

APPROVED / REVISED
MINUTES
INLAND WETLANDS BOARD MEETING

September 1, 2009

Present: Michael Autuori
Peter Chipouras
Nelson Gelfman
John Katz
James McChesney
Phil Mische
Rebecca Mucchetti, Chairman

Absent: Joseph Fossi
Patrick Walsh, Vice Chairman

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

A public hearing was held prior to the meeting. The Planning and Zoning Commission meeting was held prior to the Inland Wetlands Board meeting.

At p.m. 9:55 p.m. Chairman Mucchetti called the meeting to order.

PENDING ITEMS

1. **#2009-047-PR:** Plenary Ruling application as required by Section 7.6 of the Inland Wetlands & Watercourses Regulations for the Town of Ridgefield for regulated activities within the wetlands and upland review areas for piping and reconstruction of watercourses in conjunction with the development of a single family residence on property located on **Second and Third Lanes** in the RA zone. Owner: Wayne E. Wood and The Estate of Charles F. Dean, Jr. Auth. Agent: John F. McCoy, VII, P.E. *Received 6/16/2009. Public hearing commenced 7/21/2009, extension granted to continue on 9/1/2009.*

Chairman Mucchetti noted that the continued hearing was not held on this date, and the applicant requested a further continuation to September 8, 2009.

2. **#2009-056-SP-PR:** Plenary Ruling Application under Section 7.6 of the Inland Wetlands and Watercourses Regulations for the Town of Ridgefield for bridge installation crossing the Silvermine River for residential development on Lot #6 in the Shafer Subdivision, **Spectacle Lane and Wilton Road East**. Applicant/Owner: Pyramid Luxury Homes Joint Venture. Auth. Agent: JFM Engineering, Inc. *Received 6/30/2009. Walked 7/12/2009. Public hearing commenced 9/1/2009.*

Chairman Mucchetti noted that the Board had scheduled a second site walk for 9/13/09, and the hearing was continued to 9/22/09.

NEW ITEMS

3. **#2008-119-PR:** Revised design for Approved Plenary Ruling application, property located on **Wilton Road East, Lot 39** in the RA zone. Owner: Earl A. Burchard. For discussion c/o Agent. Suggest 9/8 explanation by developer's engineer.

Chairman Mucchetti reported that the applicants were requesting onsite modifications and an alternative to the use of the gabions, which were a part of the original approval.

Agent Brosius explained that the contractor for the lot development, Jeff Richardson, requested a revision to the approved plans, to allow a dry-wall stacking of large rock - for the edges of the driveway instead of the gabions approved by the Board. She explained to Mr. Richardson that the application had formerly been rejected many times and that the approval was based in part on the use of the gabions, because it was felt that they would adequately filter the water. Mr. Richardson said that the large rock would filter the water just as well.

Ms. Brosius felt the application would need further review by the Board. She felt the applicant should follow the approved plan or submit a formal application for a revision, because the findings that were made for the approval cited the use of gabions.

Ms. Brosius asked for confirmation from the Board that the applicant's requested changes should not be considered a field change. She said the applicant has the right to submit a formal application for a revision, but she would not advise it. She also noted that the intervener had been concerned about what would happen downstream, and the gabions were suggested to address those concerns.

The consensus of the Board was that the change was major, and could not be approved without a formal submission for revision to the approved plans.

BOARD WALKS

The following site walk had been previously scheduled for **September 13, 2009:**

- **#2009-062-PR:** Plenary Ruling **Water's Edge Way**, Hearing and Hearing, Inc.

The following item was added to the site walk schedule for **September 13, 2009:**

- **#2009-056-SP-PR:** Plenary Ruling, **Spectacle Lane and Wilton Road East**, Pyramid Luxury Homes Joint Venture.

REQUESTS FOR BOND RELEASES/REDUCTION

- **#2006-026-SR:** request for release of \$1,000.00 bond, **345 Wilton Road West**, Trillo. Agent recommends 100% release.

Mr. Mische motioned, seconded by Dr. Autuori, to release the bond in full as recommended by Wetlands Inspector/Agent Aimee Pardee. The motion passed, 7-0.

- **#2006-021-SR & #2005-010-SR:** request for release of \$3,500.00 balance on bond for **6 Water's Edge Way**, Costigan. *See Agent memo.*

Chairman Mucchetti said there had been “modest modifications to the planting plan.” The hillside had been stabilized with natural vegetation, as opposed to the specified landscape vegetation. (She pointed out a memo and supporting documentation provided by Wetlands Agent/Inspector Aimee Pardee, which stated that the site appeared stable, however, the landscaping plan had not been followed and the vegetation was primarily “natural,” with some additional evergreen trees.)

Agent Brosius said the landscape architect explained why he had not followed the landscape plan exactly.

There was discussion among the Board as to the original objective of the specified landscape plantings and whether or not the natural vegetation that has developed fulfills the original intent/purpose.

The Chairman stated that a disturbance of the existing slope to install the specified plants could actually destabilize the hillside.

Ms. Brosius suggested the Board members do a drive-by inspection during the week. She suggested the item return to the agenda on September 8th for further discussion. If the site was deemed to be satisfactorily stable, the Board can release the bond. Stability rather than restoration of previous vegetation (larger trees) is of the greatest importance on this site, she said.

The Board agreed to the drive-by inspection. The item will return to the agenda for further discussion on September 8th.

CORRESPONDENCE

Chairman Mucchetti pointed out the following correspondence:

- Letter dated 8/26/09 from Aimee Pardee to Tom Sturges, re wetlands violation on the lot he is developing at **161 Spectacle Lane**, for installing a catch basin in a driveway with an outlet into the wetlands, which was not approved as part of the plan. The Agent explained the application and the violation.
- Letter dated 7/24/09 from Agent Brosius to Steven Trinkaus, P.E., re information required by the Health Department for the Hearing property at **Water's Edge Way**.
- Correspondence (e-mails) between Robert Jewell, Esq. and Agent Brosius, re consultant review fees for the **Water's Edge Way** application
- Letter dated 8/5/09 from Agent Brosius to Attorney Jewell, re consultant review fees for the **Water's Edge Way** application (Hearing)
- Conservation Commission letter dated September 1, 2009, re the **Second Lane and Third Lane** wetlands application.

- Letter dated 7/24/09 from Agent Brosius to property owner Wayne Wood, re legal questions pertaining to the **Second Lane and Third Lane** wetlands application
- Comment/review letter dated 8/26/09 from Land-Tech Consultants, re proposed development at **Water's Edge Way** (Hearing). There were concerns as to whether or not the Land-Tech report satisfies the Board questions and concerns over environmental issues on the property.

MINUTES

Mr. Mische motioned, seconded by Dr. Autuori, to approve the minutes of July 28, 2009. The motion passed, 6-0-1, with Mr. Chipouras abstained.

Hearing no further discussion, the Chairman adjourned the meeting at 10:05 p.m.

Respectfully submitted,

Linda Caponetti
Recording Secretary

APPROVED / REVISED
MINUTES
PLANNING AND ZONING COMMISSION MEETING

September 1, 2009

Present: Michael Autuori
Peter Chipouras
Nelson Gelfman
John Katz
James McChesney
Phil Mische
Rebecca Mucchetti, Chairman

Absent: Joseph Fossi
Patrick Walsh, Vice Chairman

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

A public hearing was held prior to the meeting. The Planning and Zoning Commission meeting was held prior to the Inland Wetlands Board meeting, beginning with item #6 and then continuing with the remainder of the agenda.

At 9:12 p.m., Chairman Mucchetti called the meeting to order.

PENDING ITEMS

1. **#2009-056-SP-PR:** Special Permit Application under Section 9.2 required by Section 6.1.E of the Ridgefield Zoning Regulations for bridge installation over the Silvermine River in a 100-year flood zone, for residential development on Lot #6, Shafer Subdivision, **Spectacle Lane and Wilton Road East**, in the RAA zone. Applicant/Owner: Pyramid Luxury Homes Joint Venture. Auth. Agent: JFM Engineering, Inc. *Received 6/30/2009. Walked 7/12/2009.*

Chairman Mucchetti noted that a second site walk would be scheduled for September 13, 2009, and Mr. McCoy would make some field locations to help with the Board's discussion. The hearing was continued to 9/22/09.

2. **#2009-071-A:** Proposed Amendment to the Ridgefield Zoning Regulations, **Section 3.5.F and 3.5.G.** c/o Jeffrey D. Mose, AIA. *For discussion.*

Chairman Mucchetti referred to the Planner's memo about potential changes to the Lot Coverage and Floor Area requirements for larger lots in the residential zones, and referenced the issue raised by local architects Jeff Mose, Peter Coffin and Doug MacMillan earlier in the year. She noted some additional information at the table and the staff's suggestion that the item be brought back the following week.

Planner Brosius explained the memo and attached tables, and suggested that the Commission study the proposed changes before the meeting on September 8, 2009, when Mr. Mose would be asked to address his additional concerns about the amendment.

The Planner said she had compared Mr. Moses' numbers to those of New Canaan, (whose regulations are similar to Ridgefield's), and Wilton, which uses a straight 7% for lots over two acres. She said that she had attempted to "tone down" Mr. Moses' requests for "pretty generous increases" in lot coverage and floor area, so that the numbers in the table entitled "Ridgefield Proposed" would represent a figure slightly lower than what Mr. Mose suggests, similar to that of New Canaan, and the 140% number similar to that of Wilton. The Planner said that Mr. Mose reviewed the numbers she proposed and would like further discussion. She asked the Commission to study the numbers carefully.

There was no action taken. The item will return to the agenda on September 8th for further discussion.

NEW ITEMS

3. **#2009-064-SP:** Special Permit application under Section 9.2 required by Section 3.3.D.2 of the Ridgefield Zoning Regulations to permit a home office in the existing single family residence located at **61 Sugar Loaf Mountain Road** in the RAA zone. Owner: Jeroen Theys. Appl./Auth. Agent: Lance Rogers, Esq. *65-days to commence public hearing ends 11/5/2009. For receipt, schedule walk and public hearing.*

Chairman Mucchetti asked for acknowledgement of receipt of the application and suggested a site walk for 9/13/09 and a public hearing for 10/6/09.

Mr. Katz 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, 7-0.

4. **#2009-066-SP:** Special Permit application under Section 9.2 required by Section 3.6.C. (Lot Coverage Exceptions) of the Ridgefield Zoning Regulations to permit an addition to the existing residence located at **15 Hidden Lake Court** in the RAA zone. Owners/Appls.: Vincent and Angelina Falotico. *65-days to commence public hearing ends 11/5/2009. For receipt, schedule walk and public hearing.*

Chairman Mucchetti asked for acknowledgement of receipt of the application and suggested a site walk for 9/13/09 and a public hearing for 10/6/09.

Dr. Autuori motioned, seconded by Mr. Chipouras, to acknowledge receipt of the application and to schedule the site walk and public hearing as suggested. The motion passed, 7-0.

5. **#2009-067-VDC:** Village District Application under Section 8.3 required by Section 7.2.E.11 of the Ridgefield Zoning Regulations to permit wall signage for beauty 360 on existing retail building located at **467 Main Street (CVS)** in the CBD zone. Owner: EAL Associates. Appl./Auth. Agent: Lorence Signworks. *35 days to receive VDC report ends 10/6/2009. For receipt, schedule walk if necessary.*

Chairman Mucchetti described the application and noted that it would return to the agenda pending receipt of a review by the Village District Consultant, after their next meeting, (9/8/09). No formal site walk was scheduled.

6. **#2009-068-PRE:** Pre-Submission concept to re-zone portions of **Main Street (607, 609 and 613)** currently located in the R-20 zone to the B-1 zone. Auth. Agent: Donnelly, McNamara and Gustafson, P.C. Owners: Tepfer, Parascondola, 613 Main St., LLC. *For discussion.*

Attorney Robert Jewell was present to represent the property owners, who seek to re-zone the lots from R-20 to B-1. Discussion followed.

Mr. Jewell noted that this was “one of the new pre-application informal concepts” presented for discussion. He introduced the property owners, who were present in the audience. He presumed the application would encompass the property previously operated as Nina's, which by variance is already being utilized as a B-1 or B-2 use.

Mr. Jewell noted that he met with Planner Brosius and Zoning Enforcement Officer Baldelli. He felt there was agreement that the zoning on this part of Main Street between Pound Street and Rte.116 “doesn't seem to make a lot of sense.” Currently, none of the properties comply with the governing R-20 regulations. This is a single-family residence zone and there haven't been any single-family residences on any of the properties since the zoning laws were enacted in 1946, Mr. Jewell said. He described the property uses, current and past.

Mr. Katz asked for the total acreage of the properties. Mr. Jewell said they comprise approximately 1.7 acres.

Mr. Jewell said the applicants came forward to propose “a reasonable expansion of the B-1 zone,” which they felt would be appropriate for these properties because the B-1 zone runs along both sides of Rte. 35 and directly across the street. Zoning concepts disfavor isolated pockets of zoning, he added.

Mr. McChesney asked Planner Brosius what she expected from the Commission with regard to the item. This was an opportunity for feedback that is non-binding on the part of the Commission, the Planner said.

Mr. McChesney asked the Planner if he was free to make any type of comment, and then said he felt the proposed re-zone concept was a “very reasonable suggestion,” and he would support the application.

Mr. Katz strongly disagreed, citing the Master Plan of Conservation and Development, p. 57, stating that business areas should not be expanded to meet other than community needs unless there is an important community benefit...” and p. 63, which “discourages business zone expansion.”

Mr. Katz felt that the intersection of Rtes. 35 and 116 is a heavily traveled intersection. He saw no community benefit in the re-zone. The individual properties would gain an increased valuation, “which should not be overlooked,” but it should not be the impetus for a re-zone of the area. He felt that Ridgefield does not need more retail space, and said he would never support a re-zone of the properties, which he stressed “are residential in appearance” as they currently stand.

Chairman Mucchetti stated that two of the properties function as retail, by variance, and asked Mr. Jewell if there were limitations to the variances. He knew that the limitation on the Paris Hair Salon site is for women's apparel on the second floor.

Mr. Jewell cited the fact that a new POCD is in the works, and the EDC and the Board of Selectmen have been exploring ways to “perhaps look at expanding commercial zones to increase the tax revenue” and decrease tax drain. While the applicants are not suggesting that the current uses for these properties be abandoned, (they are not proposing any specific use), they are requesting that the zoning be more in keeping with the neighborhood. Mr. Jewell said, if the area were appropriate for single-family housing, “there would probably be a single family house here.” He offered to get a traffic analysis done, and suggested that, if a Special Permit were required to increase floor space, a full blown traffic study and parking analysis could be required by the Commission.

Mr. Katz said the B-1 zone is limitless in the amount of square footage, intensity of development, use and traffic it allows. He refuted Mr. Jewell's statement that the purpose of the re-zone proposal was not to expand the usage of the particular properties to more intense uses. Mr. Jewell refuted Mr. Katz' contention that there was nothing in the current POCD to support this re-zone. He noted parts of the document which support an expansion of the commercial tax base. Mr. Katz and Mr. Jewell also disagreed on whether or not residential use is a tax drain.

Mr. Mische questioned whether re-zoning to B-1 would accomplish consistency when R-20, SDR-20, R-10 exist in close proximity. Mr. Jewell answered, “Does it make any sense that we have a pocket of a zone where not a single use is conforming?” Mr. Mische felt the streetscape would suffer, as two of the properties (multi-family now) would no longer be multi-family, but would more likely be retail, banking establishments, or offices, etc., which would be a “substantial change to the

neighbors all around.” The properties would be permitted to look and feel entirely different than they do now, he said, if the zone were changed to B-1.

Mr. Jewell asked if Mr. Mische was objecting to the B-1 zone per se or to any business commercial zone.

The Chairman intervened, saying that the discussion should be limited to a discussion of the proposed change. Mr. Jewell justified his question.

Mr. Chipouras asked about the potential for properties to the north desiring an expansion of the zone to include their properties.

Mr. Jewell denied the re-zone would set a precedent, because the properties further north could not claim to already have business uses within the lots and have commercial uses directly across the street.

Mr. Chipouras said the intersection is “horrendous,” and mentioned having a traffic light installed.

Dr. Autuori said he doesn't support “incremental creep” and is generally against intensification. While he is not against any type of commercial change, he is absolutely against re-zoning to B-1 in this area.

By denying the application, **Mr. Jewell** said the Commission would in effect be giving the ZBA more flexibility and authority over a re-zone of these properties. He asked the Commission if it was retail use that they object to.

The Chairman asked if adaptive re-use that keeps the residential streetscape was the goal. There was some agreement.

The Planner cited an adaptive re-use regulation that is currently limited to Rte. 7 and intended to encompass some of the residential homes, and used more widely in Wilton just below the Ridgefield border. She referred the Commission to No. 6 in the Residential Section of the regulations under Special Permits.

The Chairman asked if the table would consider that concept.

Discussion continued with no definitive answers. There was opposition in general to retail.

Mr. Jewell expressed surprise at the Commission's reaction, stating that he felt the previous meeting with the Planner and the ZEO had been quite positive.

Addressing the Commission, **the Planner** said, “Our concern is to put non-residential uses into your hands for review as opposed to zoning variances.” But, she acknowledged that a B-1 zone may not be the way to do that.

Even if the zone were changed to B-2, **Mr. Jewell** said, anything that was done to the footprint of the buildings would require a Special Permit.

Discussion continued.

The Planner again suggested that the applicants and the Commission review the adaptive re-use section of the regulations, which could be amended for this site.

There was no action taken on the item, as it is a non-binding discussion pursuant to Sec. 9.2.E of the zoning regulations and Section 7-159b of the State statutes.

7. **#2009-069-REV(SP)**: Revision to Special Permit under Section 9.2.A.7.ii. of the Ridgefield Zoning Regulations for a sign on the existing building located at **1 Ethan Allen Highway** (Snap Fitness 24-7) in the B-1 zone. Owner: Edward C. Keough. Appl./Auth. Agent: Hector Rosado. *65-day action period ends 11/5/2009. For receipt and schedule walk if necessary.*

Chairman Mucchetti described the application and asked for acknowledgement of receipt of the application and suggested a site walk for 9/13/09. The item will be reviewed by the Architectural Advisory Committee on 9/8/09.

Dr. Autuori motioned, seconded by Mr. Chipouras, to acknowledge receipt of the application and to schedule the site walk as suggested. The motion passed, 7-0.

8. **#2008-134-S-SP**: Second request for 90 day extension of time in which to file the subdivision map for property located at **19 and 25 Sunset Lane**. Owners/Appls.: Gary and Chester Zawacki. Auth. Agent: Matthew Ranelli. *For action.*

Chairman Mucchetti asked for a motion and second regarding the request for extension.

Mr. Chipouras motioned, seconded by Mr. Mische, to grant the applicant an extension of an additional 90 days in which to file the subdivision map for the subject property. The motion passed, 7-0.

9. **#2009-070-A**: Proposed amendment to the Zoning Regulations, **Sections 5.3.C, 5.4.C and 5.5.D**, Permitting limited, ancillary sale of goods in non-retail zones c/o PD. *For distribution/discussion/set public hearing date.*

Chairman Mucchetti introduced the item and asked the Planner to explain further.

Planner Brosius described examples of the types of businesses and products this amendment would involve. She said the amendment was intended to address the issue of permitted commercial uses where a small area of retail sales is customary and subordinate to the non-retail primary use, such as hair dressers who want to sell

shampoos, doctors who sell medical products, doggie day care facilities which sell dog collars, etc. The area proposed in the amendment “shall not exceed the lesser of ten per cent of the gross customer area or 200 sq. ft.,” she said.

Mr. Katz said that it will not be sustained by the Zoning Board of Appeals. He cited comments by Charles Creamer (Chairman of the ZBA) to the effect that if anything is allowed for sale, everything will be allowed for sale.

The Planner said that legal counsel had been consulted, and their opinion was that “the way [the amendment] is written is sustainable.” Many towns have just such a regulation for the incidental retail sales associated with the primary use, the Planner added.

Mr. Katz said that, while the amendment makes sense, the ZBA would not support it, and the Town “would not support a law suit with one agency against another.”

There was a short discussion with some disagreement between the Planner and Mr. Katz. The Planner clarified that this was an amendment which would apply to business zones B-2 and B-3 (not home occupations), and would affect businesses where it is customary to provide limited items for sale. She gave several examples.

It was agreed by consensus that the Commission would study the proposed amendment in preparation for further discussion on September 8th. The Commission would also like to hear reasons for the amendment from the Zoning Enforcement Officer, who supports the change. A discussion with Zoning Enforcement Officer, Richard Baldelli, (who requested the amendment), was suggested and encouraged.

10. **#2009-072-SP:** Special Permit under Section 9.2 required by Section 3.3 of the Ridgefield Zoning Regulations to permit a major home occupation in the residence located at **23 McKeon Place (Turner Hill)** in the RAA zone. Owner/Appl.: Judith Martinelli. *65 days to commence public hearing ends 11/5/2009. For receipt, schedule walk and public hearing.*

Chairman Mucchetti asked for acknowledgement of receipt of the application and suggested a site walk for 9/13/09 and a public hearing for 10/6/09.

Mr. Mische motioned, seconded by Mr. Chipouras, to acknowledge receipt of the application and to schedule the site walk and public hearing as suggested. The motion passed, 7-0.

COMMISSION WALKS

As noted above, the following items were scheduled for site walk on **9/13/09**:

- **#2009-064-SP:** Special Permit **61 Sugar Loaf Mountain Road**, Theys
- **#2009-066-SP:** Special Permit **15 Hidden Lake Court**, Falotico

- **#2009-069-REV(SP):** Revision **1 Ethan Allen Highway, (Snap Fitness 24-7)** Keough
- **#2009-072-SP:** Special Permit **23 McKeon Place**, Martinelli
- **#2009-056-SP-PR:** Special Permit **Spectacle Lane and Wilton Road East**, Pyramid Luxury Homes Joint Venture.

REQUESTS FOR BOND RELEASES/REDUCTION

- **#2009-034-SP:** request for release of \$1,000.00 bond, **269 Nod Road**, Auth. Agent: Patrick McNamara. *PD recommends 100% release.*

Dr. Autuori motioned, seconded by Mr. Katz, to release the bond in full as recommended by staff. The motion passed, 7-0.

- **#2005-031-SPA:** request for release of \$1,000.00 balance on bond held for **5 Danbury Road**, Mirra. *PD recommends 100% release.*

Mr. Katz motioned, seconded by Dr. Autuori, to release the bond in full as recommended by staff. The motion passed, 7-0.

CORRESPONDENCE

Chairman Mucchetti pointed out the following correspondence:

- Letter dated 8/18/09 from Planner Brosius to the West Mountain HOA at **126 Eleven Levels Road**, stating that the tennis court lights must be turned off until the Special Permit application has been resolved
- Letter dated 8/21/09 from Planner Brosius to Citation Ordinance Hearing Officer Sharon Dornfeld, Esq., requesting a status report because of non-action
- Memo dated 8/24/09 from ZEO Richard Baldelli to Planner Brosius, noting examples of the success of the Citation Ordinance
- Letter dated 7/23/09 to ZEO Richard Baldelli from homeowner Donna Lounsbury of Florida Road, applauding the success of Richard's efforts to resolve zoning violations at property located across from the Branchville School
- Letter dated 8/11/09 from Planner Brosius to Joel Kaplan of the Temple Shearith Israel on Peaceable Street, re the status of the bond remaining for the Special Permit
- Article from the Planner about a Special Services District in Middlebury, VT (the Addison County Independent, 8/6/09)
- Article from the Planner about towns in Connecticut who are participating in the HomeCT program (NY Times, August 30, 2009)
- CT Federation of Planning and Zoning Agencies newsletter, Summer 2009
- POCD update information from the Historical Society
- POCD update comments, Commissioner Autuori's review of the Conservation Commission's recommendations

MINUTES

Mr. Katz motioned, seconded by Mr. Mische, to approve the minutes of July 28, 2009. The motion passed, 6-0-1, with Mr. Chipouras abstained.

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

Respectfully submitted,

Linda Caponetti
Recording Secretary