

APPROVED / REVISED
MINUTES
EXECUTIVE SESSION
PLANNING AND ZONING COMMISSION

May 15, 2007

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

Also Present: Betty Brosius, Director of Planning
Thomas Beecher, Esq., Land Use Counsel
Rudy Marconi, First Selectman

At 7:00 p.m. Chairman Mucchetti called the meeting to order.

ITEM: Executive Session

Chairman Mucchetti asked for a motion and second to go into Executive Session, to discuss pending litigation, Eureka V, LLC and the Planning and Zoning Commission of the Town of Ridgefield.

Mr. Katz motioned, seconded by Mr. Walsh, to enter into Executive Session with Land Use Counsel Thomas Beecher, Esq. The Planner was also in attendance. Mr. Marconi was present as an ex-officio member of the Commission in his position as First Selectman.

At 7:28 p.m., **Dr. Autuori** made a motion to adjourn the Executive Session, seconded by Mr. Slavin. The vote was 9-0 to adjourn.

There were no votes and no action taken by the Commission during the Executive Session.

Hearing no further discussion, the Chairman adjourned the meeting at 7:29 p.m.

Respectfully submitted,

Betty Brosius
Director of Planning

APPROVED / REVISED
MINUTES
INLAND WETLANDS BOARD MEETING

May 15, 2007

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

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

An Executive Session of the Planning and Zoning Commission was held prior to the meeting.

At 7:31 p.m. Chairman Mucchetti called the meeting to order and asked the Board to adjourn temporarily, to conduct Item #1 on the Planning and Zoning Commission agenda. Dr. Autuori motioned, seconded by Mr. Slavin, to convene as the Planning and Zoning Commission to discuss Item #1 on that agenda. The Inland Wetlands Board reconvened at 8:01.

PENDING ITEMS

1. **#2007-039-SR:** Summary Ruling application for activities within upland review areas for excavation, filling and grading in conjunction with the construction of a single-family residence on property located on **Rippowam Road, Parcel A1**, in the RAAA zone. Owner: Thomas J. Jarosh. Appl.: Falciglia & Valeri Construction, LLC. Auth. Agent: John F. McCoy, P.E. *65-day action period ends 6/21/2007. Received 4/17/2007, walked 4/29/2007. Tabled 5/1/2007. Draft Resolution of Approval requested 5/8/2007. For action.*

Chairman Mucchetti referred the Board to new language on p. 2 of the resolution, which would be addressed by the Wetlands Agent.

Agent Brosius said that, at the suggestion of wetlands agent Aimee Pardee, the Board should reserve the right to require a revision to the wetlands permit if the pool permit is not satisfactory. Also, the location of the infiltrator must be shown on the A-2 as-built survey. She also mentioned that the developer reported having gone out to the site after the last meeting. He feels that there are enough trees to put up the conservation easement signs, which Agent Brosius then provided.

Ms. Willis asked about the open space posting. She did not see that mentioned.

The Agent said that she could add that into the resolution.

There was some discussion as to the need for this posting, since the open space was beyond the limits of the conservation easement, but the consensus was that it should be marked. It is a legal matter, Ms. Willis said. The Agent said that she would add this as part of #4.

Mr. McChesney made a motion, seconded by Mr. Slavin, to approve the draft resolution prepared by Agent Brosius, as amended. The motion passed, 9-0.

2. **#2007-046-PR:** Plenary Ruling application for activities within upland review areas for construction of a single family residence on 3.775 acres of land located at **Water's Edge Way** in the RA zone. Owner: Hearing and Hearing, Inc. Auth. Agent: Donnelly, McNamara and Gustafson, P.C. *65 days to commence public hearing ends 7/12/2007. Received 5/8/2007, walk scheduled for 5/20/2007, public hearing scheduled for 7/3/2007. Determine need for outside consultant.*

Chairman Mucchetti noted that the Agent requested that the Board review the application materials, to determine if the retention of an outside consultant for review of the application was warranted. Mr. Walsh asked if that decision should be made after the site walk.

The Agent said the Board could wait for the walk, however, she would like to get the consultant started on this as soon as possible since it is a complicated application. The soils report indicated that the soils in the area of the house are "UA," which are manmade materials put on top of wetlands, and "AQ," which are poorly drained soils covered with a small layer of manmade materials on top. A technical review is going to be required, she believed.

Mr. Katz said he would support the Agent's suggestion to authorize the appointment of a soil scientist to review this, and made a motion to authorize the Agent to retain an outside consultant, seconded by Mr. Slavin. The motion was supported by a vote of 9-0, all in favor.

The Chairman asked the Agent how she wanted to proceed. The Agent said that her suggestion would be for someone who would be technically capable of handling how the construction would take place, and secondly with a soil service capability. She suggested the consultant that was used on the Toll Bros. application. Teri Hahn of LADA, who usually works with Michael Klein, soil scientist. The Board agreed that the Agent could make the choice of consultant.

NEW ITEMS

There were no new items.

BOARD WALKS

The Board acknowledged previous scheduling of the following site walks for **May 20, 2007:**

- **#2007-045-SP-SR:** Summary Ruling **140 Wilton Road West**, Price
- **#2007-046-PR:** Plenary Ruling **Water's Edge Way**, Hearing and Hearing, Inc.
- **#2007-047-SR:** Summary Ruling **107 Scodon Drive**, Namiot
- **#2007-049-SR:** Summary Ruling **61 Peaceable Hill Road**, Montanari
- **#2007-050-SR:** Summary Ruling **90 Spring Valley Road**, Timpanelli

REQUESTS FOR BOND RELEASE / REDUCTION

There were no requests for bond release or reduction.

CORRESPONDENCE

There was no correspondence.

MINUTES

Mr. Katz motioned, seconded by Dr. Autuori, to approve the minutes of 5/1/07. The motion passed, 9-0.

Hearing no further discussion, the Chairman adjourned the meeting at 8:09 p.m.

Respectfully submitted,

Linda Caponetti
Recording Secretary

APPROVED / REVISED
MINUTES
PLANNING AND ZONING COMMISSION MEETING

May 15, 2007

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

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

An Executive Session was held prior to the meeting.

At 7:32 p.m., Chairman Mucchetti called the meeting to order. As noted in the Inland Wetlands Board minutes for this date, the Commission convened to handle Item #1 below, and then adjourned at 8:00 p.m. to return to the Inland Wetlands Board agenda. The Commission re-convened at 8:10 and completed Items #2 through #8 and the remainder of the Planning and Zoning Commission agenda.

PENDING ITEMS

1. Proposed Citation Ordinance for Zoning Violations c/o Director of Planning and Zoning Enforcement Officer. For discussion.

Richard Baldelli, Zoning Enforcement Officer, presented his proposal for a Citation Ordinance. Land Use Counsel Thomas Beecher, Esq. was present and joined in the discussion. First Selectman Rudy Marconi was also in attendance.

Mr. Baldelli reported that, ten years ago, the State adopted a law that allows the Town to enact an ordinance which would enable the zoning enforcement office to issue citations for zoning violations. There would be considerable protection for those who are cited, in that there are penalties involved for the Town if it is determined that citations were issued frivolously. Mr. Baldelli feels it would be an advantage for the Town to have the ordinance enacted, as it would be an empowerment of the zoning regulations that could result in considerable savings for the Town, both in terms of money and time. He cited a prior case involving signage, which cost the Town over \$4,000 and more than one year before they could finally achieve compliance. With a citation system, he feels that 90% of the cases would be resolved without the use of attorneys.

Mr. Baldelli went on to say that he has noticed that Ridgefield is probably the most “sign compliant” town in the area, most likely because of how hard zoning has pushed the sign regulations. This has not had an adverse effect on local businesses, he said. The office wants to continue to be very firm in their enforcement, said Mr. Baldelli, and he believes the ability to issue citations would be very helpful.

Chairman Mucchetti said that there is a system in place now. She asked Mr. Baldelli if the citations would replace it, or be in addition to it. He said the latter. There would still be situations in which he would need to issue a Cease and Desist. He explained how the process would proceed under the current system. Under the citation system, he said, the Town would have to appoint a hearing officer, and the applicant has the ability to have a local hearing before paying a fine.

Mr. Katz said that, for as long as he has been on the Commission, he has been aware of the serious frustration which results when Cease and Desist orders are challenged or ignored. He wondered why towns had not been given the authority to impose serious financial consequences to violators in their attempts to enforce their zoning regulations. He was in favor of the citation system, saying that it seemed “very clean” to him and gives the teeth that are needed to achieving zoning compliance.

Mr. McChesney noted that this system would provide an intermediate step between issuing the Cease and Desist and requiring the services of the Town’s counsel if it is ignored.

Mr. Baldelli said that was correct. Based on finances, he has to choose carefully which cases need to go to the attorney. This citation system would help tremendously.

Dr. Autuori quoted language from PA 96-210 (distributed to the Commission) and said that he can’t support this ordinance unless there is an imminent threat to the public health or the environment.

Attorney Tom Beecher noted that the language Dr. Autuori was referring to was from Public Act 96-210, which was replaced by Sec. 8-12a of the general statutes.

Mr. Walsh wished to clarify that Public Act 96-210 (now Se. 8-12a) was what was currently in effect. That was correct, Mr. Beecher said.

Dr. Autuori said that he could have supported the citation under the circumstances he referred to, but, since that wording was no longer in effect, he could not support the ordinance. He said that, in his opinion, there has been a long history of effective, careful and considerate application of enforcement in this town. He said this may, on occasion, result in some expense for the Town. He asked Mr. Baldelli how often a Cease and Desist order is ignored.

Mr. Baldelli said that they are ignored much more often than he would like, and he requires the services of the Town attorney several times a year.

Dr. Autuori asked if there weren't a way to attach something to the land records indicating that a property is non-compliant.

Mr. Baldelli said he believes there is a provision to allow the zoning office to file something on the land records, although he was not familiar as to how this is done. However, he said that people understand a ticket. There is a great deal of frustration in issuing orders and having nothing happen. He assured Dr. Autuori that, 90-95% of the time, a written warning would be issued before a citation would be given, and even that would be following a discussion.

Dr. Autuori asked Mr. Baldelli if this procedure would be discretionary, on his part. Mr. Baldelli said it would be. He explained that he has to determine if the violations are having an effect on the neighborhood or are situations that have to be dealt with before he will send them over to attorney Beecher.

Dr. Autuori said he is opposed to a perception of another police power that can issue summons and tickets. He doesn't like the zoning office being seen in the position of issuing tickets to residents of the Town. He said he was unclear as to how to handle situations where an applicant ignores a Cease and Desist order.

Attorney Beecher said that when the Town attempts to enforce a Cease and Desist order through the courts, it is only at that point that penalties can be levied. Leading up to that point, there is a huge gap between the initial phone call and the letter and finally getting someone to comply with the regulations. The citation fills that gap. Attorney Beecher added that the ZEO can issue citations for each violation each day, if he so chooses. In towns which have implemented this ordinance, he observed, it has provided an additional level of enforcement that gets people's attention.

Mr. Beecher added that, as a town, you are going to have to trust any police officer or any enforcement officer to exercise appropriate discretion. That's part of the job. Mr. Beecher feels this is an appropriate tool that will be appropriately used.

Ms. Willis wished to confirm that it would be possible to issue additional citations, and Mr. Baldelli said that it would. She asked him if it would be indicated to the applicant that this could result with further lack of compliance. She wanted the ticket to clearly state that other \$150 citations could be issued, and the consequences of non-compliance would be clearly spelled out.

Mr. Baldelli said it would depend on the situation. He said that it would be possible to accrue citations on a daily basis.

Mr. Beecher said that he would help to design an appropriate citation form, which would spell out the specific results of non-compliance, and also the applicant's appeal rights. It would be specified that each day of a violation is considered a separate violation, and, therefore, an additional citation could be issued.

Mr. McChesney asked Dr. Autuori what his objection was to the citation ordinance when he accepts the department's issuing of Cease and Desist orders. It is only a slight degree higher in severity, he said, but the principal is the same: a zoning violation is being created and the ZEO is issuing a warning, or, in this case, a ticket. It's the same police action, he said.

Dr. Autuori said that he is concerned with the perception of excessive toughness. Let's say the person gets the citation and decides to appeal it, he said. Meanwhile, the problem still exists until it's appealed. Would that mean that, every day, there is going to be another \$150 citation?

Mr. Baldelli said that it doesn't happen automatically. It would have to be written and physically issued to the violator every day.

There was discussion among Dr. Autuori, Mr. Baldelli and Attorney Beecher as to how to handle the issuance of citations with relation to appeals. Dr. Autuori noted that the person would have 10 days to appeal. Theoretically, the applicant could accumulate \$1500 worth of fines while deciding whether or not to appeal, he said. He hoped that there would be a built in consideration, so that people would not feel that they are going to be "hammered" by an incredible build up of fines while they are getting ready to appeal. Mr. Beecher said that he would advise against issuing any additional citations during the first 10-day period.

Mr. Katz said he did not understand Dr. Autuori's distinction between an enforcement officer having the ability to issue a warning or a citation. He complimented Mr. Baldelli and spoke to his use of good judgment, and urged Dr. Autuori to understand that the Commission is trying to enforce the regulations that they have spent so much time putting on paper.

Mr. Fossi concurred.

Mr. Katz made a motion to support sending a request to the Board of Selectmen, to propose a Citation Ordinance. The motion was seconded by Ms. Willis and passed by a vote of 8-1. Dr. Autuori was opposed.

2. **#2007-004-SP:** Application for Special Permit under Sec. 312.0 as required by Sec. 411.0B of the Ridgefield Zoning Regulations, (1) to demolish an existing office/residential structure and replace with new 7,756 s.f. commercial structure at **35/37 Danbury Road**, and (2) construct new 10,026 s.f. commercial structure on adjoining property at **16 Roberts Lane**, on properties located in the B-1 zone. Owner: Eppoliti Realty Corporation. Auth. Agent: Douglas MacMillan, Architect. *Received 2/6/2007, walked 2/11/2007, public hearing commenced 3/6/2007, continued and closed 3/20/2007. Draft Resolution of Approval requested 3/20/2007. Tabled 4/4/2007, 4/10/2007, 4/17/2007, 5/1/2007 and 5/8/2007. 65-day action period ends 5/24/2007. Letter granting extension received 5/14/2007. Acknowledge extension.*

Chairman Mucchetti announced that a letter granting a 65-day extension of time to make a final decision on the application had been submitted by the applicant. By unanimous agreement, the Commission acknowledged and accepted the letter of extension.

3. **#2007-020-SP:** Special Permit application pursuant to Sec. 312.0 as required by Sec. 411.0 of the Ridgefield Zoning Regulations for the demolition of existing retail building and construction of two new buildings (Walgreen's), including reconfiguration of the existing vehicular areas on property located at **42-50 Danbury Road** in the B-1 zone. Owner: Sherwood Island, LLC. Appl.: READCO, LLC. Auth. Agent: Donnelly, McNamara and Gustafson, P.C. *Received 3/6/2007. Walked 3/18/2007. Public hearing commenced 4/4/2007 and continued to 4/17/2007. Public hearing closed 4/17/2007 and Draft Resolution of Approval requested. Tabled 5/1/2007 and 5/8/2007. 65-day action period ends 6/21/2007. For action.*

Chairman Mucchetti stated the need to table action on the application, because the easement agreement with the Chase Bank property owner was not yet resolved. The Planner noted that the draft resolution of approval was distributed to the Commission, as a preview. The item was tabled.

4. **#2007-038-SPA:** Site plan review of landscaping as per Sec. 407.0G of the Zoning Regulations, in conjunction with 21 multi-family unit development in the R-5 zone. Property located on **63-67 Prospect Street**. Owners/Appls.: The Giardini Limited Partnership and Pierandri Realty LLC. Landscape plan distributed for review 4/17/2007. *Tabled 5/1/2007 and 5/8/2007. For action.*

Chairman Mucchetti noted that new landscape plans had been received and were distributed at the table.

Planner Brosius explained that the plans had been revised according to the Commission's previous comments, and the preservation of existing vegetation is proposed in some areas.

Mr. McChesney noted that, without surveyor's stakes in the ground, it was difficult to determine the location of the property line, and to understand how much of the existing vegetation is on the subject property, and how close it is to the property line. The Planner suggested a condition that would require the applicant to stake the property line prior to construction, and to reserve the right of the Commission to adjust the landscaping plan for the borders of the property at that time.

Following brief discussion, **Mr. Katz** made a motion to accept the plan as presented, with a condition reserving the right for future review by the Commission, as suggested by the Planner. The motion was seconded by Dr. Autuori and passed, 9-0.

5. **#2007-042-REZ-A** (1) Petition to amend the text of the zoning regulations of the Town of Ridgefield to revise certain sections of the Housing Opportunity District (HOD) regulations, to permit residential development under Sec. 8-30g of the Connecticut General Statutes, and related amendment to the Comprehensive Town Plan and (2)

petition to change the zoning map of the Town of Ridgefield from CDD to HOD and related amendment to the Comprehensive Town Plan, for 153± acres of land located at **616 Bennett's Farm Road**. Owner: Eureka V, LLC. Appl./Auth Agent: J. Casey Healy, Esq. (Note: Petitions submitted pursuant to zoning regulations in effect through 4/30/2007.) *65 days to commence public hearing ends 7/5/2007. Received 5/1/2007. Tentative public hearing date 7/10/2007. Tabled 5/8/2007 pending receipt of requested extension. Letter granting extension received 5/10/2007. Confirm public hearing date and schedule walk if necessary.*

Chairman Mucchetti pointed out the letter received from the applicant, confirming the extension of time to permit the scheduling of the public hearing on 7/10/07. By unanimous agreement, the Commission acknowledged and accepted the extension.

NEW ITEMS

6. **#2004-023-SP**: Administrative approval of minor changes - landscaping plan at **Silver Birch Lane** in the SD-R20 zone. Owner: Mark Ferrandino. *For discussion.*

Finding no need for discussion, **Mr. Katz** made a motion to authorize the Planner to deal with the revised landscaping plan administratively. Mr. Fossi seconded the motion. Mrs. Willis was concerned about the placement of the white pines, and that they would provide too much shade to the property and to the neighbors. By a majority of 7-2, the Commission consented to administrative approval of the new landscaping plan. Mrs. Willis and Dr. Gelfman were not in favor, because of the placement of the pine trees.

7. **#2007-051-VDC**: Village District Application under Sec. 8.3 required by Sec. 5.1 of the Ridgefield Zoning Regulations to review lettering on awning located at **390/392 Main Street, Shine Salonspa**, in the CBD zone. Owner: J. & E Donnelly Trustee. Appl.: Erin R. Simmons. *35-days to receive report from Village District Consultants ends 6/19/2007. For receipt*

Chairman Mucchetti pointed out that this is the first application for a sign submitted under the new Village District regulations. By unanimous agreement, the Commission acknowledged receipt of the application. It was noted that the VDC must report back to the Commission within 35 days.

8. **#2007-052-REV (SP)**: Revision to Special Permit under Sec. 9.2.A.7.e. required by Sec. 5.4 of the Ridgefield Zoning Regulations to permit privacy fence on property located at **88 Danbury Road, Early Bird Restaurant** in the B-3 zone. Appl.: Judy Cusack. Owner: John Morganti & Son. *65-day action period ends 7/19/2007. For receipt/action.*

Mr. Katz, who is familiar with the property, described the proposed fence and the privacy and delineation of area it would provide for outside dining in front of the existing restaurant. Dr. Autuori motioned, seconded by Mr. Fossi, to approve the request for revision to the Special Permit, for the fence. The motion passed, 9-0.

COMMISSION WALKS

The Commission acknowledged the following previously scheduled site walks for

May 20, 2007:

- **#2007-045-SP-SR:** Special Permit **140 Wilton Road West**, Price
- **#2007-048-SP:** Special Permit **28 Griffith Lane**, J. Putnam Construction Company, LLC

REQUESTS FOR BOND RELEASES/REDUCTION

There were no requests for bond release or reduction.

CORRESPONDENCE

Chairman Mucchetti pointed out the following correspondence:

- Letter from Toll Brothers about site work and erosion control.
- Letter from Joseph Heyman, Planner, expressing interest in serving as a member of the Village District Consultant review board.
- Letter sent by the Commission to the FAA about Airspace Redesign (discussed at meeting on 5/8/07)
- Quarterly newsletter of the Connecticut Association of Planning and Zoning Agencies.

MINUTES

Mr. Katz motioned, seconded by Mr. Slavin, to approve the minutes of 5/1/07. Mrs. Willis and Chairman Mucchetti offered some minor revisions, which were incorporated into the motion. The motion passed 9-0.

Mrs. Willis motioned, seconded by Mr. Slavin, to approve the minutes of 5/2/07 (Executive Session). The motion passed, 9-0.

Hearing no further discussion, the Chairman adjourned the meeting at 9:50 p.m.

Respectfully submitted,

Linda Caponetti
Recording Secretary