

**ZONING BOARD OF APPEALS OF RIDGEFIELD**  
**MINUTES OF MEETING**

**JULY 19, 2021**

**NOTE:** These minutes are intended as a rough outline of the web-based Zoom proceedings of the Board of Appeals on Zoning of Ridgefield held on July 19, 2021. Copies of recordings of the meeting may be obtained from the Administrator at cost.

The Chairman called the web-based meeting to order at approximately 7:00 p.m. Sitting on the Board for the evening were: Carson Fincham (Chair), Sky Cole (Vice-Chair) Mark Seavy, Terry Bearden-Rettger, and Joseph Pastore.

**ROTATION OF ALTERNATES**

The rotation for the meeting was first, Mr. Lockwood; second, Mr. Stenko; third Mr. Byrnes. No alternate was needed for tonight's meeting.

**Appeal No. 21-019**

**The Giardini Limited Partnership and Pierandri Realty LLC**  
**63-67 Prospect Street**

Attorneys William Hennessey and Meaghan Miles represented the applicants at this hearing. Attorney Pat Sullivan representing the Board was also present. The applicants are appealing the decision of the zoning enforcement officer, Richard Baldelli to declare a site plan approval expired and revoking the zoning permit issued for the site plan. The property was located in the MFDD zone at 63 and 67 Prospect Street. In 2007 the property was granted a site plan approval to build 21 housing units. After an extension was granted in 2016, the site plan construction date was to be started by May 15, 2021. A zoning permit was issued to begin construction on April 5, 2021. When construction was not started by May 15, the zoning permit was revoked by the zoning enforcement officer, Mr. Baldelli. Mr. Hennessey stated that all parties agree on these facts and dates, the disagreement was on the application of the laws involved.

Mr. Hennessey listed three main reasons Mr. Baldelli was incorrect in revoking the zoning permit. He stated their position that the deadline was tolled when a lawsuit in Superior Court was filed by a neighbor regarding the landscape plan review by the planning and zoning commission of Ridgefield on March 9, 2021. The project was stayed again after the same neighbor filed an appeal of the issuance of the zoning permit to the ZBA under the General Statute Sec. 8-7. Also, the Executive Orders signed by the Governor in response to the pandemic also stayed the deadline and allowed the permit to live after May 15. Ms. Miles explained their position citing the case law in their submission to the ZBA as to why the Superior Court action tolled the expiration date and discussed the definition of a stay versus tolling, which means the action was paused. Ms. Miles stated when asked by Mr. Pastore, that it was their position the site plan deadline was tolled because of the Superior Court lawsuit. Mr. Pastore asked if the appeal of the landscape review should have held up the whole construction project, Mr. Hennessey replied yes, it was their position. Ms. Miles stated that Executive Order 7.J.J.3 and made part of their submission, was intended to protect land use approvals by the Governor and became effective on March 10. Mr. Cole asked how exactly the applicants were unable to proceed with construction. Mr. Hennessey stated that development projects are much more involved than getting the necessary permits and the pending lawsuit prevented further action of their part.

The zoning enforcement officer Richard Baldelli appeared and stated to the Board his reasons for revoking the zoning permit. He agreed with Mr. Hennessey that the facts of the case are not in dispute. The site plan for this property was rare with a completion

extension date set by a public act, specifically PA 20-17-18 in October of 2020. Mr. Baldelli further stated the Executive Orders did not contain any language for extensions to site plans issued in 2007. Mr. Baldelli also stated that condition number 1 in the site plan approval dated June 4, 2007, stated the planning and zoning commission would review the proposed landscape plan on the property's boundaries. It was not re-approving the site plan; therefore, the site plan approval would still be in effect without the landscape review or any proposed changes in landscaping. Mr. Baldelli also stated the applicants could have gone to the Superior Court and asked that their site plan approval be protected. Applicants also failed to get a building permit approval prior to May 15. Mr. Pastore asked Mr. Baldelli if the various Executive Orders were inapplicable because the site plan was not issued under covered law, Mr. Baldelli replied yes. Mr. Pastore also asked if the landscape plan appeal was only ancillary and not an appeal of the overall approval of the site plan, again Mr. Baldelli replied yes. Mr. Baldelli further stated the time frame for an appeal of the site plan approval was long over with and the public act that granted an extension was not pursued by the Town of Ridgefield but by the applicant and was specific to this property only. Discussions in early spring 2021 with the applicants and Town officials agreed that footings and a foundation must be in the ground for construction to be considered.

After hearing from Mr. Baldelli, Mr. Pastore asked applicants attorneys if a summary could be submitted by counsel concluding how the site plan approval was considered covered law under the executive orders. Mr. Fincham agreed that request for further explanation was warranted.

Peter Olson, the attorney representing the neighboring property owner, Paul Jaber, who filed an appeal for the issuance of the zoning permit and the lawsuit in Superior Court, appeared. Mr. Olson stated that the Superior Court appeal relates to their claim that the planning and zoning commission did not allow public participation during the landscape review in March 2021. Mr. Olson claims the review should have been a revision to the site plan approval. He further stated that an extension was not covered under the executive orders and Public Act 20-7, sec. 18 was not a covered law and special legislation like this public act do not amend state statues. Mr. Olson stated the applicants received special rights with the public act and still failed to get permits for the project before the deadline. Mr. Fincham asked if he agreed that the zoning permit should have been revoked. Mr. Olson replied yes because the applicants could have proceeded with other permits prior to the deadline or could have asked court to protect their site plan approval.

No one else appeared to speak in favor or opposed to the appeal. The hearing was continued to a future date to allow the applicants attorney to submit a written explanation of covered law under the executive orders.

As there was no further business before the Board, the Chairman adjourned the hearing at approximately 8:50 pm.

Respectfully submitted,

Kelly Ryan  
Administrator