

ZONING BOARD OF APPEALS OF RIDGEFIELD

MINUTES OF MEETING

FEBRUARY 13, 2006

NOTE: These minutes are intended as a rough outline of the proceedings of the Board of Appeals on Zoning of Ridgefield held on **February 13, 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 Chairman), Edward Odachowski, Henry Seemann and Glenn Smith. Alternate Michael Stenko was present for one continued petition.

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

Appeal No. 05-093 – Petition of Patrick Brown and Mary Gillespie

Attorney Jewell continued to represent the applicants on their property at **15 Greenfield Avenue**, together with architect John Doyle. Mr. Brown was also present. All board members had visited the property.

Mr. Jewell reiterated the hardships claimed. The house was approximately 100 years old, constructed long before zoning, and was no longer appropriate for use by today's family. His clients wished to adapt the house to modern standards. This was a case of design obsolescence. The property was only 0.23 acres and was created long before the current FAR and coverage regulations; it had also been adversely impacted by the loss of the drop-down provision in 2004.

John Doyle reviewed the site plan, noting that the lot was only 60 ft. wide and thus the existing house already encroached into the setback area. He also reviewed the existing and proposed floor plans, pointing out that the existing house was only 1,586 sq. ft. He had designed the additions to have the least impact on the adjoining properties and to stay within the character of the existing neighborhood. In fact the additions had been designed mainly to the rear so that the house would not change the streetscape.

Mr. Jewell noted that 33 variances had been granted in the immediate neighborhood, although not all were for additions. Three recent ones at 22 Bryon Avenue, and 5 and 9 Fairview Avenue, were requests similar to the one now proposed, and the board had found hardship in the changes in the zoning regulations. Although other applications in the area had neighborhood opposition, the neighbors in this case supported the petition. Mr. Jewell quoted both the Equal Protection provisions of the Constitution and Robert Fuller's references in his book about the ZBA's role as a court of equity.

Mr. Jewell felt this property had a definite hardship but the board was holding it to an impossible standard of unique hardship. The property had a reasonable use, and the owners were trying to update it to meet this century's needs. Mr. Doyle added that the owner had chosen the least impact; if he had chosen instead to make his house higher, it would have destroyed the character of the neighborhood.

Mr. Creamer felt the board should follow the standard of finding unusual hardship, and questioned the meaning of functional obsolescence. In response, Mr. Doyle compared the sizes of the current rooms in the house to standard sizes used by architects in designing rooms in modern homes. The room sizes proposed were modest and the increase in the FAR percentage was misleading because the lot size was small.

Mr. Creamer noted that many people were buying and demolishing older houses. In this case, the owner was trying to preserve one. He also felt that the P&ZC had given a change of zone on Bryon Avenue for developers wishing to construct new houses whereas the owners of the old homes around the Bryon Avenue property were held to higher standards.

Mr. Smith noted that this particular house was not one that a developer would choose to raze. Because of the size of the lot, any new home would require multiple variances.

Mr. Brown added that all his neighbors were frustrated by the activity on Bryon Avenue and felt it was important to maintain the character of the neighborhood, which is what he was trying to do with the design he had presented.

There were no other comments or questions, and the hearing was concluded. The decision may be found in the end section of these minutes.

The following petition was continued from the January 30, 2006 meeting. It was heard by Mr. Creamer, Mr. Campbell, Mr. Odachowski, Dr. Seemann and Mr. Smith.

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

Jeff Titus represented the applicants on property at **54 Stonecrest Road**. Mr. Titus had provided amended plans before the meeting showing the garage at a different location, without the added woodshed and tractor barn. All board members had visited the site and had additional questions and comments.

Dr. Seemann asked what had been on the property before Mr. Titus had built his new home in 2001. Mr. Titus advised that there had been a small, two-bedroom cape. John Morrisroe, a neighbor, added that he personally had constructed the former house in 1952. Mr. Creamer commented that the property had been built to the maximum after the demolition of the former home.

Mr. Odachowski asked if Mr. Titus still proposed to eliminate a shed on the property to reduce lot coverage. Mr. Titus said he would keep the shed because the size of the proposed garage had been reduced. Mr. Odachowski noted that the house already exceeded the lot coverage, and the proposed coverage was greater than that required in the next lower zone. Mr. Titus responded that the house had been in compliance with lot coverage in 2001.

Dr. Seemann noted that the area consisted predominantly of one-acre parcels. The two-acre parcels had the larger size because of the topography – the rear portions of the lots were unusable. He was familiar with the area because his grandfather had developed it, and because he had made three visits to the neighborhood prior to the meeting. The Titus home was out of character with the area and was already developed to the maximum.

Mr. Creamer noted that he had seen larger houses only at the top of Stonecrest, and they appeared to be on significantly larger lots.

Mr. Campbell had also been struck by the number of smaller homes and lots, and agreed the Titus home was out of character. He also noted that the property already had a two-car garage.

Dr. Seemann felt that any hardship claimed was self created; the house was already larger and the family had filled the existing garages.

Mr. Odachowski asked why the garage needed a second storey dormer with a chimney, and questioned whether this would become living space. Mr. Titus replied that the dormer was to provide light, and the chimney would provide heat when needed.

Mr. Titus stated that he had shown an outline of a future barn on the property in his 2001 building application for a new home. In response to a question from Mr. Odachowski, Mr. Titus confirmed he had not submitted any plans for the barn in 2001. Dr. Seemann stated that in past cases, the board had considered pre-existing plans a hardship only when they had been actively pursued and there had been substantial investment.

Gary Lawrence of 9 Dowling Drive spoke in support. He had been opposed to the initial plans for the garage, but had no objection to the location and size of the garage in the amended plans.

John Morrisore of 20 Dowling Drive read a statement in opposition. He noted that the applicants already had a large house with a two-car garage, and exceeded the permitted lot coverage.

Bob McDonald of 40 Dowling Drive was also opposed and felt the proposal did not conform to the neighborhood.

Lois Brennan of 55 Stonecrest had been saddened when the former house had been demolished. When she had discussed the plans for the new house with Mr. Titus in 2001, he had told her he would have only a two-car garage. She felt the proposal was too much for the area.

Reno Severini of 32 Stonecrest stated that he had lived in Ridgefield for 86 years and felt the area had changed too much.

There were no other comments or 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 the regular members:

[Appeal No. 06-002 – Petition of John J. and Sharon F. Phelan](#)

Architect Peter Coffin represented the applicants on their property at **34 Circle Drive East**. John Phelan was also present.

Mr. Coffin explained that his clients owned a split-level ranch constructed in the mid 1960s before the area was upzoned to RAA. They wished to modify and improve the house, and were asking for a setback variance to allow them to add three dormers and a small bump out area within the existing footprint. There would be no increase in the foundation area. The variance was needed because the house itself could not meet the RAA front setbacks.

Mr. Campbell asked the purpose of the dormers. Mr. Coffin replied they would allow windows in two bedrooms and the small bump out would allow windows in the living room.

Dr. Seemann noted that although the front of the house did not meet the 50 ft. setback to the property line, it did appear to be 50 ft. to the traveled portion of the road.

Board members did not feel they needed to visit the 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. 06-003 - Petition of Gregory S. and Valerie K. Jensen

Architect Peter Coffin represented the applicants on their property at **250 Main Street**. Mr. Coffin explained that the lot was extremely long and narrow, immediately adjacent to the Aldrich Museum. It consisted of the main house and a barn which had been constructed right on the property line in 1826. Almost all the barn was within the setback area.

Mr. and Mrs. Jensen would be constructing an addition to the southerly side of the barn that would meet all the zoning requirements. However, at the point it would attach to the existing barn, a dormer would be removed and a new roofline created. As a small portion of that roofline attachment was in the setback area, a variance was needed.

Board members did not feel they needed to visit the 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. 06-004 – Petition of Anthony and Susan Palmer

Mr. Palmer represented the applicants on their property at **27 Mamasco Road**. He explained that he had originally wanted larger additions to the home, but learning he would not meet the zoning regulations, had scaled back the proposed modifications to essentially internal changes. To enlarge the kitchen, he needed to move a staircase, and to meet code, he would need a front portico addition. This addition would actually meet the zoning regulations, but he was also asking for a detached garage which would exceed the permitted lot coverage by 226 sq. ft.

Mr. Palmer explained why he needed the garage for additional space, and felt that his proposals were modest compared to some of the development around him.

Board members felt Mr. Palmer should decide which of the two changes he wished to bring before the board. The portico by itself would meet the requirements. The garage could perhaps be downsized to meet the requirements or reduce the requested coverage. An existing shed on the property might also be removed to make the garage conforming or to allow Mr. Palmer to request the minimum relief.

No-one appeared to speak for or against the petition. Board members received permission to walk the property, and Mr. Palmer agreed to reassess his request prior to the next meeting. The hearing was continued to March 6, 2006.

Appeal No. 06-005 – Petition of Paul and Theresa Toms

Paul Toms represented the applicants on their property at **108 Peaceable Street**. He explained that his property contained two buildings, both constructed in 1810. The former large barn on the property had been converted in 1998 to the principal dwelling on the structure, and use of the former house as a residential structure had ceased. He was now seeking variances to allow the former house to be used as an accessory apartment larger than 900 sq. ft.

Mr. Toms explained that he wanted to preserve the original house which had been the caretaker's cottage of the former Doubleday estate. But it had to have a practical use. To meet the requirements of the accessory structure regulations, specifically that the unit could have only one bedroom, he would take off a small wing that had been added at some point after the original house was constructed, and close off the second floor of the house, converting it into an attic. He would also leave the upper level unheated. Even with these changes, he would exceed the 900 sq. ft. by 111 sq. ft.

The board members advised that they needed more information about exactly what changes would be made to the house, with plans, and accurate figures showing the size of the current house, and the size following the changes. Otherwise it would not be clear what the board was addressing.

Donald Andry of 110 Peaceable Street, the adjoining neighbor, stated that he was concerned because the house was currently for sale, and he did not know what impact a rental property might have with the new owners.

The hearing was continued to March 6, 2006 to allow board members to visit the property and to allow Mr. Toms to provide additional information.

The following three appeals were heard concurrently:

Appeal No. 06-006 – Petition of Toll Brothers, Inc.

This appeal concerned **638 Danbury Road**, also known on the Tax Assessor's Maps as G09-0024.

Appeal No. 06-007– Petition of Toll Brothers, Inc. Agent for IREIF III Ridgefield SH LLC, dba Ridgefield Crossings, Benchmark Assisted Living

This appeal concerned **640 Danbury Road**, also known on the Tax Assessor's Maps as G09-0023.

Appeal No. 06-008 – Petition of Toll Brothers, Inc., Agent for Athena Holdings, LLC/Laurel Ridge Health Care

This appeal concerned **642 Danbury Road**, also known on the Tax Assessor's Maps as G09-0014.

Jack Lannaman represented Toll Brothers on all three properties. He explained that Toll Brothers' development of age-restricted housing on its property at 638 Danbury Road had been approved by the P&ZC in November, 2005. At that time, P&Z had approved only signage on that parcel which conformed to the regulations. Toll Brothers had easements to access their land-locked property over the properties owned by Athena and Benchmark and wanted to address signs for all three facilities at the same time.

Mr. Lannaman reviewed some of the signs requested, which totaled 11. He needed variances for all, both number and size. In addressing the signs at the entrance to the three properties, Mr. Lannaman felt that compared to the one already in place, the three signs proposed would improve the image of the property. One sign was needed on each side of the entrance to be visible to traffic traveling north and south along Route 7, and to provide clear identification for fire, ambulance and other safety vehicles.

Mr. Campbell noted that the signs were on large brick structures, and asked if the variances requested were for the signs only, not the structures. Mr. Lannaman confirmed that only the signs themselves were involved in the application.

Mr. Campbell also noted that signs identified on the plans provided to the board as temporary were purely advertising signs and might be in place for several years. Mr. Lannaman agreed, but said they would be removed when all the units were sold.

Mr. Creamer asked why the signs had to be advertising signs rather than directional signs. Mr. Lannaman responded that Toll Brothers liked to have signs similar to those proposed in all its communities. Mr. Creamer felt Route 7 was a busy road, and the advertising signs could be distracting, thereby creating a hazard.

Mr. Creamer also asked why the entrance to the property could not be given a different street name, with other street names within the three properties, thus obviating the need for most of the signs. Mr. Lannaman did not feel that this would be feasible or that the other property owners involved would be amenable.

Mr. Campbell asked for a tabulation of exactly how much signage was permitted, and how much was being requested. Board members also requested that stakes be placed at each location a sign was proposed, duly marked with the type of sign requested.

No-one appeared to speak for or against the petition, and the hearing was continued to March 6, 2006.

The board voted the following actions:

PETITION OF PATRICK BROWN AND MARY GILLESPIE
PROPERTY LOCATED AT 15 GREENFIELD AVENUE
APPEAL NO. 05-093

REQUESTED: variances of Sections 404.0E(1), lot coverage, 404.0F, FAR, and 404.0G, setbacks, to allow the construction of additions that do not meet the coverage, FAR and setback requirements; for property in the R20 zone located at **15 Greenfield Avenue.**

DATES OF HEARINGS: December 5, 2005 and February 13, 2006
DATE OF DECISION: February 13, 2006

VOTED: To Deny variances of Sections 404.0E(1), lot coverage, 404.0F, FAR, and 404.0G, setbacks, to allow the construction of additions that do not meet the coverage, FAR and setback requirements; for property in the R20 zone located at **15 Greenfield Avenue.**

VOTE:	To Grant:	1	To Deny:	4
	<u>In favor</u>		<u>Opposed</u>	
	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 in this case.
2. The hardship claimed is not unique to this particular property and is shared by other properties in the immediate neighborhood. The request for relief from the Zoning Board of Appeals is premature; the applicants should first seek legislative relief from the Planning and Zoning Commission.

PETITION OF JEFFREY AND CHRISTINE TITUS
PROPERTY LOCATED AT 54 STONECREST ROAD
APPEAL NO. 06-001

REQUESTED: variances of Sections 402.0E(1), lot coverage, and 402.0G, setbacks, to allow the construction of a detached garage and woodshed that do not meet the coverage and setback requirements; for property in the RAA zone located at **54 Stonecrest Road.**

DATES OF HEARINGS: January 30, 2006 and February 13, 2006
DATE OF DECISION: February 13, 2006

VOTED: To Deny variances of Sections 402.0E(1), lot coverage, and 402.0G, setbacks, to allow the construction of a detached garage and woodshed that do not meet the coverage and setback requirements; for property in the RAA zone located at **54 Stonecrest Road.**

