

APPROVED / REVISED  
MINUTES  
INLAND WETLANDS BOARD MEETING

July 24, 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

*Public hearings were held prior to the meeting.*

At 8:25 p.m. Chairman Mucchetti called the meeting to order.

**PENDING ITEMS**

1. **#2007-059-PD:** Plenary Ruling application to dredge wetlands to create a pond on property located at **110 Armand Road** in the RAA zone. Owner: Michael G. and Dorothy L. Giersch. Appl./Auth. Agent: Nazzaro, Inc. *Received 6/5/2007, walked 6/10/2007. Draft Resolution of Approval requested 6/12/2007, vacated 6/19/2007. Raised to Plenary Ruling application 6/19/2007. Public hearing commenced 7/17/2007. 35- day action period ends 8/21/2007. Confirm public hearing date.*

**Chairman Mucchetti** informed the Commission that the applicant will be ready for a continuation of the public hearing on 9/11/07.

2. **#2007-071-REV (SR):** Revision to Summary Ruling required under Section 11.9 of the IWWR for the Town of Ridgefield for modifications of existing permit to allow minor re-arrangement of proposed structures to be constructed on **Bryon Avenue** in the SD R-20 zone. Owner/App.: Country Club Development, LLC. Auth. Agent: Robert R. Jewell, Esq. *Received 6/12/2007. Walked 6/24/2007. Public hearing commenced 7/3/2007 and continued 7/24/2007. 35-day action period ends 8/28/2007. For action.*

**Dr. Autuori** motioned, seconded by Dr. Gelfman, to approve the Revision to the Summary Ruling Application as presented. Dr. Autuori noted that the redesign of the lot layouts moved the structures further away from the wetlands, that the impervious surface of the project was no greater than was anticipated in the previous subdivision review, and that the overall plan was a general improvement of the original concept design.

The motion passed, 9-0 as a final vote. Mr. McChesney noted that the approval by the wetlands board was required prior to making any decision on the Special Permit.

3. **#2007-074-SR:** Summary Ruling application for disturbance in upland review area for construction of in-ground pool and house addition on property located at **4 Weir Farm Lane** in the RAA zone. Owners/Applicants: Bruce J. and Nicole Doyle Walker. Auth. Agent: Douglas MacMillan, AIA. *65-day action period ends 8/23/2007. Received 6/19/2007, walked July 1, 2007, tabled 7/3/2007 for additional information. Granted 65-day extension for action received 7/24/2007. Acknowledge extension.*

**Chairman Mucchetti** referenced the applicant's letter granting an extension of the time needed for decision by 65 days, which would permit further review into October.

**Dr. Autuori** motioned to acknowledge the granting of an extension, seconded by Mr. Slavin. The motion passed, 9-0.

4. **#2007-075-SR:** Summary Ruling application for disturbance in upland review area for construction of tennis court on property located at **245 Old Branchville Road** in the RAA zone. Owners: Stephan and Margaret Galistinos. Applicant: Stephan Galistinos. Auth Agent: Douglas MacMillan, AIA. *65-day action period ends 8/23/2007. Received 6/19/2007, walked July 1, 2007. Draft resolution of approval requested 7/3/07. Tabled 7/10/2007. For action.*

**Chairman Mucchetti** noted that a draft resolution of approval had been requested, but the applicant heard there was some concern about the comments of the Conservation Commission and they asked permission to submit additional information. The Chairman introduced Doug MacMillan, architect, and John McCoy, engineer, representing the applicant, and allowed them to present additional information because there had been no public hearing and the Agent confirmed that this additional information could be introduced prior to a vote on the resolution.

**Mr. MacMillan** drew attention to drawings submitted earlier in the day, showing trees that could be removed as-of-right, and trees that were proposed for removal. He mentioned the variance received from the Zoning Board of Appeals which allowed them to move the tennis court closer to the property line and further from the wetlands. An extensive landscaping plan, prepared by a company called Native Landscapes out of Pawling, NY is also shown on the plans.

He showed where engineer McCoy had re-directed the drainage pipe to avoid cutting another tree. The 50- and 75-foot buffers from wetlands and the watercourse were also shown. He emphasized that trees outside of the buffer could be cut as-of-right and the owner could turn the area into a lawn. Only two trees within the buffer are in the way of the tennis court.

**John McCoy** described engineering improvements, including the plan to pitch the tennis court to the east slightly, and to create a stone trench (curtain drain with no outlet) that would collect runoff from the court and recharge it into the landscape. It will act as an additional level spreader. He repeated that the pipe had been moved to save another tree.

**Dr. Autuori** asked if the court would be illuminated. It will not.

**Chairman Mucchetti** recognized Doug Barile from the Conservation Commission, who had not had a chance to see the new plans. Mr. Barile asked for clarification about the location of the court. He said they still had concerns about the impact to the wetlands, and referred to the letter submitted earlier.

**Chairman Mucchetti** asked the Agent to address the draft resolution. The Agent said the conditions were largely boilerplate, adding that there is a condition for the protection of trees to be saved. She also noted that there is a condition requiring the securing of the Development Permit for the tennis court prior to the commencement of any work related to the wetlands permit, as required in 22a-44a of the statutes.

**Chairman Mucchetti** asked Mr. MacMillan and Mr. McCoy for clarification on the things that were done to mitigate the concerns of the Conservation Commission. Mr. McCoy pointed out that the stone trench and the extensive landscaping were intended to address these concerns. Mr. Slavin asked for names of the plants. Dr. Gelfman wanted more clarification on the trees that were to be removed, and Mr. MacMillan explained, again referencing the trees that are outside of the wetlands review area that could be removed as-of-right. Dr. Gelfman is still concerned about the removal of the trees.

**Mr. McChesney** motioned, seconded by Dr. Autuori, to approve the application drafted by the Agent.

The motion failed to pass by a vote of 4-5. Mr. McChesney, Dr. Autuori, Dr. Gelfman, and Mr. Fossi were in favor, and Mrs. Willis, Mr. Slavin, Mr. Katz, Mr. Walsh, and Chairman Mucchetti were opposed.

5. **#2007-083-WV:** Order to Cease and Desist and Show Cause for clearing, excavation and filling in wetlands on property located at **10 Kendra Court** in the RAA zone. Owners: Angela Whitford and Stanley Madaloni. *Walked 7/13/2007. 10-day action period ends 7/27/2007. Confirmation of Order.*

**Chairman Mucchetti** referenced the Agent's draft letter confirming the Order, and noted that the Board needed to take official action.

**The Agent** explained the conditions, including the requirement to stake the wetlands line according to original subdivision maps. The mitigation plan will be required when the wetlands line has been established. The Agent also explained the means to

enforce the Order, and referenced a state statute 22a-44 permits the Board to file the Order on the land records. Compliance with the Order would then be recorded on the land records when the work is done. This is the strongest form of enforcement that can be obtained in this case.

**Mr. Katz** motioned, seconded by Mrs. Willis, to approve the Order as drafted by the Agent. The motion passed, 9-0.

**NEW ITEMS**

There were no new items.

**BOARD WALKS**

There were no site walks scheduled.

**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 Mrs. Willis, to approve the minutes of July 10, 2007. The motion passed, 9-0.

Hearing no further discussion, the Chairman adjourned the meeting at 9:51 p.m.

Respectfully submitted,

Betty Brosius  
Inland Wetlands Agent

APPROVED / REVISED  
MINUTES  
PLANNING AND ZONING COMMISSION MEETING

July 24, 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

*Public hearings were held prior to the meeting.*

At 9:52 p.m., Chairman Mucchetti called the meeting to order.

**PENDING ITEMS**

1. **#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. Extension acknowledged 5/15/2007, extended action period ends 7/28/2007. Tabled 5/22/2007, 6/5/200, 6/12/200, 6/19/2007, 6/26/2007, 7/3/07, 7/10/07 and 7/17/2007. For action.*

**Chairman Mucchetti** noted that a draft easement document had been distributed to the Commission for review. She informed the Commission, through the Planner, that the document had been signed by the adjoining property owner, but it was not yet filed in the office of the Town Clerk. This, according to the Planner, is what is required in order for the Commission to take action on the draft resolution.

**The Planner** emphasized that the easement document needs to be filed with the Town Clerk prior to the issuance of any zoning permit for construction, so that is a

strong condition, and nothing can go forward without the executed and filed document.

She explained that the hesitation on the part of the adjoining neighbor was the result of his belief that he was giving parking spaces away to 35/37 Danbury Road, and that his options to make improvements and expand on his own property in the future might be limited or prevented by his agreement to the easement. Just the opposite is true, and the Planner asked the Commission for its agreement, that this is a mutually beneficial arrangement.

The Commission confirmed by unanimous consent that the parking easement was considered to be (1) mutually beneficial to both property owners because it would provide additional parking to the adjoining neighbor in the same fashion as it provides that benefit to 35/37 Danbury Road, (2) the connection of the parking lots makes sense from a traffic circulation and access standpoint for both properties, and (3) the easement allowing mutual parking and access/egress was the basis for the Commission's support of the plan.

**Mr. Katz** motioned, seconded by Dr. Autuori, to approve the resolution as drafted and amended by the Planner. The motion passed, 8-0-1, with Mr. McChesney abstained because he was not present for the hearings.

2. **#2007-061-(a)-SP:** Special Permit Application under Section 9.2 required by Sec. 5.4 of the Ridgefield Zoning Regulations to construct a 3,150 s.f. branch bank (**HSBC Bank USA**) and related improvements on property located at **108 Danbury Road** in a B-3 zone. Owner: Fred's Servicer, Inc. Appl.: HSBC Bank, USA. Auth. Agent: Attorney Ward J. Mazzucco and Attorney Camille DeGalan. *Received 7/10/2007. 65-day action period ends 9/27/2007. For action.*

**Mr. Katz** motioned, seconded by Dr. Autuori, to ask the Planner to draft a resolution of approval for the application. The motion passed, 9-0.

It was noted that the discussions and records of the previous application, withdrawn and resubmitted because of a procedural error, were incorporated into the current file, and that the previous application had also received support for a resolution of approval of the plans.

The draft will be prepared in time to be acted upon 7/31/07.

3. **#2007-068-SP:** Special Permit Application under Section 9.2 as required by Section 3.2.C.10 of the Ridgefield Zoning Regulations for a development plan for single family dwellings and detached garages on previously approved seven (7) lot subdivision located on **Bryon Avenue** in the SD R-20 Zone. Owner: Country Club Development, LLC. Auth. Agent: Donnelly, McNamara and Gustafson, P.C. *Received 6/5/2007, walked 6/24/2007, public hearing commenced 7/3/2007 and continued 7/24/2007. 65-day action period ends 9/27/2007. For action.*

**Mr. Katz** motioned, seconded by Dr. Autuori, to draft a resolution of approval for the application. Mr. Katz said there is no particular in the Special Permit requirements that this fails to meet. He felt it did fail to meet the requirements in the earlier hearing, but modified plans were submitted to address the concerns of the Commission for Lots 1 and 7, and it now lives up to the spirit of the regulations.

**Dr. Autuori** said the applicant was especially responsive to the concerns, and should be commended for the improvements. He requests that the condition of approval be included regarding the building of the stone wall on the neighbor's property opposite the entrance road.

**Mr. Katz** agrees to the reference, but does not see how the approval can be conditioned an application on anything more than the representation of the applicant, referencing what was agreed to.

**Mr. Walsh** has great concern about including a condition of approval regarding two independent parties that the Commission has no control over in negotiation. The Commission has no control over an applicant doing something on someone else's property. The Commission would be treading on thin ice if they were to start requiring applicants to negotiate with neighbors outside of the property.

**Dr. Gelfman** said he didn't think there was any negotiation involved. There are three plans available. Mr. Walsh says that if there are three plans that can be submitted to the neighbor and the applicant agrees to pay, that's one thing, but the approval should not be conditioned on negotiation.

**Mrs. Willis** referenced what she thought was a similar situation with a dam that burst on Oscaleta Road, and the property owner was told to work something out with the neighbor whose property had been damaged. The Planner explained that that was a wetlands violation, and there was need for remediation. An insurance company was involved in a negotiated settlement. This is a different situation.

**Dr. Autuori** respects Mr. Walsh's opinion, but he says that in discussion during the public hearing it was agreed that the three fence/wall plans could be considered.

**Chairman Mucchetti** said she shares Mr. Walsh's concern. She does not see how it can be regulated by the office, and how it can be made a condition. She likes the project and wants to support it, but does not see how they can create a condition that cannot be regulated or enforced.

**Dr. Autuori** asks the Planner to read the paragraph transcript provided by the neighbor from the 5/16/06 public hearing, where the applicant agreed to build the wall. Mr. Walsh says it is nice to think about how this can be put in, but what if Mr. Lowe does not agree to any of the plans? The Commission should not be in the business of doing the bidding of someone else.

**Dr. Gelfman** says that there was discussion in the hearings about how the headlights could be mitigated, and these plans were discussed. Mrs. Willis said she remembers a discussion about a high fence, with a stone wall and a wooden fence on top, and she was concerned about how it was so high that it would block light and the yard would be very dark. She knows that the applicant had something in mind with a sketch presented to the Commission.

**Mr. Walsh** says that is different. If there is something in the file, then the Commission can reference that and say that it has to be done. The Commission should not condition a negotiation. Mr. Katz asks why they could not say something like, "The applicant agreed as a condition of approval to work with the neighbor for appropriate screening. While not a condition of approval, the Commission hopes this referenced commitment can be fulfilled."

The Planner reads the quote of Mr. Reed Whipple as presented in notes by Mr. Lowe from the 5/16/06 hearing (he represented that the quote was taken from tape recorded discussion at the hearing):

I just want to emphasize to the Lowes that what we agreed to do for you we would actually do, and that would be in writing, and that would be a condition of approval. And we would also sit down with you, not to do any of our designs, sit down with and design something that works for you, specifically for your use and what your needs are instead of what we would look... I am very much an aesthetics person, by the way, so I certainly appreciate your support on that, and we will work with you on this as well. And as far as the road coming down there like that [referring to the three separate options of road cuts] I know that's not the picture-perfect scenario, if you had to pick between the other one and this one, but what is does do is allow the lights to go down the hedgerow right between the two houses there right now, which in fact would be dead on with your house the way it's designed in this scenario here, but either way, whatever one you choose, if the Commission does approve it, whatever scenario, we would certainly sit down with you and design it with you.

**Dr. Autuori** says the key issue is to make it a condition of approval, as offered by the applicant. After tonight's discussion, we understand that there will be three estimates, and the applicant will decide what's best economically, and the Lowe's can accept it. Now if the Lowes don't accept it, that's it, that's the end of the condition. But that much should be the condition, as offered.

**The Planner** says that her concern is that she has spent much time with the neighbors talking about this issue, and they have listened to the tapes. What she does not want is for the Planning and Zoning Office to get into a situation of negotiation between the owner and the applicant. So if a condition is written, and she is not certain how it can be written, she would have to show it to the Zoning Enforcement Officer to get his opinion. A condition of approval is an enforcement issue, and she is trying to

figure out how to write a condition that can be enforced, if the track record of the property owner not agreeing with the applicant continues.

**Chairman Mucchetti** agrees. The condition may put the office into the position of being the arbitrator, and that should not happen.

**Dr. Gelfman** says he heard clearly at the hearing that the applicant would offer Mr. Lowe three prices, and he would choose one or not. If he chooses one, then it should be built, end of story. Dr. Autuori says there is a plan somewhere, and that should be available to the office. Regardless of all these considerations, the Commission has an obligation to protect the neighbor, and the applicant has agreed to do it. There will be seven houses coming out directly across from this neighbor, and somehow that neighbor should be protected.

**Chairman Mucchetti** points out that there may be other neighbors who will be equally impacted, and we are only proposing to help this one. The neighbor to the right could be impacted, too.

**Mrs. Willis** asks if the applicant could show that he has written a check to prove that he has fulfilled the requirement, and then the office doesn't have to get involved in anything. Chairman Mucchetti just doesn't see how it can be regulated or enforced.

**Dr. Autuori** says that the only thing that hasn't been decided is the three bids for the wall. Chairman Mucchetti says no, there has been no decision on how to write the condition of approval for the resolution, so that it can be enforced.

**Dr. Autuori** asks if the drawing can be obtained before the next meeting. The Planner says that the drawing was part of the original record for the subdivision and it was referenced in the public hearing this evening, and that is the only way she feels comfortable introducing it into the current record. But it will be difficult to write the condition.

**Mr. Fossi** asks what will happen if the applicant writes the check to Mr. Lowe according to the chosen estimate, and Mr. Lowe never builds the wall? Dr. Autuori says that's Mr. Lowe's problem. Mrs. Willis says we have done our best to make it happen. Dr. Autuori says the Commission could require that the money be used to build the wall.

**Chairman Mucchetti** asks the maker of the motion if this is included in the motion?

**Mr. Katz** says yes, if it can be done so that the office is comfortable with it. If we have a drawing somewhere that shows a stone wall and a fence that I believe was originally acceptable to the neighbor, and depending on cost that is acceptable to the applicant. He doesn't want to get involved in the yin and the yang between the property owner and the applicant, but the Commission's obligation is to honor a commitment that was made in testimony at a bona fide public hearing before the

Commission. He would like to reference the drawing. The Planner thinks it can be found in the old record.

**Mr. McChesney** asks that the Commission get three bids, and give the money to the contractor. The Planner suggests that the applicant could pay the contractor directly. Mr. McChesney goes on to say that proof could be provided to the ZEO to show that the commitment has been fulfilled. Then he has done what we asked. Dr. Autuori likes the idea that the applicant would pay the contractor directly based on the estimates. If Mr. Lowe does not end up wanting the wall to be built, that's his problem.

**Mr. Katz** agrees that he could agree to such a condition. The Chairman calls for a vote on the motion to draft the approval.

**Mr. Fossi** says that it's too bad that the Commission got involved in this minor detail, because overall it was an outstanding application. The Commission agrees unanimously.

**Chairman Mucchetti** says she likes the application very much, but if the condition for the wall goes forward, it would not have her support. She is very troubled by the precedent that is being set. Contentious neighbors are present at almost every application. A condition for off-site improvements is not a good idea, and it's a difficult position to put an applicant in where there is so much contention. But if you're dismissive to the concerns, the Commission doesn't come across as being concerned.

**Dr. Gelfman** reminds the Chairman that there were several different locations proposed for the road, and finally the applicant offered to screen the house across the street so the Commission could support the road in the location that was eventually approved, as a compromise to put the road where the applicant wanted it.

**Chairman Mucchetti** says she remembered that the Commission agreed at one point that this should be worked out as a private agreement. Mr. McChesney reminds all that the resolution is coming back as a draft, and that the condition can be modified or eliminated as they see fit at the next meeting.

The motion to draft the resolution passed, 7-2. Chairman Mucchetti and Mr. Walsh were opposed because they did not agree with the condition pertaining to off-site improvements, and because that condition would be difficult to enforce.

4. **#2007-080-SP:** Application for Special Permit under Sec. 9.2 as required by Sec. 3.3.D.2 of the Ridgefield Zoning Regulations to operate a business as a Major Home Occupation in an existing accessory building on the property located at **61 Peaceable Hill Road** in a RAAA zone. Owners: Paul and Elizabeth Montanari. Auth. Agent: John F. McCoy, P.E. *Received 7/10/2007. Public hearing commenced 7/24/2007. 65-day action period ends 9/27/2007. For action.*

**Mr. Fossi** motioned to approve the application as presented, seconded by Mr. McChesney. Conditions would include provision for up to four employees (including the owner), the addition of an 8-foot section of fence for screening of the outside materials storage, and provision requiring the applicant to address the Fire Marshal's concerns. The presentation of the application included parking of one pick-up truck outside of the garage, and occasional storage of a small "skid-steer" excavator in the outside storage area.

The motion to approve the application (as a final vote) passed, 9-0.

5. **#2007-076-SP/VDC:** Application for Special Permit under Section 9.2 as required by Section 7.2.E.11, to permit the installation of two tenant signs per tenant space at **451-465 Main Street** in the CBD zone. Appl./Owner: E.A.L. Associates, c/o Amy Aronson & Lisa Quattrocchi. *For discussion of prior vote, c/o Nelson Gelfman*

**Chairman Mucchetti** said she was approached by Dr. Gelfman following the vote last week, and he asked that the item be brought back to the table for further discussion. Since the legal notice has not been filed, it could be reconsidered, but there must be a motion from someone voting in the majority, a second and a vote to reconsider, in order to open new discussion. She asked Dr. Gelfman to explain his request to reconsider the vote from the previous week, which denied the Special Permit application and the "zig-zag" two-sign design for tenant spaces.

**Dr. Gelfman** explained that he visited the site and studied the proposed zig-zag design. He thought the drawings presented were confusing and hard to understand, and while visiting the site he thought that it would have been better if the applicant had mocked-up signs for observation. He thought there might have been a different decision from the Commission and the AAC, if they had been able to better understand the way the signs would look. So, if the Commission is willing to re-open the discussion, he would like to do that.

**The Planner** referenced the AAC and VDC minutes, to clarify that the signs were to be "on the same plane" with the fascia, and not necessarily mounted on the fascia. They could be hung under the edge of the fascia, below, which might look better. Regarding the issue of the reconsideration, the Planner reminded the Commission of its reconsideration of one of the votes pertaining to the Eureka property, a serious issue at the time, and noted that Commission counsel Thomas Beecher had provided a letter instructing the Commission on procedures for "reconsideration" of a vote. She quoted from the letter, "Reconsideration is an extraordinary remedy not to be routinely raised or utilized by Commissions. There must good cause to reconsider a decision." This "good cause" language is repeated later in the letter when Mr. Beecher cites a court case where it says, "It should be noted that in that decision [this is Sharp v. the zoning Board of Appeals] the court stated there is a period of up to fifteen days from the date of decision in which the Board may open its decision for good cause, to correct matters that were overlooked and were capable of speedy and

practical correction.” The Planner cautioned the Commission, acknowledging that although Dr. Gelfman makes some extremely good points, reconsideration of a vote that has been taken, resolutions drafted, legal notices prepared, everything ready to go, is not something that the Commission should do lightly. A decision was made, and what the Planner doesn’t want to see is that this would become something that the Commission would, from time to time, utilize when there was a realization during the week after a decision was made, that “oops” maybe we made a mistake.

The Planner says it needs to be a serious consideration before reconsidering a vote. It is a tremendous paperwork problem for the office, but aside from that, a reconsideration of a vote is not something that should be taken lightly.

**Mr. Walsh** makes a motion to reconsider. He thinks Dr. Gelfman made a good point, that in order to have an open mind in the decision that was made, they probably should have had the mock-up signs placed on the zig-zag. He thinks that could have had an effect on the vote to deny the application. Mr. Fossi seconds the motion. It is open for discussion.

**Chairman Mucchetti** notes that the decision to reconsider was put on the table by someone who voted in the majority, and that was done correctly. She asks if this brings the matter back to the discussion, where they can now ask the applicant to prepare a mock-up of the signs?

This discussion continued about how a mock-up could be designed, until it was realized that a vote on the motion to reconsider had not been taken. Mrs. Willis asks if this procedure would set a precedent on every store coming in with a sign. The Planner stated that this would set a precedent for any vote that the Commission might make, and she has a problem with reconsideration unless there is good cause.

**Dr. Gelfman** disagrees. He says it is setting a precedent to look at a project. The motion passed, 6-3. Mrs. Willis, Mr. Katz and Mr. McChesney were opposed.

**Chairman Mucchetti** had a procedural question in terms of timing, and wondered if this puts the timeline of the application back in place? The Planner said she might need legal advice on continued procedure.

**Mr. Katz** says there was no discussion on the motion before it was voted on, and he expresses his opposition to the idea of bringing it to the table. He says it is not accurate that they did not visit the site. There was a site walk as a group. He is very comfortable with the decision made. He feels that the two signs are totally redundant, for an aesthetic purpose that is dubious. He thinks bringing this vote back for reconsideration is risky, because there is then no area which is diminimus enough for reconsideration at the table. He thinks the threshold for such reconsideration really needs to be set considerably higher, where there is more risk to the Town, in its longevity and perpetuity, may have involved a decision that was either hastily made,

or a decision where the Commission came to believe was without complete data or information. He does not believe the argument for that case has been made.

**Chairman Mucchetti** says that the applicant should be asked to do a mock-up of the design and it should be put back on the agenda in September. The Planner reminds the Commission that there were two decisions made, one for the Special Permit for one sign per store, and the Village District decision was an approval of the design for one sign per store. If one decision is reconsidered, then both must be reconsidered.

**Mr. Katz** noted that the decision to reconsider was a decision to bring back the vote on the Special Permit. Chairman Mucchetti reads from legal counsel's letter, and says that the Commission is only asking for more information prior to voting again on the Special Permit.

In continued discussion, it was eventually clarified that "reconsideration" means that the Commission is only at the point where the vote to deny the application could be taken again; the public hearing was closed, there is no opportunity for additional information, and the Commission was only allowed to reconsider their vote on the Special Permit – one sign or two signs per store.

**The Planner** agreed with Mr. Katz's earlier remark, that there needs to be a compelling reason to reconsider a vote. She is concerned by the precedent that is being set by reconsidering what appears to be a minor application.

**Mr. Walsh** says that "horse is already out of the barn." The vote was taken. Now the vote on the Special Permit needs to be retaken.

**Mr. Katz** says that many of the Commissioners may wish they had voted differently, but going forward to change the vote now, the Commission has been "damaged" by following through with this. The Planner has made a strong case, supported by the Commission counsel, on what matters merit reconsideration. This is not such a case. The Commission has benefited from the discussion, but it is not worth undoing what was done before.

**Dr. Autuori** has mixed feelings, but feels that this may not merit over-turning. He says, however, that a small issue could indeed have a compelling reason to be overturned, even though it is minor. This may not be such a case.

**The Chairman** brought the discussion back to the issue at hand: reconsideration of the vote on the Special Permit, where there was a motion by Mr. Katz and a second by Mrs. Willis to deny the Special Permit and the two-sign design.

The motion to deny the application passed, 6-2-1. Mrs. Mucchetti and Mr. Fossi were opposed, and Dr. Gelfman abstained.

It was noted that the vote on the Village District application should remain unchanged, since the decision also supports the one-sign per tenant design.

## NEW ITEMS

6. **#2007-088-VDC:** Village District Application under Sec. 8.3 required by Sec. 5.1.B. of the Ridgefield Zoning Regulations to review exterior restoration of Georgian detailing and the addition of stairs and elevator to south of existing building located at **23 Catoonah Street** in the CBD zone Owner: Tish Vredenburgh. Appl./Auth. Agent: Peter Coffin. *35 days to receive report from Village District consultants ends 8/28/2007. For receipt/referral to VDC.*

**Dr. Autuori** motioned, seconded by Mr. Slavin, to acknowledge receipt of the Village District application. The motion passed, 9-0.

**Chairman Mucchetti** asked the Planner to explain why this application did not require Special Permit review, because there was concern about the Commission's ability to protect the historic structure. The Planner explained that the additions were not increasing useable tenant space, but were proposed in order to provide handi-cap access at the back of the structure. The VDC review was required because extensive exterior renovations and restoration is proposed. The Commission could comment further in making a decision on the Village District application at the 7/31/07 meeting.

**Chairman Mucchetti** is concerned because of the problems that occurred at 27 Catoonah Street, where renovations resulted in demolition of the building, more than what was anticipated by the Commission and represented at the public hearing.

7. Continuance of the AAC as the VDC beyond July 31<sup>st</sup>. *For discussion.*

**Chairman Mucchetti** noted that the Architectural Advisory Committee (AAC) had been appointed by the Commission to serve as the Village District Consultant (VDC) through July 31, 2007. There was a need to make a decision on continuing the VDC appointment, or taking some other action.

**Dr. Autuori** motioned, seconded by Mr. Slavin, to appoint the AAC as the VDC for an additional period, through May 1, 2008, the anniversary of the creation of the Village District. The motion passed, 7-1. Mr. Walsh was opposed, and Dr. Gelfman was temporarily out of the room.

**Chairman Mucchetti** noted the distribution of the attendance sheet for the AAC. The Town charter has a two-thirds attendance requirement (two-thirds of all meetings).

8. **#2007-085-VDC:** Village District Application under Sec. 8.3 to construct a free standing sign on property located at **451-467 Main Street** in the CBD zone. Owner: Benenson Funding Corp. Appl./Auth. Agent: Poyant Signs, Inc. *35 days to receive report from Village District consultants ends 8/28/2007. For receipt/referral to VDC.*

**Dr. Autuori** motioned, seconded by Mr. Slavin, to acknowledge receipt of the application for 451-467 Main Street, and to refer it to the VDC. The motion passed, 9-0.

9. **#2007-086-REV(SP):** Revision to Special Permit under Section 9.2.A.7.e as required by Section 5.3.C of the Ridgefield Zoning Regulations to revise site plan and architectural changes to buildings to be constructed on property located at **66 Grove Street** in the B-2 zone. Owner: 66 Grove St LLC. Appl./Auth. Agent: Madaket Beach Developers, LLC. *65-day action period ends 9/27/2007. For receipt/discussion/action.*

**Chairman Mucchetti** recognized Maria Genovese, architect, who was present to represent the applicant. The Planner explained that the applicant had appeared in front of the AAC for architectural revisions. The item is in front of the Commission because they are proposing to eliminate the patios at the ground level of the building, eliminating the need for grading.

Ms. Genovese explained the proposed modifications in the architecture of the buildings, which would result in the elimination of the at-grade patios at the backs of the buildings, eliminating the patio doors and replacing them with windows (which would meet egress codes). The plan was to use the natural grade, which results in less grading on the site overall.

**Dr. Gelfman** asked whether additional trees could be saved, and Mrs. Willis asked if a revised landscape plan would be provided. Ms. Genovese said they would save additional trees if possible. Dr. Gelfman noted that the significant trees are in the northwest corner of the development, and that's where the plan really needs to be reviewed, to save some of the incredibly large trees.

**Dr. Autuori** asked if the floor plan changes resulted in new bedroom space. Ms. Genovese said no, the number of bedrooms is the same.

**Mr. Walsh** asked why all of the plans were not being brought to the Commission at once. Ms. Genovese explained that Artel Engineering was in the process of preparing the revised plans, but the drawings were unavailable now because the engineer's office had been damaged by fire. The Planner suggested that the new plans could be reviewed by the P&Z office staff, especially in regard to saving additional large trees, and any significant changes could be brought back to the Commission. It was confirmed that the AAC had approved the revisions to the plans.

**Mr. Katz** motioned, seconded by Dr. Autuori, to approve the request for Revision to the Special Permit, with a condition about review of plans as per the Planner's suggestion. The motion passed, 9-0, as a final decision.

10. **#2007-087-PRE:** "Pre-submission concept" request under Section 9.2.E. of the Ridgefield Zoning Regulations to rezone a portion of **Sunset Lane** from R-20 to R-7.5. Owners: Chester and Gary Zawacki. Auth. Agent: Matthew Ranelli, Esq. For receipt/schedule for discussion.

**Chairman Mucchetti** noted that this was the first request received by the Commission under the new section provided in the regulations adopted May 1, 2007. She suggested 9/18/07 as a date for review of the concept.

**Dr. Autuori** motioned, seconded by Mr. Slavin, to acknowledge receipt of the request and to schedule the item for the 9/18/07 agenda. The motion passed, 9-0.

11. **#2007-089-VDC:** Village District Application under Sec. 8.3 to install an awning over window on building located at **446 Main Street** in the CBD zone. Appl./Auth. Agent: Rick Higgins. Owner: Willett Properties, LP. *35 days to receive report from Village District consultants ends 8/28/2007.* For receipt/referral to VDC.

**Dr. Autuori** motioned, seconded by Mrs. Willis, to acknowledge receipt of the Village District application and to refer the item to the VDC. The motion passed, 9-0.

12. **#2007-090-SP:** Special Permit Application under Sec. 9.2 required by Sec. 3.2.C.1. of the Ridgefield Zoning Regulations for additions and renovation the Ridgefield Police Headquarters located at **76 East Ridge Road** in the RA zone. Owner: Town of Ridgefield. Appl./Auth. Agent: DCA Architects/Planners, LLC. *65 days to commence public hearing ends 9/27/2007.* For receipt, schedule walk and public hearing.

**Chairman Mucchetti** suggested 9/9/07 for a site walk on the application, and 9/18/07 for a public hearing. Dr. Autuori motioned, seconded by Mr. Slavin, to acknowledge receipt of the application and to schedule the site walk and public hearing as suggested by the Chairman. The motion passed, 9-0.

13. **#2007-091-REV(SP):** Revision to Special Permit under Sec. 9.2.A.7.e. of the Ridgefield Zoning Regulations for exterior renovations to the building located at **1 Ethan Allen Highway** (Keough Plaza) in the B-1 zone. Owners: Edward C. & Barbara H. Keough. Appl./Auth. Agent: Daniel P. Hannon. *65-day action period ends 9/27/2007.* For receipt/action.

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

**The Planner** noted that the proposed changes were primarily aesthetic, and the item would appear on the agenda for 7/31/07, pending receipt of the AAC's comments.

14. **#2007-092-REF:** Referral under Sec. 8-24 of the C.G.S. to extend water main to **Acre Lane**. Referred by Town of Ridgefield. *For discussion/action.*

**Chairman Mucchetti** asked the Planner to explain the request for referral, and the Planner referenced information provided by the Town Engineer. It was noted by Mr. McChesney that the water line had already been installed, and that the 8-24 referral should have come to the Commission before the work was done. The Commission agreed unanimously.

**Mr. Walsh** asked if referrals could be conditioned. He said he would like to comment that this could be a forced water main, to serve Acre Lane only. It was determined that this concept only applies to sewer lines, not water lines. The State Department of Health has laws that allow water extensions without Town approval.

**Mr. Walsh** motioned, seconded by Dr. Autuori, to send a favorable report to the Board of Selectmen on the 8-24 referral. The motion passed, 8-0-1, with Mrs. Willis abstained.

15. **#2007-093-REF:** Referral under Sec. 8-24 of the C.G.S. to extend water main to **North Street and Barlow Mountain Road**. Referred by Town of Ridgefield. *For discussion/action.*

**Chairman Mucchetti** referenced the information provided by the Town Engineer on the need for the water line for the Scotland and Barlow Mountain Schools, because of a contamination issue. Mr. McChesney stated his objection to the proposal to tear up North Street again, for the installation of the pipe line. He said the line should have been installed when the sewer line went into the ground for the new middle school and the high school.

**Mr. Katz** motioned, seconded by Dr. Autuori, to send a favorable report to the Board of Selectmen on the 8-24 referral. The motion passed, 8-0-1, with Dr. Gelfman abstained.

#### **COMMISSION WALKS**

The following site walk was scheduled for September September 9, 2007:

- **#2007-090-SP:** Special Permit-Ridgefield Police Headquarters **76 East Ridge Road**, Town of Ridgefield

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

There were no requests for bond release or reduction.

#### **CORRESPONDENCE**

Chairman Mucchetti noted that the Open Space Enforcement Letter originally scheduled for discussion at the Board of Selectmen's July 25<sup>th</sup> meeting did not appear on the BoS

agenda. She withdrew her request for Commissioner's attendance at the Selectmen's meeting.

## **MINUTES**

**Mrs. Willis** motioned to approve the minutes of July 10, 2007, seconded by Mr. Fossi. The motion passed, 9-0.

Hearing no further discussion, the Chairman adjourned the meeting at 10:17p.m.

Respectfully submitted,

Betty Brosius  
Director of Planning