

ZONING BOARD OF APPEALS OF RIDGEFIELD

MINUTES OF MEETING

JANUARY 30, 2006

NOTE: These minutes are intended as a rough outline of the proceedings of the Board of Appeals on Zoning of Ridgefield held on **January 30, 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 K. Campbell (Vice Chairman), Edward Odachowski, Henry Seemann and Glenn Smith. Also present for some continued hearings were alternates Andrew Pisanelli and Michael Stenko. This was a special meeting duly noticed with the Town Clerk.

Rotation of alternates: The rotation from the last meeting was: first, Mr. Pisanelli; second, Mr. Collins; third, Mr. Stenko. No new alternates were needed, so the rotation will remain the same for the next meeting.

The following petition was continued from the November 21, 2005 meeting. It was heard by Mr. Creamer, Mr. Campbell, Mr. Odachowski, Dr. Seemann and Mr. Pisanelli.

Appeal No. 05-076 – Petition of Vlad Shybalis, Agent for Brian and Gina Carey

This petition concerned the installation of a pool on property at **107 East Ridge**. Gina Carey continued to represent the applicants, together with Tom Nejame, the pool installer.

Mr. Nejame presented the board with amended plans which showed the proposed pool with a reduced length and centered on the property, with setbacks of 15 ft. from each side line. Mr. Nejame also gave the board photographs of the slope of the Carey property to the rear of the lot to demonstrate why the alternative locations suggested earlier by the board would not be practical.

In response to questions from Mr. Creamer, Ms. Carey confirmed that the setbacks were to the water's edge. She had not yet decided on the design for any decking, which would consist of pavers, but would keep the decking area to a minimum on the side adjoining residential property. The other side would adjoin the Ridgefield Boys and Girls Club which Mr. Creamer noted had also received approval for a large addition.

Dr. Seemann was concerned that the 3 ft. reduction in overall length of the pool was not a significant change. Mr. Nejame explained that he was concerned about having enough overall length to provide an adequate deep end for safe diving.

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 December 5, 2005 meeting. They were heard by Mr. Creamer, Mr. Campbell, Dr. Seemann, Mr. Smith and Mr. Stenko.

Appeal No. 05-091 – Petition of Fred Butters

All board members had visited the site at **35 Mimosa Court** and all commented on the severe slope on the property that made any other location for the shed impractical. They also noted that the shed would have no impact on any neighboring property.

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. 05-093 – Petition of Patrick Brown and Mary Gillespie

At the request of the applicants prior to the meeting, this appeal was postponed to February 13, 2006.

The following petitions were continued from the January 9, 2006 meeting. They were heard by Mr. Creamer, Mr. Odachowski, Dr. Seemann, Mr. Smith and Mr. Stenko.

Appeal No. 05-094 – Petition of Timothy P. and Patricia M. Herlihy

This appeal was withdrawn by the applicants prior to the hearing.

Appeal No. 05-097 – Petition of David and Lynn Isaac

The applicants continued to be represented by Attorney Robert Jewell. All board members had visited the property at **20 Douglas Lane**. Several commented on the extremely difficult lot.

Mr. Jewell summarized the hardships he had earlier presented: the changes in the zoning regulations leaving the property with an acre in a three-acre zone, with two-thirds of the lot under Lake Windwing; the topography of the property; the fact that the proposed house would comply with all the bulk requirements of the three-acre zone and would not be closer to the front lot line than the existing house and many of the houses in the area were closer; the difficult of fitting a house and septic system in a lot with no depth because of the lake.

Mr. Creamer felt the house itself was too large. Mr. Jewell noted that the size met all the three-acre requirements, and he had recently received FAR and coverage variances for a house nearby.

Mr. Creamer also felt that all the houses in the area were nonconforming and thus there was no hardship unique to this particular parcel. Mr. Jewell responded that although this was a 27-lot subdivision, only 3 lots were partially underwater, and only this particular property was two-thirds submerged, which he felt made the lot unique. Mr. Jewell reiterated the hardships he was claiming, citing the cases of Kulak and Sydoriak. He noted that the applicant would have no problem constructing the house within the zoning regulations if it were not for the lake. The house had a limited building envelope, so to apply a 50 ft. setback on all sides would impact this property in a unique way.

Mr. Creamer noted that the Planning and Zoning Commission had made the entire area nonconforming when it upzoned the area to RAAA. The applicant should then return to the Planning and Zoning Commission to have the area returned to its one-acre status.

Mr. Odachowski asked about the request for side setbacks. Mr. Jewell responded that the proposed house could be built on any lot in the area and meet the side setbacks. Because this lot was two-thirds underwater at the rear, the house had to be spread wider on the sides to have less depth.

Mr. Jewell noted that there were letters from multiple neighbors in the file supporting the application, including ones from the owners of the two adjoining properties most affected.

Mr. Smith commented on the difficulty of building on the lot, particularly meeting the separating distances from the septic system and the lake. He agreed with the applicant that the house could only be expanded to the side and that the lake created the difficulty. An applicant could construct a house on a slope, but could not construct one underwater.

Mr. Creamer noted that the applicant could keep his current house; he had a use of the property. Mr. Jewell responded that there was a public health issue in that the septic system could not be pushed too close to the lake. The hardship claimed was not based on financial issues. The applicant had the right to raze an old house and construct a new one.

Harvey Miller of 9 Douglas Lane spoke in favor of the variance. He noted that the board had given him a variance for additions in 1978 based on the changes in the zoning regulations, which was the same situation in this case. Upzoning the area was intended to prevent over-development, not prevent existing homeowners from renovating or rebuilding their homes. Mr. Miller noted that the subdivision had been built over 50 years earlier, and the houses were not intended to last for 50 years. The Isaacs were buying a house that was not well constructed, was substandard in terms of building codes, had no insulation, had not been maintained for many years, and had been empty for four years. Mr. Miller felt the house should be demolished. He noted that the whole neighborhood was evolving, with many people renovating and expanding their homes.

Mr. Creamer still felt that the applicants should go back to the Planning and Zoning Commission for a change of zone, and compared this to the situation with the Turner Hill subdivision.

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. 05-095 – Petition of CV Building Concepts, contract purchaser

Richard Szentkuti continued to represent the applicant on property on **Wilton Road West** adjoining the Ridgefield-Wilton town line. All board members had visited the site.

A letter from Richard Baldelli, the ZEO, to the applicant dated September 2005 was entered into the record. This letter reviewed the various documentation that would be required to establish the property as a nonconforming lot. Mr. Szentkuti noted that the lot had been separately recorded by deed in 1955.

Dr. Seemann and Mr. Creamer both questioned whether the lot had ever been legally nonconforming, but noted that even if it had, splitting off a part of the lot in 1979 resulted in self-created hardship. In response, Mr. Szentkuti asked the board members if they had looked at the small portion that had been split off in terms of its topography. Dr. Seemann felt this was irrelevant as the previous owners had received compensation for the land.

Mr. Smith confirmed that Mr. Szentkuti was actually the contract purchaser of a parcel of land that the current owner had split off from the adjoining property in Wilton.

Mr. Creamer felt the house proposed was too large and needed far too many variances. It was much larger than any of the surrounding houses in Ridgefield. Mr. Szentkuti noted that the adjoining house in Wilton was larger. If the board preferred, he could slightly reduce the size of the house.

No-one spoke in favor of the application.

Robert Roth, the adjoining neighbor to the north on Wilton Road West, spoke in opposition. He noted that he and the neighbor to the south in Wilton would be interested in purchasing the lot to keep as undeveloped land.

The adjoining neighbor to the south, Chris Farrell, was unable to attend the hearing because of a death in the family, but sent the board a letter from engineer John McCoy raising many questions about the viability of the parcel as a building lot. The letter was accepted into the record.

Paula Paccadolmi, an adjoining neighbor, also opposed the variances. She noted that the property had always been part of the Wilton lot, and questioned how it could be separated in this way.

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

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

Appeal No. 05-098 – Petition of Pyramid Luxury Homes Joint Venture

This appeal was withdrawn by the applicant prior to the hearing.

Appeal No. 06-001 – Petition of Jeffrey and Christine Titus

Mr. Titus explained that he wished to construct a detached barn/garage consisting of two bays, a woodshop and a tractor bay on his property at **54 Stonecrest Road**. He would need variances of the setback and coverage regulations to do so. He noted that he had constructed his home in 2001 and had shown a footprint of a “future barn” on the plans submitted to the building department at that time, although the barn now proposed did not match the footprint of the 2001 plan. In June 2004 the state changed the zoning statutes and the property was now held to the RAA requirements. All the properties in this area were one-acre parcels and were similarly affected. Mr. Titus felt the barn would not detract from the neighborhood and would improve the aesthetics of his lot.

Mr. Creamer asked if the house already had a garage. Mr. Titus said the main dwelling had a two-car garage, but he needed the additional garage space for toys, tools and other storage.

In his application, Mr. Titus had proposed the garage within the front setbacks, and with the woodshop and tractor barn. He gave the board an alternative plan he would consider that moved the barn to a different location, out of the setbacks, so that only a coverage variance would be needed. In order to stay within the setbacks, he would be willing to eliminate the woodshed and tractor barn. In the alternative plan, the garage/barn was attached to the main house by a covered breezeway. Board members pointed out that this would impact the FAR and Mr. Titus might need a variance of FAR as well as coverage.

Mr. Odachowski asked about the use of the second floor. Mr. Titus stated it would be for storage only.

Mr. Titus gave the board a petition in support of his application signed by 12 people representing 6 different properties in the area. The board also received 9 letters from other property owners in opposition. Board members asked that the administrator provide at the next meeting an area map with the properties of those in favor or opposed marked.

John Brennan of 55 Stonecrest spoke in opposition. He had lived on Stonecrest Road for 30 years and noted that when Mr. Titus had purchased the property from the previous owner, he had demolished the house and constructed a much larger one. Mr. Brennan felt the barn addition would be too big for the property.

John Morrisroe of 20 Dowling Drive, an adjoining neighbor, noted that the existing house already exceeded the permitted coverage, and the barn was too large for the small lot.

Joanne Sullivan of 48 Stonecrest Road felt the house on the property was already too large for the neighborhood. She was opposed to putting another large structure on the lot.

Betty Walsh of 29 Stonecrest Road also spoke in opposition.

Gary Lawrence of 9 Dowling Drive stated that he was opposed to the barn as shown in the plans submitted with the application. If the barn were rotated as shown on the alternate plans Mr. Titus had submitted that evening, he would be in favor.

Steve Main of 25 Dowling Drive stated that this was a nice neighborhood that he wanted to see remain so. Although Mr. Titus had done a good job with his new house, it was too large for the area. The additional barn would make it even more so. He also felt there was a safety issue with a barn close to the road because that particular location appeared to be an area where children congregated.

Mary Morrisroe of 20 Dowling Drive stated that she was surprised to hear that the 2001 plans indicated that there was a future barn planned because she believed Mr. Titus was building the house for sale.

John Morrisroe of 20 Dowling Drive asked why there were dormers on the second floor if it were just intended for storage. Mr. Titus said it could not be an apartment because it did not have a septic system or water service. Mr. Morrisroe felt these could be added in the future.

Christine Titus refuted the earlier comment by Mrs. Morrisroe that the house had been constructed for sale. She noted that she and her husband had always intended it to be their home.

The board received permission to visit the site. They asked Mr. Titus to submit plans for which of the two barns he wanted the board to act on, and to complete FAR, coverage and setback calculations.

The hearing was continued to February 13, 2006 to allow board members to visit the site.

The board voted the following actions:

**PETITION OF VLAD SHYBALIS, AGENT FOR BRIAN AND GINA CAREY
PROPERTY LOCATED AT 107 EAST RIDGE
APPEAL NO. 05-076**

REQUESTED: a variance of Section 403.0G, to allow a swimming pool closer than permitted to the lot lines; for property in the RA zone located at **107 East Ridge.**

DATES OF HEARINGS: November 7 and 21, 2005 and January 30, 2006
DATE OF DECISION: January 30, 2006

VOTED: To Grant, with Condition, a variance of Section 403.0G, to allow a swimming pool closer than permitted to the lot lines; for property in the RA zone located at **107 East Ridge.**

1. The severe topographic constraints of this property represent an unusual hardship that justifies the grant of the variance requested in this case. Because of the dramatic drop-off, there is no other practical location for the proposed shed.
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.

**PETITION OF CV BUILDING CONCEPTS, CONTRACT PURCHASER
PROPERTY LOCATED ON WILTON ROAD WEST, TA # F20-0043
APPEAL NO. 05-095**

REQUESTED:

- (1) variances of Sections 304.0(5), nonconforming lot, 305.07, lot arrangement including wetlands, 402.0C(1) and (2), lot size and area, and 402.0D, lot density, to approve as a building lot an undersized parcel of land that does not meet the nonconforming lot standards, lot size and area requirements, and wetland-dryland ratio; and
- (2) variances of Sections 402.0E(1), lot coverage, 402.0F, FAR, and 402.0G, setbacks, to allow the construction of a single family house that will not meet the lot coverage, FAR or setback requirements; for property on **Wilton Road West**, known on Ridgefield Tax Assessor Maps as F20-0043, with the street address of 1090 Ridgefield Road, Wilton.

DATES OF HEARINGS: January 9 and 30, 2006

DATE OF DECISION: January 30, 2006

VOTED: To Deny:

- (1) variances of Sections 304.0(5), nonconforming lot, 305.07, lot arrangement including wetlands, 402.0C(1) and (2), lot size and area, and 402.0D, lot density, to approve as a building lot an undersized parcel of land that does not meet the nonconforming lot standards, lot size and area requirements, and wetland-dryland ratio; and
- (2) variances of Sections 402.0E(1), lot coverage, 402.0F, FAR, and 402.0G, setbacks, to allow the construction of a single family house that will not meet the lot coverage, FAR or setback requirements; for property on **Wilton Road West**, known on Ridgefield Tax Assessor Maps as F20-0043, with the street address of 1090 Ridgefield Road, Wilton.

VOTE: To Grant: 0 To Deny: 5

In favor

-0-

Opposed

Campbell, Creamer, Seemann
Smith, Stenko

The board voted this action for the following reasons:

1. No unusual hardship was presented that would justify the grant of the variances requested for both the lot and the house.
2. With regard to the approval of the land as a building lot, the applicant did not establish that the lot was ever a legal building lot. Even if, *arguendo*, it had been legally nonconforming at one time, the sale of a portion of the land in 1979, after the area was zoned RAA, would leave it a non-buildable parcel. Thus any hardship claimed with respect to this sale was self-created.

- 3. The request for variances for the construction of a house became moot when the board did not grant variances for the lot itself. However, no unusual hardship was presented to justify the multiple variances needed for the size of the house proposed. The proposed house would not be in harmony with the surrounding properties nor with the Master Plan of Development of the town.

PETITION OF DAVID AND LYNN ISAAC
PROPERTY LOCATED AT 20 DOUGLAS DRIVE
APPEAL NO. 05-097

REQUESTED: a variance of Section 401.0G, setbacks, to allow the construction of a single family residence closer than permitted to the lot lines; for property in the RAAA zone located at **20 Douglas Drive.**

DATES OF HEARINGS: January 9 and 30, 2006

DATE OF DECISION: January 30, 2006

VOTED: To Grant, with Condition, a variance of Section 401.0G, setbacks, to allow the construction of a single family residence closer than permitted to the lot lines; for property in the RAAA zone located at **20 Douglas Lane.**

VOTE:	To Grant:	4	To Deny:	1
	<u>In favor</u>		<u>Opposed</u>	
	Odachowski, Seemann		Creamer	
	Smith, Stenko			

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 house shall be constructed 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 severe topographic constraint, the size of the lot, and the location of the lake, which covers a large percentage of this lot, combine to represent an unusual hardship that justifies the grant of the setback variance requested in this case. It was noted that the proposed house will meet the FAR and coverage requirements of the underlying RAAA zone.
- 2. The property consists of 1.28 acres in the three-acre zone. The area was originally zoned one-acre, and two subsequent upzonings of the property after the lot was vested compound the hardship.
- 3. The new house to be constructed on this property will improve the lot and have no negative impact on the surrounding area. It is in harmony with the general scheme of development.

As there was no further business before the board, the Chairman adjourned the hearing at approximately 10:03 pm.

Respectfully submitted,

Marjorie Tippet
 Administrator
