

UNAPPROVED / UNREVISED  
MINUTES  
INLAND WETLANDS BOARD MEETING

April 7, 2009

Present: Joseph Fossi  
Nelson Gelfman  
John Katz  
James McChesney  
Phil Mische  
Rebecca Mucchetti, Chairman  
Patrick Walsh, Vice Chairman

Absent: Michael Autuori  
Peter Chipouras

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

*Public hearings were held prior to the meeting.*

At 8:35 p.m. Chairman Mucchetti called the meeting to order.

**PENDING ITEMS**

1. **#2009-015-PR:** Plenary Ruling application under Sec. 7.6 of the Inland Wetlands and Watercourses Regulations for the Town of Ridgefield to conduct regulated activities in the wetlands and upland review areas, activities to include pond dredging, drainage and site improvements, restoration of disturbed areas, stone patio, retaining wall, stone bridge, wooden dock, boardwalk and wetland overlook connecting properties located at **10 Shadow Lake Road and 690 Ridgebury Road** in the RAA zone. Owner: RCG 1998 Family Trust, Alison Mosca, Trustee. Appl./Auth. Agent: Peter and Summer Gay Paulos. *Received 3/10/2009, walked 3/15/2009, public hearing commenced 4/7/2009, and continued to 4/14/2009.*

**Chairman Mucchetti** noted that the public hearing had been continued to 4/14/09, and there was no discussion.

**NEW ITEMS**

There were no new items.

**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**

**Chairman Mucchetti** pointed out the following correspondence:

- Letter from the Agent to R. Hebert, re Sturges Brothers removing fill from property at **188A (now 200) Main Street**
- Article about volunteers who help salamanders cross busy highways during spring migration periods.

## **MINUTES**

**Mr. McChesney** motioned, seconded by Mr. Mische, to approve the minutes of March 10, 2009. The motion passed, 7-0.

Hearing no further discussion, the Chairman adjourned the meeting at 8:37 p.m.

Respectfully submitted,

Linda Caponetti  
Recording Secretary

UNAPPROVED / UNREVISED  
MINUTES  
PLANNING AND ZONING COMMISSION MEETING

April 7, 2009

Present: Joseph Fossi  
Nelson Gelfman  
John Katz  
Phil Mische  
James McChesney  
Rebecca Mucchetti, Chairman  
Patrick Walsh, Vice Chairman

Absent: Michael Autuori  
Peter Chipouras

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

*Public hearings were held prior to the meeting.*

At 8:38 p.m., Chairman Mucchetti called the meeting to order.

**PENDING ITEMS**

1. **#2009-018-VDC:** Village District Application under Section 8.3 required by Section 5.1 of the Ridgefield Zoning Regulations for demolition of vacant retail bank branch and office building (formerly Webster Bank). Property located at **25 Prospect Street** in the CBD zone. Owner/Appl.: Ridgefield Library Association, Inc. Auth. Agent: Donnelly, McNamara and Gustafson, P.C. *Received 3/24/2009. Per agent request, re-schedule public hearing date to May 5, 2009.*

**Chairman Mucchetti** pointed out that the date for the public hearing on this item needed to be changed. [Note: The VDC will review the application on 4/28/09.]

**Mr. Fossi** motioned, seconded by Mr. Mische, to reschedule the hearing for 5/5/09. The motion passed, 7-0. The location for the meeting will be announced at a later date.

2. **#2009-019-SP:** Special Permit Application under Section 9.2 required by Section 8.5 of the Ridgefield Zoning Regulations (Exception for Character Resource Preservation) to permit the construction of a new two car portico and an addition to expand the kitchen, exceeding permitted lot coverage and floor area, on property located at **88 Main Street** in the RA zone. Owners/Appls.: Howard & Jane Epstein.

Auth. Agent: Douglas MacMillan, AIA. *65-day action period ends June 11, 2009. Received 3/24/2009, walked 3/29/2009. For action.*

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

**Mr. McChesney**, seconded by Mr. Katz, motioned to approve the application as presented.

There was acknowledgement of the historical basis for qualification of this application under Sec. 8.5 of the zoning regulations, as noted in the staff report and in the presentation at the hearing. It was also noted that the applicant requested both lot coverage and floor area increases for this application, but is still well within the limits of the areas permitted under the regulations. The Planner suggested “boilerplate” conditions, referencing the limitations on the property per Sec. 8.5, and the need for an a-2 as-built survey, which would be filed on the land records.

The motion to approve the application (as presented and with conditions) passed by a vote of 7-0. [This is a final vote.]

3. **#2009-020-SP:** Special Permit Application under Section 9.2 required by Section 8.5 of the Ridgefield Zoning Regulations (Exception for Character Resource Preservation) to permit the construction of a detached three car garage and house addition, exceeding permitted lot coverage, on property located at **94 Main Street** in the RA zone. Owners: Robert & Kristin Loughran. Appl.: Kristin Loughran. Auth. Agent: Douglas MacMillan, AIA. *65-day action period ends June 11, 2009. Received 3/24/2009, walked 3/29/2009. For action.*

**Mr. McChesney**, seconded by Mr. Katz, motioned to approve the application, as presented.

There was acknowledgement of the historical basis for qualification of this application under Sec. 8.5 of the zoning regulations, as noted in the staff report and in the presentation at the hearing. It was also noted that the applicant requested lot coverage increases for this application, but is still well within the limits of the area permitted under the regulations. There is no request for floor area increase.

**Mr. McChesney** pointed out the need to approve the 5<sup>th</sup> garage bay as part of the Special Permit, as required under Sec. 3.3.A.2 of the zoning regulations.

**The Planner** suggested “boilerplate” conditions, referencing the limitations on the property, per Sec. 8.5, and including the extra garage bay. The Commission also noted that the location of the garage had been moved back about 6 feet, further from the dripline of a very large Ginko tree on the property (observed on the site walk).

The motion to approve the application (as presented and with conditions) passed by a vote of 7-0. [This is a final vote.]

## NEW ITEMS

4. **#2009-021-SP:** Special Permit Application under Section 9.2 for an accessory dwelling unit approximately 1,064 square feet in an outbuilding located at **305 Main Street** in the RA Zone. Owners: Judith A. Biggar-Maguire and John Maguire. Appl.: Judith A. Biggar-Maguire. Auth. Agent: Donnelly, McNamara and Gustafson, P.C. *65 days to commence public hearing ends 6/11/2009. For receipt, schedule public hearing and walk.*

**Mr. Walsh** recused himself from participation on this application.

**Chairman Mucchetti** suggested May 3<sup>rd</sup> for a site walk and May 12<sup>th</sup> for the public hearing.

**Mr. Katz** motioned, seconded by Mr. Fossi, to schedule the site walk and public hearing as suggested. The motion passed, 6-0-1, with Mr. Walsh recused.

5. **#2009-022-REF:** Referral under Section 8-24 of the Connecticut General Statutes for a proposed easement for highway purposes consisting of approximately 3,900 sq. ft. along **801 Ridgebury Road**. Owner: Boehringer Ingelheim Pharmaceuticals, Inc. Town of Ridgefield. *35-day action period ends 5/12/2009. For discussion/action.*

**Chairman Mucchetti** noted the 8-24 referral from the Board of Selectmen, including a defined easement for highway purposes, and a copy of the map at the table.

**Mr. Katz**, having attended a public hearing on the matter at the Board of Selectmen's meeting the night before, pointed out that Boehringer Ingelheim was asking the Town to accept an easement for "highway purposes".

**Mr. Walsh** asked how this application could be considered under 8-24.

**Mr. Katz** said that an 8-24 is for any use of public property. The plan is to deed an easement to the Town over lands now owned by Boehringer Ingelheim, he said, for purposes of road straightening.

**Mr. Walsh** again wondered how 8-24 applies to this item. Mr. Katz said that it would not apply until the Town owns the property. Mr. Walsh countered that the Town will never own the property. It will be an easement, he said.

**The Planner** said it will be a Town road on an easement, on property owned by others. Discussion on the applicability of this referral continued. Mr. Katz read Statute 8-24, Municipal Improvements.

**Mr. Walsh** conceded the referral under 8-24 was appropriate, for the road improvements.

**Mr. Katz** reported that he had attended a public town meeting, where all members of the public who spoke were against the granting of the easement. He described the location of the proposed easement and said that there is some controversy surrounding the project, and some skepticism over Boehringer's stated purpose for their request (safety issues). Mr. Katz said that the Town was looking into the accident history of the piece of road in question. He also asked the Planner to look into this. Boehringer stated that there would be no upcoming increase in the amount or size of vehicular traffic on the road, Mr. Katz said.

Mr. Katz reported that the Selectmen will go back to Boehringer with the fact that the public's response was overwhelmingly negative. He attempted to clarify, through the Planner, that the Commission's obligation is to "examine the appropriateness of the use of that property for the purpose which is being requested," (straightening out the curve). He stressed that the Commission does not know what the purpose for straightening the curve actually is. He did not believe there was a hidden motive on the part of the company, but speculated that they simply don't know what the potential for the use of the straightening would be.

**The Planner** said she had requested the accident history from the Police Department, but had not yet received it.

**Mr. Fossi** said that his understanding of the situation is that Boehringer is giving the Town an easement over their property. They can't do the straightening themselves. They are "offering an easement to the Town over this property, so that, if at some point in the future, the Town decides [or agrees] to straighten the road out, the land is available." He made the important distinction that the company would not have the right to have the road straightened without Town approval. This was correct, it was agreed.

**Mr. Walsh** asked if there was any more information provided. The Planner said that she believed they had everything that BI provided to the First Selectman.

There was lengthy discussion on the reason for the proposed easement by Boehringer Ingelheim to the Town, and the fact that it would be used for future straightening of the road, as shown on the drawings. The discussion distinguished road straightening from road widening.

**Mr. Katz** motioned, seconded by Mr. Walsh, to request the Planner to get additional information and opinion from counsel on the Commission's responsibility to respond to an 8-24 for an easement.

**The Planner** noted that the easement actually designates road realignment/widening.

Mr. Katz said that Boehringer made a specific point of saying that the road will not be widened. Discussion continued. Mr. Katz asked the Planner to read the request for the referral, which she did.

**Dr. Gelfman** motioned to deny the 8-24.

**The Chairman** said that there was a previous request to get more information, and there was no action on Dr. Gelfman's motion.

**Mr. Katz** thought that the acceptance of the easement might be strictly an administrative action. Once the land is acquired, the employment of that land becomes an 8-24 referral, he felt.

**The Planner** agreed that this may actually represent two separate issues. Clearly, Mr. Katz agreed. He believed that Mr. Marconi was going to take the issue to John Hardiman of Boehringer for additional information on the purpose for the widening.

**Mr. Fossi** asked how, if the Town decided to accept an easement, that would have anything to do with the Commission. Only if they wanted to do something with the easement might it have something to do with the Commission, he said.

**Mr. Katz** pointed out that the Board of Selectmen had made no decision following its public hearing on April 6<sup>th</sup>, where a half dozen neighbors spoke in opposition to the easement.

**The Commission** discussed the language of 8-24, and whether or not this action and review was appropriate for the easement, or if an 8-24 report would only be appropriate for the actual straightening of the road.

**Mr. Katz** motioned to table the item, seconded by Mr. Walsh. The item was tabled so that additional information from legal counsel could be obtained, concerning the Commission's responsibility in reviewing proposals for easements.

6. **Re-appoint** AAC as VDC.

**Chairman Mucchetti** noted that the appointment of the Architectural Advisory Committee to be the Village District Consultant expired at the end of February.

**Mr. Walsh** motioned, seconded by Dr. Gelfman, to reappoint the AAC as VDC for one year, through 4/8/2010.

**Chairman Mucchetti** also noted that the VDC bylaws, adopted by the Commission in late 2008, had not been presented to the VDC. A joint meeting with the VDC to discuss the proposed bylaws was suggested, for 4/14/09. [The VDC has a meeting scheduled on that night, and the joint discussion could take place at the conclusion of the VDC meeting, with the VDC joining the PZC in the regular meeting room.]

The motion passed, 6-1, with Chairman Mucchetti opposed.

7. **2009-025-REV(SP):** Revision to Special Permit required by Section 9.2.A.7.e. of the Ridgefield Zoning Regulations to allow the installation of two (2) free-standing signs on property located at **901 Ethan Allen Highway** in the CDD zone. Owner: Ridgefield Professional Office Complex, LLC. Appl.: Paul DiNardo. Auth. Agent: Donnelly, McNamara and Gustafson, P.C. *65-day action period ends 6/11/2009. For receipt and schedule walk if needed.*

**Attorney Jewell** was in the audience to represent the applicant.

**Chairman Mucchetti** explained that the request was to add an additional sign at the southern entrance to the property, and to make both the north and south signs larger in size than is normally permitted for free-standing signs on commercial property.

**Mr. Katz** noted the large size of the property and the fact that there are two major structures. He motioned to approve the application, as presented.

**Mr. Walsh** pointed out that all lighting for the signs would have to be in conformance with the zoning regulations, and the requirement should be referenced as a condition of approval.

The motion, (including the condition about lighting), was seconded by Mr. McChesney, and passed by a vote of 7-0.

8. **Chairman Mucchetti** asked for a motion to add an item to the agenda, to report on a meeting she had had with Mr. Walsh and the Planner at the office of the Chamber of Commerce.

**Mr. Katz** motioned, seconded by Mr. Fossi, to add the item as requested. The motion passed, 7-0.

[Dr. Gelfman left the meeting at 9:20 p.m. and was present for only a portion of the discussion.]

**Chairman Mucchetti** noted that the meeting was called by Executive Director of the Chamber, Marion Roth, and was also attended by Bill Wyman, (former Board member of the Chamber), and Wayne Addressi, (business owner). It was Mrs. Roth's intention to create positive dialogue between the Commission and the business community.

**The Chairman** described the meeting as "spirited." "It was brought to our attention," she said, "that Planning and Zoning is held in very low regard by the retail community." She cited the business community's contention that Planning and Zoning (1) is anti-business, (2) does not care about businesses, and (3) is a world unto

itself. The business leaders expressed what they feel is the view of businesses, (especially those downtown), that there is animosity towards them from the Commission.

**Mr. Walsh** said that the leaders gave no evidence to back up their theory.

**The Chairman** pointed out that the business owners' concerns seem to be focused on (1) sign regulations, (2) parking, and (3) first floor retail. She said their problem with signs is the application process. They feel the process and the fee schedule create a burden, she said. They would like "as of right" sandwich boards, banners, logos on their signs, etc.

**Mr. Katz** asked if the representatives at the meeting had cited any towns which do not have a system of applications and fees. The Chairman said they had not.

Mr. Katz asked her what she would like from the Commission. "Are there action steps we can take that would demonstrate to them..." that the Commission is indeed "on board with them."

**Mr. Walsh** pointed out that the new regulations have made the process easier than it had been before.

**Mr. Katz** asked what role Ms. Roth played in the discussion.

**The Planner** said that she was "trying to be a moderator/facilitator." One thing she requested, the Planner said, was a list of Frequently Asked Questions, or suggestions/directions for business owners and/or operators when establishing or changing a business in the downtown. She gave examples.

The Planner expressed frustration with the fact that the complaints come primarily from people who have never come in to the P&Z department, come up to the counter, and asked a question. She felt that business people who also have businesses in other towns (and therefore a basis of comparison) are very complimentary of the zoning department in Ridgefield.

This discussion continued with various commissioners expressing their reactions to the comments or speculating on the "real" reasons for the discontent.

**The Chairman** noted evidence of the downturn in business downtown, such as increased vacancies. She sympathized with the business owners/operators who state that "the more vacancies, the less reason there is to come downtown." She felt that the message from the business community was an important one that Commission should pay attention to.

**Mr. Katz** said that there are measures the Commission can take to help the business community, ("be fair to all applicants, treat them all the same, not be confiscatory in

permitting fees, track other town's" procedures, etc.). But, short of controlling the "mechanisms by which realtors and property owners fill their space," there is not much more the Commission can do, and to expect more is unreasonable.

**The Chairman** said that businesses want the Commission to revisit the first floor retail discussion, she said.

**Mr. Walsh** said that there is a philosophical difference in how various members of the business community view the role of government.

**The Planner** agreed and cited examples from personal experience, demonstrating that some people clearly feel that it's the Town's fault that some businesses are leaving, and it's the Town's job to fill the empty spaces

The Planner and the Chairman both reported that there was a feeling expressed at the meeting that the department is being too aggressive in enforcing the sign regulations. She cited times when the Zoning Enforcement Officer has made a point to give businesses a break by not looking for violations, such as during the holiday season. She said that there is no appreciation for this courtesy, but only resentment for any sign violations cited by the ZEO.

**Mr. Katz** mentioned his prior suggestion of using "benign neglect."

**The Planner** responded that she had attended a seminar put on by the Connecticut Bar Association, and they had "hammered into" the participants the necessity for treating all businesses the same.

**Mr. Mische** felt that the business community was being unreasonable and would not be happy with anything short of "no sign regulations...no permits." He said the reason the town looks the way it does is due in part to the fact that there are sign regulations. The Planner agreed, saying "that is what is being lost here." Mr. Mische said that the business community's insistence on "first floor retail only" was essentially limiting the type of businesses that can be located into the downtown, which he felt was totally counterproductive.

**The Planner** felt that the only way the first floor retail issue might be settled would be to bring the proposed amendment forward, put it on the table for a public hearing, and have the debate, making sure that the landlords are present, (particularly the landlords from the Urstadt Biddle properties, the largest downtown property owner).

**Mr. Walsh** said members of the public misunderstand the role of town government, and think it's the Town's responsibility to get the landlords and the tenants together, or the landlords themselves together. That is outside the role of government, he said. Mr. Katz agreed. Mr. Walsh did not believe the first floor retail issue should be revisited independently, but, rather as part of the update to the Plan of Conservation

and Development, where input from the Commission's consultant, Planimetrics, could be heard.

**The Planner** cited a letter from Mr. Willing Biddle, property owner, suggesting a meeting with retail experts. Property owner Willing Biddle is opposed to a retail limitation, and suggested an opportunity for dialogue that would include business owners and property owners (letter dated January 2008).

**Mr. McChesney** said he would support such meeting, with business owners present. Mr. Katz agreed.

**The Chairman** acknowledged there is tension, and once again expressed her frustration with what she feels is the misperception that the Commission is anti-business. She reported hearing the same condemnation from the same individuals, and said it is unjustified; people claim they have been denied things they have never asked for, she said. The Chairman reported that Robert Knight, Interim Chair of the EDC, had invited her to a meeting with Marion Roth of the Ridgefield Chamber of Commerce. She said that there is still no consensus within the EDC about the first floor retail issue, and admitted that there is no real consensus within the PZC on the issue either.

**Mr. Fossi** wants to remain open minded about the issue, but also noted that a recent newspaper article states that there are twelve first floor vacancies existing in Darien, when, just two years ago, the lack of vacancies was used to support the idea of implementing a first floor retail restriction in Ridgefield. He said that it is a very complex issue, with no easy solution.

**Mr. Katz** recommended requesting that Urstadt Biddle convene a meeting with the businesses, which the Commission could attend only to observe.

There was a brief discussion about Planning and Zoning's lack of attendance at certain meetings which were held on the same night at PZC meetings, and how the Commissioner's absence was perceived negatively by the business community.

**Mr. Mische** was in favor of the meeting with Mr. Biddle as Mr. Katz suggested, but, felt that it is difficult to get a true perspective when the Commission is to remain silent.

The Commission took no action on this item, but acknowledged that the discontent in the business community seems to come from the same collection of voices, and that their primary interest is in the adoption of a limitation in the regulations to require retail uses on the first floor on Main Street.

## **COMMISSION WALKS**

The Commission scheduled a site walk for **May 3, 2009:**

- **#2009-021-SP: Special Permit 305 Main Street, Biggar-Maguire**

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

There were no requests for bond release or reduction.

## **CORRESPONDENCE**

**Chairman Mucchetti** pointed out the following correspondence:

- Replacement pages for the Commission's zoning regulations, including some recent amendments
- Updated Commission membership list, including Commissioner McChesney as replacement for Lillian Willis
- Article about the town's proposal to withdraw the Bennetts Farm Corporate Development Plan [public hearing scheduled by the Board of Selectmen for 4/14/09 at 9:30 a.m.]
- Letter appointing ZEO Richard Baldelli as enforcement officer for the Historic District for a two-year period

## **MINUTES**

**Mr. McChesney** motioned, seconded by Mr. Fossi, to approve the minutes of March 10, 2009. The motion passed, 6-0. [Dr. Gelfman was not present for the vote.]

Hearing no further discussion, the Chairman adjourned the meeting at 9:40 p.m.

Respectfully submitted,

Linda Caponetti  
Recording Secretary