

**APPROVED AMENDED MINUTES
REGULAR MEETING
BROOKFIELD ZONING BOARD OF APPEALS
Monday, March 4, 2013- 7:00 p.m.
MEETING ROOM 135 – TOWN HALL 100 POCONO RD**

1. CONVENE MEETING

Present: Chairman M. Flynn, Vice Chairman C. Timmerman, N. Coppola, Alternate and Voting Member S. Harding

Absent: P. Donohue, Secretary S. Wallman, G. Meyerle

Also Present: D. Cioffi, Recording Secretary

Chairman Flynn convened the meeting at 7:04 p.m. and established a quorum of members. He then reviewed the policies and procedures that govern public hearings.

2. REVIEW MINUTES – 2/4/13

Vice Chairman Timmerman moved to approve the Minutes of the February 4, 2013 meeting. N. Coppola seconded the motion. Vice Chairman Timmerman inquired regarding the discussion of 54 South Lakeshore Drive and the variance for 20% lot coverage; if that represented the total lot coverage or the difference. **Vice Chairman Timmerman moved to table the Review of the Minutes. S. Harding seconded the motion to table, and it carried unanimously.**

3. REVIEW CORRESPONDENCE:

- a. **Minutes of other Boards and Commissions: Zoning Commission 1/24/13, 2/14/13; Inland Wetlands Commission 2/11/13; Planning Commission 2/7/13; Zoning Sub-Committee**
- b. Legal Briefings for Building Inspectors: January 2013 & February 2013

No discussion/no motions.

4. PUBLIC HEARINGS – 7:00 p.m.

- a. **12 Pocono Ridge Road #201300054: Variance requested: §242-402A – 41’ structure to center of road for a pool shed (ph close date 4/8/13)**
 1. “Zoning Location Survey” prepared by Brautigam Land Surveyors dated 11/30/12
 2. Letter from Patricia S. Denley to ZBA dated 2/2/13 Re: Application for shed #201300054

Attorney M. McGetrick was present on behalf of his clients, M. Valentine and E. Molina, who were also present. He signed the consent to be heard before a four-person Board. The letters notifying the abutting property owners: to J. and M. Pondiccio, 7 Pocono Ridge Rd., Jane Johnson, 6 Pocono Ridge Rd., P. Denley, 14 Pocono Ridge Rd., were submitted.

Attorney McGetrick noted the location of the pool in the front of the house, due to the septic being behind the house, and the well being on the side of the house. The application relates to a shed that is being constructed. Attorney McGetrick contended that his applicant was unaware that he needed a permit. He indicated that the hardship is that there is no other location for the shed due to the location of the pool. He further stated that there is no lot coverage issue, nor does the application affect characteristics of neighborhood.

Chairman Flynn advised he visited the site this afternoon. Attorney McGetrick shared photographs of surrounding houses in the area, specifically, 46 Pocono Ridge Road that has a

shed close to the road. He indicated that there have been no complaints from the neighbors regarding the shed. Additionally, his client is “100% disabled” and needs to have the shed close to the pool.

Upon inquiry from Chairman Flynn, Mr. Valentine advised that the shed is six months old.

Chairman Flynn pointed out that an additional variance is required related to the shed: for Section 242-401A(5), Accessory Uses. This regulation was read and reviewed. Chairman Flynn added that because this variance was not part of the instant application, it must be added, and the request must be re-advertised.

No one was present to speak in favor of the application, nor was anyone presents to speak in opposition.

Chairman Flynn explained that at the next meeting the applicant will have the opportunity to present evidence of a hardship that is unique to the property, not its owner, and one that runs with the land.

Mr. Valentine contended that he was advised by the Town that he could not put the pool in the back yard because of the septic. He advised that he feels this is a hardship. Chairman Flynn further explained that the hardship must be something related to the site that would preclude property owner from the enjoyment of his property, but cannot be financial or relate to the residents of home.

Vice Chairman Timmerman inquired when the Town’s inspector came to the house, and Mr. Valentine indicated it was when he was “half-way done with the shed”, and that he was advised by the inspector to “keep on building”. Mr. Valentine submitted a copy of the inspector’s report; which stated that the “owner [was] permitted to apply for a permit”. Mr. Valentine stated that he was unaware the he needed a permit, and that the inspector advised him, and one of his construction workers, he was not going to “red flag” him, and, again, to “keep on building”

Vice Chairman Timmerman moved to continue the Public Hearing re: 12 Pocono Ridge Road #201300054: Variance requested: §242-402A – 41’structure to center of road for a pool shed to April 1, 2013. S. Harding seconded the motion, and it carried unanimously.

- b. 360 Federal Road #201300056: Variance requested: §242-306 C(2) – 5’ structure to front lot line for a Dental Office sign (*ph close date 4/8/13*)**
 - 1. “Site Plan” prepared by CCA, LLC dated 12/12/08 revised thru 9/27/11 – sheet S1

D. Bass, 43 Crescent St., Stamford, CT, agent for the owner, was present. Chairman Flynn advised that the Board is familiar to this unique site. Mr. Bass signed the consent to be heard before a four-person Board.

Mr. Bass advised that the applicant would like a 4 X 5 sign toward the south side of the entrance to direct patients to the entrance to the building, which is different from the address that the road fronts on. Upon inquiry from Chairman Flynn, Mr. Bass advised that it will not affect the sight line for traffic. The relevant regulation was reviewed.

No one was present to speak in favor of the application, nor was anyone present to speak in opposition.

S. Harding moved to close the Public Hearing re: 360 Federal Road #201300056: Variance requested: §242-306 C(2) – 5’ structure to front lot line for a Dental Office sign, at 7:25 p.m. Vice Chairman Timmerman seconded the motion, and it carried unanimously.

- c. **11 Orchard Street #201300071: Variance requested: §242-402A – 30’ structure to center of road, §242-402A – 10’ structure to left side line, §242-402A – 10’ structure to right side line, §242-402A – 26,699 sq. ft. lot area, §242-402A – 3.75% of lot coverage for a new Single Family Dwelling (*ph close date 4/8/13*)**
 - 1. “Proposed Variance Map” prepared by New England Land Surveying, P.C. dated 1/25/13 – Job No. 365pz122

Matthew Joseph Grimes, the property owner, was present. He signed the consent to be heard before a four-person Board. Mr. Grimes explained that the site was originally part of the Meadowbrook Manor subdivision, and was divided by the State for traffic purposes. He indicated that the lot size is consistent with the subdivision, and a map of the immediate area was reviewed. Mr. Grimes stated that the variance he is requesting is also consistent with houses in neighborhood.

Upon inquiry from Chairman Flynn, Mr. Grimes advised that the lot has a current septic permit and he is requesting of the withdrawal for sewer approval that was applied for by the previous owner who was going to develop the property commercially. He went over Section 242-311, and his recent application for a zone change, which was successful.

Prior variances of 2007 and 2008, both of which were denied, were reviewed by Chairman Flynn. Chairman Flynn also noted that the present variance request is more moderate than the prior two.

Mr. Grimes reviewed the lot size, zone, and plans for the potential structure to be built.

Chairman Flynn inquired if any plantings would be done. Mr. Grimes advised that he will landscape the house as he builds. He believes that the hardship relates to the pre-existing size of the lot, and the State taking. He further noted that the request is not excessive and is consistent with other lots in the neighborhood. Mr. Grimes noted the favorability of the soil conditions for septic.

No one was present to speak in favor of the application. D. Consalves, 13 Orchard St., was present and spoke in opposition. Chairman Flynn assisted him in reviewing the plans. Mr. Consalves was concerned regarding the proximity of his well to Mr. Grimes’ septic, and Mr. Grimes assured him that he has to meet health code with a 75 foot distance between each. Additionally, it was noted that Mr. Grimes will hook up to community water. *A. Consalves, 13 Orchard St., was also present, and discussed her concerns regarding privacy.* Chairman Flynn advised her concerns would be considered. Other marked objects on each site were noted on the plans.

Vice Chairman Timmerman moved to close the Public Hearing re: 11 Orchard Street #201300071: Variance requested: §242-402A – 30’ structure to center of road, §242-402A – 10’ structure to left side line, §242-402A – 10’ structure to right side line, §242-402A – 26,699 sq. ft. lot area, §242-402A – 3.75% of lot coverage for a new Single Family Dwelling, at 7:41 p.m. S. Harding seconded the motion, and it carried unanimously.

- d. **52 Stony Hill Road #201300098: Variance requested:** §242-202 – Definition of “Lot” to construct a new home on property while living in existing house which will be demolished at completion of new home. (*ph close date 4/8/13*)

W. Browning, 52 Stony Hill Rd., was present. He indicated his consent to being heard before a four-person Board. He explained his plans to demolish a 1,200 square foot house, after a new 1,700 square foot log cabin is constructed. The A2 survey was presented and it was noted that the plans are within the setbacks.

Chairman Flynn explained that a stipulation would be developed regarding the posting of a bond to ensure that the demolition takes place.

No one was present to speak in favor of the application, nor was anyone present to speak in opposition.

Vice Chairman Timmerman moved to close the Public Hearing re: 52 Stony Hill Road #201300098: Variance requested: §242-202 – Definition of “Lot” to construct a new home on property while living in existing house which will be demolished at completion of new home, at 7:45 p.m. N. Coppola seconded the motion, and it carried unanimously.

- e. **34 Stony Hill Road #201300101: Variance requested:** §242-402A - 8’ structure to right side line for a roofed patio (*ph close date 4/8/13*)

1. “Zoning Location Survey” prepared by DeRosa Land Surveying dated 1/29/13 – *Edwin Sanchez, 34 Stony Hill Rd., was present.* He signed his consent to being heard before a four-person Board. He discussed the removal of three trees while pool work was being done, and noted that they were replaced with three smaller trees. A gazebo was then constructed around the pool, and the Building Inspector advised him that a permit was needed. Mr. Sanchez advised that his neighbor does not have a problem with the pool.

Chairman Flynn discussed the need for a hardship. The hardship listed on the application states that it relates to the location of the trees and the sun. It was encouraged that Mr. Sanchez consult a land use attorney for assistance with the hardship issue, and that he obtain a letter from the neighbor that has no objection to the project.

No one was present to speak in favor of the application, nor was anyone present to speak in opposition.

Vice Chairman Timmerman moved to continue the Public Hearing re: 34 Stony Hill Road #201300101: Variance requested: §242-402A - 8’ structure to right side line for a roofed patio. S. Harding seconded the motion, and it carried unanimously.

- f. **16 Pleasant Rise #201300104: Variance requested:** §242-402A – 27’ structure to rear lot line; §242-402A – 27’ structure to right side line; §242-402A – 2% of lot coverage for a shed (*ph close date 4/8/13*)

M. Daly, 16 Pleasant Rise, was present. He indicated his consent to being heard before a four-person Board. Chairman Flynn advised that he inspected the site today. He indicated that the hardship relates to upzoning. Mr. Daly advised that the neighbor at 18 Pleasant Rise has no objection. It was noted that the lot is one-third of an acre, and is in a one-acre zone.

No one was present to speak in favor of the application, nor was anyone present to speak in opposition.

Vice Chairman Timmerman moved to close the Public Hearing re: **16 Pleasant Rise #201300104: Variance requested: §242-402A – 27’ structure to rear lot line; §242-402A – 27’ structure to right side line; §242-402A – 2% of lot coverage for a shed, at 7:55 p.m.** S. Harding seconded the motion, and it carried unanimously.

DELIBERATIONS

- a. **12 Pocono Ridge Road #201300054: Variance requested: §242-402A – 41’ structure to center of road for a pool shed** (*ph close date 4/8/13*)

Continued to April 1, 2013.

- b. **360 Federal Road #201300056: Variance requested: §242-306 C(2) – 5’ structure to front lot line for a Dental Office sign** (*ph close date 4/8/13*)
1. “Site Plan” prepared by CCA, LLC dated 12/12/08 revised thru 9/27/11 – sheet S1

Vice Chairman Timmerman moved to approve **360 Federal Road, #201300056: Variance requested: §242-306 C(2) – 5’ structure to front lot line for a Dental Office sign.** S. Harding seconded the motion. The two front yards, triangular lot, and topography were noted. **Motion carried unanimously. Variance granted. Reason: Topography, narrowness of lot, triangular shape of lot.**

- c. **11 Orchard Street #201300071: Variance requested: §242-402A – 30’ structure to center of road, §242-402A – 10’ structure to left side line, §242-402A – 10’ structure to right side line, §242-402A – 26,699 sq. ft. lot area, §242-402A – 3.75% of lot coverage for a new Single Family Dwelling** (*ph close date 4/8/13*)
1. “Proposed Variance Map” prepared by New England Land Surveying, P.C. dated 1/25/13 – Job No. 365pz122

Vice Chairman Timmerman moved to approve **11 Orchard Street, #201300071: Variance requested: §242-402A – 30’ structure to center of road, §242-402A – 10’ structure to left side line, §242-402A – 10’ structure to right side line, §242-402A – 26,699 sq. ft. lot area, §242-402A – 3.75% of lot coverage for a new Single Family Dwelling.** S. Harding seconded the motion. It was noted that this is a pre-existing, non-conforming lot. Chairman Flynn pointed out that this third request for a variance is the most reasonable. Vice Chairman Timmerman cited the need for privacy plantings along the car port/patio area of the abutting property. **Vice Chairman Timmerman moved to amend the motion to approve the variance request with the addition of three 6-foot evergreens in line with the neighbor’s patio/car port.** S. Harding seconded the motion to amend. **Motion carried unanimously. The vote on the amended motion carried unanimously. Variance granted. Reason: No back yard, triangular lot, undersized because of State taking, and upzoned.**

- d. **52 Stony Hill Road #201300098: Variance requested: §242-202 – Definition of “Lot” to construct a new home on property while living in existing house which will be demolished at completion of new home.** (*ph close date 4/8/13*)

Vice Chairman Timmerman moved to approve **52 Stony Hill Road, #201300098: Variance requested: §242-202 – Definition of “Lot” to construct a new home on property while living in existing house which will be demolished at completion of new home.** N. Coppola seconded the motion. Chairman Flynn moved to amend the motion, to grant the variance based on the plans that were submitted, and that prior to the issuance of a permit, that the property owner post a bond that is commensurate with the cost of demolition of the house

to ensure that there is money to demolish the old house and the value of bond will be determined by good faith estimate by the contractor that will demolish the house, and this will be resolved with the Zoning Enforcement Officer, and that that the applicant get a demolition permit prior to getting the Certificate of Occupancy for the house. Vice Chairman Timmerman seconded the motion to amend. Motion carried unanimously. The vote on the amended motion carried unanimously. *Variance granted.*

- e. **34 Stony Hill Road #201300101: Variance requested:** §242-402A - 8’ structure to right side line for a roofed patio (*ph close date 4/8/13*)

1. “Zoning Location Survey” prepared by DeRosa Land Surveying dated 1/29/13 –
Continued to April 1, 2013.

- f. **16 Pleasant Rise #201300104: Variance requested:** §242-402A – 27’ structure to rear lot line; §242-402A – 27’ structure to right side line; §242-402A – 2% of lot coverage for a shed (*ph close date 4/8/13*)

Vice Chairman Timmerman moved to approve 16 Pleasant Rise, #201300104, Variance requested: §242-402A – 27’ structure to rear lot line; §242-402A – 27’ structure to right side line; §242-402A – 2% of lot coverage for a shed. S. Harding seconded the motion. Motion carried unanimously. *Variance granted.* Reason: Upzoning, septic in a bad location, plan is consistent other homes in the neighborhood.

5. **TABLED ITEMS:** None.

6. **NEW BUSINESS:** None.

7. **INFORMAL DISCUSSION:** The Board commented on a letter from K. Daniel dated September 7, 2012, to the Zoning Commission, Zoning Board of Appeals, Planning Commission and Inland Wetlands Commission. The Board indicated it would welcome a presentation from CDD Daniel.

Mr. Grimes commented on the contents of the letter, stating that electronic submissions would pose a hardship for average landowners.

8. **ADJOURN**

Vice Chairman Timmerman moved to adjourn the meeting at 8:07 p.m. S. Harding seconded the motion, and it carried unanimously.

****Next meeting Scheduled for April 1, 2013****