

**APPROVED MINUTES
REGULAR MEETING
BROOKFIELD ZONING BOARD OF APPEALS
Monday, April 1, 2013- 7:00 p.m.
MEETING ROOM 133 – TOWN HALL 100 POCONO RD**

1. CONVENE MEETING

Present: Chairman M. Flynn, Vice Chairman C. Timmerman, Secretary S. Wallman, G. Meyerle, Alternate and Voting Members N. Coppola and S. Harding

Absent: P. Donohue

Also Present: 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 - 2/4/13 – *Alternate N. Coppola was a Voting Member for this item.* Vice Chairman Timmerman moved to un-table and approve the Minutes of the February 4, 2013 meeting. N. Coppola seconded the motion, and it carried unanimously.**

3/4/13 – *Alternate S. Harding was a Voting Member for this item.* Vice Chairman Timmerman moved to approve the Minutes of the March 4, 2013 with one correction. S. Harding seconded the motion. Vice Chairman Timmerman advised that on page 2, Item 4.a., fifth complete paragraph, first sentence, to change the word “pool” at the end of the sentence to “septic”, so that the sentence reads, “Mr. Valentine contended ... because of the *septic*.” Motion to approve the Minutes with the aforementioned correction carried unanimously.

3. REVIEW CORRESPONDENCE:

- a. Minutes of other Boards and Commissions: Zoning Commission 2/28/13; Inland Wetlands Commission 2/25/13, 3/11/13; Planning Commission 2/21/13, 3/7/13; Zoning Sub-Committee**

No discussion/no motions.

4. CONTINUED PUBLIC HEARINGS – 7:00 pm

- a. 12 Pocono Ridge Road #201300054: Variance requested: §242-402A – 41’ structure to center of road, §242-401A (5) – Permitted uses in Residential Zones, Accessory uses - for a pool shed (*ph close date 4/8/13 – 65 extension days remaining after close*)**

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

Attorney M. McGetrick, Danbury, CT, and M. Valentine, Property Owner, 12 Pocono Ridge Road, were present. Attorney McGetrick advised that the complainant in this matter was a tenant that his clients were in the process of evicting. The complaint related to the unpermitted shed. He continued that when the Building Inspector came to inspect the shed, the Building Inspector advised Mr. Valentine that he could continue to build the shed. Attorney McGetrick noted that the complainant has since been evicted, and has not been present at this meeting nor the public hearing held in March.

Attorney McGetrick pointed out that the adjacent neighbors were notified by certified mail of the public hearing, and none have objected; one has provided a letter indicating approval of the shed. Attorney McGetrick shared photographs of the other sheds on the street. Secretary Wallman

inquired how long the shed has been up, and Mr. Valentine advised that it has been up for six months. Mr. Valentine also explained that the structure is *not* a cabaña, and that this was verified by the Building Inspector. The Inspector further advised Mr. Valentine that the shed was “above code”. Attorney McGetrick acknowledged that the shed is close to the road (24 feet), but pointed out that it is behind a stone wall.

Along with the financial hardship, Attorney McGetrick stated that his client is “100% disabled”. He noted the need for the shed to store the pool equipment. Mr. Valentine advised that he does “rehabilitative swimming”. Attorney McGetrick added that the pool was approved for the front of the house because of the location of the septic and wetlands elsewhere on the property. Chairman Flynn inquired if the deck was a structure, and Mr. Valentine advised that it was part of the application. Chairman Flynn pointed out the statement on the application, which reads, “variance for existing pool shed”.

Vice Chairman Timmerman inquired about the amount of time between the Building Inspector’s ticket (August 21, 2012) and the variance application of February, 2013. Mr. Valentine advised that he could not apply for a variance until the survey was obtained and completed, and that process took some time. He stated that he continued to build the shed based upon the statements of the Building Inspector and the fact that the Building Inspector never came back. Secretary Wallman inquired how much of the shed was completed at the time of the Inspector’s first visit, and Mr. Valentine indicated it was “probably 35%”. S. Harding inquired if there was anything unique to the site, and Mr. Valentine responded that it was that he could not put the pool in the back or side yards. Attorney McGetrick advised there were other spots, but they would have required variances as well. He reiterated that his client is disabled and the shed needs to be close to the pool. He and Mr. Valentine also pointed out the number of sheds at other homes in the neighborhood.

There was brief discussion regarding the stone wall on the property.

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 12 Pocono Ridge Road #201300054: Variance requested: §242-402A – 41’ structure to center of road, §242-401A (5) – Permitted uses in Residential Zones, Accessory uses - for a pool shed at 7:19 p.m. Secretary S. Wallman seconded the motion, and it carried unanimously.

- b. 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 – 65 extension days remaining after close*)**

Alternate S. Harding was a Voting Member for this item.

No one present. Secretary Wallman advised that he read the Minutes from the prior meeting, and is familiar with the property.

Vice Chairman Timmerman moved to close the Public Hearing re: 34 Stony Hill Road #201300101: Variance requested: §242-402A – 8’ structure to right side line for a roofed patio at 7:21 p.m. N. Coppola seconded the motion, and it carried unanimously.

5. PUBLIC HEARINGS – Following Continued Public Hearings:

a. 820 Federal Road #201300182: Repairer’s License

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

W. McCutcheon, the applicant, 820 Federal Road, was present. Chairman Flynn explained that in municipalities with populations less than 20,000, the ZBA approves repairer’s license applications. Mr. McCutcheon advised that he is moving his business from one location at the Four Corners to another. He reviewed the recent happenings related to the prior gas station’s closure, and what he knows of the status of the remainder of the gas stations in the Four Corners area.

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: 820 Federal Road, #201300182: Repairer’s License, at 7:27 p.m. Secretary Wallman seconded the motion, and it carried unanimously.

b. 31 Arapaho Road #201300188: Variance requested: §242-402A – 18’ structure to left side line, §242-402A - .5% of Lot coverage for an addition (ph close date 5/5/13)

1. Zoning Location Plan prepared by Robert Grossenbacher, L.S. dated 3/14/11 revised thru 3/2/13

Alternate S. Harding was a Voting Member for this item.

T. Tomaino, Property Owner, and B. Grossenbacher, Surveyor, were present. Chairman Flynn reviewed the left side yard measurements, and this was initialed on the application by Mr. Tomaino. Chairman Flynn further advised that overhangs are included in the measurements. Mr. Tomaino explained that the addition will be for a family room, master bedroom, storage and one garage. Chairman Flynn noted that the lot sits in an R80 zone, and is less than one acre. The septic is in the back of the house. Vice Chairman Timmerman noted the slopes on the lot. After review of the file, it was noted that there were no prior variances issued to the property. N. Coppola advised that he inspected the lot, as did Secretary Wallman. The upzoning and amount of ledge on the site were discussed.

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: 31 Arapaho Road, #201300188, at 7:33 p.m. Secretary Wallman seconded the motion, and it carried unanimously.

c. 419 Federal Road #201300198: Variance requested: §242-501E(1)(a) – 28.5’ structure to front lot line for an addition to a Landscaping business (ph close date 5/5/13)

1. “Zoning Location Survey” prepared by Sydney Rapp Land Surveying, P.C. dated 3/12/13

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

M. Kornhaas, Artel Engineering, and P. DiScala, Sunburst Landscaping, were present. Mr. Kornhaas explained that the request relates to an addition to what is currently a one-story garage. A previous appeal occurred in 1984. Chairman Flynn noted that even though the addition will occur in the rear, because it is a pre-existing, non-conforming structure, the front yard setbacks still cannot be met. The retail boat business and stream nearby were denoted on the map. This plan will also have to go to the Zoning Commission. The building will be used for landscaping supplies, and will not involve any retail use.

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: 419 Federal Road #201300198: Variance requested: §242-501E(1)(a) – 28.5’ structure to front lot line for an addition to a Landscaping business, at 7:37 p.m. Secretary Wallman seconded the motion, and it carried unanimously.

DELIBERATIONS

4. CONTINUED PUBLIC HEARINGS – 7:00 pm

- a. 12 Pocono Ridge Road #201300054: Variance requested: §242-402A – 41’ structure to center of road, §242-401A (5) – Permitted uses in Residential Zones, Accessory uses - for a pool shed (*ph close date 4/8/13 – 65 extension days remaining after close*)**

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

Vice Chairman Timmerman moved to approve 12 Pocono Ridge Road, #201300054: Variance requested: §242-402A – 41’ structure to center of road, §242-401A (5) – Permitted uses in Residential Zones, Accessory uses - for a pool shed. Secretary Wallman seconded the motion. There was discussion regarding the location of the septic, the pool shed, and the Building Inspector’s role. It was noted that the application was amended to include the structure in the front and it was re-advertised. Chairman Flynn pointed out that there is nothing regarding the deck on the application before the Board. He advised that the deck is a structure, and it encroaches as the shed does. The map was reviewed, and the deck was pointed out. Chairman Flynn noted that the Board only has the authority to approve what is on the application and what has been legally advertised. The deck is only mentioned in the Building Inspector’s notes.

Chairman Flynn stated that there are other structures in the neighborhood similar to the shed, and pointed out the stone wall and the property behind it being lower than the road. There was discussion regarding the lack of the permit, and the omission of the deck from the application.

There was discussion regarding whether a hardship exists. It was noted that there was nowhere else to put the pool, and it is “not an eyesore”. The Cease and Desist Order was issued on December 12, 2012. G. Meyerle pointed out that it is generally known that permits are needed

for building work, but acknowledged that the property owner has no alternatives. S. Harding agreed. Chairman Flynn noted the ZBA's discretionary authority.

Motion carried unanimously. Variance granted. Reason: Topography, steep slope, minimum impact of shed, especially being behind stone wall, location of septic fields.

- b. **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 – 65 extension days remaining after close*)

Alternate S. Harding was a Voting Member for this item.

Vice Chairman Timmerman moved to approve 34 Stony Hill Road #201300101: Variance requested: §242-402A – 8' structure to right side line for a roofed patio. S. Harding seconded the motion. Chairman Flynn pointed out that the property owner completed permit applications for other items on the property. He noted the unkemptness of the work that has been done, as well as its visibility. In addition, there is no hardship, nor is it in keeping with the neighborhood. Further, there are no issues with the lot configuration, and the work being done could have been redesigned. The applicant was given an opportunity to produce a hardship, and is not present this evening. Secretary Wallman noted that the structure could have gone in another location without a variance. **Motion failed unanimously. Variance denied.**

5. PUBLIC HEARINGS – Following Continued Public Hearings:

- a. **820 Federal Road #201300182**: Repairer's License

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

Vice Chairman Timmerman moved to approve 820 Federal Road, #201300182: Repairer's License. N. Coppola seconded the motion, and it carried unanimously.

- b. **31 Arapaho Road #201300188**: Variance requested: §242-402A – 18' structure to left side line, §242-402A - .5% of Lot coverage for an addition (*ph close date 5/5/13*)
 - 1. Zoning Location Plan prepared by Robert Grossenbacher, L.S. dated 3/14/11 revised thru 3/2/13

Alternate S. Harding was a Voting Member for this item.

Vice Chairman Timmerman moved to approve 31 Arapaho Road, #201300188: Variance requested: §242-402A – 18' structure to left side line, §242-402A - .5% of Lot coverage for an addition. S. Harding seconded the motion. There was discussion regarding the topography, the upzoning and the reasonableness of the request. **Motion carried unanimously. Variance granted. Reason: The upzoning, shape of the lot, and topography.**

- c. **419 Federal Road #201300198**: Variance requested: §242-501E(1)(a) – 28.5' structure to front lot line for an addition to a Landscaping business (*ph close date 5/5/13*)
 - 1. "Zoning Location Survey" prepared by Sydney Rapp Land Surveying, P.C. dated 3/12/13

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

Vice Chairman Timmerman moved to approve 419 Federal Road, #201300198: Variance requested: §242-501E(1)(a) – 28.5’ structure to front lot line for an addition to a Landscaping business. N. Coppola seconded the motion. Chairman Flynn noted that there is already a building in the front that encroaches. N. Coppola pointed out that the building is pre-existing and non-conforming. Motion carried unanimously. *Variance granted. Reason: Replacement of structure with a better looking one; due to the nature of the pre-existing, non-conforming structure in the front, the placement of the addition, which needs to be attached to it, requires a variance because of where the original pre-existing, non-conforming structure is.*

6. TABLED ITEMS: None.

7. NEW BUSINESS: None.

8. INFORMAL DISCUSSION: The Board members indicated they are awaiting a response from the Land Use Office regarding a presentation on the electronic submission of materials. Additionally, the impending resignation of member P. Donohue was noted.

9. ADJOURN – Vice Chairman Timmerman moved to adjourn the meeting at 8:02 p.m. S. Harding seconded the motion, and it carried unanimously.

****Next meeting Scheduled for May 6, 2013****