

APPROVED / REVISED  
MINUTES  
INLAND WETLANDS BOARD

March 21, 2006

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

Also present: Betty Brosius, Inland Wetland Agent  
Aimee Pardee, Wetlands and Conservation Inspector

**PENDING ITEMS**

1. **#2005-006-A-IW:** Commission initiated amendments to the Inland Wetlands and Watercourses Regulations for the Town of Ridgefield, Connecticut, to increase the size of the upland review areas; Sec. 4.5 and to clarify Agent authority; under Sec. 13 “Enforcement” by adding new Sec. 13.1.1(a) and new Sec. 13.1.1(b). *Public hearing closed 6/7/05. For discussion.*

The Chairman the Board that two public hearings were held on this item in 2005, on April 5<sup>th</sup> and June 7<sup>th</sup>. Both hearings were well attended and there was much public participation. The Agent explained the documents in front of the Board, noting that the original, proposed document had been reviewed and modified by the Board’s legal consultant, Michael Zizka. She noted that his recommended changes to the text were included in the packet, and suggested that the Board incorporate those recommendations since r. Zizka is a recognized expert in the wetlands law in the State of Connecticut.

The discussion that followed included lengthy comments from all Board members, and the general consensus was that the proposed text changes, with changes recommended by the Board’s professional legal consultant Michael Zizka, be adopted. The Board disagreed on the proposal to change the distances of the upland review areas and there were several proposals to modify the proposed distances. The amendment called for review of regulated activities within 75 feet from wetlands and 100 feet from watercourses.

Mr. Walsh started the discussion by making a motion to adopt part of the proposed amendment, and to adopt another part with modifications. He proposes that the text changes be adopted as discussed and recommended by Mr. Zizka since the consultant modified the text to be compliant with the State law. However, on the chart for upland review areas, Mr. Walsh disagrees and says that the current regulation not be changed except for letters h, i, j,

and k, which should be modified to 25 feet for both wetlands and watercourses so they are consistent with everything else on the itemized list. Mr. Fossi seconded the motion.

Mr. Walsh noted that, despite lengthy discussion in the hearings, the expansion of the buffer was not as much of an issue as the establishment of better erosion and sedimentation controls. He did not find overwhelming evidence that the increase to 75 and 100 feet buffers would produce that outcome.

Mr. Fossi agrees with Mr. Walsh. He notes that he was not a member of the Board during the public hearings, but he attended as a member of the public. He said the intent of the amendment is to protect the wetlands and there is no concise evidence that increasing the upland review area would further protect the buffer area. He thinks there are other things that can be done, including adding language that any construction activity requires erosion and sedimentation controls. As a builder, he knows that activity even many feet from wetlands and watercourses can have a detrimental affect if not properly controlled. He also notes that we have a wetlands inspector who can inspect construction sites for better compliance. There was a lot of resistance from the community that the increased areas were a “taking” of their land.

Mr. Katz agreed with Mr. Fossi better erosion and sedimentation controls are needed but he is not sure these E&S would accomplish the same thing as the proposed regulation because it doesn't affect continuing use of the subject's property, which is what may offend the wetlands. He recommends changing e, f, and g to 50-75 (wetlands-watercourses) and h, i, and j to 50-50 and leave k at 75-100. He says that there is no way to approach this issue in today's science climate that does not have some arbitrary quality. But the relevance is the benefit in oversight protection. It is not confiscation or prohibition, it is a brake light. If we look at the intent of the CTDEP standards and the regulations of surrounding towns, and our own Plan of Conservation and Development, we are not throwing up prohibitions to development and there is no additional cost to review.

Mr. Walsh asked about the fees. The Agent said the administrative review fee is \$50, for activities for existing homes the fee is \$150, and the fee for new home construction is \$350. Commercial permits are more. Mr. Walsh is concerned that these increases will put a regulatory net on areas that previously did not need to be reviewed at all, and there will be more fees involved for activities that are not currently regulated. From the public hearings, he understood that there is no direct cause and effect with lesser or greater distances.

Ms. Brosius said the administrative fee is charged for activities that are only in the uplands. The proposed changes to the upland review area create the potential for any activity in the uplands to fall under the administrative review, which is only \$50. Activities in wetlands and watercourses must go to the Board for review. The new inspector, Aimee Pardee, has worked with many homeowners at the counter and has issued several administrative permits already. The problem, says Ms. Brosius, is monitoring contractors in the field who push into the wetlands. The permit process might avoid that by making the permittee more educated. Permits in uplands that go before the Board are sent there by decisions made in the office because of the nature and degree of the activity proposed that gives them more potential to affect wetlands.

Mr. Fossi repeats his concern that every permit include requirements for erosion and sedimentation controls before construction can begin. He still doesn't think that increasing the review area will protect the wetlands.

Mrs. Willis says that without the increased review areas, the Board will never get to see many of the proposed activities and will not have the opportunity to review and control these items that may have an impact. The towns around Ridgefield have increased review areas and the CTDEP has recommended greater review areas by thinking broadly about protecting wetlands. The area is built up and there are few “forgiving pockets” of land that aren’t developed any more. We must have the ability to take a closer look at activities. She still thinks the review area should be a standard 100 feet, and a lesser amount is not appropriate.

Dr. Autuori reads a statement he made to the Press last fall before the election. “As a biologist, I subscribe to the general concept that the farther from a natural resource that you keep human activity, the better the chance that you protect that resource. Preservation of significant natural resources has been my top priority in my 12 years on the Ridgefield P&Z. As a citizen and property owner, however, I am irritated by ever-expanding governmental intrusion into my domestic tranquility. In Ridgefield, proper application and enforcement of existing wetlands regulations has helped maintain the quality of our environment, but will expanding upland review areas enhance the overall quality of life for the majority of Ridgefield residents? Is more demonstrably better? It’s a tough call, but at this time, under the present regulatory structure, I do not feel that the degree of expansion of upland review area as presently proposed, justifies the additional costs and hassles to our affected citizens.” He agrees that some expansion is needed, but not to the degree proposed. He is also concerned about the fees to the homeowner for surveys.

Ms. Brosius says that current zoning regulations require the submission of an A-2 survey, and wetlands should be shown on the plans. That is not a change from current procedure. Right now we require additional wetlands information as needed, and as determined in the field by the inspector.

Dr. Gelfman says that the proposal is only a “review area,” and if it is expanded then the Board will be allowed to review things that it would not otherwise see. If it’s only a “buffer” that’s a whole different thing. Dr. Autuori says there is an economic value that homeowners may lose under the proposal that they might not lose under the new proposal. For example, relocating a driveway would not require an A-2 survey, and it might be needed if there were wetlands involved under the new regulations. He does support Mr. Fossi’s suggestion that better erosion and sedimentation controls be required for all activities. He distinguishes between commercial regulation of developers and imposing more stringent (and potentially expensive) regulations on homeowners. He does not see the justification of the new regulations for homeowners, and the added bureaucratic hassle.

Mrs. Willis notes that the comments against the new regulations were frequently by builders and the comments in favor were by the experts. She asks the Agent if surrounding towns have caused severe grievances to homeowners, where they have had more stringent regulations.

The Agent says the regulations are not always to blame, but the process of review may not be as easy for the homeowner because of lack of staff. She comments on Dr. Autuori’s remarks, and reminds the Board that their duty is to protect the wetlands regardless of whether the activity is being proposed by a homeowner or a builder. The responsibility is the same. The fees are structured to be more lenient to the homeowner. The new wetlands inspector has greatly streamlined the review in Ridgefield. Dr. Autuori says he wants

balance between the protection of the wetlands and the hassle of the permit process for the homeowner.

Mr. Katz notes that regulations are never popular. He would vote for the proposal as presented, but he knows that the Board is at a point of compromise. The responsibility of the Board is to protect the wetlands, and he says that the modified, increased distances he proposed are certainly better than what is in place.

Mr. Fossi says that as a builder he agrees that Ridgefield's process is the most user-friendly in the area, and he also agrees that there would be few if any increased charges as a result of increasing the upland review areas. The A-2 survey and wetlands are required to be shown now. But if the perception is that there is a "taking" of the land, then that is a problem. He is concerned about what these regulations might mean in the future if reasonable people are not part of the staff. This is a very subjective regulation.

Dr. Gelfman made the observation that the comments for and against the regulation were evenly balanced, for and against, by the homeowners.

Mr. Slavin says that the future should not be a concern; there is ample time to change the regulations as needed again in the future, if needed. They can be made tougher or more lenient. We have no way of predicting the way that will go. We should not put aside the best interests of protecting the environment that we are trying to protect by worrying about what might happen in the future with staff. The increased regulations are better because they will bring more attention to proposed activities.

The Chairman asked the new wetlands inspector if she had any comments. Ms. Pardee addresses the concern about the burden to the homeowner. She says that Ridgefield's administrative review process is wonderful, because this type of review is absent in many other towns. It streamlines the process quite a bit for the homeowner. The increased review areas would not increase the burden for the homeowner because of that process.

Dr. Autuori feels that clear-cutting of trees and major grubbing should be expanded to 100 feet from wetlands and 150 feet from watercourses. He outlines other increases in the chart, as follows: (a) 75-100, (b) 50-75, (c) 50-75, (d) 25-50, (e), (f) and (g) 50-75, (j) 50-50.

Mrs. Willis asks about the protection of significant rivers. The Agent clarifies to the Board that the protection of significant rivers, currently 100 feet in the regulations, should remain unchanged if the new regulations are changed to something less than 100 feet for protection of watercourses. The elimination of the 100-foot to significant rivers assumed the adoption of the proposed regulation for 100 feet review area from all watercourses.

The Board continued to question and further modify Dr. Autuori's suggestions.

Mr. Walsh says the discussion illustrates that there is no evidence whatsoever that the distance from wetlands and watercourses is not based on anything substantial. Ms. Brosius points out that the file contains numerous documents that support the 100-foot increased review areas as reasonable and recommended. The Board is merely in disagreement on whether they agree with that evidence, and what is right for Ridgefield.

Mr. Katz notes that there is a motion from Mr. Walsh, with a second, on the table. There have been numerous changes to that proposed motion in the discussion. He suggests a compromise. Mr. Walsh does not want to change his original motion. Ms. Brosius suggests a draft of whatever is proposed, because of the confusion of the versions that are in front of the Board. After some further discussion, the consensus of the Board was to vote on Mr. Walsh's motion, and then to proceed with a subsequent motion, if Mr. Walsh's motion is defeated, based on the suggestions and recommendations made by others.

Mr. Walsh's motion, seconded by Mr. Fossi, included adoption of the proposed text changes with the modifications made by Attorney Zizka, leaving the existing regulations for significant rivers in place, and changing (h) thru (j) to 25 and 25 feet, and adding (k), 25 feet for wetlands and 25 feet for watercourses.

The motion failed by a vote of 3-6 with Walsh, Fossi and Mucchetti voting in favor and Katz, McChesney, Autuori, Gelfman, Willis and Slavin voting against.

Mr. Katz then made a motion to draft an approval of the language of the text changes of the proposed amendment with Mr. Zizka's recommendations, to leave the existing regulations for significant rivers in place, and to adopt the following distances for the review areas: (a) 75 and 100 feet, (b) and (c) 50 and 75 feet, (d) 25 and 50 feet, (e), (f) and (g) 50 and 75 feet, (h) 50 and 50 feet, (i) 50 and 50, (j) 50 and 50, and (k) 100 and 100. Mr. Katz's motion was seconded by Dr. Gelfman.

Mr. Slavin suggests splitting the vote between the text and the chart of review areas. Mr. Katz and the seconder agreed, and the Chairman called for a vote on the text changes. The motion passed 9-0.

Dr. Autuori asked Mr. Katz about the 100 feet from watercourses for clearing and grubbing. They agreed on 100 feet from both watercourses and wetlands. Dr. Autuori asked about the review area from driveways and roadways. Mr. Katz agreed to change (d) to 50 and 50, and (i) to 25 and 25 feet. The motion to prepare the modified draft passed 6-3. Mrs. Willis, Mr. Walsh and Mr. Slavin voted against.

The item will return for final vote in two weeks. Mr. Fossi suggested that the definition of "clear-cutting" be clarified for the draft when it returns to the table.

2. **#2005-153-SR:** Summary Ruling Application for disturbance in wetlands and upland review area in conjunction with construction of accessway and bridge spanning wetlands. Property located on **Dogwood Drive, Lot 33** in the RAA zone. Owner/Appl.: Thomas Dwyer, individually and as trustee. Auth. Agent: Donnelly, McNamara and Gustafson, P.C. *Received 11/9/05. Walked 11/20/05. Extension granted to commence hearing, hearing commenced 1/24/06, continued 2/21/06, continued 3/14/06 with granted extension, closed 3/14/06. 35-day action period ends 4/18/06. For action.*

Dr. Autuori made a motion to draft an approval for the application, using the alternate non-bridge plan with conditions. The motion was seconded by Mr. McChesney. The approval should reference the plans dated 3/7/06 for a two-bedroom house.

Mrs. Willis said the approval of this alternate plan should reference spruce tree plantings and screening by the driveway, and the conservation easement offered by the applicant for the opposite side of the stream, as shown on the map submitted by Attorney Jewell.

Mr. Fossi wants a note added that creation of another wetland (offered by the applicant) is not required as part of the approval.

Ms. Brosius said she would also reference the sequence construction submitted by the applicant, describing methods of getting heavy equipment to the site.

Dr. Gelfman said this is an example of a lot that should never be built on because of the site constraints. He has seen four or five applications in the past several years that involve marginal land, and has consistently voted against the development of these lots.

Dr. Autuori agreed that the lot should not be developed, but asked if the town would then be prepared to purchase it at fair market value? The applicant has provided exhaustive engineering for the plan, and the bulk of the parcel will not be disrupted. He cannot see depriving the owner of the use of the lot.

Mr. Katz notes that the two-bedroom house is shown 60 feet and more from the watercourse. What is relevant is whether the house and development will have a perpetuating effect on the watercourse. He will reluctantly vote to approve the plan.

Mrs. Willis asked for a condition to require the pipes under the driveway to be designed for a 25-year storm. Dr. Gelfman is concerned that the pipes will concentrate flow into what is now a meandering wetland. Mr. McChesney says he visited the site again and observed that water in the area of the proposed pipes will be directed to the existing flow area on the site, and the pipes won't disrupt the disbursement of flow.

The motion to draft a resolution of approval passed, 8-1, with Dr. Gelfman voting against. The resolution will be brought back for final vote in two weeks.

## **NEW ITEMS**

Chairman Mucchetti asked the Board to add a new application to the agenda for receipt, a summary application of a swimming pool at **345 Wilton Road West**. Mr. Walsh motioned, seconded by Mr. Slavin, to receive the application and to schedule a walk for April 2, 2006. The motion passed, 9-0.

## **BOARD WALKS**

There were no new walks scheduled.

## **REQUESTS FOR BOND RELEASES/REDUCTION**

There were no requests for bond release or reduction.

## **CORRESPONDENCE**

- Letter to Thomas Cesca informing him that the Inland Wetland Board had approved his application for stream channel improvements at 214 Wilton Road West.

- Ms. Brosius pointed out in the newsletter for the CAZEO Seminar on Stormwater – Impacts & Management, that the Board’s consultant from Milone & MacBroom, Nicolle Burnham, P.E., will be a speaker at the April meeting of CAZEO. Ms. Burnham is the consultant for the 66 Grove Street and Bryon Avenue applications.

**MINUTES**

Mrs. Willis made a motion to approve the minutes of March 7, 2006, seconded by Mr. Fossi. The motion passed 9-0.

Hearing no further discussion, the Chairman adjourned the meeting at 9:20 p.m.

Respectfully submitted,

Jeanne Wolnick  
Recording Secretary

APPROVED / REVISED  
MINUTES  
PLANNING AND ZONING COMMISSION

March 21, 2006

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

Also present: Betty Brosius, Director of Planning

Chairman Mucchetti called the meeting to order at 9:20 p.m.

**PENDING ITEMS**

1. **#2006-020-REV**: Revision to Special Permit under Section 312.0 as required by Section 411.0 of the Ridgefield Zoning Regulations to modify the façade of three buildings known as Copps Hill Center located at **113 Danbury Road** in the B-1 zone. Owner: Copps Hill Center Association. Appl./Auth. Agent: Robert L. Tobin, AIA. *65- day action period ends 5/18/06. Received 3/14/06, walked individually. For action*

Mr. McChesney made a motion to approve the application as per the plans submitted, seconded by Mr. Katz. The motion was passed 9-0.

Ms. Brosius noted that the signs on the property would be brought into conformance with the zoning regulations as part of the approval.

**NEW ITEMS**

2. **#2006-023-A**: Amendment to the B-1, B-2, B-3 and CBD zones. *For discussion.*

*(Note: The Chairman asked the Commission to discuss item #3 out of order, since the applicants were present at the meeting. Mr. McChesney motioned, seconded by Mr. Autuori, to discuss item #3. The motion passed, 9-0.)*

The Planner explained that the amendment was prepared as a result of meetings of the subcommittee on updating the zoning regulations. The intent of the Commission was to allow residential development in conjunction with commercial uses in the business zones, but not to allow the dominance of a residential use on the property. The existing regulation is written poorly. The new regulation offers a new method for calculating the density of residential use to be allowed on the same property as permitted business uses.

Mr. McChesney made a motion to take this to a public hearing, seconded by Mrs. Willis. The motion passed 9-0.

Chairman Mucchetti suggested a public hearing date for 4/18/06. Mr. Walsh made a motion to schedule a public hearing on 4/18/06, seconded by Mrs. Willis. The motion passed 9-0.

3. **#2006-024-REV**: Revision to Special Permit for Concession's liquor license at the Ridgefield Golf Course, **545 Ridgebury Road** in the RAAA zone. Appl.: Robert Wool. Owner: Town of Ridgefield. *65-day action period ends 5/25/06. For receipt/action.*

Mr. Katz recommended denying this request because hard liquor is not requisite to a recreational facility in a residential zone. Elevating the level of the restaurant is not necessary for enhancing the game of golf.

Dr. Gelfman agreed and does not want the restaurant to attract people who are not playing golf.

Carol Ancona, Chairperson of the Golf Committee, noted that the alcohol content of a mixed drink is equivalent to a glass of beer or wine. The intent is not to expand the use of the restaurant to patrons outside of the golf course, but to offer golfers more choice and better food service.

First Selectman Marconi said that elevating the level of the restaurant would keep golfers there and make the restaurant more profitable. The season is only from April 1 to November 15 and the Town has had to subsidize the restaurant in the past.

Mr. Saks, Co-Chairman of the Golf Committee said that most public golf courses serve hard liquor and that there are fewer people golfing now so there is more competition for business. The committee would like to keep golfers in Ridgefield by providing improved services.

Dr. Autuori said a restaurant in a residential zone shifts the emphasis from golf to food, drawing more people, which is not in the best interest of the neighborhood.

Mr. Walsh said the golf course is already at maximum capacity for parking and use and the liquor permit is not needed to draw more golfers. Also, by limiting the permit for liquor, the Commission is coming close to legislating morality. The upgraded permit will not increase use, but will improve the service for existing golfers.

Mr. Fossi agrees with Mr. Walsh. Most golf courses serve liquor with food service. He does not agree with the argument that patrons will use the food service if they are not playing golf.

Mrs. Willis asked how late the golf course and restaurant would be open? Mr. Saks answered that hours are dictated by the season. The course closes at dark, but summer hours are later than spring and fall with more available daylight. The improved restaurant will encourage people to stay after playing golf, and is not intended to attract others from outside.

Mr. Katz says his concern has nothing to do with morality. The special permit was not intended for beefing up the restaurant, but to provide limited food service as an accessory to golf. A permit beyond the offering of beer and wine makes it more like a full restaurant. It is not in the interest of the community to increase the permit. He is the owner of restaurants, and he feels that liquor does not enhance the quality of the food on the plate, and it does not make it a better restaurant.

The Chairman recognized Robert Wolf, the concessionary, who stated that the liquor permit would provide added value to the food service. He understands that the town wants to move the food service offering “up a notch.” The golf course is an asset to the community and provides needed revenue to the town.

Mr. Katz asked if a golfer would not play if he could not buy a drink? Mr. Pozzi of the Golf Committee answered that the drink is not what is important. There is a nationwide down-turn in the use of golf courses, and golfers will choose the course with the best service. Ridgefield will lose golfers if there is a better choice somewhere else.

Mr. Saks states that serving liquor is not the “make it or break it” asset of the course, but the permit would increase value in a competitive market.

Mr. McChesney feels the objections to the liquor permit are unfounded. The liquor permit does not make a difference to the use of the course and the restaurant, and the Commission should approve it.

Chairman Mucchetti said the request is perfectly within what is outlined in the special permit and it enhances the experience for the golfers. She feels the permit should be approved.

Mr. McChesney made a motion to approve the request for liquor permit, seconded by Mr. Fossi. The motion failed by a vote of 4-5 with Mucchetti, Walsh, McChesney and Mr. Fossi voting in favor and Autuori, Gelfman, Katz, Willis and Slavin voting against.

4. **#2005-106-PR-SP: Laurelwood Phase III** (a.k.a. “Regency at Ridgefield”, Toll Brothers) 73-unit age-restricted townhouses at **638 Danbury Road**. *Memo re technical review of revised plans. For distribution/discussion c/o P.D.*

The Planner noted the memo and documents distributed to the Commission and said the concern is keeping the site disturbance to no more than 8 acres at a time. Construction for Phase II should not begin until Phase I has been stabilized. She asked the Commission to review the materials distributed and to put this on the agenda for short discussion on March 28, 2006.

5. **#2005-014-S: two-lot subdivision at 102 Nod Hill Road**, revised driveway location. *For discussion, c/o P.D.-suggest administrative approval.*

Mr. Walsh recused himself from the discussion on this item and left the room.

The Planner referred to her memo and explained that the new property owner requests a change in the driveway location approved by the Commission. She discussed the change in the field with Director of Public Services Peter Hill and consultants Craig Studer and Douglas

MacMillan for the applicant. Changes will require improvements to sight lines on Nod Hill Road, to be approved by the Highway Department.

Mr. McChesney made a motion to allow the Planner to deal with this application under administrative review, seconded by Mr. Katz.

The motion passed 6-0-3, with Mr. Fossi and Mrs. Willis abstained and Mr. Walsh was recused.

#### **COMMISSION WALKS**

There were no new walks scheduled.

#### **REQUESTS FOR BOND RELEASES/REDUCTION**

There were no requests for bond release/reduction.

#### **CORRESPONDENCE**

- Letter from Betty Brosius to Attorney Riefberg re: Revision to Special Permit, 387 Main Street, Addressi Square LLC.

#### **MINUTES**

Mr. Slavin made a motion to approve the minutes of March 7, 2006 with minor changes as noted, seconded by Mrs. Willis. The motion passed 9-0.

Hearing no further discussion, Chairman Mucchetti adjourned the meeting at 10:15 p.m.

Respectfully submitted,

Jeanne Wolnick  
Recording Secretary