. Katz asked if refuse collection vehicles fall under the definitions for building, forestry, landscaping, or similar trade,” in the proposed definition for “contractor’s yard.” **The Planner** said this was a good question, and added that she would refer it to Zoning Enforcement Officer Richard Baldelli. The Chairman noted that this was a standard definition. The Planner said this might be an item for discussion, and added that the Commission could choose to exclude garbage trucks.

It was agreed that this item and the draft could be discussed on March 20th if time allowed, or alternatively on the 27th. There was no vote or action taken on the proposed final draft at this time.

NEW ITEMS

5. **2007-2035 Regional Transportation Plan for the Greater Danbury, CT Area**, prepared by the Housatonic Valley Council of Elected Officials. *For discussion, c/o Chairman and P.D.*

Chairman Mucchetti asked the Commission if they would like to schedule a meeting with Jonathan Chew, Executive Director of HVCEO, to discuss the Transportation Plan. There was consensus to study the materials that were distributed, and to include this item on the 3/20/07 agenda, for decision on whether a meeting with Mr. Chew was needed.

COMMISSION WALKS

There were no walks to be scheduled. A site walk on March 18, 2007 had been previously scheduled for the following application:

- **#2007-020-SP:** Special Permit, 42-50 Danbury Road (Walgreen’s); Sherwood Island, LLC

REQUESTS FOR BOND RELEASES/REDUCTION

There were no requests for bond release or reduction.

CORRESPONDENCE

There was no correspondence discussed.

MINUTES

Mrs. Willis motioned to approve the minutes of February 27, seconded by Mr. Slavin. Chairman Mucchetti added a comment on page 5. The motion was amended to include this change, and the vote to approve the minutes was 7-0 in favor.

Hearing no further discussion, the Chairman adjourned the meeting at 10:36 p.m.

Respectfully submitted,

Linda Caponetti
Recording Secretary