

ZONING BOARD OF APPEALS OF RIDGEFIELD

MINUTES OF MEETING

JULY 10, 2006

NOTE: These minutes are intended as a rough outline of the proceedings of the Board of Appeals on Zoning of Ridgefield held on **July 10, 2006**, in the Public Meeting Room, Town Hall Annex, 66 Prospect Street, Ridgefield. They are not intended to replace verbatim transcripts of the meeting which may be obtained from the Administrator at cost.

The Chairman called the meeting to order at approximately 7:30 p.m. Sitting on the board for the evening were: Charles Creamer (Chairman), Charles Campbell (Vice President), Edward Odachowski, Henry Seemann and Glenn Smith. Also present for some continued hearings were alternates Andrew Pisanelli, Mike Stenko and Dwayne Escola.

Rotation of alternates: The rotation from the last meeting was: first, Mr. Escola; second, Mr. Stenko; third, Mr. Pisanelli. As no new alternate was needed for this meeting, the rotation will remain the same for the July 24, 2006 meeting.

The first item was a decision session on **Appeal No. 06-029 – Petition of Richard D. and Cynthia Rudder** which was concluded at the June 19, 2006 hearing and was heard by Mr. Creamer, Mr. Odachowski, Dr. Seemann, Mr. Smith and Mr. Escola. This decision may be found in the end section of these minutes.

The following petition was continued from the June 19, 2006 meeting and was heard by Mr. Creamer, Mr. Odachowski, Dr. Seemann, Mr. Smith and Mr. Stenko.

Appeal No. 06-033 – Petition of Chris and Jill Peterson

As requested by the board at the last hearing, the applicants provided a new map showing the location of the septic system on their property at **31 Harding Drive**. Mr. Peterson explained that the pool had to be 25 ft. from the containment tank. Moving closer to the house would undermine the columns of a second floor balcony; moving it farther into the property would damage a stone retaining wall and there would be no room to dig the hole for the pool. The proposed location was the only practical one available to them, and the pool was smaller than the one originally shown on the building plans approved before section 8-26a of the state statutes was changed in 2004. Mr. Peterson noted that the proposed 31 ft. setback still exceeded the 25 ft. that had been required prior to 2004.

Board members had no additional questions. No-one appeared to speak for or against the petition, and the hearing was concluded. The decision may be found in the end section of these minutes.

The following petitions were continued from the June 19, 2006 meeting and were heard by Mr. Creamer, Mr. Odachowski, Dr. Seemann, Mr. Smith and Mr. Pisanelli:

Appeal No. 06-040 – Petition of David R. and Carolyn J. Foster

David Foster represented the applicants. All board members had visited the property at **112 Peaceable Ridge**.

Dr. Seemann suggested the possibility of an alternative location for the proposed shed that would comply with the regulations. He noted that the area in question was rocky and would have to be leveled but might be feasible. Mr. Foster responded that several trees would be lost and it would take a lot of work to remove the rocks and level the ground. It

would also prevent access to the shed which would have to cross a rocky, sloping area.

Letters in support were received from all three neighbors who might be affected by the variance.

Mr. Creamer noted that this was a three acre zone yet all the lots were developed as one acre parcels. The applicant was asking for setbacks of 46 ft. and 35 ft. which exceeded those required under the original subdivision regulations and under the two-acre regulations.

Mr. Pisanelli asked if the level area where the waterline crossed the property could not be used for the shed. Mr. Foster noted that the town had recently marked the line for its GIS system, so the location was accurately noted on the survey. The town had an easement, so it was unlikely it would allow the area to be used for the shed.

No-one appeared to speak for or against the petition and the hearing was concluded. The decision may be found in the end section of these minutes.

Appeal No. 06-039 – Petition of Christine McMaster-Sander

Attorney Robert Jewell continued to represent the applicant on her property at **613 Ridgebury Road**. Board members had visited the site.

Mr. Jewell reiterated that the property was both a legally nonconforming lot and a subdivision lot. It was undersized for the zone, yet the addition would meet the FAR and setbacks. The only variance needed was for lot coverage. Mr. Creamer noted that the nonconformity had actually been reduced when the original lot was subdivided. The original lot had contained both the Church and several houses.

Mr. Creamer further noted that the lot coverage regulation had been enacted long after the property had been subdivided. Mr. Jewell responded that the property had been subdivided in 1974, the first coverage regulation was enacted around 1990, and the more restrictive coverage was passed in 2001. His client's property had been impacted by the state statute change regarding subdivisions and the loss of the drop-down provision in the town's zoning regulations, both in 2004.

No-one appeared to speak for or against the petition and the hearing was concluded. The decision may be found in the end section of these minutes.

Appeal No. 06-043 – Petition of Mark E. and Janine B. Trench

Attorney Robert Jewell continued to represent the applicants. Mark Trench was also present. Board members had visited the property at **58 West Lane**.

Dr. Seemann noted that there was no access from West Lane to where the porch would be constructed, and that there was a four ft. height differential. Mr. Trench responded that the property had a West Lane address, although access was from Shadow Lane. At one point there were steps down to West Lane. He wanted to make the West Lane side of the house look more like a front entrance than a rear so that the house would be easier to find. Mr. Pisanelli added that there was talk of adding a sidewalk along that portion of West Lane.

In terms of hardship, Mr. Jewell noted that the house had been constructed in 1850 before zoning. There was a 23 ft. right of way along West Lane so that the addition would meet the 25 ft. setback from a practical standpoint.

Mr. Creamer felt the addition maintained the historical character of the house and was no closer to the road than the existing building.

No-one appeared to speak for or against the petition and the hearing was concluded. The decision may be found in the end section of these minutes.

Appeal No. 06-042 – Petition of Thomas R. and Eileen Kelly Beauregard

Mr. and Mrs. Beauregard were present, and board members had visited the property at **161 Spring Valley Road**.

Mr. Odachowski questioned whether the proposed indoor riding ring had to be as large as shown. Mrs. Beauregard indicated that it was actually smaller than recommended. Rings for jumping and dressage were larger.

Mr. Creamer felt it was not visible and would have no impact on surrounding properties, but the coverage requested was substantial. As this was an area that had many properties with horses, some commercial, he thought it might be more appropriate to approach the P&ZC to change the regulations governing such structures in that area.

Dr. Seemann noted that he had asked an experienced horse trainer about the size of the ring and the trainer had indicated that a rectangular ring should be at least 70 ft. by 130 ft. to guard against overstretched ligaments in the horses. She had further noted that half of the ring could be covered and half open. This might solve the coverage problem and allow the applicants to proceed without a variance.

Mr. Beauregard noted that he was in the process of purchasing some additional land from an adjoining neighbor, and board members noted that this would allow him to cover more of the ring.

Mr. and Mrs. Beauregard withdrew their application during the hearing to allow them to consider other options.

The following new petitions were heard by Mr. Creamer, Mr. Campbell, Mr. Odachowski, Dr. Seemann and Mr. Smith.

Appeal No. 06-045 – Petition of Ronald J. and Cecilia M. Shirk

Attorney Robert Jewell represented the applicants on property located at **165 Peaceable Street**. Also present was Jeff Mose, architect for the project, and Mr. and Mrs. Shirk.

Mr. Jewell submitted a memorandum on the petition, and explained that the property was 1.016 acres in the RAA zone. It was developed in 1964 as part of the Westmoreland one-acre subdivision, and the area was upzoned in 1966. There were no coverage regulations in effect at that time. The applicants wished to reconfigure their home and relocate the front entrance. The addition consisted of 233.5 sq. ft. for the front porch, and 165 sq. ft. for a bump-out. This pushed them over the permitted lot coverage. They would also add dormers and a bathroom which would not require any variance.

In terms of hardship, Mr. Jewell cited the change of zone, the changes to 8-26a in 2004, and the design of the home. Most homes in Westmoreland were either ranches or colonials. This was neither; it was a cape with the predominant living area on the first floor. The style made compliance with the coverage regulations difficult.

Jeff Mose reviewed the existing and proposed house layouts and noted that one could not tell where the front entrance of the house might be. The plans would make this more defined. Dormers and a change in roofline would improve the character of the house. They would not, however, be raising the roof.

Mr. Jewell added that the house would meet all the requirements of the one-acre zone, and more than met the FAR and setbacks of the two-acre zone.

Dr. Seemann asked if any other modifications had been made to the house since it had been constructed. Mr. Jewell replied that it appeared a second garage had been constructed at a later time, but this was not reflected in the zoning or Tax Assessor records.

Mr. Campbell asked if the front porch were being constructed primarily for aesthetic reasons. Mr. Mose responded that it was 75% for aesthetics, but he needed to move the wall to make additional space for the foyer.

No-one appeared to speak for or against the petition, and the hearing was continued to July 24 to allow board members to visit the site.

Appeal No. 06-046 – Petition of William Velthaus

Mr. Velthaus explained that his home at **208 Florida Road** had no basement or storage area. It had a detached garage, and he wished to join the garage to the house with an enclosed breezeway. He would be removing part of the porch on the house, so that the net increase in the lot coverage was 215 sq. ft. The house had been constructed in 1962, and he could not add a second floor because of structural issues.

Mr. Odachowski noted that there was a shed on the property and asked if Mr. Velthaus needed to keep it. Mr. Velthaus said he would like to; he used it for storage as the house had no basement. He noted that he was looking for less than one percent increase in the overall coverage.

No-one appeared to speak for or against the petition, and the hearing was continued to July 24 to allow board members to visit the property.

Appeal No. 06-047– Petition of Lynn Federici

Ms. Federici explained that a recent addition on her house at **68 New Street** had sliding doors which were 3 ft. off the ground and created an unsafe condition. She wished to construct a small deck to allow egress from the sliders. Her lot was long and narrow and she would need a setback variance, even though the deck was farther from the lot line (11 ft.) than the existing house (9.8 ft.).

Ms. Federici had consulted her neighbors who had no problem with the proposal.

No-one appeared to speak for or against the petition and the hearing was concluded. The decision may be found in the end section of these minutes.

Appeal No. 06-048– Petition of Boehringer Ingelheim Pharmaceuticals, Inc.

Gary Randall, Director Project Management at Boehringer-Ingelheim, Javier Garay of Flad Associates in Wisconsin, and Lee Schofer of Vandewell Engineers in New Jersey, represented the applicants on property located at **900 Ridgebury Road**, Tax Assessor Map E02-0001.

Mr. Randall explained that Boehringer was expanding its Research and Development facilities on the site and was looking for variances for roof setbacks of 12 ft. and 13 ft., roof coverage, and height for the mechanicals needed for the facility. Mr. Randall reviewed the current buildings on the property and noted that the new facility would be the Physical Sciences Building which they hoped to complete in March, 2007.

He further explained that research and development was key to the success of the company, and the new building was complex with a high volume of air coming in and going out. Thus larger air handlers and exhaust fans were needed. Mr. Randall noted that the board had granted similar variances for one of the other research buildings in 1989.

Mr. Garay and Mr. Schofer reviewed the plans for the 10,000 sq. ft. building, located in both Ridgefield and Danbury. The building would meet the building height requirement; only the mechanicals needed the variance. They also reviewed the mechanicals needed on the roof and their purpose.

A chemist with over 43 years of experience, Mr. Creamer noted that Boehringer could not have a laboratory without the hoods described. Mr. Randall noted that the building would have an energy recovery system and that the stacks had to be high enough to ensure no re-entry of air. He further noted that all equipment would be screened, as shown on the plans submitted, as were all other buildings on campus. The equipment would not be seen from the ground.

Board members noted that the same hardships they had found in earlier decisions applied equally to this petition.

No-one appeared to speak for or against the petition and the hearing was concluded. The decision may be found in the end section of these minutes.

Appeal No. 06-049 – Petition of Glenn and Cecilia Berger

Mr. Berger explained that he was seeking a setback variance to allow an addition to his home at **48 Bridle Trail**. The house had been constructed in 1957 and had complied at that time, but now had nonconforming setbacks. He would remove a deck from the house which was 39 ft. from the line, and the addition would be 43 ft. from the line, thus reducing the extent of the nonconformity. The house and addition were well within the permitted lot coverage and FAR.

Mr. Smith noted that the existing house was a one-floor ranch and asked about the extent of the demolition required. Mr. Berger stated that he would be removing the roof and the back wall.

No-one appeared to speak for or against the petition and the hearing was concluded. The decision may be found in the end section of these minutes.

Appeal No. 06-053 – Petition of Darleen and Jason Ferraro, Agent for Kevin and Stacey Cronin

Mr. and Mrs. Ferraro explained that they had purchased the house at **26 Bates Farm Road** four years earlier. At that time the house had a deck which had been rotting. Two years later they replaced it with a new deck without realizing they needed permits to do so. They had recently sold the house to Mr. and Mrs. Cronin who had taken possession but with the requirement that the Ferraros obtain the necessary variance and permits for the deck.

The property was extremely small (0.17 acres) in a one-acre zone and was totally nonconforming. The deck was farther from the property lines than the house itself.

No-one appeared to speak for or against the petition and the hearing was concluded. The decision may be found in the end section of these minutes.

Appeal No. 06-054 – Petition of David Llanos

Mr. Llanos explained that his house at **19 Mountain Road** had been built in 1928, before zoning, and needed storage space. A detached garage on the property was shown on a survey done in 1940, also before zoning, but he did not have the exact date it was added.

The garage roof was falling apart and in replacing it, he wanted to raise the roof to provide a storage area. He noted that the garage was set back from Woody Place about 4 ft. at the closest point. In raising the roof, he would not be increasing that setback.

No-one appeared to speak for or against the petition, and the hearing was continued to July 24 to allow board members to visit the site.

Appeal No. 06-055 – Petition of David and Elizabeth Dickson

Mr. and Mrs. Dickson explained that they were constructing an addition on their home at 16 Cardinal Court. This was a PRD lot and required 25 ft. setbacks. The addition itself met all the zoning requirements, but one small corner of the overhang violated by 1 ft.

Board members considered this encroachment of such a small amount *de minimis*.

No-one appeared to speak for or against the petition and the hearing was concluded. The decision may be found in the end section of these minutes.

Appeal No. 06-056 – Petition of Brian Glenister, Agent for Robert and Harriet Dewey

Mr. Glenister, the architect for this project, explained that his clients had a caretaker's cottage on their 21+ acre property at 211 West Mountain Road. It had been constructed in the 1960s and became nonconforming in 1983 when caretakers' cottages were removed from the zoning regulations as a permitted use. The cottage had been continually occupied by a caretaker, but now the joists and other parts of the cottage were rotting and for safety reasons had to be totally rebuilt. The stable part of the cottage would remain, but the section that had rotted would be replaced from the foundation up.

In reconstructing the cottage, the Deweys wished to increase the space by adding a second floor loft, which would raise the roof 3.5 ft. The cottage met all the zoning regulations but needed a variance because it was now a nonconforming use. This was a large, isolated site, with no neighbors who could be impacted.

No-one appeared to speak for or against the petition and the hearing was concluded. The decision may be found in the end section of these minutes.

The board voted the following actions:

PETITION OF RICHARD D. AND CYNTHIA RUDDER
PROPERTY LOCATED AT 38 CHRISTOPHER ROAD
APPEAL NO. 06-029

REQUESTED: variances of Sections 403.0F, FAR, and 403.0G, setbacks, to allow second floor additions to a single family residence that will not meet the required FAR and setback requirements; for property in the RA zone located at 38 Christopher Road.

DATES OF HEARINGS: May 22, 2006; June 19, 2006; July 10, 2006
DATE OF DECISION: July 10, 2006

VOTED: To Deny variances of Sections 403.0F, FAR, and 403.0G, setbacks, to allow second floor additions to a single family residence that will not meet the required FAR and setback requirements; for property in the RA zone located at 38 Christopher Road.

VOTE: To Grant: 0 To Deny: 5

In favor
-0-

Opposed
Creamer, Odachowski
Seemann, Smith, Escola

The board voted this action for the following reasons:

1. No unusual hardship especially affecting this property was presented that would justify the grant of the FAR variance requested in this case.

PETITION OF CHRIS AND JILL PETERSON
PROPERTY LOCATED AT 31 HARDING DRIVE
APPEAL NO. 06-033

REQUESTED: a variance of Section 401.0G, setbacks, to allow an in-ground pool closer than permitted to the lot line; for property in the RAAA zone located at 31 Harding Drive.

DATES OF HEARINGS: June 5, 2006; June 19, 2006; July 10, 2006.

DATE OF DECISION: July 10, 2006

VOTED: To Grant, with Condition, a variance of Section 401.0G, setbacks, to allow an in-ground pool closer than permitted to the lot line; for property in the RAAA zone located at 31 Harding Drive.

VOTE: To Grant: 5 To Deny: 0

In favor
Creamer, Odachowski, Smith
Seemann, Stenko

Opposed
-0-

CONDITION:

This action is subject to the following condition which is an integral and essential part of the decision. Without this condition, the variance would not have been granted:

The pool shall be constructed exactly as shown on plans and drawings presented to the board. The application, the plans and drawings are made part of this decision.

The board voted this action for the following reasons:

1. This property was developed as part of a one-acre subdivision, and as the result of changes in the zoning ordinance, must now comply with the three-acre requirements. The location of the septic system and a stone retaining wall preclude other reasonable locations for the pool. As the applicant made every attempt to minimize the size of the pool to comply to the setback regulations to the extent possible, the changes in the zoning regulations combined with the location of the septic system present an unusual hardship and practical difficulty in this case that justifies the grant of the variance requested.
2. The proposal is in harmony with the general scheme of development in the area. With the screening provided, there will be no negative impact on the adjoining properties.

PETITION OF CHRISTINE MCMASTER-SANDER
PROPERTY LOCATED AT 613 RIDGEBURY ROAD
APPEAL NO. 06-039

REQUESTED: a variance of Section 402.0E(1), lot coverage, to allow an addition with greater lot coverage than permitted; for property in the RAA zone locate at 613 Ridgebury Road.

DATES OF HEARINGS: June 19, 2006 and July 10, 2006.

DATE OF DECISION: July 10, 2006

VOTED: To Grant, with Condition, a variance of Section 402.0E(1), lot coverage, to allow an addition with greater lot coverage than permitted; for property in the RAA zone locate at 613 Ridgebury Road.

VOTE: To Grant: 5 To Deny: 0

In favor Opposed
Creamer, Odachowski, Smith -0-
Seemann, Pisanelli

CONDITION:

This action is subject to the following condition which is an integral and essential part of the decision. Without this condition, the variance would not have been granted:

The variance shall apply only to the existing house. The addition shall be constructed exactly as shown on plans and drawings presented to the board and made part of this decision.

The board voted this action for the following reasons:

1. This lot was part of a larger parcel which contained three valid, nonconforming uses (the Church and two residential dwellings) long before zoning was enacted in Ridgefield. Subdivision of the property in 1974 reduced the nonconformity by creating separate lots for each use. Changes in the zoning ordinance and state statutes after the property was subdivided have inflicted an unusual hardship by requiring this undersized lot to meet the two-acre zoning requirements. In this particular case, these changes justify the grant of the variance requested.
2. It was noted that in spite of the undersized lot, the addition will meet the setback and FAR requirements, and thus is in harmony with the general scheme of development in the area. It will have no adverse impact on the surrounding properties.

PETITION OF DAVID R. AND CAROLYN J. FOSTER
PROPERTY LOCATED AT 112 PEACEABLE RIDGE ROAD
APPEAL NO. 06-040

REQUESTED: variances of Sections 401.0E(1), coverage, and 401.0G, setbacks, to allow a shed that will not meet the required lot coverage or setbacks; for property in the RAAA zone located at 112 Peaceable Ridge Road.

DATES OF HEARINGS: June 19, 2006 and July 10, 2006.

DATE OF DECISION: July 10, 2006

VOTED: To Grant, with Condition, variances of Sections 401.0E(1), coverage, and 401.0G, setbacks, to allow a shed that will not meet the required lot coverage or setbacks; for property in the RAAA zone located at 112 Peaceable Ridge Road.

VOTE: To Grant: 5 To Deny: 0

In favor Opposed
Creamer, Odachowski, Smith -0-
Seemann, Pisanelli

CONDITION:

This action is subject to the following condition which is an integral and essential part of the decision. Without this condition, the variance would not have been granted:

The shed shall be constructed exactly as shown on plans and drawings presented to the board which are made part of this decision.

The board voted this action for the following reasons:

1. The topography of this property, the location of the septic system and the easement for the waterline for the public water supply across this property combine to present an unusual hardship and practical difficulty that justify the grant of the variance in this case. No other reasonable location exists for the proposed shed.
2. It was noted that this is a one-acre parcel which is required to meet the requirements of the underlying three-acre zone. The change in lot coverage is minimal, and the proposed setbacks exceed those required under the two acre zone.
3. The proposal is in harmony with the general scheme of development in the area and will have no negative impact on the surrounding properties.

PETITION OF MARK E. AND JANINE B. TRENCH
PROPERTY LOCATED AT 58 WEST LANE
APPEAL NO. 06-043

REQUESTED: a variance of Section 403.0G, setbacks, to allow a porch addition closer than permitted to the lot line; for property in the RA zone located at 58 West Lane.

DATES OF HEARINGS: June 19, 2006 and July 10, 2006.

DATE OF DECISION: July 10, 2006

VOTED: To Grant, with Condition, a variance of Section 403.0G, setbacks, to allow a porch addition closer than permitted to the lot line; for property in the RA zone located at 58 West Lane.

VOTE: To Grant: 5 To Deny: 0

In favor Opposed
Creamer, Odachowski, Smith -0-
Seemann, Pisanelli

CONDITION:

This action is subject to the following condition which is an integral and essential part of the decision. Without this condition, the variance would not have been granted:

The variances shall apply only to the existing house. The additions shall be constructed exactly as shown on plans and drawings presented to the board and made part of this decision.

The board voted this action for the following reasons:

1. The house on this property was constructed at its current setbacks in 1850, long before zoning. The addition will continue the line of the house and not be substantially closer to the West Lane lot line (four inches). The enactment of zoning and subsequent changes have inflicted an unusual hardship on this property that justifies the grant of the variance requested in this case.
2. The considerable right of way between the property line and West Lane will mitigate any potential impact and will result in the addition meeting the spirit of the setback requirement.
3. The proposal is in harmony with the general scheme of development in the area and will have no negative impact on surrounding properties.

PETITION OF LYNN FEDERICI
PROPERTY LOCATED AT 68 NEW STREET
APPEAL NO. 06-047

REQUESTED: a variance of Section 404.0G, setbacks, to allow a deck closer than permitted to the lot line; for property in the R20 zone located at 68 New Street.

DATE OF HEARING: July 10, 2006

DATE OF DECISION: July 10, 2006

VOTED: To Grant, with Condition, a variance of Section 404.0G, setbacks, to allow a deck closer than permitted to the lot line; for property in the R20 zone located at 68 New Street.

VOTE: To Grant: 5 To Deny: 0

<u>In favor</u>	<u>Opposed</u>
Creamer, Campbell, Smith	-0-
Odachowski, Seemann	

CONDITION:

This action is subject to the following condition which is an integral and essential part of the decision. Without this condition, the variance would not have been granted: The variance shall apply only to the existing house. The deck shall be constructed exactly as shown on plans and drawings presented to the board which are made part of this decision.

The board voted this action for the following reasons:

1. The house on this property was vested in 1945, before zoning in Ridgefield, and was made nonconforming as to setbacks by the enactment of the zoning ordinance in 1946. This, combined with the long, narrow, shape of the lot, represents an unusual hardship that justifies the grant of the variance in this case. It was particularly noted that the proposed deck will be farther from the side property line than the existing house.

2. The proposal is in harmony with the general scheme of development in the area and will have no negative impact on the surrounding properties. It will promote the safety of the residents of the house by providing a safer exit from existing sliding doors.

PETITION OF BOEHRINGER INGELHEIM PHARMACEUTICALS, INC.
PROPERTY LOCATED AT 900 RIDGEBURY ROAD
TAX ASSESSOR MAP # E02-0001
APPEAL NO. 06-048

REQUESTED: a variance of Section 410.0.G.7, building height, to allow the addition of mechanicals that will exceed the permitted fifteen percent roof coverage, and will be closer than 15 feet to the roof edge; for property in the CDD zone located at 900 Ridgebury Road, Tax Assessor Map E02-0001.

DATE OF HEARING: July 10, 2006

DATE OF DECISION: July 10, 2006

VOTED: To Grant, with Condition, a variance of Section 410.0.G.7, building height, to allow the addition of mechanicals that will exceed the permitted fifteen percent roof coverage, and will be closer than 15 feet to the roof edge; for property in the CDD zone located at 900 Ridgebury Road, Tax Assessor Map E02-0001.

VOTE: To Grant: 5 To Deny: 0

In favor
 Creamer, Campbell, Smith
 Odachowski, Seemann

Opposed
 -0-

CONDITION:

This action is subject to the following condition which is an integral and essential part of the decision. Without this condition, the variance would not have been granted:

The mechanicals shall be installed as shown on plans and drawings presented to the board and made part of this decision.

The board voted this action for the following reasons:

Essentially the same hardships found in ZBA variances #89-115 for mechanicals on an adjacent building and #94-031 for a storage tank apply to this request for mechanicals and technology needed for the proposed Physical Sciences Research and Design Building. These hardships are further exacerbated at this time by more stringent EPA and OSHA requirements and added thermal recovery systems. The hardships found in 1994 were:

1. The property is located in the CDD zone. The thermal chilled water storage tank is needed on this property to allow for the cooling of buildings permitted by the zoning ordinance. Since the uses are permitted, the exigencies of the newer cooling technology present an unusual hardship that justifies the grant of a variance in this case.
2. Although the proposed storage tank is in excess of the 35 ft. height permitted, it is still lower than the adjacent fire storage tank and the power house with its condensers. Since testimony indicated that the tank will not be visible from any residential area in either Ridgefield or Danbury, it will have no negative visual impact, and will be in harmony with the general scheme of development in the area.

3. The storage tank forms a necessary part of an energy conservation program. The 40 ft. height is mandated by the technology involved, and the tank cannot be lowered further into the ground because of the location of underground utilities. Since the energy conservation program has been legislated to contribute to the public benefit, the proposal is in harmony with the public health, safety and welfare.

Hardships found in 1989 were:

1. The topography of the site combined with the size of the building present an unusual hardship that justifies the grant of a variance in this case.
2. It was noted that the vagueness of the zoning ordinance as to the method for determining average building heights compounds the hardship. No clear cut method of calculating building heights, in hilly terrain, is specified. Zoning ordinances that are not clearly defined are unenforceable.
3. The nature of the business (a research facility) requires more venting structures than normal. In addition, the stack heights are required to allow proper and safe operation.
4. The proposal is in harmony with the general scheme of development in the area and is not contrary to the public health, safety and welfare.

PETITION OF GLENN AND CECILIA BERGER
PROPERTY LOCATED AT 48 BRIDLE TRAIL
APPEAL NO. 06-049

REQUESTED: a variance of Section 401.0G, setbacks, to allow an addition closer than permitted to the lot lines; for property in the RAAA zone located at 48 Bridle Trail.

DATE OF HEARING: July 10, 2006
DATE OF DECISION: July 10, 2006

VOTED: To Grant, with Condition, a variance of Section 401.0G, setbacks, to allow an addition closer than permitted to the lot lines; for property in the RAAA zone located at 48 Bridle Trail.

VOTE: To Grant: 5 To Deny: 0

<u>In favor</u>	<u>Opposed</u>
Creamer, Campbell, Smith	-0-
Odachowski, Seemann	

CONDITION:

This action is subject to the following condition which is an integral and essential part of the decision. Without this condition, the variance would not have been granted:

The variance shall apply only to the existing house and the addition shall be constructed exactly as shown on the modified plans and drawings presented to the board, with a side setback no closer than 43 ft. The application, plans and drawings are made part of this decision.

The board voted this action for the following reasons:

1. This property was developed as a one-acre parcel before the area was upzoned to RAAA status. Despite the fact that the property consists of only 1.5 acres, the proposed addition meets all the lot coverage and FAR requirements of the three-acre zone. Only a small portion, approximately 65 sq. ft., is located within the setback area. Changes in the zoning designation of this property after the house was vested, combined with the location of the house on the lot, have inflicted an unusual hardship that justifies the grant of the variance requested in this case
2. It was noted that the proposed addition is farther from the lot lines than the existing, nonconforming house. The applicant testified that he would remove an existing deck on the house which would reduce the setback nonconformity. As it is one of the purposes of zoning to reduce nonconformities to the extent possible, the proposal is desirable from a zoning point of view.
3. The proposal is in harmony with the general scheme of development in the area and will have no negative impact on the surrounding area.

PETITION OF DARLEEN AND JASON FERRARO,
AGENT FOR KEVIN AND STACEY CRONIN
PROPERTY LOCATED AT 26 BATES FARM ROAD
APPEAL NO. 06-053

REQUESTED: a variance of Section 403.0G, setbacks, to allow a deck to remain closer than permitted to the side lot lines; for property in the RA zone located at 26 Bates Farm Road.

DATE OF HEARING: July 10, 2006
DATE OF DECISION: July 10, 2006

VOTED: To Grant, with Condition, a variance of Section 403.0G, setbacks, to allow a deck to remain closer than permitted to the side lot lines; for property in the RA zone located at 26 Bates Farm Road.

VOTE: To Grant: 5 To Deny: 0

<u>In favor</u> Creamer, Campbell, Smith Odachowski, Seemann	<u>Opposed</u> -0-
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CONDITION:

This action is subject to the following condition which is an integral and essential part of the decision. The variance approves the deck as constructed and as shown on a survey of the property presented to the board during the hearing and made part of this decision.

The board voted this action for the following reasons:

1. This property is very small (0.17 acres in the one-acre zone), yet the deck almost meets the required setbacks of the underlying zone. It is also more compliant than the existing house. The small size of the property and the location of the existing house represent an unusual hardship that justifies the grant of the variance requested in this case.
2. This deck was constructed two years ago for safety reasons, to replace a former deck which was in a state of extreme disrepair. Thus it promotes the safety of the residents and their guests and has no negative impact on the surrounding properties.

PETITION OF DAVID AND ELIZABETH DICKSON
PROPERTY LOCATED AT 16 CARDINAL COURT
APPEAL NO. 06-055

REQUESTED: a variance of Section 308.0G(5), setbacks, to allow additions that will not meet the required setback; for property in the RAA and RAAA zones located at 16 Cardinal Court.

DATE OF HEARING: July 10, 2006
DATE OF DECISION: July 10, 2006

VOTED: To Grant, with Condition, a variance of Section 308.0G(5), setbacks, to allow additions that will not meet the required setback; for property in the RAA and RAAA zones located at 16 Cardinal Court.

VOTE: To Grant: 5 To Deny: 0

<u>In favor</u>	<u>Opposed</u>
Creamer, Campbell, Smith	-0-
Odachowski, Seemann	

CONDITION:
This action is subject to the following condition which is an integral and essential part of the decision. The portion of the addition that is the subject of this variance shall be constructed exactly as shown on plans and drawings presented to the board during the hearing and made part of this decision.

The board voted this action for the following reasons:

1. The proposed addition meets all the current zoning requirements, except that a one-foot overhang on only one corner of the addition will extend into the setback area. This is *de minimis* and will have no impact on any surrounding property.

PETITION OF BRIAN GLENISTER,
AGENT FOR ROBERT AND HARRIET DEWEY
PROPERTY LOCATED AT 211 WEST MOUNTAIN ROAD
APPEAL NO. 06-056

REQUESTED: a variance of Section 304.0(3)(a) and (b), nonconforming structure, to allow the expansion of a nonconforming caretaker's cottage; for property in the RAAA zone, located at 211 West Mountain Road.

DATE OF HEARING: July 10, 2006
DATE OF DECISION: July 10, 2006

VOTED: To Grant, with Condition, a variance of Section 304.0(3)(a) and (b), nonconforming structure, to allow the expansion of a nonconforming caretaker's cottage; for property in the RAAA zone, located at 211 West Mountain Road.

VOTE: To Grant: 5 To Deny: 0

<u>In favor</u>	<u>Opposed</u>
Creamer, Campbell, Smith	-0-
Odachowski, Seemann	

CONDITION:
This action is subject to the following condition which is an integral and essential part of the decision. Without this condition, the variance would not have been granted:

The additions to the existing house shall be constructed exactly as shown on plans and drawings presented to the board which are made part of this decision.

The board voted this action for the following reasons:

1. The caretaker's cottage was a permitted use until it was eliminated from the zoning regulations in 1983. The change in the regulations in 1983 inflicted an unusual hardship on this property in this case by making the cottage nonconforming. The changes and additions will meet all bulk zoning requirements.
2. The disrepair of the existing structure represents a public safety issue. This also justifies the grant of the variance in this case.
3. As the property consists of over 21 acres, and the cottage will meet all setback, coverage and FAR requirements, there will be no adverse impact on any surrounding properties. It is in harmony with the general scheme of development in the area.

As there was no further business before the board, the Chairman adjourned the hearing at approximately 10:40 pm.

Respectfully submitted,

Marjorie Tippet
Administrator
