

ZONING BOARD OF APPEALS OF RIDGEFIELD

MINUTES OF MEETING

January 4, 2016

NOTE: These minutes are intended as a rough outline of the proceedings of the Board of Appeals on Zoning of Ridgefield held on January 4, 2016 in the Public Meeting Room, Town Hall Annex, 66 Prospect Street, Ridgefield. Copies of recordings of the meeting 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: Glenn Smith (Chairman), Duane Barney (Vice Chairman) David Choplinski, Sky Cole, and Charles Creamer. Alternate Carson Fincham was also present.

ROTATION OF ALTERNATES

The rotation for the meeting was: first, Mr. Stenko; second, Mr. Fincham; third, Mr. Escola. No alternate was used at this meeting. Thus the rotation for the next meeting will be: first, Mr. Stenko; second, Mr. Fincham; third, Mr. Escola.

CONTINUED PETITION

**Appeal No. 15-034 – Petition of Joseph Chelednik and Bruno DiFabio
30 Ethan Allen Highway**

Attorney Robert Jewell again represented the applicants. Mr. Jewell stated that since the December 7 meeting, the legal advertisement for this petition was revised by the Administrator and the ZEO Richard Baldelli. The mention of the trailer was removed from the legal advertisement. Mr. Jewell reminded the Board that the applicants still needed approval from the Flood Control Board, Planning and Zoning and from the Board of Selectman under the Peddlers and Soliciting ordinance, Chapter 274, to proceed with plans for the food truck. Mr. Jewell further stated that applicants were confident they could argue against the recently passed moratorium on new food vendors or ask for relief from the ban since they own the property a food truck would be located on.

Mr. Creamer asked how the applicants planned on getting past the ordinance and requested that the chairman read the ordinance Section 274, Article II into the record. The chairman then read the section into the record. Mr. Jewell replied that applicants are seeking a variance in order to proceed before the Board of Selectman. Mr. Creamer stated that the ZBA can not change zones and the Town Planner would make the decision as outlined in the ordinance. Mr. Jewell replied that variances were needed since the ZEO would still need to approve the plans because the property was in a RA zone. Mr. Jewell stated that the hardships were the same from the 2010 variance granted to the property including various topographical hardships. He stated that the sale of food was already approved under the 2010 variance and applicants only wanted to expand the approval to cooked foods. Mr. Jewell further stated that building was not permitted on the property because it was in a flood zone.

Mr. Smith stated that he felt the previous hearings mistakenly focused on the trailer description and parking plans and was now pleased that the Board was only deciding on the use of the property. Mr. Smith also stated that the property has no use since a residence can not be built on it. Mr. Barney further stated that commercial building was also not permitted because of flood regulations.

Mr. Creamer stated that there are currently nine vendor permits issued by the Town and those vendors were operating in all types of zones. He stated that many residents and businesses have complained about those food vendors. Mr. Smith asked if any of those nine vendors operate on their own property. Mr. Jewell and Mr. Chelednik replied they did not know.

Mr. Creamer asked that a letter dated December 1, 2015 to the ZBA Administrator from an abutting neighbor, Erin Properties, LLC be read into the record. The neighbor opposed the granting of a variance. The chairman read the letter into the record. Mr. Jewell responded that the financial objections made by the neighbor should not be considered, as financial considerations of the applicants can not be considered a hardship. Mr. Chelednik stated that they were only requesting an expansion on what was previously granted in the 2010 variance. Mr. Creamer requested that the legal advertisement and decision from #10-022 be read into the record. The chairman read both into the record.

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.

NEW PETITION

Appeal No. 15-037 – Petition of Town of Ridgefield, agent for Aquarion Water Company of Connecticut 90 Peaceable Ridge Road

Deputy Emergency Manager, Richard Aarons represented the applicant, the Town of Ridgefield. Also present was Ridgefield Police Chief John Roche, Stefanita Vasilescu of Motorola, the contractor for the project and Rob Baumeister of Pyramid Network Services LLC. Mr. Aarons explained to the Board that the Town of Ridgefield wanted to upgrade their public safety radio equipment from an analog to a digital system for better service throughout the Town.

Mr. Aarons further explained that antennas are required for the upgrade at several locations across the Town including the tank at the Aquarion Water Company site at 90 Peaceable Ridge Road. In order to locate the antennas on the water tank at the Aquarion site, an equipment shelter on a 12x18 concrete foundation needed to be added to house the radio equipment for the antennas. The Town's plans called for the shelter to be located 32 ft from the property line in the RAAA zone, so a setback variance was needed. Mr. Aarons stated that the property at 90 Peaceable Ridge was owned by Aquarion and the Town was leasing the space to be used for the antennas.

Mr. Smith asked the applicants about hardships. Mr. Baumeister stated that the planned location of the shelter would be the only place to avoid signal loss from the antennas and the location was also selected to avoid disrupting underground drains and conduits surrounding the property.

Police Chief John Roche spoke in favor of granting the petition. He told the Board that the plans would preserve the quality of the antennas and equipment shelter and be beneficial to the public safety of the Town.

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

DECISIONS

The Board voted the following actions:

**Appeal No. 15-034 – Petition of Joseph Chelednik and Bruno DiFabio
30 Ethan Allen Highway**

REQUESTED: variances of Section 3.2, principal uses and structures and 8.1.A., nonconforming uses, for the expansion of a nonconformity by allowing the retail sale of cooked foods in a residential zone; for property in the RA zone located at 30 Ethan Allen Highway.

DATES OF HEARING: December 7, 2015 and January 4, 2016

DATE OF DECISION: January 4, 2016

VOTED: To Grant, with conditions, variances of Section 3.2, principal uses and structures and 8.1.A., nonconforming uses, to allow the retail sale of cooked foods in a residential zone, subject to Chapter 274 of the Town of Ridgefield Code of Ordinances; for property in the RA zone located at 30 Ethan Allen Highway

VOTE: To Grant: 4 To Deny: 1

<u>In favor</u>	<u>Opposed</u>
Barney, Cole, Choplinski, and Smith	Creamer

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: Applicants must meet the criteria of Chapter 274, Section 274-8, of The Town of Ridgefield Code of Ordinances, as applicable.

The Board voted this action for the following reasons:

1. Those applicable hardships that the Board found in variance #10-022 continue to apply in this petition. In addition, the Board noted the narrow shape of the property, its confined location between a state highway and a river - it exists in a floodway, and the lots unsuitability for residential use, which combined represent an unusual hardship that justifies the grant of the variance requested in this case.
2. This petition differs substantially from that filed in 15-023 due to the applicant's proposal to use the site as a pad/location for a food business conducted under the Section 274-8 of the Ridgefield Code of Ordinances.
3. The proposal will effect considerable improvement to the property and is in harmony with the Town's Plan of Conservation and Development.

Appeal No. 15-037 – Petition of Town of Ridgefield, agent for Aquarion Water Company of Connecticut

REQUESTED: a variance of Section 3.5.H, setbacks, to allow the location of an equipment shelter used to protect the Ridgefield Public Safety radio equipment, closer than permitted to the lot line; for property in the RAAA zone located at 90 Peaceable Ridge Road.

DATES OF HEARING: January 4, 2016

DATE OF DECISION: January 4, 2016

VOTED: To Grant, with condition, a variance of Section 3.5.H, setbacks, to allow the location of an equipment shelter used to protect the Ridgefield Public Safety radio equipment, closer than permitted to the lot line; for property in the RAAA zone located at 90 Peaceable Ridge Road.

VOTE: To Grant: 5 To Deny: 0

In favor Opposed
Barney, Cole, Choplinski,
Creamer and Smith

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:

1. The equipment shelter shall be constructed exactly as shown on plans and drawings presented to the Board during the hearing and made part of this decision, and the plans submitted for the building application shall be the same as those submitted and approved with the variance application.

The Board voted this action for the following reasons:

1. The existing location of the tanks on the lot, the requirement that the equipment shelter be in close proximity to the tanks, and the space limitations created by the existing infrastructure represent an unusual hardship that justifies the grant of the variance requested in this case.
2. The proposal is in harmony with the general scheme of development in the area and with the Town's Plan of Conservation and Development. It will have no negative impact on surrounding properties.

As there was no further business before the board, the Chairman adjourned the hearing at approximately 8:45 pm.

Respectfully submitted,

Kelly Ryan
Administrator

Filed with the Town Clerk on January 8, 2016

Posted on Town's website on January 8, 2016 at approximately 1:00 pm