

APPROVED / REVISED  
MINUTES  
INLAND WETLANDS BOARD

May 9, 2006

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

Absent: Walter Slavin

Also Present: Betty Brosius, Inland Wetlands Agent

*A combined IWB and P&ZC public hearing was held prior to the meeting.*

At 10:50 p.m. Chairman Mucchetti called the meeting to order. The Chairman suggested adjourning, to address the Planning and Zoning Commission meeting first, since there were no members of the public or applicants present for the Inland Wetlands Board agenda. The Board reconvened at 11:15 p.m. after the P&ZC meeting was concluded.

**PENDING ITEMS**

1. **#2006-010-SR-S:** Summary Ruling application in conjunction with 7-lot subdivision for property located on **Bryon Avenue** in the SD R-20 zone. Owner/Appl.: Country Club Development, LLC. Auth. Agent: Donnelly, McNamara & Gustafson, P.C. *Received 2/14/06. Public hearing commenced April 4, 2006, continued 5/9/06, and to 5/16/06.*

Mr. McChesney motioned, seconded by Dr. Autuori, to table the item because the hearing has been continued to 5/16/06. The motion passed by a vote of 7-0-1. (Mr. Fossi recused himself from participation in this application.)

2. **#2006-021-SR:** Summary Ruling Application for construction of two-bedroom residence on steep slopes adjacent to Fox Hill Lake, at the intersection of **Waters Edge Way and Rita Road** in the RA zone. *Owner/Appl.: Patrick Costigan. Received 3/14/06. Walked 4/2/06. Public hearing commenced 5/2/06. 35- day action period ends June 6, 2006. On 5/2/06, Board requested Agent to prepare Draft Resolution of Approval. For action.*

The Chairman noted the draft resolution of approval prepared by the Agent, distributed by e-mail to the Board prior to the meeting.

Mr. Katz motioned, seconded by Dr. Autuori, to adopt the proposed resolution.

In discussion, Mr. McChesney suggested adding language to require erosion controls in the location identified for well-drilling, because it didn't appear on the E&S map referenced in the approval. The language could be added to paragraph #2, for E&S to be installed in the area around the well-drilling activities.

Mrs. Willis stated that the Conservation Easement should be put under the jurisdiction of someone's control. She asked that the Conservation Easement be offered in favor of the Conservation Commission, but the Chairman pointed out that the Conservation Commission might not want to be responsible. The final consensus called for the easement to be in favor of the Town, with enforcement of the terms and conditions of the easement delegated to the IWB and/or its designated agent. Mrs. Willis says it will be a good "wake-up call" for the applicant, to comply with the easement.

The motion to approve the resolution passed, with the amendments as noted, by a vote of 7-0-1. (Mr. Walsh recused himself from participation in the discussion and vote.)

## NEW ITEMS

3. **#2006-040-S-SR:** Summary Ruling Application for wetlands crossing in conjunction with application for 3-lot residential subdivision at **48 Peaceable Street**, property consisting of 34.5 acres in an RAA zone. Owner/Appl.: Suni P. and William Harford, Auth. Agent: John F. McCoy, P.E., J.F.M. Engineering Inc. For receipt / schedule walk for determination of significance / schedule P.H. if necessary.

Dr. Autuori motioned, seconded by Mr. McChesney, to receive the application and to schedule a walk. The Chairman suggested a walk on 5/21/06. She asked the Agent whether an opinion is required to determine significance, and whether to hire a consultant for review of the plans. The Agent suggested that the wetlands crossing is the major concern, but a full subdivision review may not be needed.

The Chairman asked if the Agent and the Inspector could review the plans and give an opinion. The Board has looked at prior applications for this site and is very familiar with the area proposed for the wetland crossing. Gabion retaining walls are proposed, and a five-pipe crossing. The Board left a decision for consultant up to the Agent, and determined that a public hearing for 6/6/06 is warranted, based on prior knowledge of the property and the sensitivity of the wetlands crossing.

The Chairman called for a vote to receive the application, set a walk date for 5/21/06, and a public hearing for 6/6/06. The motion passed, 8-0.

**BOARD WALKS –**

The site walk for item **#2006-040-S-SR, 48 Peaceable Street**, was scheduled for 5/21/06, as noted above.

**REQUESTS FOR BOND RELEASES/REDUCTION**

**#2002-25-SR:** Request for release of \$5,000 E&S bond posted for Summary Ruling Application, pertaining to construction of driveway, well and residence at **205 Ned’s Mountain Road**.

The Agent explained that the property was acquired by the Town as Open Space in 2005, and there is no need for the bond because the land will no longer be developed. The Agent recommends full release of the bond.

Mr. Katz motioned, seconded by Dr. Autuori, to release the bond. The motion passed, 8-0.

**CORRESPONDENCE**

There was no correspondence.

**MINUTES**

Mr. Katz motioned, seconded by Dr. Autuori, to approve the minutes of **4/25/06**. The motion passed by a vote of 7-1. Mrs. Willis abstained.

Hearing no further discussion, the Chairman adjourned the meeting at 11:25 p.m.

Respectfully submitted,

Betty Brosius  
Inland Wetlands Agent

APPROVED / REVISED  
MINUTES  
PLANNING AND ZONING COMMISSION

May 9, 2006

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

Absent: Walter Slavin

Also Present: Betty Brosius, Director of Planning

*A combined IWB and P&ZC public hearing was held prior to the meeting.*

At 10:52 p.m. Chairman Mucchetti called the meeting to order. The order of agenda items was changed to accommodate members of the public in the audience. Item #2 was discussed first.

**PENDING ITEMS**

1. **#2006-010-SR-S:** 7-lot subdivision of land located on **Bryon Avenue** in the SD R-20 zone. Owner/Appl.: Country Club Development, LLC. Auth. Agent: Donnelly, McNamara and Gustafson. *Received 2/14/06. Walked 3/12/06. Public hearing commenced 4/4/06, continued 5/9/06. 65-day action period ends 7/13/06.*

(This item was discussed following item #6.)

Dr. Autuori motioned, seconded by Dr. Gelfman, to table the item because the hearing has been continued to 5/16/06. The motion passed by a vote of 7-0-1. Mr. Fossi recused himself from participation in this application.

The discussion continued with item #4.

2. **#2006-018-REV:** Request for revision to Special Permit to allow fewer lighting fixtures on premises located at **901 Ethan Allen Highway** in the CMDD zone. Owner/Appl.: Ridgefield Professional Office Complex, LLC. Auth. Agent: Donnelly, McNamara & Gustafson, P.C. *Received 3/7/06. Public hearing commenced 4/11/06, continued and closed 4/18/06. 65-day action period ends 6/22/06. On 5/2/06, Commission requested the Planner to prepare Draft Resolution of Approval. For discussion/action.*

The Chairman noted the draft resolution of approval prepared by the Planner, with condition #6 added in the version presented at the table.

Mr. Katz motioned, seconded by Dr. Autuori, to adopt the resolution as drafted, with the amendment. Mr. Katz offered some additional amendments, including improvements to the language of condition #4, and a small change to the final sentence in the “reasons.” The Planner noted that condition #4 was a direct quote from the previous special permit. Mr. Walsh and Mr. McChesney questioned the need to modify that language, and it was decided to leave condition #4 as proposed.

The motion to approve the draft, with the amendment to the reasons, passed by a vote of 6-2, with Mrs. Willis and Dr. Gelfman opposed.

The Chairman asked the Commission to discuss item #5 next, and then return to item #4 on the agenda. The Commission agreed by consensus.

4. **#2006-023-A:** Proposed **amendment** to the Ridgefield Zoning Regulations, Sections 411.0 through 413.0 – Business Zones and Section 417.0-Central Business District to establish better defined parameters for permitted uses involving a mix of residential and commercial uses with the business zones. *Received 3/21/06. Commission initiated. On 5/2/06, Commission requested the Planner to revise the Draft Amendment as per discussion. For action.*

The Chairman pointed out the revised draft amendment prepared by the Planner, for discussion and vote.

Mr. McChesney referenced the provision for bonus units in the amendment, and says he didn't understand that the Commission was going to combine the requirement for creating an age-restricted development and the affordable units in the same bonus. The Commission agreed that the draft was correct as shown.

The Planner pointed out that the requirement for affordable units in the revised draft was limited to ½ of the total bonus units. Some of the Commissioners, at the last meeting, talked about making all of the bonus units affordable. The Planner is concerned that requiring all bonus units to be affordable will discourage developers from seeking the bonus, and therefore discourage age-restricted developments. Mr. Katz disagrees, and says that the affordable units, when priced according to the ever-increasing median income in the State, will still provide a profit for the developer. By contrast, age-restricted dwellings are frequently proposed as one-bedroom units, and are not as attractive for the builder. He feels that the amendment should be corrected to eliminate the limitation of 1/2 of the bonus units as affordable. Dr. Gelfman agrees, because the Commission should not be encouraging high-density housing in the business zones. Mr. Walsh agrees, and thinks that those who seek the bonus for extra density will be a small portion of applicants. By consensus, the Commission agrees that the limitation of ½ bonus units as affordable should be eliminated.

Mr. Katz motioned, seconded by Dr. Autuori, to approve the amended draft. The motion passed, 8-0.

The discussion continued with item #6.

## **NEW ITEMS**

- 5. Discussion c/o Dr. Ben Oko, Chairman, Conservation Commission, re Open Space encroachments at Turner Hill conservation cluster development, off Saw Mill Hill Road.**

Dr. Oko explained the reason for his appearance before the Commission was to explain the history and future plans for dealing with the issue of homeowners encroaching into open space at the Turner Hill Subdivision, and to confirm the Commission's position on the approach to solve the problem. He displayed a map to show the problem areas. The Conservation Commission had approached the Board of Selectmen last fall to request money for funding a survey to determine the extent of encroachment.

At that time, the Selectmen asked the Planner for her opinion on the matter, to see if there could be any changes in the zoning regulations or the structure of the community, to allow some kind of greenway and use of the land around the lots in the subdivision. The response of the Planner was that the Planning and Zoning Commission could not alter the regulations to solve the problem, nor did they have any authority to deal with encroachments on land that was under the Conservation Commission's jurisdiction. After a follow-up meeting last week including Dr. Oko, the First Selectman, the wetlands inspector, Town counsel, and another member of the Conservation Commission, the Planner repeated that opinion and suggested that the Commission be approached to endorse and confirm her position. Alternatively, they might offer other suggestions and solutions. Dr. Oko agreed to explain the situation to the Commission, and then to report back to the Board of Selectmen.

The Planner explained that the regulations require 65% open space in the conservation cluster, and there is about 67% dedicated at Turner Hill. There was no room for extending the lots into the open space, even if the Commission wanted to do that. The Planner felt that changes to the regulations to accommodate open space encroachments would set a very bad precedent. She sees it as a simple trespass issue. The purpose of referring the matter to the Commission was to confirm concurrence with that opinion, and to agree that there was no other solution.

Mr. Fossi asked if zoning permits could be withheld until the violations are resolved. The Planner pointed out that the encroachment is really a matter for the Conservation Commission to resolve as a trespass issue. Regardless of whether the matter is handled by Zoning or by the Conservation Commission, a survey would be needed to determine property lines. Accusations of encroachment must be confirmed by a survey. The

Conservation Commission's request for money to perform the necessary survey should be supported.

Mr. Katz motioned for a vote of confidence in the attitude and position of the Planner vis a vis the open space encroachment issues at Turner Hill. Mr. Fossi seconded the motion. He agrees that the issue is a Conservation Commission issue, but what can be done? Dr. Oko says that the matters can be taken to court, and there is a method for fines in the current ordinance of the Town. The Planner confirms that zoning would also have to deal with the matter in court, if the matter were under its jurisdiction.

Mr. Walsh asked if the homeowner's association at Turner Hill had been consulted, and Dr. Oko confirmed that it had. The matter could not be settled with the HOA.

The motion to endorse the Planner's position passed by a vote of 8-0.

The Chairman asked the Commission to return to item #1 on the agenda, to vote on tabling the item.

6. **#2006-038-REV:** Request for Revision to the Special Permit (#89137-SP) for modifications to existing South Gate Guard House (Shadow Lake Road, aka 900 Ridgebury Road). Owner: Boehringer Ingelheim, Applicant: John M. Wyshynski, Project Management/Associate Director. For receipt / schedule walk if needed / action.

The Chairman explained that the applicant seeks to replace and upgrade a guard house, in place and in use on the site for about 25 years. Mr. McChesney motioned to approve the request for revision to the special permit. The motion was seconded by Dr. Autuori.

Discussion followed, with Mr. Katz stating his opinion that the change will increase traffic on Shadow Lake Road, Briar Ridge Road and in the local neighborhood. The concept of using this guard house entrance from Route 7 doesn't seem logical.

The Planner states that both she and Zoning Enforcement Officer Richard Baldelli expressed concern, in a pre-application meeting, that traffic might be increased on Shadow Lake Road. Mr. Wyshynski assured them that the entrance/exit is already being used, and traffic is not proposed to increase. The gate is currently used only in the morning and evening by people traveling primarily toward Danbury.

Mr. Katz is skeptical that the change is benign. It will negatively impact Shadow Lake Road. The easiest access now is Ridgebury Road, which has its own access off I-84. It is never congested. He will not object to it, but thinks the Commission needs to know what is involved. Mr. McChesney disagrees and thinks the request should be approved. The Planner suggests that Mr. Wyshynski be asked to attend a meeting if there are additional questions, so that he could explain, in person, the reason for the request. The impression from the pre-application meeting is that this is a general

upgrade to the guard house in line with other upgrades planned for the property over the next decade. There are no new lights proposed, and all existing lights will comply with the regulations.

The Chairman points out that this is the same footprint. The Planner says there is an existing guard house in use right now that would be replaced, and the driveway would be improved. The Chairman reads a description from Mr. Wyshynski's letter to explain the proposed improvements. Mr. McChesney feels that this is a minor change and the application should be approved. Mr. Katz is reluctant to give the company an "easy pass" with this request, just because they happen to be a valuable asset to the community. This will impact a scenic road.

The Planner suggests again that Mr. Wyshynski be asked to attend a future meeting. Mr. Walsh points out that (1) the special permit allows them to have the gate house, (2) it is now operational, and (3) they just want to update it for use three hours in the morning and three hours in the evening. Argument continues about whether or not this is a significant change, with Mr. McChesney pointing out that the original guard house was approved twenty years ago.

The Chairman calls the matter to a vote. The motion passes 7-0-1, with Mr. Katz abstained.

7. **#2006-040-S-SR:** Application for 3-lot residential subdivision at **48 Peaceable Street**, property consisting of 34.5 acres in an RAA zone. Owner/Appl.: Suni P. and William Harford, Auth. Agent: John F. McCoy, P.E., J.F.M. Engineering Inc. For receipt / schedule walk / schedule P.H.

Dr. Autuori motioned, seconded by Mr. McChesney, to receive the application, and to schedule a walk and public hearing. The Chairman suggests 5/21/06 for the walk, and 6/6/06 for a public hearing. The motion passed, 8-0.

### **COMMISSION WALKS**

The site walk for item **#2006-040-S-SR, 48 Peaceable Street**, was scheduled for 5/21/06, as noted above.

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

There were no requests for bond release or reduction.

### **CORRESPONDENCE**

There was no correspondence noted as significant.

### **MINUTES**

The Chairman pointed out a minor correction on page 5 of the minutes for 4/25/06. Mr. McChesney motioned, seconded by Dr. Gelfman, to approve the minutes. The motion passed, 7-0-1. Mrs. Willis abstained.

Hearing no further discussion, the Chairman adjourned the meeting at 11:15 p.m. and returned to the agenda for the Inland Wetlands Board.

Respectfully submitted,

Betty Brosius  
Director of Planning