

**APPROVED MINUTES  
REGULAR MEETING  
BROOKFIELD ZONING BOARD OF APPEALS  
Monday, July 9, 2012- 7:00 p.m.  
MEETING ROOM 133 – TOWN HALL 100 POCONO RD**

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**1. CONVENE MEETING**

**Present:** Chairman M. Flynn, Vice Chairman C. Timmerman, P. Donohue, G. Meyerle, Alternate and Voting Members where indicated, J. Brown and N. Coppola (arrived at 7:30 p.m.)

**Absent:** Secretary S. Wallman

**Also Present:** Zoning Enforcement Officer A. Dew, Recording Secretary D. Cioffi

Chairman Flynn convened the meeting at 7:00 p.m. and established a quorum of members. He then reviewed the policies and procedures that govern public hearings.

**2. REVIEW MINUTES – 6/4/12 – Vice Chairman Timmerman moved to approve the Minutes of the June 4, 2012 meeting with corrections. P. Donohue seconded the motion. C. Timmerman noted a correction needed on Page 7, in the fifth paragraph to change the paragraph to read, “Chairman Flynn advised that because of its location on the ground or if it was a wall that it at least six feet high, ...”. Vice Chairman Timmerman moved to amend the Minutes of the June 4, 2012 meeting as discussed. G. Meyerle seconded the motion, and it carried unanimously. The vote to approve the amended Minutes carried unanimously.**

**3. REVIEW CORRESPONDENCE:**

- a. **Minutes of other Boards and Commissions: Zoning Commission 5/17/12, 5/24/12, 6/14/12 ; Inland Wetlands Commission 5/21/12, 5/23/12 special, 6/11/12; Planning Commission 6/7/12, 6/21/12; Zoning Sub-Committee**
- b. Legal Briefings for Building Inspectors – June 2012
- c. Letter from Antonio Capanna Sr. to Martin Flynn dated 6/12/12
- d. **Administrative Appeal to Superior Court: Antonio Capanna Vs. Brookfield Zoning Board of Appeals dated 6/22/12** – Vice Chairman Timmerman noted factual corrections on Page 5 of Mr. Cappana’s complaint, regarding Point 8. He advised that the correspondence that was submitted at the Public Hearing was from the abutting neighbor, not “two houses and several hundred feet away”; and this abutting neighbor’s house is 270 feet away from the property line.

**4. CONTINUED PUBLIC HEARINGS – 7:00 p.m.**

a. **1 High Ridge Road #201200355: Appeal of Zoning Enforcement Officer’s decision** (ph close date 7/9/12)

- 1. Memo from Alice Dew to Zoning Board of Appeals dated 6/8/12 Re: Appeal of ZEO decision to preliminarily approve two proposed garages – Activity #201000427

*Attorney Cava, 73 Southbury Rd., Roxbury, CT, was present on behalf of the Marciniaks and the Harrisons. He suggested that this matter be handled with other items later in the agenda regarding 22 Beech Tree Road (Item 5.c.) Dr. Zaky, 1 High Ridge Road, who was present, indicated he had no objection to this.*

**Vice Chairman Timmerman moved to move Item 4.a., to be heard, before Item 5.c. G. Meyerle seconded the motion, and it carried unanimously.**

**b. 51 Candlewood Shores Road #201200354: Variance requested: §242-402A – 9’ structure to center of road for front steps (ph close date 7/9/12)**

*J. Morra, 51 Candlewood Shores Road, was present.* He noted that the height of the house is irrelevant to the application before the Board, and Chairman Flynn agreed. He added that the Zoning Commission has suggested using the garage as possible entry and exit from the home. Mr. Morra submitted a copy of Page 40 of the 2003 International Residential Code, 2005 State Building Code, and advised that this Code prohibits this and also requires a 36” swing door to the outside.

Mr. Morra advised that the land is a hardship, and making major changes would be a financial burden. He offered an alternative that involves extending the wall five or six feet and back-filling the house. With regard to the alternative of turning the steps, Mr. Morra indicated it would be “unattractive” and would involve great expense. There was discussion regarding the need for a 36” platform, which Chairman Flynn pointed out is less of a violation than the eight feet.

Mr. Morra stated that he has a building permit with steps that was approved. ZEO Dew advised that the previous ZEO reviewed a plot plan that did not show the steps.

Mr. Morra indicated that he has letters from Zoning and Building that approve the alternative of extending the wall. He stated that if he has to eliminate the front door, it will look like a commercial building and there will be fire code issues.

Chairman Flynn explained that the hardship for the variance has to involve something unique about property that, if not granted, would curtail his ability to live on property. He reiterated that it cannot be a financial hardship.

G. Meyerle discussed the alternatives of turning or moving the steps.

There was additional discussion regarding the plans that Mr. Morra alleges show an approval of the stairs by Zoning. ZEO Dew advised that the plot plan only did not have steps, and was clearly signed as “foundation only”. P. Donohue added that the Building Department approved the structure, not the zoning requirements, and as a builder, Mr. Morra should have been aware.

*No one was present to speak in favor of the application. W. Lohan, 72 N. Lakeshore Dr., President of the Candlewood Shores Tax District (CSTD) was present, and spoke in opposition to the application. J. Berger, 63 Candlewood Shores Rd., was present, and also spoke in opposition to the application.* He noted that the plans filed in the Land Use Office do not include an A2 survey; the builder failed to do his research; and attempted to put a large house on a small lot. Mr. Berger added that the property has been a construction zone for three years and this has created a hardship for the neighbors. He also requested that if the applicant proceeds with the alternative of building the wall, that he submit the plans to the CSTD for its review. Mr. Berger inquired if the roof line has to conform to the setback, and Chairman Flynn indicated that it would have to. Lastly, Mr. Berger advised the Board that there is a 12-14” soffit panel on the house.

Mr. Morra indicated that he has photographs of many houses in the CSTD that are not in compliance with the setback. Chairman Flynn advised him that there is a complaint procedure with the Land Use Office.

J. Brown inquired of Chairman Flynn what the sequence for approval for building is, and Chairman Flynn advised that it is the following: an application to Zoning, to check for setbacks; the Inland Wetlands Commission, if needed, and then Health and Building. ZEO Dew pointed out that a plot plan not always the same as the building plan.

P. Donohue advised Mr. Morra that the responsibility for compliance with the regulations ultimately rests with the builder.

**Vice Chairman Timmerman moved to close the Public Hearing re: 51 Candlewood Shores Road #201200354: Variance requested: §242-402A – 9’ structure to center of road for front steps, at 7:29 p.m. G. Meyerle seconded the motion, and it carried unanimously.**

- c. **19 Gereg Glen Road #201200418: Variance requested: §242-310D(4) & §242-402A – 9’ structure to rear lot line; §242-310D(4) & §242-402A – 10’ structure to right side line for a new home (ph close date 7/9/12)**

*D. Storrs, Property Owner, was present.*

*Board member N. Coppola arrived at 7:30 p.m. Alternate J. Brown remained a Voting Member for this item.*

Color-coded plans for the house were reviewed, denoting the 50’ setback lines, the house and the septic. Mr. Storrs advised that the septic has already been installed and can’t be moved. He added that any house would have to be constructed 25’ away from septic. Mr. Storrs explained that the State Health Code regulations have become stricter since the initial approval in 2000/2001, and he has to move the proposed house to the back of the property due to the quality of the soil.

Mr. Storrs reviewed the variance requests, and indicated that he met with the neighbors at 17 and 19 Flax Hill Road to discuss screening on their properties with trees in the 6-8 foot height range.

*L. Nichols, 19 Flax Hill Rd., was present, and stated that she is in favor of the application, with the installation of 6-8 trees of 6-8 feet in height, comparable to White Pine or Norway Spruce, on her property. She advised that she also asked Mr. Storrs not to cut anymore trees on his property. Chairman Flynn advised that ZBA would make the alternate determination.*

*S. Rak, 17 Flax Hill Rd., was present, and indicated he would prefer 7-9 foot trees, and trees on the other sides, if possible.*

*R. Nichols, 19 Flax Hill Rd., was present, and echoed his wife’s statement.*

Mr. Rak indicated that the Nichols have created a barrier with seven trees between his property and theirs, and he would like to use that as a model for what is being proposed.

**Vice Chairman Timmerman moved to close the Public Hearing re: 19 Gereg Glen Road #201200418: Variance requested: §242-310D(4) & §242-402A – 9’ structure to rear lot line; §242-310D(4) & §242-402A – 10’ structure to right side line for a new home, at 7:40 p.m. P. Donohue seconded the motion, and it carried unanimously.**

**5. PUBLIC HEARINGS – To follow above continued hearings:**

- a. **5 Pleasant Rise Circle #201200515: Variance requested: §242-402A – 5.3’**

**structure to center of road; §242-402A – 9.5’ structure to left side line; §242-402A – 1.4% of lot coverage for a new single family residence (ph close date 8/13/12)**

1. “Zoning Location Survey” prepared by Sydney Rapp Jr. dated 4/19/12 revised 5/16/12
2. “Site / Septic Plan” prepared by Michael Mazzucco dated 3/13/12 – drawing #12003

*Alternate N. Coppola was a Voting Member for this item.*

*M. Mazzucco, PE, Danbury, was present, on behalf of the applicant, Pleasant Rise Circle, LLC. He described the lot and the zone. Chairman Flynn advised that he visited the lot this afternoon. Mr. Mazzucco further explained the variances that are being requested. He added that the hardship is that the lot is pre-existing and non-conforming, as well as the topography (severe grades in the middle part of the property). Mr. Mazzucco pointed out that the Health Code was changed two years ago to require 25’ down gradient to property line. The proposed ranch style house will be approximately 2,000 square feet.*

*J. and M. Bevilaqua were present. They reviewed the plans and indicated they were unaware that the property in question was a building lot. There was discussion regarding a curtain drain on the Bevilaqua’s property, and Chairman Flynn advised that the Zoning Commission would resolve any issues related to drainage. Mr. Mazzucco advised the Bevilacqua that the variance being requested is on the opposite side, and does not affect their property line. It was noted that the lots in the neighborhood are all of similar size. Chairman Flynn explained to the Bevilacqua how the Board reviews variance requests and examines the impact on neighboring property owners.*

*No one was present to speak in favor of the application.*

*Mrs. Bevilacqua inquired if a builder is the applicant, and Mr. Mazzucco advised that he/she is. She stated that she and her husband are opposed to the application.*

**Vice Chairman Timmerman moved to close the Public Hearing re: 5 Pleasant Rise Circle #201200515: Variance requested: §242-402A – 5.3’ structure to center of road; §242-402A – 9.5’ structure to left side line; §242-402A – 1.4% of lot coverage for a new single family residence, at 7:52 p.m. G. Meyerle seconded the motion, and it carried unanimously.**

**b. 13 Surrey Drive #201200551: Variance requested: §242-402A – 4.6’ structure to right side line, §242-405B(3) – 35 sq. ft. of living area for an addition of an accessory apartment (ph close date 8/13/12)**

1. “Zoning Location Survey” prepared by Bunney Associates Land Surveyors, dated 6/19/12 – Exhibit A
2. Map of “Lower (Ground) Level C” - (Exhibit B)

*M. Kaswer, 13 Surrey Dr., was present. She advised that the application relates to an addition for an apartment. The square footage was reviewed, and ZEO Dew advised that there was a recent regulation change to 800 square feet of living area. Mrs. Kaswer’s calculations were reviewed. It was noted that the definition of “habitable” does not include bathroom, storage, or hallway, and this is the calculation that the Building Department uses.*

*A copy of the inside plan was reviewed, and Mrs. Kaswer explained that the 2’ extra will allow for wheelchair accessibility for her husband.*

*P. Picard, 14 Surrey Dr., was present, and indicated she was in favor of the application. No one was present to speak in opposition to the application.*

**Vice Chairman Timmerman moved to close the Public Hearing re: 13 Surrey Drive #201200551: Variance requested: §242-402A – 4.6’ structure to right side line, §242-405B(3) – 35 sq. ft. of living area for an addition of an accessory apartment, at 8:00 p.m . N. Coppola seconded the motion, and it carried unanimously.**

**4. CONTINUED PUBLIC HEARINGS:**

**a. 1 High Ridge Road #201200355: Appeal of Zoning Enforcement Officer’s decision (ph close date 7/9/12)**

1. Memo from Alice Dew to Zoning Board of Appeals dated 6/8/12 Re: Appeal of ZEO decision to preliminarily approve two proposed garages – Activity #201000427

*Alternate J. Brown was a Voting Member for this item.*

Attorney Cava referenced his letter of June 29, 2012. He advised that his engineer had to leave the meeting but would be returning tonight. Chairman Flynn advised that the issue remains to determine if the sequencing of events prescribed by IWC causes the zoning regulation to be violated as it relates to stormwater.

*Dr. S. Zaky, 1 High Ridge Rd., was present.* He stated that he does not believe that there is any stormwater discharging from his property to 22 Beech Tree Road, as his property is the “lower” property. Chairman Flynn reviewed the sequencing prescribed by the IWC. Dr. Zaky stated he feels this issue is a wetlands issue and not one to be handled by the ZBA. Chairman Flynn advised that the neighbors are appealing issuance of the building permit for the garage because they believe that the zoning regulations are being violated.

*ZEO Dew had no comments to add.*

*Attorney Cava was present.* He advised that the reason for the appeal is because the property is not in compliance with the regulations, therefore, the Certificate of Zoning Compliance should not have been issued by the ZEO. He also pointed out that his June 29, 2012 letter has additional examples of noncompliance on the property, relating to Sections 242-401 and 242-303 of the regulations.

Attorney Cava discussed the grading of both properties and filling that has been done, and the partially obscured pipe. Chairman Flynn inquired of ZEO Dew what the range of her review of compliance on properties is and she advised that the focus is on coverage. Attorney Cava noted that there are numerous problems on the property relating to drainage and sequencing of the IWC application. He stated that the filling that has occurred on the site has further exacerbated drainage issues. Attorney Cava contends that the construction sequence and the current status of the property are violations. He added that unpermitted filling was done at the site this past Saturday, and there is nowhere for the water to go. He indicated it is also reaching another neighbor, Mr. Tierney. Attorney Cava expressed concern regarding the children on both properties with the presence of flooding, and a disruption of the on-site septic system.

There was discussion regarding the multiple appeals and cases pending in Superior Court regarding these sites.

Letters from Mr. Trinkaus, dated May 14, 2012 and May 29, 2012 were reviewed. *S. Trinkaus, P.E., Southbury, was present*, and advised that he reviewed the drainage calculations done by Dr. Zaky's engineer. He questioned the capacity calculations, and discussed the blocking of the pipe and potential for failure of the septic system.

Attorney Cava inquired of Mr. Trinkaus if he believed that the activity on 1 High Ridge Road has resulted in encroachment on the watercourse, and Mr. Trinkaus noted the blocking of the pipe. Attorney Cava further inquired if the filling that occurred around the swimming pool, under the stone wall, other areas, and the blocking of the pipe, has altered the drainage flows. Mr. Trinkaus acknowledged that he could not speak to the filling on 1 High Ridge Road, but indicated that any barrier would alter flows. Lastly, Attorney Cava inquired if the blockage caused an impoundment of the water, and Mr. Trinkaus indicated that the blockage of the catch basins on 1 High Ridge Road causes this.

Attorney Cava stated that the July 9, 2012 letter of Attorney Ghent makes “unsubstantiated assertions” without documentation, expert testimony or case law, specifically, related to the size and capacity of the pipe, the origin of the water, and the existence and an easement. He contended that Dr. Zaky could solve the problem by correcting the drainage system.

Chairman Flynn inquired of ZEO Dew if she had been provided the information if it would have been considered, and she indicated that the information would have been beneficial for the IWC to have for the sequence.

Dr. Zaky rebutted and refuted the information regarding the pipe, his refusal to allow the Town to clean the swale, and the letter of Mr. Trinkaus, advising he has a letter from Mr. Trinkaus stating the opposite.

Chairman Flynn showed a photograph and inquired of Dr. Zaky and Mr. Trinkaus if they were of aware of what it was. Dr. Zaky stated he had no “idea” and Mr. Trinkaus advised it was “some type of drainage structure” and he did not know which property it was on.

*Alan Harrison, 22 Beech Tree Road, was present*, and indicated that the photograph represents drains “somewhere on the Zaky property”, indicating it was also witnessed by F. O'Brien and Wetlands Enforcement Officer K. Daniel. Mr. Harrison stated that he believes that Dr. Zaky will build the garages but not the swale.

*J. Tierney, 20 Beech Tree Rd., was present*, and advised his property is still flooded, and showed photographs.

*Attorney J. Majewski, Waterbury, CT, was present*, and indicated that he represents the Marciniaks and the Harrisons in the Superior Court case, and encouraged the Board to exercise its authority in this matter.

Attorney Cava referenced his letter and reviewed the water flow and elevations on the site. Mr. Trinkaus added that the pitch is from the Harrison property, to the north. Attorney Cava requested that the Board overrule the decision of the ZEO and sustain his clients' appeal.

Dr. Zaky inquired where the extension of the pipe was, and there was additional discussion regarding the piping.

Vice Chairman Timmerman moved to close the Public Hearing re: **1 High Ridge Road, #201200355: Appeal of Zoning Enforcement Officer’s decision, at 8:41 p.m.** G. Meyerle seconded the motion, and it carried unanimously.

c. **22 Beech Tree Road #201200543: Appeal of Zoning Commission’s decisions of 6/14/12 meeting and of 2 complaints dismissed by ZEO on 6/15/12** (*ph close date 8/13/12*)

- Memo from Alice Dew, ZEO dated 6/19/12 – Re: 22 Beech Tree Road – Complaints from S. Zaky at 1 High Ridge Road
  - Draft Minutes of Zoning Commission meeting held 6/14/12
1. File #201200375:
  2. File #201200376:
  3. File #201200379:
  4. File #201200467:
  5. File #201200377:
  6. File #201200378:
  7. File #201200491:
  8. File #201200526:
  9. File #201200527:

*Alternate N. Coppola was a Voting Member for Items 5.c.1, 3, 5, 7 and 9. Alternate J. Brown was a Voting Member for Items 5.c.2,4, 6 and 8.*

Vice Chairman Timmerman read the legal notice published in the News Times, dated June 26, 2012 and July 6, 2012.

1. File #201200375: Occupation of trailer coaches and campers:  
*Alternate N. Coppola was a Voting Member for this item.*

ZEO Dew advised that the Zoning Commission heard this matter and concluded that the Harrisons are not occupying the trailer. Chairman Flynn inquired of Dr. Zaky what evidence he had to support his claim that the Harrisons are occupying the trailer, and Dr. Zaky indicated that he saw Mr. Harrison in the trailer this past Saturday, videotaping him, and that the trailer is fully extended most of the time. Chairman Flynn noted that the burden of proof was not met at the Zoning Commission meeting. Dr. Zaky added that the light is on all night.

Mr. Harrison was present, and indicated that he does not occupy the trailer but does maintain it regularly and runs the water to keep it “in a state of readiness”, including flushing the toilet to maintain the seals. Chairman Flynn advised Mr. Harrison of his plumbing expertise, and there was additional discussion regarding the toilet.

*Matthew Marciniak, 22 Beech Tree Rd., was present, and discussed the bedroom arrangements in the home and noted that his in-laws help care for their children.*

Dr. Zaky added that the trailer is there from March until November every year. Mrs. Harrison advised that this year they did not arrive until April. Attorney Cava advised that it has only been present for 70 days, since the birth of the second Marciniak child. He added that the Harrisons are often away during the summer with the trailer.

Attorney Cava requested that the Minutes of the June 14, 2012 and June 28, 2012 Zoning Commission meetings be incorporated into this record. He reviewed his understanding of the term “occupy”.

There was additional discussion regarding the lights on the property. Additionally, Attorney Cava pointed out that the Health Code for septic iss based on the number of bedrooms, not the number of people in the house.

**Chairman Flynn moved to close the Public Hearing re: Appeal of Zoning Commission’s decisions at 6/14/12 meeting and of 2 complaints dismissed by ZEO on 6/15/12, regarding complaint #201200375, Occupation of trailer coaches and campers, at 9:00 p.m. Vice Chairman Timmerman seconded the motion, and it carried unanimously.**

2. File #201200376: - use of roadway vehicle/trailer to store equipment of goods for materials on premises

*Alternate J. Brown was a Voting Member for this item.*

ZEO Dew advised that she inspected the site and found one trailer in a designated drive, a second trailer, west of the recreational vehicle, which holds a motorcycle and maintenance materials for the motorcycle, and a boat on a trailer. She did not find this to be a violation of the regulations, and the Zoning Commission agreed.

Dr. Zaky advised that his attorney, R. Ghent, addressed this in his letter.

Attorney Cava reviewed photographs of all of the trailers that were shown to the Zoning Commission when it made its decision, finding them in compliance with the regulations. He added that the trailers are registered and are parked on a designated driveway approved by the IWC.

**Vice Chairman Timmerman moved to close the Public Hearing re: Appeal of Zoning Commission’s decisions at 6/14/12 meeting and of 2 complaints dismissed by ZEO on 6/15/12, regarding complaint #201200376, re: Use of roadway vehicle/trailer to store equipment goods for materials on premises, at 9:02 p.m. J. Brown seconded the motion, and it carried unanimously.**

3. File #201200379: - Vehicles not parked in designated drive

*Alternate N. Coppola was a Voting Member for this item.*

Chairman Flynn reviewed the definitions of vehicles. ZEO Dew advised that she inspected the site and found that all vehicles were parked in a designated drive, and the Zoning Commission agreed.

Dr. Zaky again referenced Attorney Ghent’s letter.

Attorney Cava showed photographs of the vehicles and the location in driveways that were showed to the Zoning Commission, and requested that they be incorporated into the record. He also disputed that Attorney Ghent said anything on this subject in his letter.



**Vice Chairman Timmerman moved to close the Public Hearing re: Appeal of Zoning Commission's decisions at 6/14/12 meeting and of 2 complaints dismissed by ZEO on 6/15/12, regarding complaint #201200379, Vehicles not parked in designated driveway, at 9:05 p.m. G. Meyerle seconded the motion, and it carried unanimously.**

4. File #201200467: - Collapsed structure  
*Alternate J. Brown was a Voting Member for this item.*

ZEO Dew advised that this matter involves a storage tent that Dr. Zaky believes collapsed and is unsafe. The Building Department and ZEO Dew inspected the tent and disagreed. Mr. Harrison referenced a Certificate from the Building Department, and added that the structure is listed as a two-car garage.

**Vice Chairman Timmerman moved to close the Public Hearing re: Appeal of Zoning Commission's decisions at 6/14/12 meeting and of 2 complaints dismissed by ZEO on 6/15/12, regarding complaint #201200467, Collapsed structure, at 9:06 pm. G. Meyerle seconded the motion, and it carried unanimously.**

5. File #201200377: - Litter, junk, trash, etc.  
*Alternate N. Coppola was a Voting Member for this item.*

ZEO Dew inspected the property on May 25, 2012. She found a small amount of wood, but the problem was corrected.

Dr. Zaky advised that he believes there is still litter on the site, being covered by tarps.

Attorney Cava stated that Dr. Zaky threw the wood onto the property, and Mr. Harrison removed it. Dr. Zaky denied this.

**Vice Chairman Timmerman moved to close the Public Hearing re: Appeal of Zoning Commission's decisions at 6/14/12 meeting and of 2 complaints dismissed by ZEO on 6/15/12, regarding complaint #201200377, Litter, junk, trash, etc., at 9:08 p.m. P. Donohue seconded the motion, and it carried unanimously.**

6. File #201200378: - Accumulation of non-motorized vehicles not usable for purposes for which they were manufactured.  
*Alternate J. Brown was a Voting Member for this item.*

ZEO Dew advised that she inspected the site and did not find any vehicles that fit this category. All of the vehicles on the site are registered and are usable.

Dr. Zaky contends that the trailer is being used for storage, and is not motorized.

**Vice Chairman Timmerman moved to close the Public Hearing re: Appeal of Zoning Commission's decisions at 6/14/12 meeting and of 2 complaints dismissed by ZEO on 6/15/12, regarding complaint #201200378, at 9:10 p.m. G. Meyerle seconded the motion, and it carried unanimously.**

7. File #201200491: - drainage and run-off onto neighboring property  
*Alternate N. Coppola was a Voting Member for this item.*

ZEO Dew advised that the Zoning Commission discussed this matter and determined that the issue predated zoning regulations, and no violation exists.

Dr. Zaky contended that there is no easement, and Attorney Cava stated that the map constitutes an easement. He noted that Dr. Zaky was not specific in his complaint if this is surface water drainage. He added that the only fill brought into the property was by Seymour Powers in 1961.

Dr. Zaky questioned why the ground was being made higher.

**Vice Chairman Timmerman moved to close the Public Hearing re: Appeal of Zoning Commission’s decisions at 6/14/12 meeting and of 2 complaints dismissed by ZEO on 6/15/12, regarding complaint #201200491, at 9:13 p.m. P. Donohue seconded the motion, and it carried unanimously.**

8. File #201200526: - parking/storage of mobile homes not meeting the minimum standards for inhabitation by humans  
*Alternate J. Brown was a Voting Member for this item.*

Attorney Cava indicated that the recreational vehicle is habitable, but is not being lived in.

**Vice Chairman Timmerman moved to close the Public Hearing re: Appeal of Zoning Commission’s decisions at 6/14/12 meeting and of 2 complaints dismissed by ZEO on 6/15/12, regarding complaint #201200526, at 9:14 p.m. G. Meyerle seconded the motion, and it carried unanimously.**

9. File #201200527: - mobile home, trailers, parked within setbacks  
*Alternate N. Coppola was a Voting Member for this item.*

ZEO Dew advised there is no setback regulation for recreational vehicles; but that they must be parked in a designated drive, and indicated that this one is.

Dr. Zaky stated that the “mobile home” is 30 feet away from the property line. The Zoning Commission and ZEO Dew did not find that the recreational vehicle is not a “mobile home”.

Dr. Zaky again referenced Attorney Ghent’s letter.

Attorney Cava reiterated that the RV never stays for 180 consecutive days, and has only been present on the site for 70 days.

Dr. Zaky requested that the Board act on the information that has been submitted.

Attorney Cava stated that no evidence was presented to substantiate Dr. Zaky’s claims.

Vice Chairman Timmerman moved to close the Public Hearing re: Appeal of Zoning Commission's decisions at 6/14/12 meeting and of 2 complaints dismissed by ZEO on 6/15/12, regarding complaint #201200527, at 9:18 p.m. G. Meyerle seconded the motion, and it carried unanimously.

*A brief recess was taken from 9:18 p.m. through 9:24 p.m.*

## DELIBERATIONS

### 4. CONTINUED PUBLIC HEARINGS – 7:00 p.m.

- b. 51 Candlewood Shores Road #201200354: Variance requested: §242-402A – 9' structure to center of road for front steps (*ph close date 7/9/12*)

*Alternate J. Brown was a Voting Member for this item.*

Vice Chairman Timmerman moved to approve 51 Candlewood Shores, #201200354: Variance requested: §242-402A – 9' structure to center of road for front steps. G. Meyerle seconded the motion. Vice Chairman Timmerman discussed the other satisfactory options: 1) filling (for which there would be no need for a variance, just approval for the retaining wall); 2) moving the stairs. The overwhelming opposition expressed at tonight's meeting as well as last month's meeting was noted. J. Brown noted that the other options were not "better" than the current stairs. Chairman Flynn noted that the applicant created the excessive encroachment on his own, and reviewed the system for proper approval. Mr. Morra discussed the plans that he stated Candlewood Shores "signed off" on. Chairman Flynn noted that the CSTD has no authority to approve the plans. Motion to approve was denied unanimously, 0-5. Reason: No hardship was given, the stairs were a self-created hardship, and there were other alternative available to the property owner.

- c. 19 Gereg Glen Road #201200418: Variance requested: §242-310D(4) & §242-402A – 9' structure to rear lot line; §242-310D(4) & §242-402A – 10' structure to right side line for a new home (*ph close date 7/9/12*)

*Alternate J. Brown was a Voting Member for this item.*

Chairman Flynn moved to approve 19 Gereg Glen Road #201200418: Variance requested: §242-310D(4) & §242-402A – 9' structure to rear lot line; §242-310D(4) & §242-402A – 10' structure to right side line for a new home. Vice Chairman Timmerman seconded the motion. Chairman Flynn reviewed that the soil conditions and septic requirements changed since the development was approved. He believes that the proposed locating creates less of an impact to the abutting neighbors than the original location. He further indicated that the presence of the screened in porch is in keeping with the other homes in the neighborhood.

Vice Chairman Timmerman moved to amend the approval to add the stipulation that the builder must plant at least six trees on the border of his land with 19 Flax Hill Road, on that property, and the trees should be 6-8 foot tall White Pine or Norway Spruce trees, or the equivalent; and that the builder plant at least seven trees along the common property line, on the property of 17 Flax Hill Road, and that the trees should be 6-8 foot tall White Pine or Norway Spruce trees, or the equivalent. G. Meyerle seconded the motion. J. Brown inquired what the role of the Board is in agreements such as these with neighbors.

Chairman Flynn explained that the Board is entitled to take reasonable steps to accommodate neighbors' concerns, and it could have also been approved without the trees. He further noted that the spirit of the regulation speaks to privacy of the property owners. The vote on the motion to amend the motion carried unanimously. The vote on the amended motion carried, 4-1, with J. Brown opposing. Variance approved. Reason: More stringent sanitary regulations caused the house to have to move back, and the topography of the lot.

**5. PUBLIC HEARINGS – To follow above continued hearings:**

- a. **5 Pleasant Rise Circle #201200515**: Variance requested: §242-402A – 5.3' structure to center of road; §242-402A – 9.5' structure to left side line; §242-402A – 1.4% of lot coverage for a new single family residence (*ph close date 8/13/12*)
1. "Zoning Location Survey" prepared by Sydney Rapp Jr. dated 4/19/12 revised 5/16/12
  2. "Site / Septic Plan" prepared by Michael Mazzucco dated 3/13/12 – drawing #12003

*Alternate N. Coppola was a Voting Member for this item.*

Vice Chairman Timmerman moved to approve **5 Pleasant Rise Circle #201200515**: Variance requested: §242-402A – 5.3' structure to center of road; §242-402A – 9.5' structure to left side line; §242-402A – 1.4% of lot coverage for a new single family residence. N. Coppola seconded the motion. It was noted that the lot has been upzoned and is similar to those in the neighborhood. The neighbors that spoke in opposition are not affected by the variance request. Motion carried unanimously. Variance approved. Reason: Upzoning, pre-existing, non-conforming lot.

- b. **13 Surrey Drive #201200551**: Variance requested: §242-402A – 4.6' structure to right side line, §242-405B(3) – 35 sq. ft. of living area for an addition of an accessory apartment (*ph close date 8/13/12*)
1. "Zoning Location Survey" prepared by Bunney Associates Land Surveyors, dated 6/19/12 – Exhibit A
  2. Map of "Lower (Ground) Level C" - (Exhibit B)

Vice Chairman Timmerman moved to approve **13 Surrey Drive #201200551**: Variance requested: §242-402A – 4.6' structure to right side line, §242-405B(3) – 35 sq. ft. of living area for an addition of an accessory apartment. P. Donohue seconded the motion. There was discussion regarding the need for the extra 35 feet for design reasons for symmetry and in fitting with the neighborhood. Motion carried unanimously. Variance approved. Reason: Design criteria and in fitting with the neighborhood.

*At this time, Mr. Morra inquired what the process would be for applying for a variance to move the stairs, and Chairman Flynn explained it would involve another application, fee, and legal notice.*

**4. CONTINUED PUBLIC HEARINGS:**

- a. **1 High Ridge Road #201200355**: Appeal of Zoning Enforcement Officer's decision (*ph close date 7/9/12*)
1. Memo from Alice Dew to Zoning Board of Appeals dated 6/8/12 Re: Appeal of

ZEO decision to preliminarily approve two proposed garages – Activity #201000427

*Alternate J. Brown was a Voting Member for this item.*

**Vice Chairman Timmerman moved to uphold the Appeal of the Zoning Enforcement Officer’s decision, 1 High Ridge Road, #201200355. G. Meyerle seconded the motion. Chairman Flynn noted that the sequencing of the Inland Wetlands Commission’s approval of the two garages will cause water to be discharged in violation of Section 242-401(e)(2). Vice Chairman Timmerman advised that when Dr. Zaky presented the ZBA with the “proof” of the approval to block the pipe, what Dr. Zaky was submitting was what he wished to do at the site; not what the IWC approved. N. Coppola pointed out that the general procedure is drainage, utilities, and then the building of a structure; not the building first, and then drainage. The motion to sustain the appeal of the Zoning Enforcement Officer’s decision carried unanimously, 5-0. Reason: Sequencing of the approval of the IWC would cause stormwater to discharge in violation of Zoning Regulation Section 242-401(e)(2).**

**c. 22 Beech Tree Road #201200543: Appeal of Zoning Commission’s decisions of 6/14/12 meeting and of 2 complaints dismissed by ZEO on 6/15/12 (ph close date 8/13/12)**

- Memo from Alice Dew, ZEO dated 6/19/12 – Re: 22 Beech Tree Road – Complaints from S. Zaky at 1 High Ridge Road
- Draft Minutes of Zoning Commission meeting held 6/14/12

1. File #201200375:
2. File #201200376:
3. File #201200379:
4. File #201200467:
5. File #201200377:
6. File #201200378:
7. File #201200491:
8. File #201200526:
9. File #201200527:

*Alternate N. Coppola was a Voting Member for Items 5.c.1, 3, 5, 7 and 9. Alternate J. Brown was a Voting Member for Items 5.c.2,4, 6 and 8.*

**1. File #201200375: Occupation of trailer coaches & camper. Vice Chairman Timmerman moved to sustain the Appeal of Zoning Commission’s decisions at 6/14/12 meeting and of 2 complaints dismissed by ZEO on 6/15/12, regarding complaint #201200375, Occupation of trailer coaches and campers. N. Coppola seconded the motion. It was noted that there was no evidence submitted to show that the trailer is being occupied. Motion denied, 0-5. Reason: The ZBA agrees with the decision of the Zoning Commission.**

**2. File #201200376 – Vice Chairman moved to sustain the Appeal of the Zoning Commission’s decisions at 6/14/12 meeting and of 2 complaints dismissed by ZEO on 6/15/12, regarding complaint #201200376, re: Use of roadway vehicle/trailer to store equipment goods for materials on premises. G. Meyerle seconded the motion,**

and it was denied, 0-5. Reason: No evidence shown that they were storing materials in vehicle/trailer.

3. File #201200379 - Vice Chairman Timmerman moved to uphold the Appeal of the Zoning Commission's decisions at 6/14/12 meeting and of 2 complaints dismissed by ZEO on 6/15/12, regarding complaint #201200379, Vehicles not parked in designated driveway. N. Coppola seconded the motion, and it was denied unanimously. Reason: No evidence shown to support Dr. Zaky's contention.

4. File #201200467: - Collapsed structure – Vice Chairman Timmerman moved to uphold the Appeal of the Zoning Commission's decision at 6/14/12 meeting and of 2 complaints dismissed by ZEO on 6/15/12, regarding complaint #201200467, Collapsed structure. J. Brown seconded the motion, and it was denied unanimously, 0-5. Reason: No evidence shown; ZBA agrees with the Zoning Commission.

5. File #201200377: - Litter, junk, trash, etc. – Vice Chairman Timmerman moved to uphold the Appeal of the Zoning Commission's decision at 6/14/12 meeting and of 2 complaints dismissed by ZEO on 6/15/12, regarding complaint #201200377, Litter, junk, trash, etc. He indicated that the site was inspected on May 30, 2012 and it was determined that no violation existed. N. Coppola seconded the motion, and it was denied unanimously, 0-5. Reason: No violation found, and no evidence was brought forth to the ZBA that a violation existed.

6. File #201200378: - Accumulation of non-motorized vehicles not usable for purposes for which they were manufactured. – Vice Chairman Timmerman moved to uphold the Appeal of the Zoning Commission's decision at 6/14/12 meeting and of 2 complaints dismissed by ZEO on 6/15/12, regarding complaint 201200378, Accumulation of non-motorized vehicles not usable for purposes for which they were manufactured. J. Brown seconded the motion. It was noted that the trailers are parked in a designated drive and are registered ready for operation. Motion denied, 0-5. Reason: No evidence shown that there was a violation.

7. File #201200491: - drainage and run-off onto neighboring property Vice Chairman Timmerman moved to uphold the Appeal of the Zoning Commission's decision at 6/14/12 meeting and of 2 complaints dismissed by ZEO on 6/15/12, regarding complaint #201200491. N. Coppola seconded the motion. It was noted that there was no evidence presented to the ZEO that the water did not flow downhill forever, or at least since 1960. Motion denied unanimously, 0-5. Reason: No evidence shown that there was a violation.

8. File #201200526: - parking/storage of mobile homes not meeting the minimum standards for inhabitation by humans – Vice Chairman Timmerman moved to uphold the Appeal of the Zoning Commission's decision at 6/14/12 meeting and of 2 complaints dismissed by ZEO on 6/15/12, regarding complaint #201200526. J. Brown seconded the motion. Vice Chairman Timmerman noted that there is no evidence of occupation. Motion denied unanimously, 0-5. Reason: No evidence.

9. File #201200527: - mobile home, trailers, parked within setbacks – Vice Chairman Timmerman moved to uphold the Appeal of the Zoning Commission's

**decision at 6/14/12 meeting and of 2 complaints dismissed by ZEO on 6/15/12, regarding complaint #201200527. N. Coppola seconded the motion, and it was denied, unanimously, 0-5. Reason: No violation shown; the recreational vehicle is parked in a designated drive.**

**6. Tabled Items: None.**

**7. New Business: None.**

**8. Informal Discussion: None.**

**9. Adjourn – G. Meyerle moved to adjourn the meeting at 9:55 p.m. N. Coppola seconded the motion, and it carried unanimously.**

*\*\*\*Next meeting scheduled for August 6, 2012\*\*\**