

APPROVED / REVISED
MINUTES
INLAND WETLANDS BOARD MEETING

October 16, 2007

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

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

At 7:30 p.m. Chairman Mucchetti called the meeting to order.

PENDING ITEMS

1. **#2007-111-SR/WV:** Summary Ruling application under Sec. 7.5 of the Town of Ridgefield IWWR for regulated activities in the wetlands and upland review area to convert a portion of the property to grass lawn. Property located at **86 Limekiln Road** in the RAA zone. Owner/Apl.: Gaetano Sandolo. *65-day action period ends 12/6/2007. Received 10/2/2007, walked 10/14/2007. For action.*

Chairmen Mucchetti introduced homeowner Gaetano Sandola and soil scientist Thomas Pietras, of Soil Science Environmental Service. Mr. Pietras had prepared the wetlands delineation on the survey map and also had submitted a soil and environmental sciences report, she said.

Agent Brosius said that activity on this property was brought to the attention of the office staff in August 2007. On visiting the site, Wetlands Agent, Aimee Pardee, reported that there may be some wetlands disturbance, based on the Town's wetlands map. Ms. Pardee required that the applicant have the wetland boundaries flagged, which Mr. Pietras did. The Board's concern, Agent Brosius said, was that the wetlands were disturbed and the wetland buffer was clear cut.

Mr. Katz said that it had been observed by the Board on its site walk of the property that, not only the buffer, but the wetland itself, had been clear cut and stumped. The Agent agreed that this was correct.

Mr. Pietras described the site and conditions he found there on September 7, 2007.

Basically, there had been some intrusion into the wetland, but the site had been stabilized. Areas had been newly seeded. There was grass, and some minor grading. On examination of the soils, Mr. Pietras found woodchips in the wetland soils, but all the disturbed soils had been stabilized by then.

He said that, typically, when people intrude into wetlands, wetland shrubbery is the best alternative, because it grows fast and forms a quick cover. Then, if the area is left undisturbed, it will revert back to a woody vegetation similar to the vegetation in the wooded swamp to the east, he said. He recommended a mix of native shrubs that produce berries.

Mr. McChesney asked Mr. Pietras to indicate on the map where he suggested that this shrubbery be planted. Mr. Pietras said he had not determined placement as yet.

Mr. Walsh asked if Mr. Pietras would recommend that all these plantings be placed in the 50' buffer, as well. He said that would be appropriate.

The Chairman asked if the shrubbery would grow despite the fact that the tree canopy had been removed. Mr. Pietras said that all the shrubs will grow in full sunlight.

Mrs. Willis asked if there was a planting plan.

Mr. Pietras said that in a restoration plan, typically, the idea is to form a demarcation, making it very obvious which areas can be accessed and which should not be. This can be accomplished by putting markers at 10' spacing across the property. Timbers could be placed along the line as a further indication of where the non-disturbance area is.

Again, Mrs. Willis asked if there was a planting plan, and Mr. Pietras said that he had not prepared a formal planting plan. He had provided recommendations for plants that would do well on the site, he said.

The Chairman asked the Board if a planting plan should be required as a condition of approval.

Agent Brosius, supporting Mr. Pietras' approach, said she had just learned at a recent training session that the list of plants and the quantity of plants is more important to know than exactly where the plants would be placed. If dots are drawn on a map, the actual soil conditions in the field may not coincide with the soil conditions required by a nursery for particular species of plants, she said. The Agent said that one thing the Board may want to establish in the conditions is how far apart these plants should be.

Mr. Pietras said, "Normally you like to see a continuous line go across an area that gives you a wall." He added that this area is bounded on three sides by forest land.

The shrub plantings are only a temporary stage, he said. Eventually, the area will revert back to forest. The Chairman asked how long that would take. He replied, "Within twenty/thirty years, you're going to see the tree canopy start to fill in."

Mrs. Willis said that a plan determines your numbers, and you don't want to have a straight line; you want something more natural.

Susan Baker of the Conservation Commission asked on behalf of the commission why the mitigation plan did not include the planting of trees.

Mr. Pietras said that red maples could be added.

The Chairman said that it was not up to the Board to decide on the specific plants, number of plants, and placement of mitigation plants. That should be Mr. Pietras' responsibility, she felt, and that was the consensus. Mr. Pietras asked for the Board's understanding, saying that if Mr. Sandolo could be given some quick direction right away, he might be able to restore the area this fall. If decisions were prolonged, he said, then the restoration would likely be delayed until next May. The Board expressed their desire for speedy implementation of the plan. The Chairman said the office would hope to have a formal plan from him in days, not weeks.

The Agent said that the office could develop a resolution with conditions which could be acted upon by the Board next week. However, she would expect to have the following: distance between plants, list of the plants, when they will be put in, etc.

Mrs. Willis said she questions whether the plan should be created by someone like a landscape architect and not a soil scientist. The Agent agreed.

The Chairman asked for clarification.

The Agent said the plan could come to the Board after the plants have come in. They could bond that the planting be done, and it could be received as part of the record, to indicate the number and placement of the plants that have been put in.

Mr. McChesney wanted the planting to begin immediately. He said if a soil scientist or landscape architect could suggest where the plants go, the planting could start "tomorrow." Then, the applicant could submit a plan that shows what they are doing, he said, stressing the need to avoid the delays caused by "red tape."

Mr. Katz felt this didn't have to come back to the Board, and he also wanted to expedite the restoration work. It needs to be satisfactory to the Wetland Agent and Aimee Pardee, he said.

The Agent asked the Board if they would agree to placing a bond on this item. The consensus was to place the bond. The Agent explained that the bond is normally kept in place until the next growing season, to assure that the plants grow.

Mr. Sandolo apologized profusely for his actions and stated his desire to rectify the situation as soon as possible. He will do the planting himself, if necessary, he said, to expedite the restoration. Mr. Pietras suggested he get the plants from New England Wetland Plants, out of Amherst, Massachusetts.

Ms. Brosius said that she did not have a problem with a soil scientist doing the planting plan. Mr. Pietras said that this is not a complicated site; it consists of poorly drained mineral soils, and is not a marshy area, which requires greater care. She said the main concerns would be that the job be done quickly, with the plants recommended and appropriate for the site, and that a planting plan be developed for the file, and a bond be imposed.

Mr. Sandolo was in agreement with all her recommendations, and said that he would adjust his planting as necessary if anyone had a problem with how he was proceeding.

Mr. Pietras said he would get a plan to Mr. Sandolo within the next few days.

Mr. McChesney motioned, seconded by Mr. Fossi, to approve a remediation and restoration plan as recommended by the soils scientist Thomas Pietras on behalf of the applicant, with staff reviewing the plan and setting a bond amount. The motion passed, 6-0-2, with Dr. Autuori and Mrs. Willis abstaining.

2. **#2007-114-SR:** Summary Ruling application to excavate and grade upland review area and wetlands in conjunction with replacing bridge with new expanded bridge on property located at **545 Ridgebury Road** (aka Dlh Court) in the RAAA zone. Owner: Town of Ridgefield. Appl.: Edward Tyrrell. *65-day action period ends 12/13/2007. Received 10/9/2007. Walked 10/14/2007. For discussion/action.*

The Chairman asked the principals to identify themselves. They included Mr. Ed Tyrrell, Chairman of the Town's Golf Committee; Michael Fishman, certified professional wildlife biologist with Stearns & Wheeler Environmental Engineers and Scientists; Denise Halstead, also with Stearns & Wheeler, and a licensed, professional engineer.

Ms. Halstead described an existing pontooned bridge , eleven 20' sections of a floating bridge, with 75' of gravel fill on one side and 40' on the other going into the water body. The proposal is to take the floating bridge out, she said, and replace it with 450' of a wooden truss-style structure; remove the gravel approaches; and span over the wetlands with this new bridge. With the removal of the gravel approach ways, they would be removing a total of 104 cu. yd. of fill, allowing the wetland to return to its natural state.

Mr. McChesney asked how deep they would dig. Ms. Halstead said about 2' in those areas. Mr. McChesney commented on the "excellent report" furnished by the firm. He then asked what kind of material would be used for the pilings.

Mr. Tyrell replied that it will be Southern Yellow Pine, either treated with ACQ or CAB, as stated in the environmental report. The Chairman asked what those materials were. Ms. Halstead said they are types of chemicals used to treat the wood. Mr. Slavín asked what the chemicals were.

Ms. Halstead explained in detail what the chemicals are, saying that they are safer than CCA, which had been used previously. She added that a polymer coating is applied, which is a membrane that gives an extra layer of protection designed to keep dry rot out.

Mr. Katz asked about the leaching propensity of the product. Ms. Halstead repeated that these chemicals are better than CCA, and that the polymer coating prevents leaching.

The Chairman read from p. 5 of the soils report: “The coating assures environmental protection because it prevents the leaching of the chemicals for treating the wood into the surrounding soil or water.”

Mr. McChesney asked if the information had been forwarded to the New York water authorities.

Mr. Tyrell said that he notified them and they requested more information, which he is mailing to them tomorrow.

Dr. Autuori asked about the machinery which will be used to dig out the fill. Will it have standard hydraulic fuel in it, or will it have biodegradable fuel, he asked. Mr. Tyrell said he was sure it would be standard fuel. Dr. Autuori said that this could pose a problem. If the hose breaks or a cylinder leaks, a contamination problem could result. He further commented that they will be digging directly in the water, and hydraulic fuel could leak into a sensitive wetland. There is a fuel considered by the EPA to be much less problematic in situations like this, he said. He asked that they either use a cable machine (which is archaic, he said), or a hydraulic machine with fuel that is certified acceptable for use in aquatic situations. He also addressed the issue of invasive plants by asking that any machinery brought into the site be thoroughly cleaned prior to entering the site.

The Chairman explained that there have been some environmental concerns with pressure treated wood, and she felt that the record should include whether or not there is an environmental concern with these chemicals.

Dr. Autuori asked why chemically treated wood was needed if the polymer coating is such an effective barrier. He also asked Mr. Fishman if there have been studies on the properties of these metals that are being used to treat the wood.

Mr. Fishman said that the primary metal component in both of these products is copper. Copper itself leaches very little, because it is a very stable material. It is relatively inert when it's used as a coating.

Dr. Autuori asked if they had considered concrete cast pilings. Mr. Tyrell said they had not.

Mr. Fishman said that his only concern with using pre-cast concrete pilings in a wetland is that the wetlands soils become an issue in their stability. "You may have to go very, very deep to get a concrete piling to be stabilized," he said.

Mrs. Willis asked if they would be approaching from both sides. Mr. Tyrell answered, saying that no machinery will go into the wetland. She asked how they would control the sedimentation that might occur as part of the removal process.

Mr. McChesney said this topic was very well covered in their report.

Mr. Fishman said that there will be turbidity curtains placed just inside the water and surrounding the gravel accessways, so that, as the soil is disturbed in and adjacent to those accessways, the curtains will capture the sediment before it can spread out into the wetland. He added that these curtains could also capture a spill of hydraulic fluid, which Dr. Autuori was concerned about.

The Chairman asked Mr. Fishman to summarize the "excellent report" he had provided on the environmental impact on the wildlife. He did so, saying that there is ample natural habitat for the spotted turtles and bog turtles to nest. The gravel is not an appropriate medium for their nesting. They may use it for basking, but there is plenty of other structure there for that, he said. He said the only type of turtle which might use the gravel accessways for nesting would be the snapping turtle. He said that it is not good to have snapping turtles in areas where people are moving back and forth. He said that he had waded out into the area where the bridge was to be excavated and it is much deeper water than either spotted turtles or bog turtles will use for hibernation. He does not see this project as having "any major impact on the turtles." If anything, it may even allow them "easier passage in the water, and make it a little more difficult for raccoons to get at them."

The Agent made mention of the fact that Mr. Fishman actually waded out into the water to assess and gather data, and he ultimately provided "one of the best and most thorough environmental reports and descriptions of a project that [she had] seen in a very long time." She said that, if the Board sees fit to approve the project, the contents of this report should be referenced, and its exceptional detail utilized. She added that the applicant has included professional testimony which enumerates the improvements to the wetland habitat that will result from this project. The removal of the gravel accessways will actually increase the flood storage within the wetland area and will remove material that is not native to the area, she said.

She suggested that staff meet with any contractors before work begins on any projects similar to this to go over the sequence of construction specified in this report.

Mr. McChesney wished to clarify that the material being “removed from the site” would not actually be leaving the golf course. Mr. Fishman and Ms. Halstead assured him that it will not leave the property. It will be moved to a place near the 16th green and left there until it can be utilized elsewhere on the golf course.

Dr. Autuori asked Mr. Fossi to elaborate on a point he made earlier about booms being used at the excavation site. Mr. Fossi explained that the machinery would be on the gravel, and, if there was a leak of hydraulic fluid, it would be on the gravel which is being excavated out anyway. Dr. Autuori said that some of the gravel is underwater. Ms. Halstead and Mr. Fishman clarified that the machinery would not enter the water: “It will only be operating in the dry,” Mr. Fishman said.

Dr. Gelfman asked how they intended to get the machine over to the west side of the site. The job will be done in two sections, Mr. Fishman replied. One side will be done and then they will make their way back to the 17th tee side, and that side will be done, he said. Ms. Halstead said that this is how the bridge is put in. “You work on one side and then you go around and work on the other side,” she said.

Mr. McChesney motioned, seconded by Dr. Gelfman, to request the Agent to draft an approval for the application according to the plans, requiring a pre-construction meeting for the contractor, and cleaning of machinery and equipment prior to use on the site. The motion passed, 9-0.

3. **#2007-115-WV: CEASE & DESIST AND ORDER TO SHOW CAUSE:**

Violation of Wetlands Permit, **80 & 90 Spring Valley Road**. Owners: Richard C. Szenkuti and Cynthia M. Szenkuti. *Cease & Desist issued 10/3/2007. Show cause hearing commenced 10/9/2007, walked 10/14/2007. 10-day action period ends 10/19/2007. Confirmation of Order.*

Chairman Mucchetti asked the Agent to explain the violations and procedures that should be followed by the Board. There are two separate violations, one on each of the two lots. The matters were handled separately.

Agent Brosius explained that her staff report describes the project and gives the history of the violation. She noted that there are actually two separate violations being considered by the Board: 1) parcel A, (#90 Spring Valley Rd., with the original house on it) had been issued a permit in June. If the Board finds the property owner in violation of the permit, the Agent explained, it can either suspend the permit, revoke the permit, or uphold the permit, as detailed in the wetlands regulation Section 13.3.2a. 2) parcel B, (#80 Spring Valley Rd.), where the development permit application was submitted, is a separate type of violation covered by a separate section of the wetlands regulations, Sec. 13.3.3a This deals with the fact that the violation (although there was no wetlands permit applied for) involves the disturbance

and clear cutting of the wetland areas on the site. The Board can establish conditions for how the restoration will take place, and also require a bond amount, she said.

Mr. John McCoy, of JFM Engineering, noted that Mr. Szenkuti hired a second consultant to assist with the restoration. She is Jane Didona, a landscape architect with extensive experience in this type of work, he said. Ms. Didona had written a letter to the Agent, which was read into the record by the Agent. Its main points follow:

1. They have been hired to provide a more detailed restoration plan
2. Their plan will include long term and short term remediation measures and sediment control measures
3. They will work with JFM Engineering and soil scientist Mary Jaehnig in developing the plan
4. They have reviewed reports from JFM Engineering and Ms. Jaehnig, and also the staff report prepared by Agent Brosius
5. They anticipate visiting the site the next day
6. Their initial recommendations are as follows:
 - a) Plant list is appropriate, but should be enhanced with more stabilization, using conservation mix seeding and bioengineering techniques, such as live staking
 - b) Seeding should include the disturbed upland area on parcel B just west of parcel A's proposed septic system
 - c) A construction sequence should be developed for the short and long term remediation and erosion and sediment control measures
 - d) Didona Associates should be retained to monitor the installation of these measures and monitor the site throughout the construction process
7. They request that the Cease and Desist order be lifted or modified so that Mr. Szenkuti can continue to stabilize the site, pour the foundation, and backfill the foundation with the stock piled soil.
8. They feel that the unstable nature of the foundation area could further damage the on and offsite wetlands
9. They will develop and submit a plan as soon as possible

Mr. McCoy said that, since the last site walk, there have been some improvements to the erosion control measures on the site. A plan will be developed with Ms. Didona and Ms. Jaehnig to detail how the sediment control measures will be kept intact during the restoration, as the current controls are in some of the areas to be restored, he said. These two parcels need to be handled very differently, he added.

He is concerned with the excavation hole and all the excavation around it, as they create a threat to the sediment control measures that are downhill from

them. The foundation should be poured as soon as possible, he said, and, then, construction should be stopped until the restoration is completed.

Mr. McCoy said that he has heard that there is no way to get approval for just a foundation in Ridgefield. There was some discussion about this. The Agent said that this has been true for the last several years.

He said that Ms. Didona had indicated her readiness to get to work as soon as possible on the project, and he hoped that meant that there will be a final restoration plan within a week or two for both projects. In the meantime, he will continue to maintain the existing sediment and erosion controls, and improve on them if needed. Ultimately, Mr. McCoy said, the restoration plan will be twofold: 1) plantings and how to restore the wetland, and 2) procedurally, how to maintain the sediment and erosion controls through the winter, since it is likely that there will not be much vegetation established until the spring.

Mr. McCoy expressed his thoughts on how to proceed and asked the Board members for their thoughts.

Dr. Autuori asked if pouring the foundation would help the mitigation.

Mr. McCoy said that it would not further the mitigation of the wetland, but it will reduce the potential for erosion and for sediment leaving the site. “Anything that hits the driveway will be very difficult to stop,” he said.

Dr. Autuori wondered if there might be a way to get a permit to do the foundation alone. The Agent said there was not.

Mr. Walsh wondered if the soil that had been excavated could be put back into the excavation hole. Mr. McCoy said that was a reasonable alternative. Then, the area would be flattened and revegetated like the rest of the site.

The Agent presented what she felt were the two options for proceeding on parcel B:

- 1) finishing the foundation and backfilling it, and 2) filling in the hole and covering it up. She asked the Board if they want the homeowner to fill in the hole, or are they willing to wait for a building permit to be issued, which would enable him to finish the foundation.

Mr. Walsh said the Cease and Desist applies to #90 Spring Valley Rd. (parcel A), so there is nothing precluding Mr. Szenkuti from filing a building permit for parcel B.

The Agent said that wasn't true. She explained the complicated circumstances which resulted in the confusion. When the original building permit was

applied for, the property was identified as #90, but the lot was divided, and the permit was actually for the parcel which is now called #80. The Cease and Desist was issued on #90, because the building permit was for #90, but the violation pertaining to the new house occurred on what is now #80. The building permit was filed incorrectly, and should have been identified as #80.

Mr. Walsh felt there was nothing preventing Mr. Szenkuti from getting a permit now.

The Agent explained that the development permit process, through the land use office, requires that all departments sign off before a building permit is issued. If the Wetlands Board does not sign off, or if the Zoning Enforcement Officer doesn't issue a zoning permit, the building permit cannot be issued, she said.

The Agent said a holdup in the wetlands sign off will prevent the building permit from being issued. The Board has two options, she said. 1) They could require the property owner to fill in the excavated hole and stabilize the site before they would authorize the wetlands agent to sign off on it, or 2) they could establish a bond which would cover the remediation and the erosion and sedimentation control, as well. They would need an erosion and sedimentation plan that ZEO Richard Baldelli could feel comfortable using in order to issue the zoning permit, and sufficient to keep the site stabilized so that the wetlands agent would feel comfortable signing off on it, as well.

The Agent noted the very real time constraints which could push this permit out several weeks, including the creation of the erosion and sedimentation control plan, approval of the plan, posting of a bond, and the building permit process itself.

With regard to parcel B, Mr. Walsh asked Mr. McCoy, if he felt the site could be adequately stabilized during the next two weeks, should the Board opt for going forward with the bond and the whole process necessary for issuing a permit. Mr. McCoy said that there can be additional measures put up to protect the stockpiles and string through the site. He said, "The short answer is Yes," adding that the mitigation could probably not begin until next spring, however.

Mr. McChesney was not in favor of having the homeowner fill in the excavation hole. He preferred to begin the process of getting the building permit, so that Mr. Szenkuti can do the backfilling.

Mr. Katz felt the only reason to prevent the construction of the house would be punitive. He wanted to proceed with the construction with periodic monitoring by Mr. McCoy throughout the season, no matter what takes place on parcel B. He also wanted assurances in writing that the sedimentation and

erosion controls that have been and will be put in place are functioning properly. The Agent was in agreement.

The Chairman expressed her own lack of sympathy for the applicant, stating that this problem was created by the applicant, who accelerated the development process without benefit of permit. She then asked the Agent to explain what she will require regarding parcel B.

The Agent said the Board needs to issue a decision on the violation, and acknowledge that there is now a team of professionals working on the site. Restoration on a site requires evaluations at one year and two years out, she said.

Mr. Walsh concluded that the bond would have to stay in place for two years.

The Agent added that the notice of violation should be filed on the land records. She added that the Board has the authority to impose up to a \$1,000 non refundable fine for each violation. A letter needs to be sent by certified and regular mail to the property owner stating the Board's decision, with all its requirements listed, she said.

The Agent said that, if a bond were posted, and the applicant was allowed to proceed on the foundation, there would be conditions stating that Wetlands Agent Aimee Pardee is authorized to sign off on the development permit application provided that a suitable erosion and sedimentation control plan has been reviewed by herself, Agent Brosius, and the ZEO, and possibly the Wetlands Board, if deemed necessary.

Mr. Katz added that there must be a monitoring schedule and a bond which would remain in place for at least two years. He felt that, subsequent to the Board's decision, this application should be handled by the office, and not brought back to the Board.

The Agent added that a portion of the bond should be in cash, and the rest can be a letter of credit. Mr. McCoy and the Agent agreed that it would be best to keep the bonds for the two parcels separate. Mr. McCoy asked if, periodically, portions of the bond can be released. The Agent said that it will be specified within the bond that certain amounts pertain to certain parts of the restoration.

The Chairman asked about the fine, saying that she supports levying the fine. She said that if the Board is not going to do it in a situation like this, she doesn't know why they have it. The significance of what's been done on the site warrants it, she said.

Mr. Katz said that he was against the fine, but had been persuaded by the Chairman's arguments to support the levying of the fine.

Dr. Autuori said that he did not support levying the fine at that point, although he had not seen the site. If what is being required is not done, then the fine would be appropriate, he thought. Dr. Gelfman and Mr. Fossi agreed with Dr. Autuori, with Mr. Fossi pointing out that Mr. Szenkuti is paying a huge price for this mistake already.

Mr. McChesney said that at no time in his recollection had a fine been imposed.

Mr. Walsh said that he would not ordinarily support a fine for a violation, but, based upon the destruction on both of these lots, he doesn't see how the Board could justify not imposing a fine in this case.

Mr. Slavin suggested that a vote be taken on levying the fine. Mr. Slavin motioned and Mr. Katz seconded taking a vote on the fine.

The motion to levy the \$1,000 fine passed with six in favor and Mr. Fossi, Dr. Autuori and Dr. Gelfman voting against.

Agent Brosius said that she could work with the engineer to come up with a bond amount, based on the cost of the plant materials for the restoration and the cost of the erosion and sedimentation controls for this lot. She would also consult with Town Engineer Charlie Fisher on the bond amount.

For Parcel B (80 Spring Valley Road), the following actions were taken:

1. Mr. Slavin motioned, seconded by Mr. Katz, to impose a \$1,000 fine for the violation, as per Sec. 13.4 of the regulations. There was discussion on the motion, and it passed, 6-3, with Mr. Fossi, Mr. Katz and Dr. Gelfman voting against.
2. By unanimous consent, the Board agreed with the recommendations of the Agent, allowing the building permit to proceed provided that (a) a bond is posted, (b) monitoring of the site takes place on a periodic basis until the site is stabilized and wetlands restored, and (c) a notice filed on the land records, to be released upon authorization by the Board at a future date when a sufficient amount of work has been done and a bond remains in place for unfinished work, and (d) a detailed erosion and sedimentation control plan has been submitted for review and approval, to be signed off by the two wetlands agents and the zoning enforcement officer.

The Chairman recognized Mr. Szenkuti, who pled his case, asking that no fine be levied and the wetlands permit for disturbance in the buffer not be revoked in parcel A. He noted that it should be clear from his hiring of Mr. McCoy, Ms. Jaehnig, and Ms. Didona that he has been proactive in the planning of the wetland restoration, and he has devoted more land for the

purpose of this restoration. He said that, since the Board is limiting the planting for this season, he is agreeable to posting a bond, (amount to be determined), on both parcels. Therefore, he asked for the continuance of the project, which the Board had already agreed to. He asked that the Board reconsider the fine on parcel A.

The Chairman opened discussion on parcel A. She referenced the Agent's Memo, highlighting and discussing the following actions:

- Revoking of the permit for the wetlands activity
- Remediation and restoration of the wetlands
- Restoration plan should include long term and short term measures
- Posting of a bond
- Retaining of professional consultants
- Monitoring of the work
- Requiring that the property owner to return for additional wetlands permits
- Requiring sign off prior to any development permits.
- Levying of a fine for the violations
- Filing of a notice in the land records

Dr. Autuori asked for clarification on the fine amount. The regulations state that the fine should be not more than \$1,000 per violation. Dr. Autuori wanted the fine to be minimal. The Chairman noted that, having not been to the site, it would be difficult for him to appreciate the severity of the destruction.

Mr. McCoy asked if there is a possibility to remove the notice, once it is filed in the land records. The Agent said that it would be the same as a lien. It could be released. "But, the record will still be there," Mr. McCoy said. That is correct, the Agent said, but the release would also be recorded. Mr. McCoy's feelings about the matter were, "Why encumber the land more for [Mr. Szenkuti's] mistake?" The Commission felt that the release ends the encumbrance. Mr. McCoy asked if that would happen when the restoration is completed or after it has been monitored for several years.

The Agent said that Mr. McCoy's point is an important one. The wording should probably say that the notice should remain until released by the Wetlands Board, she said. Then, if there is a need to have it released (i.e. when selling the property), the Board can release it as they see fit, based on the condition of the site and whether or not there is a bond in place.

Mr. Katz said that the release of the notice from the land records should be accompanied by a requirement to monitor until the expiration of the term of the bond, if that were appropriate.

The Chairman asked the Agent what was needed. There needed to be a decision on the fine, she said.

Mr. McChesney said that the overall destruction on parcel B far exceeds that on parcel A, and he is not in favor of a fine on parcel A.

Mr. Fossi said that Mr. Szenkuti had already taken many proactive remediation measures and he did not feel the fine was appropriate.

Mr. Katz said that the inevitable revocation of the permit is already a rebuke for a transgression the Board considers very serious. He did not favor the fine.

Mr. Walsh said there can be no question that the violations on parcel A and parcel B require a fine. The amount of destruction to the wetlands on parcel A are equal to those on parcel B, he felt. Revoking the permit is not much penalty at all, he felt, because the applicant simply has to file another application.

The Agent reminded the Board that their three choices regarding the permit were to uphold, suspend or revoke it.

For Parcel A (90 Spring Valley Road), the following actions were taken:

1. Mr. Walsh motioned, seconded by Mr. Slavin, to impose a \$1,000 fine for the violation, as per Sec. 13.4 of the regulations. There was discussion on the motion, and it passed, 5-4, with Mr. Fossi, Dr. Autuori, Mr. Katz and Mr. McChesney opposed.
2. Mr. Katz motioned, seconded by Mr. Walsh, to revoke the wetlands permit previously issued for the site. The motion passed, 8-0-1, with Dr. Autuori abstained.
3. Mr. Katz motioned, seconded by Mr. Slavin, to carry out the recommendations of the Agent, including (a) monitoring of the site on a periodic basis until the site is stabilized and wetlands restored, (b) posting of a bond, and (c) filing of a notice on the land records, to be released upon authorization by the Board at a future date when a sufficient amount of work has been done and a bond remains in place for the unfinished work. The motion passed, 9-0.
4. **#2007-118-SR:** Summary Ruling application for activities within the upland review area in conjunction with new single family residence construction on 1.247± acres of land located at **115 Golf Lane**. Owner/App.: Bruce Meier. Auth. Agent: Frank G. Fowler III, PE, LS. *65-day action period ends 12/13/2007. Received 10/9/2007. Walked 10/14/2007. For discussion/action.*

Mr. McChesney motioned, seconded by Mr. Walsh, to draft a resolution of approval for the application, to be acted upon at the 10/23/07 meeting. The motion passed, 7-0-2, with Dr. Autuori and Mrs. Willis abstained.

NEW ITEMS

5. **#2007-121-SPA-SR:** Summary Ruling application requesting a determination of “no regulated activities” in connection with the development of a 16 unit affordable housing community in accordance with Sec. 8-30g of the Connecticut General Statutes located at **76 Governor Street** in the RA zone. Owner: 76 Governor Street LLC. Appl.: Stephen Zemo. Auth. Agent: Matthew Ranelli, Esq. *65-day action period ends 12/20/2007. For receipt and schedule walk.*

Dr. Autuori motioned, seconded by Mr. Fossi, to acknowledge receipt of the application and to schedule a site walk for 10/28/07. The motion passed, 7-0-2, with Mr. Katz recused, and Mr. Slavin abstained.

6. **Added to Agenda:** The Agent spoke briefly about attending the CT Department of Environmental Protection Wetlands Commissioners training session held at the Mashantucket Pequot Reservation on Saturday, 10/13/07. Methods for wetlands restoration, enhancement and creation were discussed. She encouraged Board members to consider attending future DEP training sessions like this, because a variety of valuable information is provided.

BOARD WALKS

The Board scheduled the following site walk for October 28, 2007, as noted above:

- **#2007-121-SPA-SR:** Site Plan application **76 Governor Street**, 76 Governor Street LLC

REQUESTS FOR BOND RELEASES/REDUCTION

There were no requests for bond release or reduction.

CORRESPONDENCE

Chairman Mucchetti pointed out the following correspondence:

- Letter by written by Wetlands Agent/Inspector Aimee Pardee, re wetlands violation at 24 Roberts Lane.

MINUTES

Mr. Katz motioned, seconded by Mrs. Willis, to approve the minutes of October 2, 2007. Chairman Mucchetti offered some minor corrections. The motion passed, with the corrections, by a vote of 9-0.

Hearing no further discussion, the Chairman adjourned the meeting at 9:25 p.m.

Respectfully submitted,

Linda Caponetti
Recording Secretary

APPROVED / REVISED
MINUTES
PLANNING AND ZONING COMMISSION MEETING

October 16, 2007

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

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

At 9:26 p.m., Chairman Mucchetti called the meeting to order.

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). Public hearing closed 9/18/2007. Discussion held 9/25/2007. 10/2/2007 next discussion date set for 10/9/2007. Draft overlay regulations requested from Planner 10/9/2007. 65- day action period ends 11/22/2007. (TENTATIVE pending draft HOD overlay regulations from Planner) For discussion.*

Planner Brosius said that the draft of the HOD provisions was not ready for distribution, but would be sent out with the weekly mailing on Thursday, along with copies of additional information from the record that would be helpful to the Commissioners at their continued discussion scheduled for 10/23/07.

NEW ITEMS

2. **#2007-121-SPA-SR:** Site Plan application under Section 9.1.C.2. of the zoning regulations to permit construction of a 16 two bedroom apartment community in accordance with Sec. 8-30g of the Connecticut General Statutes on 1.2 acres of land located at **76 Governor Street** in the RA zone. Owner: 76 Governor Street LLC. Appl.: Stephen Zemo. Auth. Agent: Matthew Ranelli, Esq. *65 days to commence public hearing ends 12/20/2007. For receipt and schedule walk and public hearing.*

Dr. Autuori motioned, seconded by Mr. Fossi, to acknowledge receipt of the application, to schedule a public hearing for 11/20/07, and to schedule a site walk for 10/28/07. The motion passed, 7-0-2, with Mr. Katz recused and Mr. Slavin abstained.

3. **#2007-122-REV(SP):** Revision to Special Permit under Section 9.2.A.7 as required by Section 3.2.C.3 of the Ridgefield zoning Regulations to install a prefabricated shed for the **Little League baseball field on Serfilippi Field** located at South Shore Drive/Sunset Road in the RAAA zone. Owner: Town of Ridgefield. Appl.: Ridgefield Little League, Stefano Zandri. *65-day action period ends 12/20/2007. For receipt/action.*

Planner Brosius explained that the Little League was offered a 10'X12' shed for free, and they would use it to store their bases and lime, etc. They would like to install the shed for use at Serfilippi Field near Lake Windwing. There are two proposed locations for the shed. Parks and Recreation would prefer that it be away from the parking area and the lake. The Planner agreed that this location is the better of the two.

Mr. Katz motioned, seconded by Mr. McChesney, to approve the application as requested. The motion passed, 9-0.

4. **#2007-123-SP:** Special Permit under Section 9.2 as required by Sec. 5.2 of the Ridgefield Zoning Regulations to (1) construct a 3,543 s.f. branch bank, with drive thru facilities and related improvements and (2) as required under Sec. 7.5 permission to process earth materials on site. Property located at **14 Danbury Road** in the B-1 zone. Owner: JMF Realty, LLC. Appl.: Webster Bank, N.A. Auth. Agent: Ward J. Mazzucco, Esq. *65 days to commence public hearing ends 12/20/2007. For receipt, schedule walk and public hearing.*

Mr. McChesney motioned, seconded by Dr. Autuori, to acknowledge receipt of the application, to schedule a public hearing for 11/13/07, and to schedule a site walk for 10/28/07. The motion passed, 8-0-1, with Mr. Slavin abstained.

5. **#2007-124-SP:** Special Permit under Section 9.2 as required by Section 7.2 of the Ridgefield Zoning Regulations for a temporary banner sign to be located at **720 Branchville Road** in the B-1 zone. Owner/Auth. Agent: John Ancona. Appl.:

Ridgefield Chamber of Commerce. *65 days to commence public hearing ends 12/20/2007. For receipt and schedule public hearing.*

The Chairman explained that this item and the next two items involve the installation of banners at various location throughout the Town. Because there are three separate locations, this requires three Special Permits, she said. Because they require Special Permits, they will also require public hearings. The office recommended that they be included in the public hearing agenda for 11/7/07, because the Chamber of Commerce would like to have them installed in time for the holiday shopping season. She asked the Commissioners if they felt they wanted to walk the sites. They did not feel it was necessary.

Mr. Katz commented vehemently against the incorrect grammar on the signs. He said that it is an affront to the English language, and the signs should not be approved using the proposed language. The banners read, “Shop Local,” although “Shop Locally” is correct.

The Chairman pointed out that the banners were already printed.

Dr. Autuori motioned, seconded by Mr. Walsh, to acknowledge receipt of the application and to schedule a public hearing for 11/7/07. The motion passed, 8-0-1, with Mr. Slavin abstained.

6. **#2007-125-SP:** Special Permit under Section 9.2 as required by Section 7.2 of the Ridgefield Zoning Regulations for a temporary banner sign to be located at **130 Danbury Road** in the B-3 zone. Owner/Auth. Agent: Tom Kelly. Appl.: Ridgefield Chamber of Commerce. *65 days to commence public hearing ends 12/20/2007. For receipt and schedule public hearing.*

Dr. Autuori motioned, seconded by Mr. McChesney, to acknowledge receipt of the application and to schedule a public hearing for 11/7/07. The motion passed, 8-0-1, with Mr. Slavin abstained.

7. **#2007-126-SP:** Special Permit under Section 9.2 as required by Section 7.2 of the Ridgefield Zoning Regulations for a temporary banner sign to be located at **378 Main Street** (Bissell Bldg, vacant lot) in the CBD zone. Owner: Three Hundred Seventy Eight Main. Auth. Agent: Verdi Construction. Appl.: Ridgefield Chamber of Commerce. *65 days to commence public hearing ends 12/20/2007. For receipt and schedule public hearing.*

The Planner noted that the reason that these signs need Special Permits is because the size of the signs exceeds what is normally permitted. The applicant is also applying for these signs to be up for longer than the permitted 2 weeks. These signs could potentially be considered for approval on an annual basis, she said.

Mr. Katz motioned, seconded by Dr. Autuori, to acknowledge receipt of the application and to schedule a public hearing for 11/7/07. The motion passed, 8-0-1, with Mr. Slavin abstained.

COMMISSION WALKS

The Commission scheduled the following site walks for October 28, 2007, as noted above:

- **#2007-121-SPA-SR:** Site Plan application **76 Governor Street**, 76 Governor Street LLC
- **#2007-123-SP:** Special Permit **14 Danbury Road**, Webster Bank JMF Realty, LLC

REQUESTS FOR BOND RELEASE/REDUCTION

There were no requests for bond release or reduction.

CORRESPONDENCE

Chairman Mucchetti pointed out the following list of correspondence:

- Memo from consultant Terri-Ann Hahn of LADA, LLC, regarding a recent inspection at the Toll Brothers site.
- Letter from Robert Cascella, Chairman of the Economic Development Commission, supporting Joseph Ancona's request for discussion with the Commission about the Branchville business district.
- Notice from the Ridgefield Housing Authority about application requirements for the affordable housing units being constructed at 51 Prospect Ridge.
- Letter from the WPCA about sewer installation for the Bryon Avenue subdivision.
- e-mail correspondence and a news article from Wayne Addessi, re downtown business development.
- Minutes of the VDC initial review of the sign application for Keller Williams Real Estate on Main Street
- Notice of another lawsuit filed by a New Jersey agency, re the FAA Report on Airspace Redesign
- Article from the Danbury News-Times re the Conservation Commission proposal for resolution of the open space encroachments at Turner Hill
- Copy of the Board of Selectmen's agenda for the 10/17/07 meeting

Chairman Mucchetti asked Dr. Autuori to speak about his scheduled appearance in front of the Board of Selectmen for the 10/17/07 meeting, to talk about a lighting ordinance for the Town of Ridgefield. Dr. Autuori explained that this initial meeting was primarily to see if the Board had any interest in establishing an ordinance that would be enforced by the Police, to deal with issues of light trespass and offensive light pollution.

MINUTES

Mr. McChesney motioned, seconded by Dr. Autuori, to approve the minutes of October 2, 2007. Chairman Mucchetti offered some minor corrections. The motion passed, with the corrections, by a vote of 9-0.

Hearing no further discussion, the Chairman adjourned the meeting at 9:42 p.m.

Respectfully submitted,

Linda Caponetti
Recording Secretary