

**APPROVED/AMENDED MINUTES
BROOKFIELD ZONING COMMISSION**

Thursday, January 26, 2012 – 7:00 p.m.

MEETING ROOM #133 – TOWN HALL, 100 POCONO ROAD

1. **Convene Meeting:** Chairman Mercer called the meeting to order and established a quorum of members:

Present: William Mercer, Chairman
Matthw Grimes
Francis Lollie, Secretary
Ryan Blessey, Vice Chairman
John Varda, Alternate Member

Absent: Christopher Lynch

Also Present: Zoning Enforcement Officer Alice Dew

- a. **Review Minutes of Previous Meetings:** 1/12/12

M. Grimes made a motion to approve the minutes as submitted. R. Blessey seconded the motion, and it carried unanimously, 4-0.

2. **Land Use Enforcement**

- a. **Enforcement Officer's Report:**

213 Candlewood Lake Road – A. Dew stated that the property owner has done a good job of moving boats out of the fire lane, and so far the owner has been very easy to work with. A. Dew noted that he removed everything from the back side, and the current fire lane is cleared out so there is a ten foot pathway. A. Dew sated that she would like to continue with voluntary compliance letters at this point.

10 Whisconier Road –

a. Dew noted that the status has not changed.

M. Grimes made a motion to issue a Cease and Desist to 10 Whisconier Road. W. Mercer seconded the motion and it carried unanimously, 4-0.

349 Candlewood Lake Road -

A. Dew noted that the status has not changed.

M. Grimes made a motion to issue a cease and desist. F. Lollie seconded the motion, and it carried unanimously, 4-0.

143 Federal Road (Panera Bread) - A. Dew stated that the sign is near Porch and Patio near the highway. A. Dew issued a request for voluntary compliance to the manager, and was

contacted by a director of Panera. A. Dew stated that this Panera sign was part of an approval process of the logo program through the Department of Transportation. A. Dew stated that the current sign is 3.75 square feet and the allowable size for a directional sign is 1.5 square feet. R. Blessey stated that Panera Bread will need to fill out a sign application and have the correct size directional sign on the property. A. Dew noted that the Department of Transportation permission records are in the file. M. Grimes stated that Panera Bread will need to follow what the municipality requirements.

1114 Federal Road – A. Dew noted that the sign has been removed. W. Mercer stated that this item can be removed from the Enforcement Officer's list.

7 Cross Road – A. Dew noted that there are bags of garbage throughout the front yard. A. Dew stated that somebody does live at the property and the garbage has been out since the first complaint date of January 6th. A. Dew stated that she would like to phone the property owners. R. Blessey suggested that the Commission wait until the next meeting to determine the next enforcement action.

632-640 Federal Road – The Fire Marshal has informed A. Dew that there are large potholes behind the property that are a hazard. A. Dew stated that she had sent a cease, desist and restore to the property owner and nothing has been done. She will try to reach the company again.

54 Ironworks Hill Road – A. Dew stated that a horse trailer was at the property without a car. A. Dew stated that she is attempting to get an address for the owners of the property, who she believes moved south.

20 Station Road – A. Dew noted that a portion of the building had been demolished. W. Mercer asked if the demolition resolved the issues that the Health and Building Departments had with the property. A. Dew stated that she would need to speak with the Building Officials.

3. Review Correspondence

- a. **Minutes of other Boards and Commissions: Inland Wetlands Commission**
1/9/12; **Zoning Board of Appeals** 1/9/12; **Planning Commission** 1/5/12,
1/19/12;
- b. **Connecticut Federation of Planning And Zoning Agencies Quarterly**
Newsletter: Winter 2012
- c. **Building Permits Law Bulletin: January 2012**

No Discussion/No Motions.

M. Grimes made a motion to move to item 5 on the agenda. W. Mercer seconded the motion, and it carried unanimously, 4-0.

5. Old Business:

- a. **540 Federal Road #201101017: Design Review for a Municipal water storage tank, water main, electrical & driveway** (*dec. date 2/11/12*)

1. Letter from Richard Papenfuss, Chairman Water Source, to Planning and Zoning Commissions dated 1/18/12 Re: 540 Federal Rd “Incentive Development” 5 Lot Subdivision for 125 Unit Affordable Housing Application #201101017

W. Mercer noted that there was a letter from Steven Sullivan asking to continue the review of this application (540 Federal Road) to the next meeting.

R. Blessey noted that there is a letter from Water Source, and W. Mercer stated that the letter needs to be sent to Steve Sullivan.

R. Blessey asked A. Dew to pull the file to determine what stipulations the Commission put on the fire suppression portion of the original approval.

6. New Business:

- a. **200 Federal Road (Costco Fuel Facility) #201200051:** Certificate of Zoning Compliance for signage for Fuel Facility

1. Map titled “Signage Elevations and Details” prepared by Mulvanny G2 Architecture dated 1/18/11 – sheet DD4.1-01 (*Map is in file on cart*)

W. Mercer noted the two sign applications, each sign approximately twenty square feet.

R. Blessey recused himself from this matter.

Tom Cody with the Law Firm of Robinson and Cole, 280 Trumbull Street, Hartford, CT was present to discuss the application.

Joe Montesano was also present to discuss the application.

Mark Marchisano was also present to discuss the application.

Mr. Cody noted that the canopy is going to be a 45 degree angle from Federal Road, so there are two sides to the canopy. There are two proposed signs of twenty square feet each, which is undersized compared to the total allowable square footage of one sign.

The canopy is 96 feet in length. Mr. Cody stated that the total amount of proposed signage would be half of what is allowed. Mr. Montesano noted two locations where the signs would be located which would be seen driving from either side of the road. Mr. Cody stated that the canopy was part of the package that had been approved when the site plan was approved. W. Mercer asked for clarification on the map of the main access road locations.

F. Lollie made a motion to approve application #201200051 signage for the fuel facility at Costco. M. Grimes seconded the motion, and it carried unanimously, 4-0.

- b. **200 Federal Road (Costco Wholesale Corp.) #201200052:** Certificate of Zoning Compliance for signage on new building addition

1. Map titled "Signage Elevations And Details" prepared by Mulvanny G2 Architecture, dated 12/20/11 – sheet DD3.1-03 (Map is in file on cart)

Mr. Cody stated that this application is for a similar situation as for the above signs, but is for the signs on the main building. The allowable square footage will be halved per each main access drive. The total sign square footage will be lower than what is allowed. The building frontage is 377 feet and the total square footage of the proposed signage is 324 square feet.

F. Lollie made a motion to approve 200 Federal Road #201200052 for the approval of signs for Costco on Federal Road. J. Varda seconded, and the motion carried unanimously, 4-0.

- c. **227-235 Federal Road #201200060: Design Review for a new retail / commercial**
24,899 sq. ft. building (dec date 3/31/12)
1. Letter from Michael J. Lillis, P.E. of CCA, LLC to Zoning Commission dated 1/19/12 Re: 227-235 Federal Road, Site Plan for Design Review Approval for Two Two Seven LLC
 2. Drainage Summary prepared by CCA, LLC dated 1/19/12
 3. Map Cover Sheet titled "**Proposed Site Plan For New Retail Building 227- 235 Federal Road**", prepared by CCA, LLC dated January 19, 2012
 - "Existing Conditions Site Plan" dated 7/20/11 – sheet 1
 - "Layout Plan" dated 11/02/11 – sheet S2
 - "Grading Plan" dated 1/12/12 – sheet S1
 - "Landscape Plan" dated 1/12/12 – sheet S4
 - "Notes & Details" dated 1/18/12 – sheet D1
 - "Sedimentation And Erosion Control Plan" dated 12/7/05 – sheet 2002E&S
 4. Brookfield Connecticut "Key Map" for Design Review Application – received in Land Use 1/19/12
 5. Map of "Elevations" prepared by Borghesi Building & Engineering Co., Inc. dated 1/18/12 – sheet A2
 - "Floor Plan" dated 1/17/12 – sheet A1

W. Mercer asked if anyone is present for this application.

M. Grimes made a motion to set a public hearing for application for 237-235 Federal Road #20120060 for February 23, 2012. R. Blessey seconded the motion, and it carried unanimously, 4-0.

R. Blessey made a motion to discuss an after the fact agenda item, signage on the Mobil Gas Station on Federal Road. F. Lollie seconded, and the motion carried unanimously, 4-0.

Mobil Gas Station Signage:

Mobil gas station is upgrading their signage and would like to use three-dimensional signage and

LED lights. R. Blessey noted that the sign on the canopy is not a big deal, but the question is about the actual sign.

M. Grimes stated that the number of signs still need to fit within the regulations. R. Blessey stated that the Mobil Company needs to apply for a sign permit.

W. Mercer stated that the 3-dimensional light is alright, and the LED is alright, but the signage is a site specific issue, and the Commission would like to see an application for the proposed sign(s) and sign locations.

R. Blessey asked that a letter be sent to the owners of Mobil Gas Station stating that the three-dimensional light is allowed, the LED light is allowed, but the signage is a site specific issue. The Commission would like to review an application for the proposed sign(s) and sign location.

F. Lollie stated that there would need to be a photometric plan in the future if the zoning regulations were changed to lumens, rather than watts.

R. Blessey stated that the lighting regulation should probably be viewed by the subcommittee because it should be in the book.

The Commission moved to the Public Hearing.

4. Public Hearing 7:30 p.m.

a. Proposed Regulation Change #201200014: Section 242-602B(2)(h)(1) – Maximum Free Standing Lighting Fixture Mounting Height
(ph close date 3/1/12)

1. Memo from Planning Commission to Zoning Commission dated 1/20/12 Re: Proposed Zoning Regulation Text Amendment Changes Section 242-602B(2)(h)(1) and Section 242-308F

R. Blessey recused himself from the Public Hearing.

W. Mercer began the Public Hearing at 7:30 PM.

W. Mercer introduced the members of the Commission and read the public hearing script. W. Mercer noted that J. Varda will be a voting member for this item.

F. Lollie read the legal notice of publication for this hearing dated January 14 & 23, 2012.

W. Mercer stated that this application was formally received by the Commission on January 12, 2012. W. Mercer read the public hearing sheet, and then asked for any questions. There were no questions from the audience at this point.

W. Mercer asked F. Lollie to read the correspondence received for the record.

F. Lollie read the memo from the Planning Commission to the Zoning Commission dated 01/20/12 Re: Proposed Zoning Regulation Text Amendment Changes Section 242-602B(h)(1) and Section 242-308F.

F. Lollie also read the response from HVCEO dated 01/20/12

Tom Cody with the Law Firm of Robinson and Cole, 280 Trumbull Street in Hartford, presented the application.

Joe Montesano was also present on behalf of Costco Wholesale to present the application.

Mr. Cody stated that the text amendment would relate to just one section of the Technical Standards of the Zoning regulations. Mr. Cody stated that currently the regulation limits height of light fixtures to twenty feet, and this text amendment would increase this lighting standard. Mr. Cody stated that this change, if adopted, would only relate to parking fields with more than 200 parking spaces. Mr. Cody stated that there are four current places with more than 200 parking spaces: Kohl's, Costco, ShopRite and the Candlewood Lake Plaza shopping centers. Mr. Cody stated that none of the other technical standards would change, such as full shielding with cut offs and light intensity standards, lighting be brought down to darkness at the property line, lights restricted from pointing upward.

Mr. Cody stated that the light pole fixture heights currently at Costco are about the height of the proposed text regulation amendment. Mr. Cody stated that the pole heights at Kohl's and Candlewood Shopping Center are about 35 feet high, so this text amendment, if adopted, would not change the current light pole heights in those three or four locations with more than 200 parking spaces.

Mr. Cody stated that the plan with light poles of twenty feet was approved, but twenty feet high light poles need about 66 poles throughout the parking lot if the currently approved pole height is used from the original plan. Mr. Cody stated that with higher poles, only twenty seven poles would be needed at the site. Mr. Cody noted that the lower pole heights also create inconsistent patterns of light on the site. Mr. Cody noted that the higher poles allow for greater energy efficiency and less waste. Mr. Cody stated that other communities similar to Brookfield have the higher pole heights as well.

Mr. Cody noted that on three sides of the building at Costco there are commercial uses and in the back toward the West is a residential neighborhood. Mr. Cody noted that those homes are at least eighty five feet higher than the grade of the current parking lot, and are up the hill, set back and behind trees. Mr. Cody stated that this amendment would not affect those homes, because the proposed text amendment would allow for the current height of the poles that Costco currently uses. Mr. Cody stated that light spillage is probably not an issue, because the other current Zoning regulations require cut off of lights at the property lines.

Mr. Cody presented the original plan that the Commission approved with the twenty feet high proposed light poles with the light intensity shown. Mr. Cody stated that much of the light

overlaps, and where the overlap occurs, there are hot spots in the parking lot.

Mr. Cody presented a map with the thirty six feet high light poles where no overlap of light was shown. Mr. Montesano noted that the overlap is removed where higher light poles are used. Mr. Montesano noted that light overlap can cause issues with driver sight when driving through the parking lot. He also noted that in this situation with higher light poles, there is a safer and more even flow of light.

Mr. Cody noted that the type of fixture included in the plan is a cutoff fixture, a light with a full bottom. Mr. Cody noted that there is a back shield attachment that can be put on the poles near the property line to have the light cut off at that line. Mr. Cody stated that these types of fixtures are consistent with the current Zoning regulations.

Letter from G. Runne to the Town of Brookfield dated 01/26/12 was distributed by Mr. Cody along with subject Site lighting, and Site lighting plan dated 01/25/12 showing 20 feet high light poles and 36 feet high pole on the site lighting plan dated 01/25/12

W. Mercer asked for more clarification about light spillage on the property, especially near the property lines. He asked how light spillage is to be controlled with the thirty six foot pole as opposed to a twenty foot high pole.

Joel Mortenson, TEE, Electrical Engineer, was present to discuss the application.

J. Mortenson stated that the lines on the presented map do not take into account the shielding on the twenty feet high pole heights. J. Mortenson showed a map with contour lines for the higher poles. Mr. Cody asked if the Commission had any further questions. Mr. Cody concluded by saying that his experience at other locations with lower poles is that the lower poles are not aesthetically attractive and look busy, bright, and do not offer a uniform pattern of light, and are not as safe of a situation as the higher light poles.

J. Varda asked for the height of the canopy. Mr. Montesano stated that the height of the canopy is thirteen feet six inches.

W. Mercer asked if any other members of the audience were present to speak either in favor or against this application.

M. Grimes made a motion to close the public hearing for application #201200014. W. Mercer seconded the motion, and it carried unanimously, 4-0.

- b. Proposed Regulation Change #201200015: Section 242-308F – Liquor Outlets**
(ph close date 3/1/12)
1. *See memo on Agenda item 4a 1 for Planning Commission's comments on this regulation*

R. Blessey recused himself in this matter.

M. Grimes suggested that the Commission defer this application until the full Commission is present.

W. Mercer asked if there were any members present from the audience other than the applicants to discuss this matter. No one who was not an applicant was present.

M. Grimes made a motion to table this public hearing until February 9th. F. Lollie seconded the motion, and the motion failed, 2-0-2, with W. Mercer and J. Varda opposed.

M. Grimes suggested that the hearing remain open until the next meeting.

M. Grimes left the meeting room at 8:10 PM.

W. Mercer noted that the legal notice had already been read.

W. Mercer read the public hearing script.

W. Mercer noted that the correspondence read previously from the HVCEO and the Planning Commission also applied to this application.

F. Lollie read the memo from the Planning Commission dated July 18, 2011.

Tom Cody of Robinson and Cole, 280 Trumbull Street in Hartford, CT was present on behalf of Costco Wholesale Corporation.

Mr. Cody stated that the current proposed text amendment change would simply delete the entire regulation. Mr. Cody noted that the current regulation does not address the proximity to certain uses, but is a separating distance from one distance to the other, and is simply spreading out the location of businesses that have a package store license. Mr. Cody stated that when the State licenses a package store, they focus on the proximity of the permit premises and whether it will have a detrimental effect to the public interest, and may consider the character of the population and the like permit in the existing town and the effect that such would have on the neighborhood.

Mr. Cody noted that the current locations of Brookfield's package stores are primarily on Federal Road. Mr. Cody stated that the 2000 foot distance in the Zoning regulations is not performing any functions currently because there are already six package stores in existence, and the State had already regulated this from their permitting process.

Mr. Cody stated that this past summer another application had been brought to the Zoning Commission and the Planning Commission. The two past examples used were West Hartford which has a 1500 foot distance from building to building, not property line to property line, such as is Brookfield's. West Hartford is allowed twenty five state liquor permits, and Greenwich which requires 1000 feet separation distance is allowed 24 state liquor permits. Mr. Cody stated

that he is proposing this because the regulation does not seem to serve any purpose and is only addressing competition. Mr. Cody stated that this regulation refers more to business than it does to the land use.

W. Mercer stated that Mr. Cody stated that there would not be much difference in the current location in the geographic distribution. Mr. Cody stated that if this text amendment is not adopted, Costco would move their liquor outlet to another location 2000 feet away.

W. Mercer asked Mr. Cody if he had reviewed other towns that had done the same thing. Mr. Cody replied that he had not.

W. Mercer asked Mr. Cody if the State considers how far apart the liquor stores are, from one to another.

Joe Montesano stated that the distance required by the State is measured from liquor store to the other uses and the protected class type uses. Mr. Montesano stated that the State has tried not to take an anti-competitive stance.

Mr. Montesano stated that he believed that as far as distance requirements, the State handles it properly by not placing restrictions from one building to the other.

Mr. Montesano stated that Costco in Milford, CT sells liquor, and that Costco is allowed two liquor permits per State, and this, if the text were changed, would be the second permit.

Richard Rafferty of 2 Cove Road spoke in favor of the application because he owns a liquor store in Town; he stated that he would like to be able to put his own store in other locations.

W. Mercer stated that he would like to keep this public hearing open to allow other new members of the Commission to review the application.

7. **Tabled Items:** None.

R. Blessey made a motion to add to informal discussion item 8.b. discussion for potential for incentive housing overlay zone at 398 Federal Road. F. Lollie seconded the motion, and it carried unanimously, 4-0.

8. **Informal Discussion:**

b. 398 Federal Road: Questions about Incentive Housing Overlay Zoning

Dan Bertram of BRT, 15 Newtown Road, Danbury, CT was present for the informal discussion.

R. Blessey noted the location of the property with the other Commissioners on the Zoning District Map. The Commission discussed the difference between the affordable housing and the incentive housing requirements.

Mr. Bertram stated that if some of the units in the development were changed to incentive housing, the building on the north would be three stories over a parking garage with the same look that was approved with the PARC regulation. On the South side, where there was a large building three stories over the garage but the units would now be smaller.

R. Blessey stated that he zone was recently changed to be IRC 80/40 and there is not a lot of room left for Federal Road to grow except north.

Mr. Bertram shared some history about the property and the approval process for the residential multi-family. R. Blessey stated that the location of this property is not favorable for residential property.

R. Blessey noted that the residential use would need to help that zone in reference to growth.

R. Blessey suggested that Mr. Bertram discuss the option of applying for a larger overlay zone with other property owners in that area.

8.b. R. Blessey suggested that item 8.a. informal discussion be tabled until the next meeting.

9. Comments of Commissioners:

10. Adjourn:

W. Mercer made a motion to adjourn at 9:20 PM. R. Blessey seconded the motion, and it carried unanimously, 4-0.