

APPROVED / REVISED
MINUTES
INLAND WETLANDS BOARD MEETING

November 7, 2007

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

Absent: Walter Slavin

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

Public hearings were held prior to the meeting. The Planning and Zoning Commission meeting was held prior to the Inland Wetlands Board meeting.

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

PENDING ITEMS

1. **#2007-129-SP-SR:** Summary Ruling application for discharge into existing stream channel on property located at **36 Saw Mill Hill Road** in the RAA zone in conjunction with Special Permit for driveway reconstruction. Owner: Robert Rosseau. Appl./Auth. Agent: Frank Fowler, III, PE, LS. *65-day action period ends 12/27/2007. Received 10/23/2007. Walked 10/28/2007. For action.*

Chairman Mucchetti explained that the Special Permit application, in conjunction with the Summary Ruling, will be discussed at a public hearing on 11/20/07. It is suggested that discussion of the wetlands issues be addressed at the same time.

Mr. Katz motioned, seconded by Dr. Autuori, to table discussion until 11/20.07. The motion passed, 7-0-1. Mr. Walsh recused himself from participation on this item.

2. **72 Canterbury Lane:** Request to the Inland Wetlands Board by Wetlands Inspector for site inspection of property, to determine need (or not) for wetlands permit. For discussion/schedule walk.

The Agent explained that the property is flat and the field behind the house has been turned into a lawn. There is a question as to how much fill might have been put into the flat, pocket wetland there. The Board remembers the area as being a flat, grassy field. It is still grass, but maintained as a lawn and private soccer field. The

consensus of the Board was that a wetlands permit would not be required, and a site walk would not be necessary.

NEW ITEMS

There were no new items.

BOARD WALKS

There were no new 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:

- The 2008 proposed meeting schedule.
- An invitation from the Nature Conservancy regarding a Saugatuck watershed program, to be held on 11/15.
- An invitation for a Public Drinking Water seminar to be held at the Ridgefield Public Library on 11/28.

MINUTES

Mr. Katz motioned to approve the minutes of October 23, 2007. The motion passed, 8-0.

Hearing no further discussion, the Chairman adjourned the meeting at 10:02 p.m.

Respectfully submitted,

Linda Caponetti
Recording Secretary

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PLANNING AND ZONING COMMISSION MEETING

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Joseph Fossi
Nelson Gelfman
John Katz, Vice Chair
James McChesney
Rebecca Mucchetti, Chairman
Patrick Walsh
Lillian Willis

Absent: Walter Slavin

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

Public hearings were held prior to the meeting.

At 9:20 p.m., Chairman Mucchetti asked the Commission to consider handling item #8 first on the agenda, since the applicant was present at the meeting. Dr. Autuori motioned, seconded by Mr. Walsh, to discuss item #8 before all other items. The motion passed, 8-0. Chairman Mucchetti called the meeting to order at 9:21 p.m.

PENDING ITEMS

1. **IF PUBLIC HEARING CLOSED: #2007-112-SP:** Special Permit application under Section 9.2 as required by Section 3.3.D.2. of the zoning regulations for display and sale of art at **Garden of Ideas**, a non-residential use in a residential zone. Property located at **34 Craigmoor Road** in the RAA zone. Owners/Appls.: Joseph H. Keller and Ilsa L. Svendsen. *65-day action period ends 1/11/2008. Received 10/9/2007, walked 10/14/2007. For action.*

Chairman Mucchetti noted that the public hearing was continued to November 13, 2007, and there was no discussion on this item.

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. *Received 10/16/2007. Walk schedule for 10/28/2007 canceled. Reschedule walk.*

Chairman Mucchetti noted the need to reschedule the site walk for **76 Governor Street**, and the item will be added to the walk schedule for 11/11/07.

3. **#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-day action period ends 1/11/2008. Received 10/16/2007. For action.*

Mr. McChesney said that the only condition he would want to impose is that the applicant adhere to the specific dates applied for. The Planner confirmed that the signs would need to be renewed for posting at another time.

The Planner asked if the Commission wanted to add any of the conditions suggested in her staff report.

Mr. Walsh said he supported the restriction whereby no specific businesses could be advertised.

The Planner confirmed the size limit of the signs to be 3' x 8'.

Mr. Katz noted that he would not support the posting of the signs due to their display of poor grammar. He viewed this as being a matter of public welfare, saying that he feels these signs would negatively impact the welfare of the young people the Town is trying to educate.

Dr. Autuori said that he had indicated that he would support the posting of these signs if they were time limited, and so, he “reluctantly” will support the application, despite “horrendous grammar,” he said.

Ms. Willis said that she will support the application, but hopes that the applicant will take advantage of the generous offer to have the sign’s wording corrected, at no cost to the Chamber or the businesses. This should be done as soon as possible, she feels, so that the signs will have been corrected in time for the June posting dates.

Following the discussion, **Mr. McChesney** motioned, seconded by Mr. Fossi, to approve the temporary banner signs, with conditions suggested by the Planner, for the period from 11/15/07 to 12/31/07, and from 6/15/08 to 7/31/08. The motion passed, 6-2. Mr. Katz and Dr. Gelfman were opposed.

4. **#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. 65-day action period ends 1/11/2008. Received 10/16/2007. For action.*

Following discussion, which includes the same comments as in #3 above, **Mr. McChesney** motioned, seconded by Mr. Fossi, to approve the temporary banner signs, with conditions suggested by the Planner, for the period from 11/15/07 to 12/31/07, and from 6/15/08 to 7/31/08. The motion passed, 6-2. Mr. Katz and Dr. Gelfman were opposed.

5. **#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-day action period ends 1/11/2008. Received 10/16/2007. For action.*

Following discussion, which includes the same comments as in #3 above, **Mr. McChesney** motioned, seconded by Mr. Fossi, to approve the temporary banner signs, with conditions suggested by the Planner, for the period from 11/15/07 to 12/31/07. It was noted that this banner is not proposed for display in June and July because of construction on the lot. The motion passed, 6-2. Mr. Katz and Dr. Gelfman were opposed.

6. **#2007-130-SP-VDC:** Special Permit under Section 9.2 and Village District Application under Section 8.3 for reconstruction and upgrade of existing auto body shop (Georgetown Autobody) on property located at **27R Catoonah Street** in the CBD zone. Owner: Ashley Holdings, LLC. Appl.: Patrick Venus. Auth. Agent: Douglas MacMillan. *65 days to commence public hearing ends 12/27/2007. 35 days to receive VDC report ends 11/27/2007. Special Permit withdrawn 10/31/2007. Acknowledge withdrawal.*

Mr. Walsh asked the Planner why this application is being withdrawn. She said that it was because it needs a wetlands permit, which must be submitted prior to or at the same time as the Special Permit application.

Mr. Katz motioned, seconded by Dr. Autuori, to acknowledge the withdrawal of the application. The motion passed, 8-0.

NEW ITEMS

7. **Report on Ridgefield Retreat for Business and Community Leaders**, (held 11/2/2007 at the Leir Foundation) re the Environment and Sustainability.

The Chairman said that the Commission was well represented at the retreat by the Planner, Dr. Autuori, Mr. Katz and Mrs. Willis.

Mrs. Willis said that she was amazed at how little anyone knows about what Planning and Zoning does.

The Planner said that her group had questions about the future of Ridgefield, i.e., the Plan of Conservation and Development, and the Ridgefield Center Study, sidewalks, etc. She felt she needed to impress on them that many of these things are going on right now, albeit not at a very fast pace because of limited personnel and limited budgets, she said. The Planner also noted that the POCD had been brought up many times, and the concepts that were brought up with regard to energy and sustainability might be looked at for inclusion in the update to the POCD in 2009. She mentioned a discussion on mass transit, which she felt was of interest.

There were no votes or decisions on this item.

8. **#2004-085-A-SPA-SR**: Request to revise the Affordability Plan for Terraces at Ridgefield (**619 Danbury Road**) to permit affordable units as rentals. Owner: Terrar LLC. Auth. Agent: Matthew Ranelli, Esq. For discussion/action.

Mr. Matthew Ranelli, the attorney representing the applicant, explained the revision to the affordability plan. When originally proposed, he said, the plan called for all the units at the Terraces to be sale units. The applicant now wishes to convert all the affordable units to rental units. Mr. Ranelli said that the eligibility criteria governing rental applicants would be the same as it would have been for prospective buyers. Prospective tenants will have to meet the same guidelines for income. Instead of a maximum sale price on the units, there would now be a maximum rental price, he said. (For a two bedroom unit at the 60% income level, the maximum rental price would be \$902. For the same unit at the 80% level, the rental price would be \$1,261.)

With regard to the problems that the Town is facing with re-sale of some affordable units in another development, Mr. Ranelli pointed out that this revised plan addresses these problems. He said that, while his client wants to convert these units to rental units now, if they were to be converted back to sale units in the future, this plan contains provisions for that. Mr. Ranelli said the applicants have included a model deed restriction, (with slightly more specific language), which says that any sale or resale in the future would have to comply with State Statute 8-30g and, more importantly, with the regulations, which expressly limit the size of down payments. The plan ensures that, at the time of resale, the deed restrictions would be filed on the individual units, and the sale prices would have to comply with what is required under 8-30g, (at least, as it exists now).

Chairman Mucchetti said that this application had been referred to counsel.

Planner Brosius said that the office had consulted with attorney Fran Collins, and also attorney Robin Kahn of Cohen and Wolf, attorneys for the Town. The Town gets involved, she explained, if and when an affordable unit is sold, to insure that the affordable component is protected and the number of affordable registered units remains what it should be. Ms. Kahn is very familiar with affordability plans and homeowner's plans in general, the Planner said, adding that, while the Commission

needs to be aware of the issues involved here, Ms. Kahn would protect the Town's interests by reviewing this plan in all its detail, prior to filing.

The Chairman asked the Planner what the Commission was being asked to do.

The Planner said that the Commission needs to acknowledge that, when it approved this application, the site plan was the only one of the three resolutions (that were put together following the court order to approve the development) which even mentioned that these affordable units were "for sale" units. She said that the Commission is being asked to modify the "for sale" to "rental" units. The fact that the units were "for sale" was also mentioned in the affordability plan that was submitted as a draft. This affordability plan will need to be modified, as well, and then filed.

Mr. Ranelli said that the general procedure with these plans is, once the development is ready to get Certificates of Occupancy, the applicant would come in again and fill in all the required information, (for example, Appendix A requires that they designate the precise units that would be affordable, so they can be recorded). There is one more filing, he said, where the applicant will update the affordability numbers.

If this change to rental units is acceptable, this would become the draft plan, and then the applicant would "fill in the blanks," and be ready to file the final affordability plan for the Certificate of Occupancy.

Mr. Walsh asked if the Commission had the right not to agree to this affordability change.

The Planner felt that it did not, based on the fact that 8-30g says that the units can be for sale or for rent. The technicality that we are trying to overcome, she said, is that the recorded documents for the approval of this project reference the "for sale" units, and the Commission is being asked to acknowledge that the units are now "for rent."

Mr. Walsh explained his objection to this change. The Town approved these units with the understanding that people were going to buy these units, and the hope that these owners could possibly reap the benefits of equity in these units. This change will preclude that possibility, with the only party benefiting from the transaction being the developer. If the units are marketed as rental units, they can never hit the open market for sale, he said. In this way, it's the applicant who retains ownership of these units for the 40 years, and the applicant who reaps the benefit of equity in these units for that period of time. Mr. Walsh went on to say that it is likely that there will be an upswing in the market, we can assume that the income ratio will increase, which will increase the value of the units. The people the Town would like to see buy those units will not be able to reap the benefits of that upswing in equity. Consequently, Mr. Walsh said he will not support the change from "for sale" to rental.

Mr. Ranelli said that the revision to the plan does not preclude the future sale of these units at any time during the affordability plan, and a “conversion to sale units” is built into the plan. He noted that, while it’s true that an owner remaining in the unit for 40 years could potentially reap an “equity windfall,” the truth is that most people don’t stay in a house for 40 years. The complaint is that people who are income eligible wind up leaving without having accumulated much equity, and don’t get the market benefit anyway. Mr. Walsh said he did not think that was the case, but, both the Chairman and the Planner refuted that.

Mr. Ranelli said that no one has much control over this, and the important point is that the statute provides the applicant the option for either sale or rental. There are pros and cons to each situation, he said, and gave examples of each. He agreed that it is an imperfect system, but stated that the bottom line is that the statute provides for either one, and there is no basis for requiring one over the other.

Mr. Katz said that the only benefit he sees in affordable housing statutes is that they provide housing for people who could not otherwise afford it. The on-going policing concept of how much someone earns really only applies to those who rents, not for those who buy. So, the Town offers to a different population what they are calling affordable housing, he said, and then oversees that their income in relation to the affordability of the unit remains a constant, (and that is over 40 years). Mr. Katz said that there is no such assurance with for-sale units. Mid level professionals who are lower middle class when they purchase the units, frequently are middle class and upper middle class not long afterward. They continue to reside in an apartment that was built for the benefit of its affordability, when they would no longer qualify for an affordable unit.

Five years, eight years into this, they are receiving a benefit and an opportunity that they no longer deserve. Because of this, Mr. Katz said that, not only does the statute legislate that the Commission must approve this, but, the rationale for it is also more clearly supported by the rental units.

Dr. Gelfman asked if the affordable units could be offered as some sale and some rental units.

Mr. Ranelli said that, in his experience, most developers choose to do one or the other; some will rent and remain on site as property managers, others want to sell and leave. The “for sale” units require the one time income eligibility check, while the rentals require annual verification of income. He has never had a client who wanted to split the affordable units into both “for sale” and rental units.

The Planner said that one of the difficulties the Town is having currently with the Villages at Ridgefield is that the affordability plan has some “bad, incorrect language” in it, which is hurting the Town in terms of the resale of the units. The maintenance of the units and the assurance to the Town that they will continue to be monitored and rented or sold as affordable depends on correct and simple language in

the plan. She said that the more complex the plan, the less likely the affordability component will continue for the future.

The Planner agreed with Mr. Katz that, with sale units, there is no way to control or determine if the income level of the occupants still qualifies them for the affordable status. She did say, however, that they would be limited in the resale of the unit. The Planner noted that Ms. Kahn, who is experienced in this law would be the first to say that these are not investment units, because the equity is limited by the formula, which can go up and down. The rental units, she felt, would provide more assurance for the Town that these units will be affordable to a wider range of people, and that the income of those people would need to remain at levels that would continue to qualify them for as affordability units.

Mr. Ranelli said that the tenants have seven days to notify them that their income no longer qualifies, and then sixty days from then to vacate the unit.

The Planner reiterated that the rental of the units prevents the possibility that people who no longer deserve the affordability benefit will continue to inhabit the units. Mr. Ranelli said that, once a unit is sold, it's sold; there is no further review of the owner's income. These units are more likely to be affordable for a longer period of time, the Planner said. Mr. McChesney agreed that this is certainly more desirable.

Mr. McChesney motioned, seconded by Mr. Fossi, to agree to the change from "for sale" affordable units to rental units. The motion passed, 7-0-1, with Dr. Autuori abstained.

8. **Chairman Mucchetti** asked to add an item to the agenda, regarding the scheduling of continued meetings for the Eureka application, since Mr. McChesney's term will end before the scheduled meeting date of 11/20/07. The Commission agreed by unanimous consent to include the item on the agenda for 11/13, with a potential second meeting to be scheduled for 11/19, if needed.

The draft resolutions have been sent to Commission counsel for review. The Planner will meet with the attorneys on Monday 11/12/07 to insure that they are satisfied that the Commission has answered all the questions that need to be answered, and that this input has been properly translated into the resolution. The Planner will e-mail the draft resolutions to the Commission members on 11/9. There will be hard copies at the table for the Commission's review on 11/13, which counsel has already reviewed.

COMMISSION WALKS

The Commission scheduled the following item for site walk on 11/11/07, as noted above:

- **#2007-121-SPA-SR:** Site Plan application under Sec. 8-30g of the Connecticut General Statutes **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:

- 2008 proposed meeting schedule.
- Police Commission report on **14 Danbury Road** (Webster Bank)
- Police Commission report on **76 Governor Street**
- Memo from the Planner to the BoS re the proposed Citation Ordinance
- Copy of letter sent by Dr. Autuori to Commission counsel, asking about court orders and the rights of a Commissioner to refuse to vote.

MINUTES

Mr. Katz motioned, seconded by Mr. Fossi, to approve the minutes of October 23, 2007. Mrs. Willis offered a few corrections. The motion passed, with the corrections, by a vote of 8-0.

Hearing no further discussion, the Chairman adjourned the meeting at 9:54 p.m.

Respectfully submitted,

Linda Caponetti
Recording Secretary