

APPROVED / REVISED
MINUTES
INLAND WETLANDS BOARD

September 18, 2007

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

Absent: James McChesney

Also Present: Betty Brosius, Inland Wetlands Agent

Public hearings were held prior to the meeting.

At 11:02 p.m. Chairman Mucchetti called the meeting to order. [Note: The Planning and Zoning Commission meeting was held prior to the Inland Wetlands Board meeting.]

PENDING ITEMS

1. **#2007-102-SR:** Summary Ruling application for activities in the upland review area in conjunction with the construction of a single family residence on property located at **188A Main Street** in the RA zone. Owners: Bob and Jan Hebert. Appl./Auth. Agent: David Adams. *65-day action period ends 11/8/2007. Received 9/4/2007, walked 9/9/2007. Draft Resolution of Approval requested 9/11/2007. For action.*

Chairman Mucchetti pointed out the draft resolution prepared by the Agent.

Mr. Katz motioned, seconded by Dr. Autuori, to approve the resolution as drafted. The motion passed, 8-0.

2. **#2007-104-SR:** Summary Ruling application to conduct regulated activities in the upland review area in conjunction with the renovation and expansion of existing residence on property located at **46 Blackman Road** in the RAA zone. Owner: Valory Munroe. Appl.: Flore Munroe. Auth. Agent: MacMillan Architects. *65-day action period ends 11/8/2007. Received 9/4/2007, walked 9/9/2007. Draft Resolution of Approval requested 9/11/2007. For action.*

[Note: Mr. Fossi recused himself from participation and vote on this item.]

Chairman Mucchetti pointed out the draft resolution prepared by the Agent.

Dr. Autuori motioned, seconded by Mr. Katz, to approve the resolution as drafted. The motion passed, 7-0-1, with Mr. Fossi recused.

NEW ITEMS

There were no new items.

BOARD WALKS

There were no site walks scheduled.

REQUESTS FOR BOND RELEASES/REDUCTION

There were no requests for bond release or reduction.

CORRESPONDENCE

Chairman Mucchetti pointed out the following correspondence distributed to the Board:

- Brochure from CACIWC (CT Association of Conservation and Inland Wetlands Commissioners), regarding the November annual meeting in Wallingford

MINUTES

Mr. Katz motioned, seconded by Mrs. Willis, to approve the minutes of September 4, 2007. The motion passed, 8-0.

Hearing no further discussion, the Chairman adjourned the meeting at 11:05 p.m.

Respectfully submitted,

Betty Brosius
Inland Wetlands Agent

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MINUTES
PLANNING AND ZONING COMMISSION

September 18, 2007

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

Absent: James McChesney

Also Present: Betty Brosius, Director of Planning

Public hearings were held prior to the meeting.

At 10:15 p.m., Chairman Mucchetti called the meeting to order. [Note: By motion of Mr. Katz, seconded by Dr. Autuori, the Commission meeting was held prior to the Inland Wetlands Board meeting. The motion was supported by a vote of 8-0. Items #3 and #4 were discussed first, then the balance of the agenda was handled in the order shown.]

PENDING ITEMS

1. **#2007-042-REZ-A** [Submitted prior to 5/1/2007, adoption of new zoning regulations] (1) Petition to amend the text of the zoning regulations of the Town of Ridgefield to revise certain sections of the Housing Opportunity District (HOD) regulations, to permit residential development under Sec. 8-30g of the Connecticut General Statutes, and related amendment to the Comprehensive Town Plan and (2) petition to change the zoning map of the Town of Ridgefield from CDD to HOD and related amendment to the Comprehensive Town Plan, for 153± acres of land located at **616 Bennett's Farm Road**. Owner: Eureka V, LLC. Appl./Auth. Agent: J. Casey Healy, Esq. *Received 5/1/2007. Public hearing commenced 7/10/2007, continued to 9/4/2007 and continued to 9/18/2007. (5 days to set public hearing plus 21 days to continue public hearing to 9/4/2007 plus 14 days to continue public hearing to 9/18/2007 =40 days of 65 day extension used). 65- day action period ends 11/22/2007. For action.*

Chairman Muchetti noted that the public hearing had been closed, and informed the Commission that its legal counsel has recommended that no motions for decision on the application be placed on the table until a thorough discussion of the issues has been conducted. She said Counsel cautions the Commission that the §8-30g statutes are complex, and the Commission needs to understand its full responsibility under the law prior to developing arguments and making motions.

The Chairman said that Counsel has offered to be present during deliberations on the application, to explain the intricacies of the law and to offer guidance to the Commission.

After brief discussion about available dates for the discussion, and the possibility of having a work session on a night other than a regularly scheduled meeting, it was decided to schedule the item on the agenda for 9/25/07. The Planner will determine the availability of Counsel for the discussion. If counsel is not available, an alternate date for discussion will be determined at the meeting on 9/25/07.

2. **#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. Received 7/24/2007 and referred to VDC on 7/24/2007. Report from VDC-applicant rescheduled VDC review to 9/11/2007. 65-day action period ends 9/27/2007. For action.*

Chairman Mucchetti noted the application was reviewed by the Architectural Advisory Committee (AAC) in its capacity as the Village District Consultant (VDC). The VDC recommends design approval, with conditions.

The Chairman pointed out the advanced proposed resolution of approval prepared by the Planner, with the proposed conditions listed. There was some discussion about the location of the site on Main Street.

Mr. Katz motioned, seconded by Mr. Fossi, to approve the application according to the resolution proposed by the Planner, in agreement with the recommendations of the VDC. The motion passed, 8-0.

3. **#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. *Received 7/24/2007. For review/discussion.*

Chairman Mucchetti asked the Planner to explain the pre-submission concept review process, since this was the first review conducted by the Commission under the new regulations.

The Planner referenced her memo and her request that the Commission study 9.2.E in the zoning regulations, adopted according to state statutes 7-159b, which appears in the Municipal section of the statutes. Authority is granted in the statutes to planning, zoning, and to wetlands commissions as well as to other municipal boards and commissions who have approval authority over projects or other proposals. These agencies are permitted to conduct pre-submission concept reviews upon request, at

which time a prospective applicant can come in and describe a proposed project and get some feedback from the applicant.

The thing that is most important about this statute and the zoning regulations is that, “Any such preapplication review and any results or information obtained from it may not be appealed under any provision of the general statutes and shall not be binding on the applicant or any authority, commission, department, agency or official having jurisdiction to review the proposed project.”

The Planner says this is a beneficial opportunity for the Commission as well as for the prospective applicant, to get a preview about what might come before them and to give some feedback, understanding that this is non-binding feedback. But it will give the prospective applicant some guidance as to how to come in with the final submission as an application to the Commission.

Matthew Ranelli, attorney from Shipman and Goodwin, was present to represent the prospective applicant in the pre-submission. He introduced Gary and Joan Zawacki of Ridgefield, and Gary’s brother Chet Zawacki, born and raised in Ridgefield but now living elsewhere. The submission involves the Zawacki family home on Sunset Lane. Mr. Ranelli notes that other towns have used the pre-submission review successfully, and it often results in meaningful dialogue. He notes that some commissions are wary of the regulations, because they feel that comments made at the pre-submission may constrain them in commenting on the application at a later date, or that they may be accused of bias or pre-commitment. He repeats the Planner’s words, that none of the comments in the pre-submission review would be binding on the Commission in the event of an application. But candid comments would be extremely helpful, since it will help to determine if there will be an application at all, or what direction it will take. It can save miss-steps.

Mr. Ranelli points to a map of Sunset Lane existing conditions, prepared by John McCoy, P.E., and showing three lots, two larger pieces and a smaller piece to the east, separated from the other two by an alley. He explains the location of existing buildings on neighboring lots.

The area was originally divided in the 1920’s, prior to subdivision regulations being adopted by the town. He also notes that a railroad line ran down Sunset Lane and the road was adjacent to the tracks; the road at that time was called Railroad Avenue. When the tracks were removed, the road was moved to the rail bed and the Town retained a large portion of the right-of-way that is now mowed as lawns in front of the houses on the street. It appears to belong to the lots with frontage on Sunset Lane, although it is owned by the Town.

He says that what is driving their concept is the existing conditions in the area. The property is currently zoned R-20. He points out the variety of zoning designations in the area, including the nearby multi-family districts to the north and south, the commercial zone across the street and to the north, and the existence of the “Corner

Pub” restaurant at the west end of Sunset Lane, in the R-20 zone. He also notes that many of the lots to the west of the Zawacki property are small and most of the properties on the north side of Sunset Lane are non-conforming to the R-20 zone. It is a “transitional neighborhood.”

This mixed use and relatively high density use is close to Ridgefield center, it is walkable to downtown, and it is a good place to create pedestrian density rather than residential use that is totally dependent on cars for transportation. For this reason, they would like to propose the R-7.5 zone, rather than the R-20. It provides a smoother transition from MFDD, which would not be appropriate for this property. Sunset Lane under R-7.5 would be retained as a small-lot, residential area. It would also bring many of the other properties on Sunset Lane into greater conformity. Many of those properties are non-conforming as to size, setbacks, and other zoning requirements.

Chairman Mucchetti asks if most of the properties on Sunset Lane are single family? Mr. Ranelli and Chet Zawacki said that most are, with the exception of the lots adjacent to the Schlumberger property, where some residences have three units each. There have been zoning variances granted for a few of the structures on the eastern side of the zone, allowing three units per building. The Planner identifies the property as 47 Sunset Lane on the Assessor’s map.

The Chairman notes that many of the lots to the west are smaller than required even in the R-7.5 zone. Mr. Ranelli says that their application would identify and list all of these properties.

Mr. Ranelli said the proposed application would be for the R-7.5 zone, to permit the two existing larger Zawacki lots to be divided into five lots for five units. There are two existing units on the two lots, so this would be an increase of three units.

Mr. Walsh asks about the context of the entire zone. What will happen to the lots to the west that are non-conforming? Would they have the same opportunity to split their properties in half? Would the density increase by other subdivisions?

Mr. Ranelli says that it doesn’t make sense to re-zone just the Zawacki property, and the proposal would probably include the entire area on the north side of Sunset Lane. After some discussion and comment added by the Planner about the size of the lots to the west, it was determined that most of those lots could not be further subdivided even under the R-7.5 zone because they are too small. Mr. Ranelli says they are looking to the Commission to determine the extent of the proposed re-zone. He feels that there is no adverse impact with the proposal to re-zone the north side of the street to R-7.5.

There was some discussion about the Corner Pub, which has 0.268 acres according to the Assessor’s map. Mr. Ranelli suggested that this lot might be re-zoned to B-2 to make it more conforming, noting that the B-2 zone adjoins it to the north and to the south, on the other side of Sunset Lane.

Mr. Katz says that because this is concept discussion, he says he is almost unalterably opposed to any proposal for down-zoning. The population is too dense in town as it is now, traffic is too dense, and Ridgefield is becoming a Town on the cusp of the benefits for which people move here, and certainly the benefits for the people who grew up here. He notes that Mr. Ranelli and his firm represent people who force zoning issues, and he believes that the only down-zoning that the Town should take is that for which they are statutorily forced and bludgeoned into doing, words that should never appear in any appeal because nothing that is said here can be appealed. He says that he will not vote for this, although he will try to intelligently approach it during discussion at the table.

Mr. Katz quotes from the Plan of Conservation and Development, page 47: “In order to simplify the zoning structure of the community, the Commission should consider eliminating the R-5 and R-5-1 zoning districts and rezone these sites to...” and then it talks about Sunset Lane [which is not R-5 or R-5-1 presently.] There is lack of clarity here. Nowhere in the POCD does it say that we should try to switch non-conformities from one form of non-conformity to a lesser non-conformity. So where Sunset Lane is mentioned in the POCD, it is miss-labeled as being in the R-5 or R-5-1 zone. He will not vote for any down-zoning on Sunset Lane, for these properties or any other.

Dr. Autuori asks who owns the alley. Mr. Ranelli says it is not clear, but it may be owned by the Town. Chat Zawacki says it is not owned by the town and has never been maintained by the town. One map says that it is to be “privately owned forever,” but it doesn’t show up in any of the deeds. The ownership is unclear. The Planner points out that the small lot to the west at the top of the alley is owned by the larger lot on the other side of the alley.

Dr. Autuori says he generally does not like down-zoning either. But, speaking of bludgeoning, and looking at the two larger lots to the west, he asks if the two Zawacki lots could be combined for an application under §8-30g, for even greater density. Chairman Mucchetti notes that this could be done now, without any changes in the zone. Mr. Ranelli says the proposal for R-7.5 is what the owners want to do, but an §8-30g application would certainly be possible.

Chet Zawacki says the last lot on the alley already has three units, and it has ZBA approval for two or three units for a total of five or six. The property to the south of that has multiple units as well. The only properties in the area that conform to R-20 zoning are the Zawacki properties, and everything else on the north side of the street is non-conforming, and it is surrounded by much higher density living. The units between the Zawacki property and the corner pub are actually at a density of 8-10 units per acre, if you did the calculations according to the square feet in the lots.

Dr. Autuori asks if this would be approved, how many structures are there now, and how many would result? Mr. Ranelli says they would provide that information, but it doesn’t look like there would be any other density increases other than the Zawacki

properties, because of the existing and future non-conformities even under the R-7.5 zone. The expected increase would be limited to the four extra units that could be built on the Zawacki properties, bringing the number of units from probably 14 to 18.

Mr. Katz says that a down-zoning change should only be taken under serious consideration, where there is a serious benefit to the town. The fact that a property owner cannot realize more income from his land under current zoning is not unique. A change from residential to commercial, for instance, can benefit any property financially. That is not a compelling argument for a town that finds itself constipated with traffic on a daily basis. He asks Mr. Ranelli what are the benefits to the Town of Ridgefield from this down-zone?

Mr. Ranelli says this is on the edge of Ridgefield center, and the owners could walk to town. Homes near downtown would reduce the need to drive there. It's good to have a pedestrian density downtown. It is not out of line with the density of the area, to add more density. Mr. Katz challenges that, but Mr. Zawacki says that he and his brother never took school busses and walked, growing up there.

Chairman Mucchetti speaks to bring the Commission back to the matter at hand; to provide some input to the prospective applicant, in preparation for a formal application. She asks for a summary of thoughts.

Dr. Autuori says this re-zone could avoid an §8-30g application for one thing, but it could also be a positive benefit for the town if any of the lots could be age-restricted. It could help the tax base. For instance, age-restrict three of the six units. Mr. Fossi agrees, because it is close to town, close to medical offices. Mr. Ranelli notes that it is also on municipal sewers and public water. Dr. Autuori says there is a need in the market for that type of housing.

Chairman Mucchetti asks is this should be property-specific application, or a broader application to include other properties? After some brief discussion, it was decided that the entire R-20 zone on the north side might be appropriate for re-zone to R-7.5, and the Corner Pub might be appropriate for B-2. Mr. Ranelli says he has talked to some of the other property owners, and there is support for the concept.

Dr. Autuori asks what is the Commission's prerogative to re-zone against the wishes of the property owners? The Planner notes that the other property owners, if not part of the application, need to be notified of the proposed change by the applicant, or must sign the petition. The Commission has discretion to change the zone in any case.

Mr. Ranelli says it is a general principal of zoning that elimination of non-conformities by re-zoning is beneficial. Mr. Katz says again, that it is not necessarily appropriate to exchange one set of non-conformities for another. Mrs. Willis says that part of the presentation should include details of the changes, non-conformities, and benefits.

Mr. Fossi confirms his support to put the Corner Pub in the B-2 zone, because of its long history of the area and the other uses on Grove Street. Mr. Walsh asks that the potential residential density allowed in the B-2 be considered.

Chairman Mucchetti confirmed with Mr. Ranelli that he had enough information to prepare a formal submission, and the discussion ended.

4. **#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. *Received July 24, 2007. Public hearing commenced September 18, 2007. 65-day action period ends 11/22/2007. For action.*

Chairman Mucchetti noted that the public hearing was closed, and asked for discussion on the application.

Dr. Autuori motioned, seconded by Mr. Katz, to approve the application as presented, with a condition that all exterior site lighting be brought into conformance with the zoning regulations.

The Planner asked for confirmation that the motion was for a final approval, and not for a draft resolution to be prepared. This was confirmed, with agreement that standard Special Permit conditions and reference to the plans submitted would be included in the resolution, along with the suggested condition for exterior site lighting.

Chairman Mucchetti called for the vote, and the motion passed, 8-0.

NEW ITEMS

5. **#2007-106-REV(SP):** Revision to Special Permit under Sec. 9.2.A.7.e. of the Ridgefield Zoning Regulations to replace existing light poles on property located at **Tiger Hollow football field, Ridgefield High School, 700 North Salem Road** in the RAA zone. Owner: Town of Ridgefield. Appl./Auth. Agent: Chris Santini, Tiger Hollow Inc. *65-day action period ends 11/22/2007. For receipt and schedule walk.*

Chairman Mucchetti referenced the next scheduled date for site walks on 9/30/07, and the Planner confirmed that a public hearing was optional since the application was a revision to an existing special permit. After brief discussion, the consensus was that a public hearing would not be scheduled.

Dr. Gelfman asked if the applicant's representative would be available for the site walk, and the Planner confirmed that it could be arranged.

Dr. Autuori motioned, seconded by Mr. Katz, to acknowledge receipt of the application and to schedule a site walk on 9/30/07 as suggested by the Chairman. The motion passed, 8-0.

COMMISSION WALKS

The following site walk was scheduled for 9/30/07, as noted in #5, above:

- **#2007-106-REV(SP):** Revision to Special Permit **Tiger Hollow football field, Ridgefield High School, 700 North Salem Road,** Town of Ridgefield

REQUESTS FOR BOND RELEASE / REDUCTION

There were no requests for bond release or reduction.

CORRESPONDENCE

Chairman Muchetti pointed out the following correspondence:

- Newspaper article from a 1977 Ridgefield Press edition, re the history Big Shop Lane.
- Reference to a 2003 public act regarding a municipality's right to establish an ordinance allowing a "first division" of land when a parcel is designated for affordable housing, when the developer is the municipality or a non-profit agency.
- Article provided by Commissioner Fossi, regarding the use of pervious concrete.

Hearing no further discussion, the Chairman adjourned the meeting at 11:00 p.m.

Respectfully submitted,

Betty Brosius
Director of Planning