

**APPROVED MINUTES
REGULAR MEETING
BROOKFIELD ZONING BOARD OF APPEALS
Monday, March 2, 2015- 7:00 p.m.
MEETING ROOM 135 – TOWN HALL 100 POCONO RD**

1. Convene meeting

Chairman C. Timmerman convened the meeting at 7:06 p.m. and established a quorum of members. He then reviewed the policies and procedures that govern public hearings.

Present: Chairman C. Timmerman, J. Eagan, G. Meyerle, P. Murphy,

Absent: Vice Chairman N. Coppola, Alternates L. Bibbo, L. Ruschmeyer

2. Review Minutes – 12/1/14 – G. Meyerle moved to approve the Minutes of the December 1, 2014 meeting. J. Eagan seconded the motion, and it carried unanimously.

3. Review Correspondence:

- a. **Minutes of other Boards and Commissions: Zoning Commission 11/13/14, 11/20/14, 12/11/14, 1/8/15, 1/8/15 special, 1/22/15; Inland Wetlands Commission 12/8/14, 12/22/14, 12/27/14 site walk; Planning Commission 12/4/14, 1/22/15, 2/5/15; Aquifer Protection Agency 11/20/14, 12/11/14**
- b. **Legal Briefings for Building Inspectors: January 2015**
- c. **CT Federation of Planning and Zoning Agencies Announcement for the 67th Annual Conference – March 26, 2015**
- d. **Ct Federation of Planning & Zoning Agencies Quarterly Newsletter: Winter 2015**

No discussion/no motions.

4. PUBLIC HEARINGS – 7:00 p.m.

- a. **604 Federal Road (Toyotomi) #201500017: Variance requested: \$242-501 – 15.5’ structure to right side line for a fence and storage pads (ph close date 3/8/15)**

1. Map titled “Proposed Improvement Location Survey” prepared by CCA, LLC dated 10/27/14 – sheet 1 of 1
2. “Proposed Site Plan Modification” prepared by CCA, LLC dated 1/7/15 – sheet 1 of 1

Attorney P. Scalzo, 2 Stony Hill Rd., Bethel, CT, was present on behalf of the applicant. He advised that his client is Air Gas, a gas supplier, which plans on occupying major portion of building. The variance request relates to the proposed installation of a gas tank pad, and due the sideline and parking, there is a hardship as to where it can be located. Attorney Scalzo noted that the setback definition does allow pads for gas tanks, but they have to be small. He indicated that the proposed pad will be within the sideline, but larger. Attorney Scalzo further pointed out that a gas tank qualifies as a structure in the regulations, and the tank has to be close the building. Attorney Scalzo indicated that the application itself demonstrates that the proposal complies with many of the zoning regulations.

Chairman Timmerman inquired what type of gas will be in the tank, and Attorney Scalzo advised it is oxygen and similar gas products, and the proposal will also be presented before the Zoning Commission with a site plan modification application.

Attorney Scalzo signed a consent to be heard before a four-person Board. He also submitted letters in favor of the application from abutting property owners: B. Lavelle, J. Carpenter of A to Z, Echo Bay and S. Emmerson (4) submitted for the record.

Attorney Scalzo advised that Air Gas is one of nation's leading single-source suppliers of gases such as carbon dioxide and other atmospheric gases. The company has been in Bethel since 1982.

R. Posthauer, PE. CCA, 40 Old New Milford Rd., was present. He stated that the tanks need to be near building for piping purposes. He reviewed the location on plans, and indicated they would be filled via the underground pipes. He noted that the proposed location is the most ideal because the tanks have to be away from traffic for safety concerns.

Upon inquiry from Chairman Timmerman, Mr. Posthauer advised that the dimensions of the tanks are 6.67' X 25'. Mr. Posthauer also reviewed the zoning and other uses in the area. He added that zoning-compliant fences will be present. G. Meyerle inquired how high the pad would be off of the ground. M. Chevrette was present, and he indicated that the pad is one foot high.

Lastly, Attorney Scalzo noted that the details of the company's operations, which are heavily regulated, will be reviewed during the site plan modification before the Zoning Commission.

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

J. Eagan moved to close the Public Hearing re: 604 Federal Road (Toyotomi) #201500017: Variance requested: §242-501–15.5' structure to right side line for a fence and storage pads, at 7:19 p.m. G. Meyerle seconded the motion, and it carried unanimously.

- b. 32 Candlewood Shores Road #201500021: Variance requested: §242-402A – 14' structure to right side line, §242-402A – 25,700 sq. ft. lot area, §242-402A – 1.43% of lot coverage for a new single family home (ph close date 3/8/15)**
 - 1. "Zoning Location Survey" prepared by Robert Baluha of Precision Land Surveys, LLC dated 12/19/14

C. Lopes, 32 Candlewood Shores Rd., was present. He signed the consent to being heard before a four-person Board.

Mr. Lopes reviewed that the property was subdivided prior to his purchase a couple years ago. He put in foundation for single-family house, and then found out the zoning for the site was changed from R7 to R40, so the site setback is now 30 feet rather than 10 feet. He owns the other piece it was subdivided from. The house meets all other requirements except for the setback.

Chairman Timmerman noted that all of the houses in this area are zoned R7, except for a few. Upon inquiry from G. Meyerle, Mr. Lopes stated that the house is a "spec" house. Mr. Lopes

added that he does not have enough area for the stairs and the concrete patio. He showed the Board members a photo of proposed stairs, from his smartphone.

Upon inquiry from g. Meyerle, Mr. Lopes stated that the house will be two stories, and 26' X 51'.

Chairman Timmerman summarized for the Board members when the zoning was changed.

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

P. Murphy moved to close the Public Hearing re: 32 Candlewood Shores Road #201500021: Variance requested: §242-402A – 14' structure to right side line, §242-402A – 25,700 sq. ft. lot area, §242-402A – 1.43% of lot coverage for a new single family home, at 7:26 p.m. J. Eagan seconded the motion, and it carried unanimously.

- c. 17 Long Meadow Hill Road #201500022: Variance requested: §242-402A – 45' structure to left side line to install a ground based Solar Array (ph close date 3/8/15)**

1. Site Plan titled "Proposed Array Layout" prepared by Ross Solar Group dated 10/14/14 – sheet SP-1

S. and S. Dalton, 17 Long Meadow Hill Rd., and P. Dion, Ross Solar, were present. Mr. Dalton indicated that he is requesting a left sideline setback to install a ground based solar array. He advised that because of trees to the south, it is not possible to install the array on his roof.

Chairman Timmerman noted the magnitude of the variance.

Mr. Dalton noted the narrowness of his property, stating that any structure on the property would require a variance.

Mr. Dalton signed the consent to be heard before a four-person Board.

Mr. Dion advised that the array would not work on roof due to great amount of trees, most of which belong to the neighbor.

Upon inquiry from Chairman Timmerman, Mr. Dion indicated that the application has not been before the Zoning Commission yet. Chairman Timmerman read the applicable regulation, Section 242-402C - Solar Panels. He noted that the Zoning Commission can establish a 10' setback, at its discretion, from the sideline. Mr. Dion stated that this would make the array closer to the trees and that would affect viability of project. He explained that the array has to be in a certain location to make it a worthwhile energy source. There was discussion regarding which trees are on the Dalton's property and those that are on the neighbor's property.

Chairman Timmerman inquired if any alternatives were explored. He reiterated how expansive the requested variance is. He pointed out that the regulations allow for 10' to the line, to promote ground-based solar array, as long as it is not too high. There was discussion regarding the measurement of the actual variance. Chairman Timmerman indicated that the Zoning Commission might, at its discretion, allow the solar array to be within ten feet, without a variance, but this would be via the site plan application process.

P. Murphy inquired if the particular angle is necessary, and Mr. Dion answer advised that the 35-degree angle is ideal.

Chairman Timmerman advised the applicants that the hearing could be continued to explore other options. Mrs. Dalton inquired what their options were, and Chairman Timmerman stated that they are: 1) that the Board decide on the application tonight; 2) explore the possibility of moving the array 10 feet away, or look at another measurement; 3) or apply to the Zoning Commission without the variance. G. Meyerle suggested that the array be made taller, and Mr. Dion advised that the design possibilities are limited. He also indicated that the standard size panel 40” X 65”.

Chairman Timmerman advised the applicants of the option of going to the Zoning Commission meeting for informal discussion.

No one was present to speak in favor of the application. M. McLoone, 19 Long Meadow Hill Rd., was present. She stated that she appreciated her neighbors’ desire to improve their energy source, however, she and her husband have some concerns. Their concerns relate to the size of the structure and its proximity to their property. She read her husband’s letter, which cited concerns related to the historic feel of the area, and trees on the neighbors’ property that could be removed. The letter stated that it is not a hardship to remove these trees for a house-based system. It also contained questions regarding the height, level, fencing, landscaping and appearance. Mrs. McLoone noted two sections of roof on the applicants’ home. Mr. Dalton advised that the trees in question are on the McLoone’s property. Mr. Dion addressed the question of levelness, and advised the system is fixed. *C. Strait, 16 Lone Meadow Hill Rd., was present, and noted her concerns that the house sits in the Historical District, and the array may affect property values.* Chairman Timmerman indicated that the applicants may have to go before that Commission as well. Mr. Dalton advised that the structure is not visible from the road because of the slope.

G. Meyerle suggested that the applicants offer the neighbors money to cut the trees down so that they are able to put the array on the house. Mr. Dion indicated such settlements are not common.

G. Meyerle moved to continue the Public Hearing re: 17 Long Meadow Hill Road #201500022: Variance requested: §242-402A – 45’ structure to left side line to install a ground based Solar Array Hearing, to next month, at 7:48 p.m. J. Eagan seconded the motion, and it carried unanimously.

d. 127 Stony Hill Road #201500023: Variance requested: §242-402A – 2.6’ structure to center of road for a new single family home (ph close date 3/8/15)

1. “Property Survey” prepared by CCA, LLC dated 1/13/15 – sheet 1 of 1

R. Posthauer and G. Meade, 28 Maple Tree Rd., 127 Stony Hill Rd., were present. Mr. Meade signed the consent to be heard before a four-person Board. Mr. Meade advised that he purchased the lot about a year ago, and planned on building in one area, but was not able to due to steep elevations. He misunderstood the zoning regulation that addresses pitch as well. Mr. Posthauer indicated that the first proposal would have been impossible due to the ledge and the odd shape of the lot. There was discussion regarding the engineered measurement, and that the house is already there.

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

Secretary Eagan read a letter from the adjoining property owner (Dion) at 34 Sunset Hill Rd., indicating he does not contest the application..

P. Murphy moved to close the Public Hearing re: 127 Stony Hill Road #201500023: Variance requested: §242-402A – 2.6’ structure to center of road for a new single family home, at 7:56 p.m. G. Meyerle seconded the motion, and it carried unanimously.

e. 75 South Lake Shore Drive #201500086: Variance requested: §242-402A – 1.5’ structure to right side line for a deck expansion (ph close date 4/5/15)

1. “Property Survey” prepared by PAH, Inc. Land Surveyors dated 12/5/14

J. Strang, who is working with the property owner, E. Kiss, 75 South Lake Shore Dr., were present. Mr. Strang signed the consent to be heard before a four-person Board. He explained that Ms. Kiss plans on renovating the entire house, and adding a second level. Currently, the house is dilapidated. The renovation will include a first level deck across the front and right side of house. The deck will be 8.5’ from property line and extend beyond where a current porch roof ends, and 12 square feet of the new deck will be within 10’ of property line. He advised that he put 60 square feet on the application to err on the side of caution.

Upon inquiry from Chairman Timmerman, Mr. Strang advised that construction began this past week and he hopes to have the house renovated, and the deck started by mid-April. At present, he plans on using pressure-treated materials. The shed roof will be removed, and it will reduce a pre-existing, nonconformity. Photographs and the plans were submitted for the file.

No one was resent to speak in favor of the application. B. Miller, 77 South Lake Shore Dr., was present. She requested clarification regarding the shed style roof. She further advised that she would not like anything closer to her house, and proposed a landscaping barrier, especially with second level. Mrs. Miller also requested clarification on where the deck would be, and Mr. Strang reviewed the plans with her.

J. Eagan moved to close the Public Hearing re: 75 South Lake Shore Drive #201500086: Variance requested: §242-402A – 1.5’ structure to right side line for a deck expansion, at 8:08 p.m. G. Meyerle seconded the motion, and it carried unanimously.

f. 2 Indian Trail #201500087: Variance requested: §242-402A – 20.4’ structure to center of road, §242-402A – 1.5% of lot coverage for an addition and alterations to existing structure with a new roof line (ph close date 4/5/15)

1. “Property Survey” dated 11/8/99

2. “Proposed Site Plan” prepared by Nehring & Assoc. dated 1/16/15 revised thru 1/26/15 – sheet SK-L1

- “Proposed Foundation Plan” dated 1/16/15 revised thru 1/26/15 – sheet SK-1
- “Proposed First Floor Plan” dated 1/16/15 revised thru 1/26/15 – sheet SK-2
- “Proposed 2nd Floor Plan” dated 1/16/15 revised thru 1/26/15 – sheet SK-3
- “Proposed Roof Plan” dated 1/16/15 revised thru 1/26/15 – sheet SK-4
- “Proposed Front & Side Elevations” dated 1/16/15 revised thru 1/26/15 – sheet SK-5
- “Proposed Rear & Side Elevations” dated 1/16/15 revised thru 1/26/15 – sheet SK-6
- “Existing 1st Floor Plan” dated 1/16/15 revised thru 1/26/15 – sheet EX-1

- “Existing Front & Side Elevations” dated 1/16/15 revised thru 1/26/15 – sheet EX-2
- “Existing Rear & Side Elevations” dated 1/16/15 revised thru 1/26/15 – sheet EX-3

C. Nehring, Architect for Property Owners, was present. He advised that the home was purchased by his clients in 2004, and is a 1-story ranch. He indicated that some additions have been done over the years, and a roof-re-do is necessary. Mr. Nehring further noted that there is an approved variance from 2000, which is the yellow highlighted section on the plans. He is aware that the Town Attorney has begun to request variances for vertical expansions. Mr. Nehring pointed out the front-line setback for the house which is in an R40 zone. He indicated that the hardship relates to the steepness and odd-shaped of the lot. There is a safety concern with the driveway and the need to maintain sight lines.

Mr. Nehring reviewed the second floor area and indicated that the Candlewood Lake Club will also have to approve the proposal. He noted that the property is over on coverage allowance due to overhangs, which will be reduced, and in turn, will reduce the footprint to 4,455 square feet. The 2000 variance measurements, as well as a subsequent measure, were reviewed.

Chairman Timmerman noted that the house has two front yards. Mr. Nehring stated that the house sits in an R40 zone.

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

P. Murphy moved to close the Public Hearing re: 2 Indian Trail #201500087: Variance requested: §242-402A – 20.4’ structure to center of road, §242-402A – 1.5% of lot coverage for an addition and alterations to existing structure with a new roof line, at 8:19 p.m. G. Meyerle seconded the motion, and it carried unanimously.

DELIBERATIONS

- a. 604 Federal Road (Toyotomi) #201500017: Variance requested: §242-501 – 15.5’ structure to right side line for a fence and storage pads (ph close date 3/8/15)**
1. Map titled “Proposed Improvement Location Survey” prepared by CCA, LLC dated 10/27/14 – sheet 1 of 1
 2. “Proposed Site Plan Modification” prepared by CCA, LLC dated 1/7/15 – sheet 1 of 1

J. Eagan moved to approve 604 Federal Road, #201500017, as advertised. G. Meyerle seconded the motion. Vice Chairman Timmerman noted that the request is related to safety, the use is allowed, and the site is an odd-shaped lot. **Motion carried unanimously. Variance approved. Reason: Safety. Odd-shaped lot.**

- b. 32 Candlewood Shores Road #201500021: Variance requested: §242-402A – 14’ structure to right side line, §242-402A – 25,700 sq. ft. lot area, §242-402A – 1.43% of lot coverage for a new single family home (ph close date 3/8/15)**
1. “Zoning Location Survey” prepared by Robert Baluha of Precision Land Surveys, LLC dated 12/19/14

J. Eagan moved to approve 32 Candlewood Shores, #201500021, as advertised. P. Murphy seconded the motion. Vice Chairman Timmerman indicated this is spot-zoning. He further noted that when the Board made a decision on another lot, the variance was granted. The property owner has kept some R40 setbacks. *Variance approved. Reason: Odd-shaped lot, and Board feels it should be held to R7 standard.*

- c. **17 Long Meadow Hill Road #201500022: Variance requested: §242-402A – 45’ structure to left side line to install a ground based Solar Array** (*ph close date 3/8/15*)

1. Site Plan titled “Proposed Array Layout” prepared by Ross Solar Group dated 10/14/14 – sheet SP-1

This matter was continued to next month’s meeting.

- d. **127 Stony Hill Road #201500023: Variance requested: §242-402A – 2.6’ structure to center of road for a new single family home** (*ph close date 3/8/15*)

1. “Property Survey” prepared by CCA, LLC dated 1/13/15 – sheet 1 of 1

J. Eagan moved to approve 127 Stony Hill Rd., #201500023, as advertised. G. Meyerle seconded the motion. Vice Chairman noted that this is an odd-shaped lot, there are safety issues, and sloping in the back. It is also a minimal request. *Variance approved. Reason: Odd-shaped lot, topography, steepness in the rear.*

- e. **75 South Lake Shore Drive #201500086: Variance requested: §242-402A – 1.5’ structure to right side line for a deck expansion** (*ph close date 4/5/15*)

1. “Property Survey” prepared by PAH, Inc. Land Surveyors dated 12/5/14

J. Eagan moved to approve 75 South Lake Shore Drive, #201500086, as advertised. P. Murphy seconded the motion. Vice Chairman suggested that a stipulation be added to pull back the shed roof, so that it is no further away to 8.5 feet, which will make the proposal more attractive to the neighbor. It was noted that the house is within the setbacks, and the deck will be on the first floor. There was discussion regarding landscaping screening. **Chairman Timmerman moved to amend the motion to pull the shed roof back no further than the deck (8.5’ to side) and to add a living screen to the property line, in line with the same deck. G. Meyerle seconded the motion to amend. The motion to amend carried unanimously. The amended motion carried unanimously. Variance approved. Reason: Reducing non-conformity and rejuvenation of house would be good for neighborhood.**

- f. **2 Indian Trail #201500087: Variance requested: §242-402A – 20.4’ structure to center of road, §242-402A – 1.5% of lot coverage for an addition and alterations to existing structure with a new roof line** (*ph close date 4/5/15*)

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- Existing Rear & Side Elevations” dated 1/16/15 revised thru 1/26/15 – sheet EX-3

J. Eagan moved to approve 2 Indian Trail, #201500087, as advertised. P. Murphy seconded the motion. It was noted that the addition will look like a first-floor addition from the road, and raising the pitch of the roof will make the home more attractive. Additionally, the neighbors had no issue, and the proposal will have to be reviewed by the Candlewood Lake Club. Lastly, there are two front yards. **Motion carried unanimously. Variance approved. Reason: Two front yards, topography.**

5. **Tabled Items: None**
6. **New Business: None**
7. **Informal Discussion: None.**
8. **Adjourn**

J. Eagan moved to adjourn the meeting at 8:30 p.m. G. Meyerle seconded the motion, and it carried unanimously.

****Next meeting Scheduled for April 6, 2015****