

APPROVED / REVISED  
MINUTES  
INLAND WETLANDS BOARD MEETING

December 8, 2009

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

Absent: Peter Chipouras  
Patrick Walsh, Vice Chairman

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

*Planning and Zoning Commission public hearings were held prior to the meeting. The Planning and Zoning Commission and Aquifer Protection meetings were held prior to the Inland Wetlands Board meeting.*

At 9:30 p.m. Chairman Mucchetti called the meeting to order.

**PENDING ITEMS**

1. **#2009-047-PR:** Withdrawn Plenary Ruling application, **Second and Third Lane**, request for waiver of fees on new application. Owner: Wayne E. Wood and Estate of Charles F. Dean, Jr. Auth. Agent: John f. McCoy, VII, P.E. For discussion/action.

**Chairman Mucchetti** referenced the Agent's hand-written summary of fees paid to date for five applications for the above-named property. Three of the applications were withdrawn, and two were denied. The question from the applicant is whether fees may be waived for another submission, a new application is presented to the Board within 60 days of the withdrawal of the application noted above.

**The Agent** pointed out that certain of the fees cannot be waived (legal notice fees and a fee required by the State). She also suggested that, if the Board considers a waiver of the application fees, that only a portion of those fees be waived since the administrative costs and staff time must be expended in any case.

**Mr. Katz** motioned, seconded by Mr. Fossi, to DENY the request for waiver of fees. The motion to deny the request passed, 5-1-1, with Dr. Autuori opposed, and Dr. Gelfman abstained.

2. **#2008-119-PR: Wilton Road East, Lot 39**, re: inadequate erosion controls and lack of site supervision. *Agent Brosius report.*

**Agent Brosius** referenced the memos prepared by Wetlands Inspector/Agent Aimee Pardee and reported that work continues at the site, to bring it into compliance with erosion and sedimentation control requirements. She emphasized that office staff are finding it particularly difficult to deal with the contractor on this job, and that supervision by the consultant has been much less reliable than expected.

**Mr. Mische** asked if there was a significant erosion problem, and the Agent said there was not. Mr. Fossi stated that he had driven past the site earlier in the day, and that workers were on the job.

No action by the Board was taken, and none is required at this time.

## **NEW ITEMS**

3. **#2009-109-SR: Summary Ruling Application under Section 7.5 of the Inland Wetlands and Watercourses Regulations for the Town of Ridgefield for disturbance and activity in the upland review area in conjunction with installation of an in-ground gunite swimming pool with attached spa on property located at 52 Silver Spring Road** in the RAA zone. Owner: Nubia Forero. Appl./Auth. Agent: Pools by Murphy. *65-day action period ends 2/11/2010. For receipt and schedule walk.*

**Chairman Mucchetti** asked for acknowledgement of receipt of the application and suggested Sunday, 12/13/09, for a site walk. She noted that the pool is proposed to be built in an area where wetlands were filled many years ago. At the suggestion of the Agent, the item will appear on the agenda for 12/15/09 to discuss whether an outside consultant review of the site is needed.

The Agent's concern is that the pool is proposed exactly 35 feet from the side property line and exactly 25 feet from the leaching field of the existing septic system. There is no room for error. The septic system is built on filled wetlands. The hydraulics of groundwater movement in the soils under the filled wetlands and under the septic system is a matter of concern. What happens when digging occurs for the pool, and reaches the level of groundwater?

The item will be scheduled for discussion on 12/15, following the site walk.

## **BOARD WALKS**

As noted above, the Board scheduled the following item for site walk on **December 13, 2009:**

- **#2009-109-SR: Summary Ruling 52 Silver Spring Road, Forero**

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

There were no requests for bond release or reduction.

## **CORRESPONDENCE**

**Chairman Mucchetti** pointed out the following correspondence:

- Revised maps for the Water's Edge Way application.
- Letter from Dennis Miller, P.E., with cross section drawing.

## **MINUTES**

**Mr. Katz** motioned, seconded by Dr. Autuori, to approve the minutes of November 24, 2009. The motion passed, 7-0.

Hearing no further discussion, the Chairman adjourned the meeting at 9:41 p.m.

Respectfully submitted,

Linda Caponetti  
Recording Secretary

APPROVED / REVISED  
MINUTES  
PLANNING AND ZONING COMMISSION MEETING

December 8, 2009

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

Absent: Peter Chipouras  
Patrick Walsh, Vice Chairman

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

At 7:30 p.m., Chairman Mucchetti called the meeting to order. *Item #1 was addressed, and then the Commission adjourned the regular meeting to conduct two public hearings. The regular meeting resumed at 8:11 p.m., starting with item #6 and then taking the remainder of the items in order.*

**PENDING ITEMS**

1. **Martinelli v. Ridgefield Planning & Zoning Commission**, Danbury Superior Court Docket # CV 09 5008600S, Settlement Discussion, review of Resolution of Approval dated 10/8/09, and review of Draft Stipulation and Resolution of Approval.  
*Discussion and possible action.*

**Chairman Mucchetti** introduced the item, and recognized Commission counsel Thomas Beecher who was present for the discussion. She also noted for the record that Commissioners Chipouras and Walsh were not present. Ms. Mucchetti pointed out that she was at the public hearing and subsequent discussion on 10/6/09, but was not present for the discussion and final vote on 10/13/09. She had listened to the tapes and reviewed the record, however, and was familiar with the application. She would therefore participate in the current discussion on the proposed Settlement.

**Attorney Beecher** explained that a public meeting for discussion of a proposed Settlement Agreement must be held prior to the Commission's taking action, and this is the reason for the agenda item. The settlement states that the Commission will adopt the Resolution of Approval for the Special Permit, drafted on 10/8/09. [The resolution was defeated by a vote of 4-3 in October, which effectively denied the application.] A favorable vote by the Commission on the Settlement Agreement

would facilitate a resolution of the litigation, provided that papers are filed in Danbury Superior Court by attorneys for both parties, and further provided that the Court accepts the signed Settlement Agreement.

**Mr. Katz** questioned whether, if the current owner (Martinelli) were no longer living on the premises or operating the business at that location, would the permit still be effective? Attorney Beecher noted that the Commission's approval included a condition stating that the permit would not be transferable to a new owner. The Planner read conditions #7 and #8 aloud, (the conditions that addressed transfer of ownership, and changes in the use of the property for the business use).

Discussion continued.

**Mr. Katz** motioned, seconded by Mr. McChesney, to approve the proposed Settlement Agreement, inclusive of the Resolution of Approval of the Special Permit. The motion passed, 7-0. Attorney Beecher will proceed with presentation of the signed Settlement Agreement in Danbury Superior Court.

2. **#2009-075-PRE:** request to re-subdivide lot created in a 1969 stipulated judgment on property located at **104 West Mountain Road** in the RAA zone. Owner: Lawrence Bossidy. *Walked 11/22/2009. Discussion commenced 11/24/2009. For continued discussion with Attorney Jewell.*

**Chairman Mucchetti** announced that the item would be addressed at the 12/15/09 meeting, at the request of the applicant.

3. **#2009-101-SP:** Special Permit application under Section 9.2 required by Section 3.3.D.1 to permit an accessory dwelling unit within the existing residence located at **40 Ritch Drive** in the RAA zone. Owners/Appls.: Sylvie Metzner and Thomas Tuohy. *Received 11/10/2009, walked 11/22/2009. Public hearing commenced 12/8/2009.*

**Chairman Mucchetti** noted that the public hearing had been continued to 1/12/2010, and there was no discussion.

4. **#2009-102-SP:** Special Permit application under Section 9.2 required by Section 7.5.D.1 of the Ridgefield Zoning Regulations for excavation, grading and filling on property located at **76 Minuteman Road** in the RAAA zone. Owner: Peter Gasparo. Appl.: Peter Gasparo/Alexandra Stone. Auth. Agent: Evan Skibo. *Received 11/10/2009, walked 11/22/2009. Public hearing commenced 12/8/2009. 65-day action period ends 2/11/2010. For action.*

**Chairman Mucchetti** noted that the hearing had been closed and asked for discussion.

**Mr. Fossi** motioned, seconded by Dr. Autuori, to approve the application as presented.

**Mr. Mische** asked that the conditions listed in the staff report be included in the resolution of approval.

**The Planner** asked that a draft resolution of approval be prepared for action on 12/15/09, so that conditions could be properly developed, with input from the Zoning Enforcement Officer, before the final vote. The Commission agreed by unanimous consent.

The motion (as amended) to DRAFT an approval resolution passed, 7-0. The item will appear for final action on the 12/15/09 agenda.

5. **#2009-106-REV(SP):** Revision to Special Permit under Section 9.2.A.7.e of the Ridgefield Zoning Regulations to reface existing Getty signs to “BP” on building located at **242 South Salem Road** in the RAA zone. Owner: Getty Petroleum Marketing. Appl./Auth. Agent: Core States Group. *65- day action period ends 1/21/2010. Received 11/17/2009. PZC agreed to walk site individually. For discussion/action.*

**Chairman Mucchetti** asked the Planner to give an overview of the application.

**The Planner** referenced her staff report and noted that the application was primarily for signage and would be treated as a revision to a special permit for exterior changes proposed to the building. The applicant went before the Architectural Advisory Committee in November 2009. The AAC recommended several changes. Since the applicant comes from a distance, she suggested they submit drawings depicting the changes requested by the AAC, if, in fact, they were in agreement with them. New drawings were submitted and reviewed by AAC Chairman, John Kinnear, who confirmed that the requested changes had been made. It was noted that the applicant agreed to eliminate the proposed digital sign for gas prices, and would use the numbers similar to other gas stations in Ridgefield.

**Mr. Mische** said that he would like to offer a motion to approve the application, noting that his mother was a member of the Commission in 1973 for the original Special Permit approval. His motion was not formalized, but his remarks led to further discussion.

**Mr. McChesney** was concerned about a boat and dumpsters parked behind the gas station, and wanted to condition the approval on the clean up of the area behind the building. Dr. Gelfman agreed, saying that this property is a “gateway facility.”

**The Planner** noted that the application was primarily for signage, and said there may be few zoning permits required for the signage because it involves only a change of content of the signs, not new fixtures. She suggested that no final vote be taken until

12/15/09, so that she could discuss the matter of debris behind the building with the Zoning Enforcement Officer.

**The Chairman** read the details regarding the AAC's recommendations regarding the sign's lighting, at Dr. Autuori's request. The lighting of the logo only and not the background was recommended, and no change to the canopy lights.

**Mr. Mische** motioned, seconded by Mr. McChesney, to request a draft resolution of approval of the application, for final action on 12/15/09. The motion passed, 7-0.

6. **#2009-044-REV(SP): 424R Main Street** (Melillo's building). Notice of Intent to Revoke the Revision to the Special Permit, and Order to Show Cause. Owner: Urstadt Biddle Properties, Inc. For discussion/action.

**Attorney Robert Jewell** was present to represent the property owner, Urstadt Biddle. Mr. Willing Biddle was also present, along with Wayne Wirth, Senior Vice President for UB, and Christopher Raffaelli, from Norman DiChiara Architects.

**Chairman Mucchetti** asked the Planner to summarize the reason for the meeting.

**Planner Brosius** explained the reason for the proposed action. She detailed the history of the building's destruction and demolition. The section of the building attached to Melillo's was structurally destroyed in a fire. Zoning Enforcement Officer, Richard Baldelli took pictures, showing the steel frame as the only remaining part of the building. The walls were taken down. The Architectural Advisory Committee was disturbed by what they saw as conflicting information. They thought what they had originally approved was "building improvements and fire damage repair." This is what is cited on the Special Permit. The notice of intent to revoke the Revision to the Special Permit and Order to Show Cause was issued because the building had been entirely demolished.

The Planner said that the purpose of the meeting was to allow the applicant to explain why the building was demolished and to describe the plan going forward. She advised the Commission that they had the right (under the special permit condition), after hearing the applicant, to modify, suspend or revoke the special permit if they determine that the information originally provided by the applicant was inaccurate. She added that modification would prove difficult because the permit "was specific to the building originally approved."

**The Planner** explained that the original approval for the Revision to the Special Permit identified the purpose of the application to be "building improvements and fire damage repair." In fact, the building has been entirely demolished, she said. Both the Architectural Advisory Committee and the Planning and Zoning Commission had not been aware of the applicant's intention to demolish the building. They had made design recommendations which they were not completely satisfied with because the applicant represented the project as a re-build of fire damage and not a complete

demolition and reconstruction. The AAC and zoning commission had chosen to make concessions on the design because they thought the plans were primarily for the rebuilding of the second floor and the roof. Had they known the building would be essentially demolished, they would not have approved the proposed design. They would have insisted on a different and more aesthetically pleasing design, she felt.

**The Planner** said comments from the AAC had been distributed to the applicant and the Commission for guidance in the discussion.

**The Chairman** drew the Commission's attention to item #5 in the resolution of approval for the Revision to the Special Permit, which outlined the Commission's options should any of the documentation or information provided by the applicant be proven false, deceptive, misleading and/or inaccurate.

The applicant, through its attorney, was given an opportunity to explain the reasons for the complete demolition, which occurred following the issuance of the Revision to the Special Permit.

**Attorney Jewell** noted that he and his firm were not involved in the original application. After reviewing the case, they had come to the conclusion that the "action is unfounded...for a number of reasons." He introduced Christopher Raffaelli, project architect; Wayne Wirth, lead construction manager for Urstadt Biddle; and Willing Biddle, property owner.

Mr. Jewell gave a brief history of what led to the building's current state. He noted that arson resulted in massive destruction. Reconstruction plans began in the spring of '09, and involved significant help and guidance from Planner Brosius. He mentioned that Mr. Raffaelli and Mr. Wirth were sincerely grateful for "the very special attention that [she] gave this application through the entire process."

Mr. Jewell stressed that the building as a whole includes Melillo Farms, which is (and has been) operational. The applicant contends that the building can not be considered demolished when half of it is still standing. He said that building code treats this as a renovation, regardless of how extensive the damage.

Mr. Jewell further stated that the applicant went to the AAC twice and incorporated all their suggested changes. After that, the applicant came to the PZC for a Revision to the Special Permit. There was no public hearing. In reviewing the tapes, Mr. Jewell found that the applicant's representation was for "the reconstruction and planning of the replacement building," which is specifically what the Commission ruled on in June of '09, he said.

Mr. Jewell said his understanding of the project was that the original intent was to retain the second floor landing and portions of its supporting walls. It was later determined on site with the Fire Marshall Lathrop and Building Inspector, Bill Reynolds, that the wooden support walls and second floor landing were no longer

necessary because “the only reason they were being retained was to hold the 2<sup>nd</sup> story. The fire-damaged floor was found to be rotting and mildewed, and they were fire damaged, wet and probably not structurally sound. It was agreed that this support was not worth saving, and metal supports were substituted in the plans. What remains of the building is the foundation and the skeleton, he said.

**Mr. Katz** asked if the re-assessment of the building post-dated the [Revision to the Special Permit] application approval. Mr. Jewell said that it did. Mr. Katz asked if the entire original skeleton was still intact. Mr. Jewell said the main skeleton is still there, but plans are to “beef it up.” There is no intention of moving the walls or enlarging the building, he said, adding that he did not understand the difference between the Commission’s perception of what was planned and what is actually taking place. While there may have been a misunderstanding, Mr. Jewell said, there was nothing “false, deceptive, misleading or inaccurate.”

**Mr. McChesney** asked for clarification on exactly what is left standing, saying that he visited the site and saw only columns and I-beams, with no retaining walls. Mr. Jewell said that was correct. It was agreed that the only retaining wall left of the building is the one that forms the back of Melillo Farms. All other walls are gone. Mr. Jewell again explained why.

**The Planner** said that the Commission had no information regarding the removal of walls: “That evidence is not in our record.” There was no indication that the walls would be retained either, Mr. Jewell said. Mr. McChesney said that there were renderings of doorways in the plan. The Planner said that reports from the AAC indicate that what was presented to them was the applicant’s intention to “reconstruct the walls that were there.” When asked if the building was coming down completely, the applicant’s answer was “No,” the Planner said.

There was discussion about the pitch of the roof, which originally was planned to remain as is, because it was dependent on the supporting walls, the Planner said. With the walls gone, the pitch may be able to be adjusted to a more aesthetically pleasing angle, she said.

**Dr. Gelfman** said that the problem was that the Commission did not understand that Melillo’s Farm was being considered as part of the building. That had not been made clear.

**Dr. Autuori** felt a serious omission on the part of the applicants was that they did not come back to the Commission with the changes after a re-assessment deemed the walls unsound. He did not feel that there was intentional deception, however.

**Mr. Rafaelli**, of Norman DeChiara Architects, reported on the project. He said that loss of rental income was a factor. It was the applicant’s intention to get the building up and running as soon as possible, keeping it the same height and the same footprint, to avoid the delay of site plan approvals.

He described the original building and later modifications to it. There was an internal wood frame system between cinder block walls which held up the second story platform. The applicant hoped to keep as much of the steel frame as possible, along with this second floor platform, its supporting walls, and internal stairs, Mr. Raffaelli said. That intention was detailed in a building department application submitted in July. In late October, the site meeting with Mr. Reynolds and Mr. Lathrop resulted in that plan being abandoned in favor of removing the platform, walls, and stairs, all with the approval of the Building and Fire Departments. The resulting changes would result in a far superior building made of steel and non-combustible materials, Mr. Raffaelli said, with an increased lifespan and no susceptibility to the potential health concerns and structural issues created by the old structures. What was believed by the Commission to be the original intent turned out, during the construction phase, to be “not quite possible,” he said.

**Dr. Autuori** asked the Planner if the Building Department hadn’t stated that this would now be considered a new construction. The Planner said that was true, but, Mr. Reynolds had changed that position (since the Notice of Intent to Revoke... went out), calling this “an alteration of an existing building.” The Planner said she was more concerned with what the zoning permit said: “building improvements and fire damage repair.”

**Mr. McChesney** asked if it was the applicant’s intention to rebuild the building exactly as it was and exactly as PZC approved it, in conformance with the recommendations from the AAC. Mr. Raffaelli said that the plan which was approved by PZC is the same plan the Building Department issued the permit for. There will be updates to the construction drawings, he said, to keep them current.

Mr. McChesney confirmed that the building will look 100% like the one submitted. He asked if the applicant had considered changing the overall building design since the second story was deemed unsalvageable.

**Mr. Raffaelli** said they had not. However, the steel framing members are smaller, so the elevation of the second floor can provide more headroom, he said. This is an internal change only.

**The Planner** confirmed that Mr. McChesney’s question referred to the building’s conformance to the plans submitted to PZC.

**Mr. Katz** said that, oftentimes, an applicant is faced with changes and/or additions arising in the process of discovery after an approval. Since these plans were revised abandoning plans to salvage the existing second story, the project might be suitable for revisions in design that were not offered based on the original limitations of the project. “The AAC... is there to advise on improving the aesthetics of the entire town, going forward, where that opportunity presents itself,” Mr. Katz said. He saw this application as “just such a situation.”

**Mr. Mische** said the Commission made “aesthetic compromises” because it appreciated the applicant’s desire to get the building back up and running quickly. Now, there is no need for those compromises, he said. He felt that the Commission was being unduly pressured to overlook possible improvements.

**Mr. Fossi** did not feel that way at all. Many times, plans change and “you end up going a little further than you originally anticipated,” he said. However, he agreed that the Melillo building and this building are one and the same and the project is a renovation. He believed that what the Commission approved, and what he believed he was approving, is what they are getting, irrespective of additions the Fire Marshall may have added on his own.

**Dr. Gelfman** asked why the AAC was unhappy. Chairman Mucchetti referred him to the AAC comments.

Discussion continued.

**The Chairman** felt that all parties worked cooperatively with the applicant in an effort to help them recover from a “traumatic event.” Had the Commission understood that the project was to be a complete rebuild, the review would have been different, she said. This accounts for the AAC’s frustration, she added.

**Planner Brosius** said she had informed Attorney Jewell’s partner, Rex Gustafson earlier in the day that the AAC provided a summary of their requests for modifications in an effort to help move the project along. These were suggestions put together by the AAC chairman and vice-chairman to enable a more meaningful discussion that evening. Mr. Jewell said he had misunderstood and thought the application was on the AAC meeting agenda.

The Planner said that a major issue was the pitch of the roof, which previously was approved only because the pitch was felt to be determined by the existing walls. Reconstructing the walls should enable a different pitch of the Mansard roof she said.

**Mr. Raffaelli** said that the roof style was selected not because of the perimeter walls, but because of the request by the AAC that the mechanical equipment be moved from the side yards to the roof. To provide serviceability of the equipment while keeping as much of the structure as possible, they were extremely limited on the configuration of the roof, he said.

**Mr. Fossi** said it appears that the AAC was recommending that the air conditioner condensers be located on the ground. Mr. Raffaelli said that was contrary to their recommendations of months ago.

**Dr. Autuori** said that the applicants discovered that there were major structural problems. There was no subterfuge, he said. Their only mistake was that they should have come back to notify the PZC of the changes.

**Mr. McChesney** asked if there were no way that the applicant could come up with new plans using the same footprint, now that the restrictions of the existing building are no longer there. Mr. Raffaelli said that the building could be designed differently. He said he would have to defer to Mr. Biddle on the viability of that suggestion.

**Mr. Biddle** listed the many ways in which the company has been a responsible property owner. For fourteen months, they have been trying to get back into operation, he said. They have lost all the upstairs tenants because the building couldn't be built in time. He anticipated that Hot Shoes Dance Studio will not wait around much longer either. Insurance pays to build the building back the way that it was before, he said. A redesign, with the inevitable four to five month delay getting approvals, is time they can't afford to lose.

**The Chairman** defended the Commission's expeditiousness, noting the statutory timeline PZC goes by.

**Mr. Biddle** asked the Chairman if changing the building, changing the roofline and re-submitting plans wouldn't add four months to the application. The Chairman said that, at this point, it would. The purpose of the discussion was "to find a way to move this forward. Your property is a valuable asset in the Village," she said to Mr. Biddle. She noted that the Commission was encouraged to review the changes to the original plans by the Building and Fire Departments, and the AAC.

**Mr. Katz** said he did not feel "hoodwinked." He was sympathetic to Mr. Biddle's concern for expediency and economic viability, but called these problems concomitants of doing business. He said the Commission's first priority must be to the Village.

Mr. Katz made a motion that "revised drawings be submitted to the AAC and the process start anew."

**Dr. Gelfman** was in favor of the building as proposed. He said he could appreciate the difficulty of a re-design at this point and he was not convinced that it was warranted.

There was no second to Mr. Katz' motion.

**Planner Brosius** said she agreed with Mr. Katz that the aesthetic of this building is very important. Its location, in a busy courtyard area central to a part of the Village slated for improvements to landscaping, parking, circulation, pedestrian access, etc., makes it an important part of the downtown. This was discussed with the principals prior to the submission of their design, she said. Despite that, the opportunity to

improve on what was there and “make a statement” did not materialize, and there was a “large measure of disappointment” with the design that resulted.

The Planner stressed that the changes suggested by the AAC were the result of the committee’s understanding that this was to be just an alteration. While the modifications implemented were a major improvement, the AAC felt there was more of an opportunity to improve the design, she said. She also noted that there are still building code violations relating to the percentage of wall space taken up by windows.

**Mr. Wirth** noted that this violation has to do with the windows that the AAC asked them to put in. There was nothing the AAC asked for that they did not accommodate, he added, with the exception of the exit onto the roadway. There were ensuing conversations about the roofline, he said, which was adjusted in the direction the AAC had wanted.

**Mr. Biddle** said that the revised drawings were submitted to the Building Department and the Planning and Zoning Department. The drawings indicate “in ten different places” that the walls were coming down, he said. He did not feel they had in any way misled anyone.

**Mr. Mische** asked if the condition of what’s left of the building wouldn’t force them to do a re-design anyway. Mr. Biddle said that was not the case.

**Mr. Raffaelli** said that in this case they are bound by the “existing building code,” but, because of their professional standard, they have designed 100% to the “new building code,” a more demanding standard.

**Mr. Mische** asked if any other agencies have issues with the building or if the issues were all with the special permit and how it was crafted and whether or not it will be revoked.

The only outstanding issue is the windows, **Mr. Raffaelli** said. The design exceeds the allowable unprotected opening on a wall that’s adjacent to a property line. Had the existing wall remained, it would have been compliant, but, since the wall came down, the State sees it as new and requires modification. Mr. Lathrop, Mr. Reynolds and Ms. Humble (State) are all onboard with this, he said. All that is left is the filing of paperwork.

**Mr. Katz** said the AAC has been put in place to improve the aesthetic of downtown Ridgefield. The VDC has the same mandate but with a different jurisdiction. Its mandate concerns parts of a building facing a street, particularly in the downtown. The goal is to improve Ridgefield as a shopping destination going forward. “To obviate the opportunity to do that with this major piece of a major portion of downtown retail is really an abrogation of duty that I find almost a dereliction,” Mr.

Katz said. He said the Commission is not elected to represent applicants as business persons, but as they participate in the growth of a vibrant downtown Ridgefield.

**Dr. Gelfman** noted that the main controversy seemed to revolve around the Mansard vs. the peaked roof. If the roof is changed, all the mechanicals have to be relocated. He felt an adequate compromise had been reached. The property isn't right on Main Street, he noted.

**The Chairman** said the Commission was looking for some consideration toward a gable roof versus a Mansard roof .

**Mr. Raffaelli** said it was possible to change the roof to a gable roof, but, they would have to re-design the entire mechanical system. All of the units would have to move into the crowded alleyway between the building and the back of the Bailey Ave. buildings.

**Dr. Autuori** said that tastes vary, and the roof may appeal to some. It's a compromise that works, he said. The issues have been explored and what is before the Commission "isn't bad."

**Mr. McChesney** motioned, seconded by Mr. Fossi, to withdraw the Notice of Intent to Revoke the Special Permit. The motion passed by a vote of 6-1, with Mr. Katz opposed.

## **NEW ITEMS**

7. **#2009-112-REV(SP):** Revision to Special Permit under Section 9.2.A.7.e as required by Section 3.2.C of the Ridgefield Zoning Regulations to rent the Keeler Tavern Museum's Garden House facility for sale of art and antique products to third-party vendors four times a year on property located at **132 Main Street** in the RA zone. Owner/App.: Keeler Tavern Preservation Society. *65-day action period ends 2/11/2010. For receipt/discuss with applicant 12/15/2009.*

**Chairman Mucchetti** asked for acknowledgement of receipt of the application. The item will be discussed at the meeting on 12/15/09, with representatives of the Keeler Tavern Museum. The full Commission acknowledged receipt of the application.

## **COMMISSION WALKS**

There were no site walks to be scheduled.

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

There were no requests for bond release or reduction.

## **CORRESPONDENCE**

**Chairman Mucchetti** pointed out the following correspondence:

- Letter from Planner to Board of Selectmen, Capital Budget Request for 2010
- Article from Christian Science Monitor, re Free Speech and zoning regulations

- Article on Tree Ordinances in New Jersey

## **MINUTES**

Mr. McChesney motioned, seconded by Mr. Mische, to approve the minutes of November 24, 2009. The motion passed, 7-0.

Hearing no further discussion, the Chairman adjourned the meeting at 9:24 p.m.

Respectfully submitted,

Linda Caponetti  
Recording Secretary

UNAPPROVED / UNREVISED  
MINUTES  
AQUIFER PROTECTION AGENCY

December 8, 2009

Present: Michael Autuori  
Joseph Fossi  
Nelson Gelfman  
John Katz  
James McChesney  
Phil Mische  
Patrick Walsh, Vice Chairman

Absent: Peter Chipouras  
Rebecca Mucchetti, Chairman

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

At 9:25 p.m., Chairman Mucchetti called the meeting to order.

**PENDING ITEMS**

There were no pending items.

**NEW ITEMS**

1. **#2009-110-A-APA:** (1) Acknowledgement of Approval of Level A (final) Aquifer Area mapping for the Oscaleta Well Field, (2) Amendment to Zoning Map; and (3) Adoption of Municipal Aquifer Protection Regulations. Commission Initiated. *For discussion c/o P.D.*

**Chairman Mucchetti** asked the Planner to explain the item.

**The Planner** explained that the State of Connecticut Department of Environmental Protection had finalized its identification and mapping of the Oscaleta Well Fields as a “Level A” aquifer, which means that it is an aquifer belonging to a public water supply company that serves at least 1,000 customers. Statutes require that the Town adopt the Level A identification and boundary as an amendment to the zoning map, and adopt regulations acceptable to the State, for protection of that aquifer.

The Planner noted that the Commission has Aquifer Protection regulations as part its Zoning Regulations (Sec. 6.2), and that state-defined aquifers are covered within those regulations. However, the State would have to accept those regulations as adequate according to the Statutes.

The process going forward will include mapping of the aquifer on the zoning map, and review of the regulations. This will occur in the next few months. The Planner proposes that a public hearing be scheduled for the March Aquifer Protection meeting to respond to the State's mandate. The items to be covered at the public hearing would be (1) Amendment to the Zoning Map to include the "Level A" Aquifer, and tentatively, (2) Amendment of the Municipal Aquifer Protection Regulations (Sec. 6.2) in accordance with State mandates.

**The Commission** acknowledged the CTDEP designation and mapping of the Level A aquifer, and agreed by consensus with the Planner's proposal for amendment of the zoning map and regulations (if needed). There was no further discussion.

### **CORRESPONDENCE**

There was no correspondence.

### **MINUTES**

**Mr. Fossi** motioned, seconded by Mr. Mische, to approve the APA minutes of September 8, 2009. The motion passed, 6-0-1, with Chairman Mucchetti abstained.

Hearing no further discussion, the Chairman adjourned the meeting at 9:29 p.m.

Respectfully submitted,

Linda Caponetti  
Recording Secretary