

**APPROVED AMENDED MINUTES
REGULAR MEETING
BROOKFIELD ZONING BOARD OF APPEALS
Monday, March 3, 2014- 7:00 p.m.
MEETING ROOM 133 – TOWN HALL 100 POCONO RD**

1. Convene meeting

Chairman C. Timmerman convened the meeting at 7:01 p.m. and established a quorum of members. He then reviewed the policies and procedures that govern public hearings.

Present: Chairman C. Timmerman, Vice Chairman N. Coppola, Secretary J. Eagan, G. Meyerle, L. Bibbo, (*Prospective new member P. Murphy was in the audience*)

Absent: Alternate S. Harding

Also Present: Recording Secretary D. Cioffi

2. Review Minutes – 1/6/14 – G. Meyerle moved to approve the Minutes of the 1/6/14 meeting as submitted. Vice Chairman Coppola seconded the motion, and it carried, 4-0-1, with L. Bibbo abstaining.

3. Review Correspondence:

- a. **Minutes of other Boards and Commissions: Zoning Commission 1/23/14; Inland Wetlands Commission 1/6/14 special, 1/27/14, 2/10/14; Planning Commission 1/16/14, 2/6/14**
- b. Notice from Ct Dept of Energy & Environmental Protection dated in the Town Clerks Office 1/16/14 Re: Notice of Intent to Modify General Permit for Water Resources Construction Activities for Compliance with 2013 Legislative Changes
- c. Notice from Connecticut Federation of Planning & Zoning Agencies Re: 66th Annual Conference Thursday, March 13, 2014
 1. Registration forms

Discussion below.

4. PUBLIC HEARINGS – 7:00 p.m.

a. 934 Federal Road: Repairer's License

R. Soto, 934 Federal Rd., was present. He indicated he is looking for a repairer's license for collision repair and general mechanical work. The proposed business is a new business for the site. Mr. Soto indicated the business would not likely perform work such as oil changes. Vice Chairman Coppola inquired what type of spray booth, and Mr. Soto advised it will be a down-draft spray booth and that it will be "eco-friendly". Mr. Soto advised that this building is a "clean location". The square footage of the building is approximately 4,800 square feet. Upon inquiry from J. Eagan, Mr. Soto indicated he would not be performing towing operations. He added that there is just one large door at this time, with a lift inside as well as a screw compressor.

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

Attorney J. Sienkiewicz, New Milford, was present, on behalf of Lew White and his family, and spoke in opposition to the application. He reviewed that the ZBA's authority is derived from the motor vehicle statutes for repairer's licenses. He indicated that it is the Board's charge to determine if location is suitable, but stated that the statute does not provide any standards. Chairman Timmerman added that along with the suitability of the site, the Board must determine if there are any public health and safety concerns. Attorney Sienkiewicz shared a plot plan of the abutting Lew White property and the other businesses on the site. He discussed the permissive use of access that has occurred with the site that the applicant's business will sit on, and then advised that his client

does not want an auto body repair neighboring his lot. Attorney Sienkiewicz indicated that Mr. White's reasons for opposing the application are:

- 1) The traffic of wrecked vehicles coming into the site is incompatible with the retail use at Lew White. Vice Chairman Coppola noted that the Lew White business and the nearby Brookfield Glass also utilize trucks to access the site. Attorney Sienkiewicz indicated that his client opines that the collision repair business will be a "more intense" and a "more troublesome use". He referenced the Table of Permitted Uses for Town Center District, specifically, Section 242-501H's discussion of combined and mixed uses;
- 2) Sewer and water associated with the proposed business, and a concern of pollution to the neighboring wells. Attorney Sienkiewicz referenced the Transfer Act – Section 22A-134(3) (copy submitted for the record), which applies to the transfer of hazardous waste. He noted that when the property at 934 Federal Road is sold, it will have to be certified "clean", and advised that it is within 150-250 feet of the aquifer protection, pointing out that Section 242-502D(2) prohibits any type of automotive and boat sales, repair and storage. Attorney Sienkiewicz stated that the proximity is a risk to his client's water supply;
- 3) A concern that there will be a "junk yard look" with damaged cars being outside. He acknowledged that the property is not directly visible from the street, but opined it is still not an appropriate use for the district.

Attorney Sienkiewicz added that the access to the property is not flat, and the sight line is not good. He summarized that it is also a burden on his client's access, the proposed use is incompatible with neighboring business, it will create a public concern regarding traffic at the site, and the risk of contamination to the water supply.

Attorney Sienkiewicz submitted a copy of the plot plan he was discussing, for the file.

Mr. Soto shared a copy of the map of the building he proposes to use, showing there is sufficient square footage to hold approximately twenty cars. He advised that the building is not visible from the road. Vice Chairman Coppola inquired how the bays would be accessed, and Mr. Soto replied it would be via the rear, and pointed out on his map where access would be. Mr. Soto and Chairman Timmerman both stated that Mr. White's business currently uses the same access for the larger trucks that deliver to his store.

There was discussion regarding the disposal of solvents and spraying of water. Mr. Soto explained that a powder is used with the water to turn it into a paste/solid, which can be disposed of per State law. He further noted that tanks will be on the site, and emphasized that he will conceal equipment and keep the area clean.

Upon inquiry from Vice Chairman Coppola regarding the traffic at the site, Mr. Soto indicated he estimates that three to four wrecked vehicles will come to the site per week. He also advised that all of the water from washing any vehicles, and oil and coolants, will stay inside of the shop.

No one else was present to speak in opposition to the application.

Vice Chairman Coppola moved to close the Public Hearing re: 934 Federal Road, Repairer's License, at 7:33 p.m. Secretary Eagan seconded the motion, and it carried unanimously.

- b. 9 Arrowhead Point Road #201400095: Variance requested: §242-402A – 17.5' structure to center of Arrowhead Point Road and §242-402A – 10.3' structure to center of Chester Street for a garage addition overhang (PH close date 4/6/14)**

1. “Zoning Location Survey” prepared by Sydney Rapp Land Surveying, P.C. dated 9/23/13

Attorney N. Marcus, Cohen & Wolf, P.C., 158 Deer Hill Ave., Danbury, CT, was present, on behalf of J. Levine, the applicant.

Maps of the area were reviewed. Attorney Marcus explained that the variance is for constructing a garage at the southern corner of lot. A variance was previously granted for a shed on the southeast corner. Attorney Marcus noted that the site has two front yards. Additionally, the house was built during the 1950’s, and is pre-existing and non-conforming, not meeting the setbacks. Attorney Marcus reviewed the measurements to the center of the road and the existing shed. The proposed variances will not increase the non-conformity to Chester Street setback. In summary, he advised that the hardship relates to the odd –shape of the parcel, the two front yards, and the pre-existing, non-conformity.

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

G. Meyerle moved to close the Public Hearing re: 9 Arrowhead Point Road, #201400095: Variance requested: §242-402A – 17.5’ structure to center of Arrowhead Point Road and §242-402A – 10.3’ structure to center of Chester Street for a garage addition overhang, at 7:39 p.m. Vice Chairman Coppola seconded the motion, and it carried unanimously.

- c. **48 North Lake Shore Dr. #201400098: Variance requested: §242-402A – 6% of lot coverage for a 910 sq. ft. deck (PH close date 4/6/14)**
 1. “Plot Plan” prepared by Riordan Land Surveying dated 7/19/13
 2. “Architectural Plans” prepared by Thomas Nugent, Architect dated 10/8/13 revised thru 1/24/14

T. Nugent, Architect, was present on behalf of the Kolesars. The property owners want to replace an existing deck. The slope prevents them from building a terrace. Chairman Timmerman noted the 440 line. Vice Chairman Coppola pointed out the narrowness of the lot. Chairman Timmerman inquired regarding the type of materials that would be used, and was advised it would be a composite material.

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

Vice Chairman Coppola moved to close the Public Hearing re: 48 North Lake Shore Drive, #201400098: Variance requested: §242-402A – 6% of lot coverage for a 910 sq. ft. deck, at 7:41 p.m. G. Meyerle seconded the motion, and it carried unanimously.

- d. **16 Southeast Trail #201400099: Variance requested: §242-202 – definition of lot to construct a new home while living in existing house to be demolished when new home is completed. (PH close date 4/6/14)**
 1. “Location Map” dated 1/27/14
 2. “Preliminary Site Plan” dated 10/9/13 revised thru 1/15/14

W. Ackerman, 16 Southeast Trail, was present. He indicated he wished to demolish the current house after the new house is built. Chairman Timmerman recalled another occurrence when this occurred at a different site, noting it will be a “temporary variance”.

P. Keffer, a neighbor, was present, and spoke in favor of the application. No one was present to speak in opposition to the application.

Chairman Timmerman explained that two houses on a lot are generally not allowed. He advised that the property owner is required to get a demolition permit and bond for the old house while the new house is being constructed.

Secretary Eagan moved to close the Public Hearing re: 16 Southeast Trail, #201400099: Variance requested: §242-202 – definition of lot to construct a new home while living in existing house to be demolished when new home is completed, at 7:47 p.m. G. Meyerle seconded the motion, and it carried unanimously.

- e. **6 Pond Brook Court #201400100: Variance requested: §242-402A – 7’ structure to right side line, §242-402A – 22’ lot width for new construction of a single family residence (PH close date 4/6/14)**

- 1. “Proposed Zoning Location Survey” prepared by New England Land Surveying, P.C. dated 2/10/14

M. Kornhaas, PE, Artel Engineering, was present. He explained that the lot is at the end of the cul-de-sac. A large map of the area was reviewed, and Mr. Kornhaas pointed out the current setbacks, the conservation easement, and wetlands. There is also a driveway easement and an electrical easement. Mr. Kornhaas indicated it is an irregularly-shaped lot, and the variance being requested is for lot width. It will allow for access to the back yard without entering the conservation easement. Thirty-foot setbacks were established with the conservation easement.

F. Roschangar, a neighbor, was present, and spoke in favor of the application. No one present to speak in opposition to the application.

Secretary Eagan moved to close the Public Hearing re: 6 Pond Brook Court, #201400100: Variance requested: §242-402A – 7’ structure to right side line, §242-402A – 22’ lot width for new construction of a single family residence, at 7:52 p.m. L. Bibbo seconded the motion, and it carried unanimously.

- f. **132 Federal Road (Suite 6) #201400101: Repairer’s License**

E. Silva, was present, and she indicated that she and her husband are seeking a repairer’s license to provide the service of on-site bumper repair to five automotive dealers. They have been providing this service for some time. Chairman Timmerman reviewed the history of the continuation of this use at this particular property.

F. Roschangar inquired regarding the location, and Chairman Timmerman clarified that it is across from Shoprite, near BJ’s Wholesale Club.

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

G. Meyerle moved to close the Public Hearing re: 132 Federal Road (Suite 6) #201400101: Repairer’s License, at 7:57 p.m. Vice Chairman Coppola seconded the motion, and it carried unanimously.

DELIBERATIONS

- a. **934 Federal Road: Repairer’s License**

Secretary Eagan moved to approve 934 Federal Road: Repairer's License. The building location was noted. Vice Chairman Coppola indicated he did not believe traffic at the site would be an issue, pointing out that larger vehicles already access the site to deliver appliances and remove dumpsters. He also opined that the business would not be very visible. G. Meyerle inquired what the Zoning role would be, and Chairman Timmerman indicated it would relate to obtaining a Certificate of Zoning Compliance. Chairman Timmerman added that the ZBA role relates to the suitability of the business for the site. Further, the site is not in the aquifer. Vice Chairman Coppola noted that the Department of Motor Vehicles and the Department of Energy and Environmental Protection will monitor disposal practices at the site. The business owner has advised he will utilize down-draft spray booths. Chairman Timmerman noted that at times there are old refrigerators and other debris outside of the two abutting businesses. It was also noted that the proposed use is approved in the zone. The map was reviewed. Vice Chairman Coppola seconded the motion, and it carried unanimously. *Variance granted.* Reason: It is an appropriate use for the area and there will be no impact for shared access, the aquifer, or the shared usage.

- b. 9 Arrowhead Point Road #201400095: Variance requested: §242-402A – 17.5' structure to center of Arrowhead Point Road and §242-402A – 10.3' structure to center of Chester Street for a garage addition overhang (PH close date 4/6/14)
1. "Zoning Location Survey" prepared by Sydney Rapp Land Surveying, P.C. dated 9/23/13

Secretary Eagan moved to approve 9 Arrowhead Point Road: #201400095, Variance requested, as advertised. Vice Chairman Coppola seconded the motion. He indicated he inspected the site today and was able to see how the proposed structure would appear. He noted that portions of the house are beyond the setback. Chairman Timmerman noted that the rationale for allowing the current shed was to remove materials from the yard. The garage will serve a similar purpose in getting cars off the street. Motion carried unanimously. *Variance granted.* Reason: Two front yards, the small lot and the odd-shaped, triangular lot.

- c. 48 North Lake Shore Dr. #201400098: Variance requested: §242-402A – 6% of lot coverage for a 910 sq. ft. deck (PH close date 4/6/14)
1. "Plot Plan" prepared by Riordan Land Surveying dated 7/19/13
 2. "Architectural Plans" prepared by Thomas Nugent, Architect dated 10/8/13 revised thru 1/24/14

Secretary Eagan moved to approve 48 North Lake Shore Drive, #201400098: Variance requested, as advertised. Vice Chairman Coppola seconded the motion. Chairman Timmerman pointed out that the 440 line affects the amount of buildable land. Vice Chairman Coppola pointed out that the proposal will improve the back yard, citing the narrowness of the lot. The deck will go the length of the house. Motion carried unanimously. *Variance granted.* Reason: Narrow lot, lack of ability to use the land below the 440 line, and lot coverage calculation.

- d. 16 Southeast Trail #201400099: Variance requested: §242-202 – definition of lot to construct a new home while living in existing house to be demolished when new home is completed. (PH close date 4/6/14)
1. "Location Map" dated 1/27/14
 2. "Preliminary Site Plan" dated 10/9/13 revised thru 1/15/14

Secretary Eagan moved to approve 16 Southeast Trail, #201400099: Variance requested, as advertised. L. Bibbo seconded the motion. Chairman Timmerman recalled a similarly granted variance from last March. Chairman Timmerman moved to amend the motion to approve 16 Southeast Trail, based on the plans submitted in the application, 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 insure that there is money to demolish the old house, and the value of the bond will be determined by a good-faith estimate by the contractor that will demolish the house; and this will be resolved with the Zoning Enforcement Officer; and that the applicant get a demolition permit prior to getting a Certificate of Occupancy for the house. Vice Chairman Coppola seconded the amended motion, and it carried unanimously. Motion carried unanimously. *Variance granted.*

- e. **6 Pond Brook Court #201400100:** Variance requested: §242-402A – 7’ structure to right side line, §242-402A – 22’ lot width for new construction of a single family residence (*PH close date 4/6/14*)

- 1. “Proposed Zoning Location Survey” prepared by New England Land Surveying, P.C. dated 2/10/14

Secretary Eagan moved to approve 6 Pond Brook Court, #201400100, Variance requested, as advertised. Vice Chairman Coppola seconded the motion. The restrictions of the odd-shaped lot, conservation easements, and wetlands were noted. The proposal will make the site more usable. Motion carried unanimously. *Variance granted. Reason: Odd-shaped lot and topography.*

- f. **132 Federal Road (Suite 6) #201400101: Repairer’s License**

Secretary Eagan moved to approve 132 Federal Road (Suite 6) #201400101: Repairer’s License. L. Bibbo seconded the motion. It was noted that this is a continuation of a previous use, and the business is in keeping with those in the surrounding area. Motion carried unanimously.

5. **Tabled Items:** None.

6. **New Business:** None.

a.

7. **Informal Discussion:** Chairman Timmerman welcomed L. Bibbo to the Board.

Chairman Timmerman indicated that Matt Grimes has advised that the Charter Review Commission is reviewing how vacancies on Boards and Commissions are filled. He explained that currently all Commissions have the ability to fill their own vacancies except for Zoning, the Zoning Board of Appeals, and another. The CRC is looking for feedback from the ZBA if the practice of the Board of Selectmen appointing members should be continued, or if the ZBA should be able to appoint its own members.

Prospective new member, P. Murphy, a Republican, was present, and indicated he was being officially appointed as an Alternate by the Board of Selectmen tonight. He will have to be sworn in by the Town Clerk before beginning service in April.

Chairman Timmerman suggested that the ZBA filling its own vacancies would “shorten the cycle”, and provide members the opportunity to recommend individuals they know who have experience with zoning issues. He indicated there is still one opening for a Board member.

Chairman Timmerman also advised the Board that an Eagle Scout Ceremony for Michael Frederick Clark, of Troop 135, would take place on March 9, 2014, at 2 p.m. at Prince of Peace Church.

Lastly, there was discussion regarding a training opportunity through the Connecticut Federation of Planning & Zoning Agencies Re: 66th Annual Conference Thursday, March 13, 2014.

8. Adjourn

Chairman Timmerman moved to adjourn the meeting at 8:29 p.m. Secretary Eagan seconded the motion, and it carried unanimously.

****Next meeting Scheduled for April 7 2014****