

APPROVED / REVISED  
MINUTES  
INLAND WETLANDS BOARD MEETING

June 23, 2009

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

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

*A Planning and Zoning Commission Executive Session was held from 6:30 to 7:39 p.m., and then Commission public hearings were held prior to the regular meeting. The Planning and Zoning Commission meeting was held prior to the Inland Wetlands Board meeting.*

At 9:32 p.m. Chairman Mucchetti called the meeting to order.

**PENDING ITEMS**

There were no pending items.

**NEW ITEMS**

1. **#2009-048-SR:** Summary Ruling application under Section 7.5 of the Inland Wetlands and Watercourses Regulations for the Town of Ridgefield to install septic system and add a pool on property located at **239 Mamasco Road** in the RA zone. Owner/Appl.: Ken Pereyra. Auth. Agent: Michael J. Mazzucco. *65-day action period ends 8/27/2009. For receipt, schedule walk.*

**Chairman Mucchetti** asked for acknowledgement of receipt of the application and suggested June 28, 2009 for a site walk.

**Dr. Autuori** motioned, seconded by Mr. Mische, to acknowledge receipt of the application and to schedule the site walk as suggested. The motion passed, 9-0.

**BOARD WALKS**

As noted above, the following item was scheduled for the **June 28, 2009** site walk:

- **#2009-048-SR:** Summary Ruling **239 Mamasco Road**, Pereyra.

The following item had been previously scheduled for site walk on **June 28, 2009**:

- **#2009-047-PR: Plenary Ruling, Second and Third Lanes, Wayne E. Wood and The Estate of Charles F. Dean, Jr.**

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

There were no requests for bond release or reduction.

#### **CORRESPONDENCE**

There was no correspondence.

#### **MINUTES**

**Mr. McChesney** motioned, seconded by Dr. Autuori, to approve the minutes of June 9, 2009. The motion passed, 9-0.

Hearing no further discussion, the Chairman adjourned the meeting at 9:33 p.m.

Respectfully submitted,

Linda Caponetti  
Recording Secretary

APPROVED / REVISED  
MINUTES  
PLANNING AND ZONING COMMISSION MEETING

June 23, 2009

Present: Michael Autuori  
Peter Chipouras\*  
Joseph Fossi  
Nelson Gelfman  
John Katz  
Phil Mische  
James McChesney  
Rebecca Mucchetti, Chairman  
Patrick Walsh, Vice Chairman

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

\*Mr. Chipouras did not participate in the Executive Session.

*An Executive Session was held from 6:30 p.m. to 7:39 p.m., and then Commission public hearings were held beginning at 7:42 p.m., prior to the regular meeting.*

The time for the Executive Session is shown below. Chairman Mucchetti called the regular meeting to order at 9:05 p.m. for regular agenda items, following the public hearings.

**EXECUTIVE SESSION – Pending Litigation, Eureka V, LLC**

At 6:30 p.m., **Chairman Mucchetti** called the meeting to order and asked for a motion to enter into Executive Session. Dr. Autuori made the motion, seconded by Mr. Mische. The vote was 7-0-2 in favor, with Mr. Fossi arriving late and Mr. Chipouras not present for this item. [Note: Mr. Fossi arrived at 6:38 p.m.]

**Chairman Mucchetti** noted that Commission Counsel Thomas Beecher, First Selectman Rudy Marconi, and Planner Betty Brosius were present for the Executive Session.

At 7:38 p.m., **Chairman Mucchetti** asked for a motion to end the Executive Session. Mr. Katz made the motion, seconded by Mr. Mische. The vote was 8-0 in favor.

**Chairman Mucchetti** asked the Commission for a motion to authorize Counsel to negotiate the Settlement Agreement consistent with the discussion held in the Executive Session. Mr. Walsh made the motion, seconded by Mr. Mische. The vote was 8-0 in favor.

**Chairman Mucchetti** adjourned the Executive Session at 7:39 p.m., and the Commission opened the session for public hearings on other matters at 7:42 p.m.

The items below were addressed at 9:05 p.m., as follows: Item #5, item #3, and then the remainder of the agenda, in order.

## **PENDING ITEMS**

1. **#2009-030-SP:** Special Permit application under Section 9.2 as required by Section 5.3 of the Ridgefield Zoning Regulations to construct an addition with new offices and two-car garage, and to create an 8-car parking lot at **40 Grove Street** in the B-2 zone. Owner/Appl.: 40 Grove Street LLC. Auth. Agent: Douglas MacMillan. *Received 5/5/2009. Public hearing commenced 6/9/2009, continued and closed 6/16/2009. Draft Resolution of Approval requested 6/16/2009. 65-day action period ends 8/20/2009. For action.*

**Chairman Mucchetti** noted the draft resolution of approval that had been prepared by staff, and asked the Commission for action on the item.

**Mr. Katz** motioned, seconded by Mr. Mische, to adopt the resolution as drafted. The motion passed, 9-0.

2. **#2009-036-A:** Proposed **Amendment** to the Ridgefield Zoning Regulations, **Section 8.1.C(1)-Non-conforming lots**, pursuant to Section 9.2.B. Appl.: Robert A. Fuller, Esq. *Received 5/19/2009. 65 day action period ends 8/27/2009. For action.*

**Chairman Mucchetti** noted the public hearing had been closed and asked for discussion.

**Mr. McChesney** motioned, seconded by Dr. Gelfman, to deny the application for zoning amendment.

Commissioners discussed the motion to deny at length, where the majority of those present contributed comments and reasons for their individual support of the motion.

**Mr. Walsh** felt that the opposition to the amendment (at the public hearing) showed that some misunderstood the change to the regulation. He said, "The change in the zoning regulations would not provide for an otherwise unbuildable lot to be built upon." It is a change in definition as to how non-conforming lots would be categorized. He said that the applicant was looking for "a grand sweep" in the regulations to solve a particular problem. Had the applicant shown other lots which were also affected, Mr. Walsh would have been more supportive. But, "Clearly, it was designed to affect one specific lot," while changing the entire zoning regulation. For this reason, the application would not have Mr. Walsh's support. He said that this was the third or fourth application which did not receive his support for the same reason.

**Mr. McChesney** felt that the proper way to address the application of this regulation was to take a lot before the Zoning Board of Appeals, where it would receive proper consideration and analysis. He agreed with Mr. Walsh that changing an entire regulation for one property was not appropriate.

**Dr. Gelfman** said the lot represented by Mr. Fuller “was never envisioned to be a building lot. It was a tiny piece of land for wells and was not consistent with the other lots.” And, “Even though there were other small lots in the neighborhood, it was half the size of those.” He supported the denial of the amendment.

**Dr. Autuori** said that a “glitch in the language causes problems for a lot of people.” It would be difficult to determine how many other lots would become legal pre-existing, non-conforming lots if the language changed. They could not qualify to be built on, however, unless they passed all the other requirements. Dr. Autuori felt that the ZBA is designed to grant relief in situations like this, and he agreed that many of the comments from the public were sincere but “misguided.” He said that it is very difficult to balance what's fair for the individual with what's fair for the Town. Dr. Autuori would support the motion to deny.

**Mr. Katz** felt that Attorney Fuller made some valid points, but it was “obvious that he was arguing on behalf of his client...”. Any benefit to others “was totally ancillary to the purpose of his presentation,” Mr. Katz said, adding that zoning is designed to improve and benefit the community, not particular land owners. He mentioned how changes in zoning sometimes harm some owners of properties economically and there is sometimes no remedy in law or in regulation for them. He mentioned the hypothetical case of a property owner with a small piece of property, who failed to get land deeded and can not build because today his lot is considered unbuildable. Had the land been deeded, Mr. Katz said, it would now be considered a legal non-conforming lot.

Mr. Katz was impressed by the fact that not one property owner or resident came forward to speak in favor of this application. He said that the ZBA had examined this case and decided that there was no hardship or unfair treatment. Therefore, Mr. Katz supported the motion to deny.

**Mr. Fossi** also supported the motion, saying that he was not aware of any other properties affected in this way (the Hoyt property mentioned by Mr. Jewell at the public hearing, notwithstanding), and that the ZBA is available as a remedy in unusual situations such as this. He corrected Mr. Katz's comment that there were no supporters of the application among the residents and property owners at the hearing, saying that Attorney Robert Jewell spoke in favor of the amendment. Mr. Fossi supported the denial.

**Mr. Mische** said that Mr. Fuller testified that the amendment is very narrow in scope, which Mr. Mische felt pointed directly to the ZBA as a relief. He said that the scope

could mushroom out of control, with previously unbuildable lots becoming buildable, as property owners “seized the opportunity” to take advantage of “a gray area.”

**Mr. Walsh** said that there was nothing vague about Attorney Fuller's proposed amendment.

**Chairman Mucchetti** called for a vote. The motion to deny passed unanimously, by a vote of 9-0.

3. **#2009-037-FC-SP(ACC):** Special Permit Application under Sec. 9.2 as required by Sec. 3.2.C.5 of the Ridgefield Zoning Regulations to create an accessway serving an interior lot in conjunction with First Division of property located at **75 New Street**, consisting of 1.037 acres in the R20 and RAA zones. Applicant/Owner: Pauline G. Morena. Auth. Agent: Donnelly, McNamara & Gustafson, P.C. *Received 6/2/2009. Walked 6/7/2009. Public hearing commenced 6/23/2009. 65-day action period ends 8/27/2009. For action.*

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

**Dr. Autuori** motioned, seconded by Mr. Katz, to approve the application, as presented at the hearing, with improvements described by the engineer. It was noted that the motion pertained to the revised drawings submitted after the site walk and before the hearing, where the paved travel-way was moved to the south of the access easement, the retaining wall was to be moved and re-built, and significant trees would be saved.

The motion passed by a vote of 9-0. [This is a final vote.]

4. **#2009-006-MISC:** Joint meeting with VDC/AAC to discuss VDC By-Laws. **(TENTATIVE)**

This item was tabled due to the late hour.

5. **#2009-044-REV(SP):** Revision to Special Permit under Section 9.2.A.7.e of the Ridgefield Zoning Regulations for building improvements and fire damage repair on building located at **424R Main Street** (behind and attached to Melillo's) in the CBD zone. Owner/App.: Urstadt Biddle Properties, Inc. Auth. Agent: NDA, P.C. *65-day action period ends 8/13/2009. Received 6/9/2009. For discussion/action.*

**Chairman Mucchetti** acknowledged the applicant's representatives in the audience and asked them to present their plans to the Commission. Chris Raffaelli, architect, and Wayne Wirth, Vice President of Construction for Urstadt Biddle, were present for the applicant.

**Mr. Raffaelli** explained that a fire in Oct. 2008 rendered the building unusable and caused the displacement of all the tenants. The plans for re-construction do not increase the square footage of the building, the number of stories, or its overall dimensions. The footprint will be essentially exactly the same, and upgrades will be made to meet current building codes and accessibility requirements. Aesthetic improvements to the exterior have been added, as requested by the Architectural Advisory Committee, he said.

**Mr. Katz** was highly critical of the building's aesthetics.

**Mr. Mische** asked if the AAC had approved the use of vinyl siding. He also asked Mr. Raffaelli if other buildings in the area have vinyl siding. Mr. Raffaelli said that the backs of all the buildings on Bailey Avenue are vinyl sided.

**Mr. Raffaelli** described the following additional improvements that would be made to the plans, as a result of discussions earlier in the evening with the AAC:

- A decrease in the pitch of the mansard roof, to match the pitch on the porch.
- Lowering the front window under the porch.
- Redesign of the fascia for the porch, widening it to allow room for signage.
- Adding a porch cover over the back entrance instead of an awning (facing the parking lot), similar to the porch shown on the plans for the opposite end of the building.

**Planner Brosius** commented that the applicant had visited the zoning office several times over the last two weeks trying to comply with and implement the changes suggested by the AAC. Significant changes had been made over the original design, she said.

**Mr. Katz** said that may be so, but the Commission had not seen the final product.

**Planner Brosius** agreed that a drawing showing all the changes and revisions had not been provided (because the applicant appeared before the AAC for final review earlier in the evening), but she offered to list all the changes. Mr. Katz wanted a revised plan, which was requested by Mr. Chipouras as well. Mr. Raffaelli agreed to provide that.

**Mr. Walsh** asked if it were necessary to hold up the vote on the application, given the applicant's willingness to make the requested changes and provide the revised plan.

**The Planner** warned that a delay of two weeks would result if the vote did not take place that evening. She said that the conditions of approval could cover any outstanding issues.

**Mr. Fossi** motioned, seconded by Mr. Katz, to approve the application as presented with the additional improvements suggested by the AAC and described by the

architect. In discussion, Dr. Autuori asked that all exterior lights be in conformance with the regulations.

The motion to approve the plans passed by a vote of 9-0. [This is a final vote.]

## NEW ITEMS

6. **#2009-049-SP:** Special Permit under Section 9.2 as required by Section 7.2 of the Ridgefield Zoning Regulations to install signage on commercial property located at **59 Ethan Allen Highway** (Little Pub Restaurant, formerly Branchville Junction/Ye Olde Pub in the B-1 zone. Owner: Club Ched LLC. Appl./Auth. Agent: Kevin McHugh. *65 days to commence public hearing ends 8/27/2009. For receipt, schedule walk (if necessary) and public hearing.*

**Chairman Mucchetti** asked for acknowledgement of receipt of the application and suggested a drive-by inspection by individual Commissioners, rather than a formal site walk, because the application is limited to signage. She suggested a public hearing for 7/21/09.

**Mr. Mische** motioned, seconded by Mr. Fossi, to acknowledge receipt of the application and to schedule the hearing as suggested. The motion passed, 9-0.

7. **#2009-050-REV(SP):** Revision to Special Permit under Section 9.2.A.7.e of the Ridgefield Zoning Regulations for signage on commercial property located at **955 Ethan Allen Highway** (John's Best Pizza, formerly Ridgefield Pizza) in the B-2 zone. Owner: Maria Gardel Trustee/Ralph Sandolo. Appl.: Signs Unlimited. Auth. Agent: Gregory F. Datelle. *65-day action period end 8/27/2009. For receipt, schedule walk (if necessary).*

**Chairman Mucchetti** asked for acknowledgement of receipt of the application and suggested a drive-by inspection by individual Commissioners, rather than a formal site walk, because the application is limited to signage. The item will reappear on the agenda July 14, for discussion.

**Mr. Mische** motioned, seconded by Mr. Fossi, to acknowledge receipt of the application. The motion passed, 9-0.

8. **#2009-051-SP:** Special Permit under Section 9.2 as required by Section 7.8 of the Ridgefield zoning Regulations to provide pole lighting for tennis courts in the recreation area on property located at **126 Eleven Levels Road** in the RAA zone. Owner: West Mountain Estates Homeowner Association. Appl.: Scott Baughman. *65 days to commence public hearing ends 8/27/2009. For receipt, schedule walk and public hearing.*

**Chairman Mucchetti** asked for acknowledgement of receipt of the application and suggested adding the item to the site walk schedule for 6/28/09, and a public hearing for 7/21/09.

**Dr. Autuori** motioned, seconded by Mr. Mische, to acknowledge receipt of the application and to schedule the site walk and public hearing as suggested.

The motion passed, 9-0.

9. **#2009-052-REV(A)**: Proposed Amendment to the Ridgefield Zoning Regulations; re: Outdoor Woodburning Furnaces (OWFs). Commission initiated. Suggest schedule public hearing July 14, 2009.

**Chairman Mucchetti** noted the Planner's memo and the need to schedule a hearing so that action can be taken on the moratorium zoning regulation prior to its expiration on 7/19/09. A 7/14/09 public hearing was suggested.

**The Planner** explained the options outlined in the memo to the Commission, and the need to advertise (1) an amendment to consider extending the moratorium, and (2) advertise an amendment (creating new Section 7.12) to prohibit the outdoor furnaces altogether, which would end the moratorium language. Both options should be advertised and considered at once because of the shortage of time to consider them each separately, she said, which legal counsel found acceptable. An extended moratorium would allow the Commission to draft other regulations, if that were the desired course of action. The Planner stated that the staff report strongly supports the prohibition of these stoves in Ridgefield because of the Town's population density. She pointed out draft amendments attached to her memo.

**Mr. Katz** motioned, seconded by Mr. McChesney, to schedule the public hearing on proposed amendments for 7/14/09. The motion passed, 9-0.

10. **#2009-053-REF**: Referral from the **Town of Lewisboro, NY** for Amendment to their Zoning Ordinance re walls or fences along a street line. *35-days to issue comment ends 7/28/2009. For comment. PD suggests will have no effect on Town of Ridgefield.*

**Chairman Mucchetti** noted the proposed Lewisboro amendment distributed to the Commission, and recommended acknowledgement that there would be no effect to the Town of Ridgefield, as suggested by the Planner.

**Mr. Katz** motioned, seconded by Dr. Autuori, to acknowledge no effect to the Town of Ridgefield, as suggested. The motion passed, 9-0.

**Chairman Mucchetti** noted that a July 28, 2009 meeting would likely be scheduled, due to the accumulation of applications and the need to conduct business prior to the August break.

## COMMISSION WALKS

As noted above, the following item was added to the site walk schedule for **June 28, 2009**:

- **#2009-051-SP**: Special Permit **126 Eleven Levels Road**, West Mountain Estates Homeowner Association

The following items were previously scheduled for **June 28, 2009** site walks:

- **#2009-040-SP**: Special Permit **115 Danbury Road (BP Station)**, Mario Marcheggiani Family Limited
- **#2009-041-SP**: Special Permit **14 Loren Lane**, Brooks
- **#2009-045-SP**: Special Permit **500 Main Street**, Scala

## REQUESTS FOR BOND RELEASES/REDUCTION

- **#2004-166-A-REV**: request for release of remainder of bonds (\$19,540.00) **Arnold's Way Subdivision**, Country Club Development. *PD recommends full release.*

**Mr. Katz** motioned, seconded by Mr. McChesney, to release the bonds in full, as recommended by the Planner. The motion passed, 9-0.

- **#2008-135-SP**: request for release of bond (\$15,600.00), **105 Danbury Road**; PST Properties, LLC. *PD recommends 100% release.*

**Mr. Katz** motioned, seconded by Dr. Autuori, to release the bonds in full, as recommended by the Planner. The motion passed, 9-0.

## CORRESPONDENCE

**Chairman Mucchetti** noted the following correspondence:

- Letter re the BP gas station at **115 Danbury Road** (for public hearing on 7/7/09)
- *Parade Magazine* article on disposal of drugs and effects on water systems
- *NY Times* article re the Georgetown Development in Redding (Gilbert & Bennett site), and problems with State permitting

## MINUTES

**Mr. McChesney** motioned, seconded by Mr. Chipouras, to approve the minutes of June 9, 2009. Chairman Mucchetti offered a minor correction on page 6. The motion was amended to include the correction, and the vote to approve was 9-0.

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

Respectfully submitted,

Linda Caponetti  
Recording Secretary