

**APPROVED AMENDED MINUTES
BROOKFIELD ZONING COMMISSION
Thursday, September 13, 2012 – 7:00 p.m.
MEETING ROOM #133 – TOWN HALL, 100 POCONO ROAD**

1. Convene Meeting

Present: Acting and Vice Chairman R. Blessey, M. Grimes, C. Lynch, L. Miller, Alternate and Voting Members where indicated: J. Cordisco, M. Frankel, and J. Varda (arrived at 7:02 p.m.)

Absent: Secretary F. Lollie

Also Present: Zoning Enforcement Officer A. Dew, Recording Secretary D. Cioffi

Commissioner Cordisco was appointed a Voting Alternate in place of Secretary Lollie.

Commissioner Grimes moved to go to Agenda Item 9, Informal Discussion. Commissioner Miller seconded the motion, and it carried unanimously.

Commissioner Grimes moved to add: Election of Officers as Item 9.b., and as 9.c., Subcommittee Meeting, 40 & 64 Laurel Hill Road, #201200588. Commissioner Miller seconded the motion, and it carried unanimously.

9. Informal Discussion:

b. Election of Officers – Commissioner Lynch nominated R. Blessey as Chairman, M. Grimes as Vice Chairman, and F. Lollie as Secretary. There were no further nominations.

Commissioner Lynch moved to elect R. Blessey as Chairman, M. Grimes as Vice Chairman, and F. Lollie as Secretary. Commissioner Cordisco seconded the motion, and it carried unanimously.

a. Potential Cell Tower Location: Discussion with First Selectman Bill Davidson for a Potential Cell Tower behind the Fire House on Pocono Road.

1. GIS map of 100 Pocono Road showing proposed cell tower location

First Selectman B. Davidson was present. He summarized the discussions that have taken place regarding a proposed cell tower to be located on Town property. The Board of Selectmen, in an Executive Session, have narrowed the potential companies to two, and agreed that the Zoning Commission should be consulted. First Selectman Davidson noted that ultimately the State Siting Council makes the decision. The proposed location will be behind the Pocono Road firehouse near the UPS property line. The Fire Department has asked to move the tower to the west. A balloon test will be conducted to determine the exact height of the tower. First Selectman Davidson shared examples of cell towers with the Commissioners. The approval process with the Siting Council will take at least a year. The installation of the tower will be of no cost to the Town, and the chosen company will pay rent to the Town for the space, and insure the tower on its own. Chairman Blessey indicated the Commission would respond to the BOS via memorandum within the next two weeks.

Commissioner Varda discussed limitations on weight capacity on a monopole. Chairman Blessey will discuss this with the Commission as well and address it in the memo to the BOS.

No motions.

9.c. 40 & 64 Laurel Hill Road – Chairman Blessey advised that the applicant has requested an extension to the public hearing. Staff and the ZEO have met with the State concerning the historic buildings, and there has been discussion regarding the architectural elements in the Town Center District. It was noted that the Town has an Architectural Review Committee but it is not staffed with anyone at this time. Chairman Blessey suggested that a couple of members of the Zoning

Commission meet with Architect L. Overland to discuss any concerns with the architecture. The meeting will be held September 20, 2012. The subcommittee will share the findings at the next regular Zoning Commission meeting on September 27, 2012. Commissioners Cordisco and Lynch will be on the subcommittee.

Mr. Overland’s proposal was sent in the Commissioners’ packets. Additionally, a financial review will be done by T. Payne to determine if it is financially feasible.

Vice Chairman Grimes moved to request the reviews as proposed by L. Overland, Architect, LLC, and T. Payne. Commissioner Lynch seconded the motion. There was brief discussion regarding the cost and the need for each review. Motion carried unanimously.

- 1. Convene Meeting (continued)**
 - a. Review Minutes of Previous Meeting: 8/23/12 – Vice Chairman Grimes moved to approve the Minutes of the regular Zoning Commission Meeting of August 23, 2012. Commissioner Varda seconded the motion, and it carried 5-0-1 (Commissioners Cordisco and Varda voted on this item; Commissioner Miller abstained).**

Commissioner Lynch left the meeting at 7:22 p.m., and Commissioner Frankel became a Voting Alternate.

- 2. Land Use Enforcement**
 - a. Executive Session with Town Counsel: 54 Ironworks Hill Road – None.**

- 3. Review Correspondence**
 - a. Minutes of other Boards and Commissions: Inland Wetlands Commission 8/27/12; Zoning Board of Appeals; Planning Commission 8/16/12, 9/6/12; Zoning Subcommittee**
 - b. Letter from William Mercer to J. Locke (Town Clerk) dated 8/29/12 Re: Resignation from Zoning Commission**

No discussion/no motions.

Chairman Blessey moved to go to Agenda Item 6.a. Vice Chairman Grimes seconded the motion, and it carried unanimously.

- 6. Old Business:**
 - a. 204 Candlewood Lake Road #201200635: Bond Set**
 - 1. Bond Estimate Sheet prepared by CCA, LLC dated 8/15/12 totaling \$15,186.68 – Vice Chairman Grimes moved to approve the Bond Estimate prepared by CCA for #201200635, 204 Candlewood Lake Road, for a total of \$15,186.68. Commissioner Cordisco seconded the motion, and it carried unanimously.**

A recess was taken from 7:27 p.m. to 7:30 p.m.

- 4. Public Hearing 7:30 p.m.**
 - a. Proposed Regulation Change #2012200678: Application from 227 Candlewood Lake Road for Regulation Change to Section 242-501 – Table of Permitted Uses to add the following use as a permitted use in the IRC 80/40 under storage: “Boats, Indoor” and Required Area: “40” (Ph close date 10/18/12)**
 - 1. Response from HVCEO dated 8/29/12**

2. Review letter from Neil Marcus to Zoning Commission dated 8/31/12 Re: Application to Amend §242-501
 3. Letter from Stephen Kelley to Zoning Commission dated 8/29/12
- b. Proposed Regulation Change #201200679: Application from 227 Candlewood Lake Road for Regulation Change to Section 242-502D2(i) – Automotive and boat sales, repair or storage with listed precautions (ph close date 10/18/12)**
1. Response from HVCEO dated 8/29/12
 2. Review Letter from Neil Marcus to Zoning Commission dated 8/31/12 Re: Application to Amend §242-502D2(i)
 3. Letter from Patrick B. Cleary to Zoning Commission dated 8/30/12 Re: Support of Proposed Regulation Change

Commissioner Grimes recused himself and left the table at 7:31 p.m., at which time Commissioner Varda was appointed a Voting Alternate.

Chairman Blessey opened the Public Hearing for 227 Candlewood Lake Road, #201200679, for a Proposed Regulation Change to Section 242-502D(i) – Automotive and boat sales, repair or storage to be a permitted use, with stipulations. He then introduced the Commission members, noting that all present were Voting Members. Commissioner Varda read the legal notice for both of the public hearings on this evening’s agenda (227 Candlewood Lake Road, #201200678: Application for Regulation Change to Section 242-501 – Table of Permitted Uses to add to permitted use in IRC 80/40, under storage, to include “Boats, Indoor” and Required Area, “40”; and 227 Candlewood Lake Road, #201200679, Proposed Regulation Change to Section 242-501D2(i) – Automotive and boat sales, repair or storage permitted, with listed precautions). This notice was published in the News Times on August 31, 2012 and September 10, 2012.

Chairman Blessey noted that the application was received on August 9, 2012. He then reviewed the policies and procedures that govern public hearings.

The following three pieces of correspondence were read into the record by Commissioner Varda: from Stephen Kelly dated 8/29/12; from P. Cleary, Clearbrook Center, LLC (which specifically referenced the application related to Section 242-502D(i), dated 8/30/12; and J. Humphrey dated 8/31/12; all in support of the regulation change.

R. Posthauer, P.E., CCA, 40 Old New Milford Rd. and M. Rogg, 227 Candlewood Lake Road, were present. Mr. Posthauer indicated that his client is requesting that the use be allowed in this zone for lots of 40,000 square feet. He referenced the aforementioned letters that discussed the need for the use and the lack of commercial space near Candlewood Lake. There is available land in the Route 7 corridor. Mr. Posthauer explained that the proposed building would be for storage only, and would not include sales or repairs.

There were no questions of clarification from the audience.

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

Commissioner Frankel inquired regarding the location of the zone. Mr. Posthauer explained that it is Federal Road/Route 202. It was clarified that 227 Candlewood Lake Road is the applicant’s address, and the zone change is not “property specific”. Chairman Blessey pointed out the location of the zone for Commissioner Frankel. He noted that currently, the only difference between the IL and IRC zones is the use of “indoor storage of boats”. Mr. Posthauer reiterated that no repairs or

sales would occur on the site, therefore, the lot size requirement of 40,000 square feet is sufficient. Chairman Blessey explained that there currently is, and there was previously, the allowance of boat sales repair and storage in the zone that was IL80, and is now IRC.

Commissioner Miller inquired regarding the issue of aquifer protection. Mr. Posthauer noted that this is addressed in the second application, and the application he is discussing relates to the use in the zone. Commissioner Frankel suggested that the current public hearing be left open until both applications are heard. Mr. Posthauer explained that the applications are independent of one another. Mr. Rogg pointed out that in the IRC40/80 the sale of boats is allowed, but storage currently is not. Chairman Blessey indicated that the IL zone sits over a large part of the aquifer, where property owners could store boats, but not sell them.

Commissioner Miller moved to close the Public Hearing. Commissioner Varda seconded the motion, and it carried unanimously.

Commissioner Miller inquired what the intent of the original regulation was, in that it did not allow indoor storage of boats, questioning if the concern was contamination, fire hazard, etc. Chairman Blessey advised that the Zoning Commission Subcommittee for regulation review, along with ZEO Dew and Community Development Director K. Daniel, looked at the regulations and noted that in the IL zone, boat storage and automotive repair were allowed, and a large percentage of the businesses were pre-existing and non-conforming. When the zone was changed from IL to IRC, it made those businesses conforming, and the boat storage was then non-conforming. Chairman Blessey noted that the exclusion of boat storage was likely an oversight.

Commissioner Frankel inquired if the Zoning Commission has the authority to approve applications for use in that zone. ZEO Dew explained that it would be handled via the design review process for allowed uses in that zone. Chairman Blessey noted that there is no avenue for applications for non-permitted uses in zones, with the exception of schools, churches and certain residential developments. There was discussion regarding the use of bonding to ensure the stability of sites.

Commissioner Frankel moved to approve the proposed regulation to change the regulations to allow the indoor storage of boats, #201200678, application from 227 Candlewood Lake Road, Regulation Change to 242-501, Table of Permitted Uses, to add the following permitted use in the IRC80/40 under storage, “Boats, Indoor” and Required Area: 40. Chairman Blessey seconded the motion.

Chairman Blessey then withdrew his second to the motion, noting that the application number was #201200679. Commissioner Frankel withdrew her motion.

Commissioner Frankel moved to approve #201200679, application for 227 Candlewood Lake Road, for Regulation Change Section 242-502D2(i), automotive and boat sales, repair or storage, with listed precautions. Chairman Blessey seconded the motion, and it carried unanimously.

Chairman Blessey advised that the same introduction as above would be utilized for this Public Hearing (#201200678, Proposed Regulation Change to Section 242-501 – Table of Permitted Uses to add the following use as a permitted use in the IRC 80/40 under storage: to include “Boars, Indoor” and Required Area: 40) and there were no objections.

Chairman Blessey acknowledged the above correspondence: from S. Kelley dated 8/29/12; and J. Humphrey dated 8/31/12; as well as the HVCEO response dated 8/29/12. It was noted that the letter from Mr. Cleary related to the previous application.

Chairman Blessey noted that the legal notice for this hearing is identical to the one read for the prior public hearing, for 227 Candlewood Lake Road, #201200678, Proposed Regulation Change to Section 242-501 – Table of Permitted Uses to add to permitted use in IRC 80/40 under storage, to include “Boats, Indoor” and Required Area: 40.

Mr. Posthauer called to the Commission’s attention that the application that was just approved related to the use in the aquifer protection zone. He agreed that the application number in the original motion was corrected. There was discussion regarding both of the applications, and the above approval of the change to Section 242-502D(i).

The public hearing notices on both files were reviewed. Commissioner Frankel advised that the public hearing relating to the aquifer protection was not opened, and clarified that her vote was incorrect and that she intended to approve the boat storage use.

There was discussion regarding which hearing was opened, which was closed, and what was approved. It was noted that #201200678 was just opened. The applicant and Mr. Posthauer contended that #201200679 was never opened. Chairman Blessey advised that the hearing that was opened at 7:30 p.m. was #201200679. The applicant and Mr. Posthauer disagreed. Chairman Blessey reiterated that he read the opening application for #201200679, and that was what was closed and approved, but the narrative of what was read to open was for #201200678.

It was noted that the hearing for #201200678 is open. Chairman Blessey would like to speak with Town Counsel as to how to handle the approval of #201200679. It was noted that the legal notice was correct, and was read for both hearings. Chairman Blessey explained to the applicant that #201200678 could be addressed at the next meeting, and #201200679 may have to be re-noticed.

Chairman Blessey moved to continue #201200678 to the next regularly scheduled meeting on September 27, 2012. Commissioner Varda seconded the motion, and it carried unanimously.

Mr. Posthauer requested that the discussion that occurred tonight be incorporated into the record for the next meeting. Chairman Blessey will speak with Town Counsel about that, and have ZEO Dew advise Mr. Posthauer of the outcome.

5. Continued Public Hearing:

a. 40 & 64 Laurel Hill Road (The Residences at Laurel Hill) #201200588: Design Review for a proposed Incentive Housing Project (ph close date 9/13/12)

1. Memo from Katherine Daniel and Alice Dew to Zoning Commission dated 9/7/12
Re: Staff Review for 40 & 64 Laurel Hill Incentive Housing Proposal

Vice Chairman Grimes returned to the table at 8:13 p.m. and Commissioner Varda was no longer a Voting Member.

Chairman Blessey noted receipt of a letter from Attorney P. Scalzo, on behalf of the applicant, requesting a two-week extension to September 27, 2012.

Chairman Blessey moved to extend the Public Hearing for #201200588, Dakota Partners, LLC, 40 & 64 Laurel Hill Road, to the next meeting on September 27, 2012. Vice Chairman Grimes seconded the motion, and it carried unanimously.

Vice Chairman Grimes moved to go to Agenda Item 7.b. Commissioner Cordisco seconded the motion, and it carried unanimously.

7. New Business

b. 366 Federal Road (Healthy Weighs, Inc.) #201200795: Design Review for a 2,105 square foot building addition (dec date 11/17/12)

1. Development Report prepared by CCA, LLC dated 8/31/12
2. Map Cover Sheet titled “Proposed Addition” prepared by CCA, LLC dated 8/31/12
 - “General Legend, Notes and Abbreviations” dated 8/12 – sheet N1
 - “Property & Topographic Survey” dated 5/15/12 – sheet 1 of 1
 - “Site Plan” dated 8/31/12 – sheet C1
 - “Notes & Details” dated 8/31/12 – sheet C2
 - “Sedimentation And Erosion Control Plan” dated 12/7/05 – sheet E1
3. Map titled “Main & Lower Level Floor Plans” prepared by ADA dated 9/5/12 – drawing no. PZ-1
 - “Second Floor Plan & Elevations” dated 9/5/12 – drawing no. PZ-2

W. Conner present on behalf of the applicant. He advised that there are revised CAD plans that have been submitted to correct technical errors. The proposal seeks to minimize the disturbance. He briefly reviewed some of the architectural and landscaping features.

Vice Chairman Grimes moved to set a **Public Hearing for 366 Federal Road, #201200795, Design Review for a 2,105 square foot building addition, for October 11, 2012, at 7:30 p.m.** Commissioner Miller seconded the motion, and it carried unanimously.

a. 200 & 236 Federal Road (Costco Wholesale) #201200794: Site Plan Modification to modify the north building wall elevation to improve the building appearance and to make a minor modification of a retaining wall to avoid a light pole base (dec date 11/17/12)

1. Letter from Raymond Gradwell, P.E. BL Companies to Zoning Commission dated 9/4/12 Re: Costco Renovation, Fuel Facility and Relocated Union Savings Bank Addition – 200 Federal Road – Minor Amendment to Approved Plan
2. “Site Plan” map for Costco Renovation & Expansion, Relocation of Bank and New Fuel Facility prepared by BL Companies dated 7/21/11 revised through 9/5/12 – sheet SP-1
 - “Grading and Drainage Plan” dated 7/21/11 revised through 9/5/12 – sheet GD-1
 - “Retaining Wall Design – Wall D (STA. 0+00 To 2+50)” prepared by Kleinfelder dated 2/22/12 revised 8/17/12 – sheet R.5
 - “Exterior Elevations” prepared by Mulvanny G2 Architecture dated 3/26/12 revised through 7/27/12 – sheet A301
 - “Color Elevations” prepared by Mulvanny G2 dated 5/22/12

Vice Chairman Blessey recused himself from this matter and left the room at 8:21 p.m., at which time all three Alternates were Voting Members.

R. Gradwell, BL Companies, 355 Research Parkway, Meriden, CT, Brandon Bazill, BL Companies, and George Runney, G2 Mulvanny, were present on behalf of the applicant, Costco.

Mr. Gradwell discussed the proposal to add vertical metal panel between the entrance and the liquor pod area to improve the appearance of the structure. There were no questions from the Commissioners.

Mr. Bazill discussed the changes on SP-1, noting the retaining wall that will be no longer than five feet tall, and another conflict with the light pole and the building.

Commissioner Cordisco moved to approve #201200794: Site Plan Modification to modify the light pole base at Costco. Commissioner Varda seconded the motion, and it carried unanimously.

Vice Chairman Blessey rejoined the meeting at 8:25 p.m. and Commissioner Varda was no longer a Voting Member.

2. Land Use Enforcement (continued)

b. Enforcement Officer's Report:

Requests for Voluntary Compliance

6 Lillinonah Dr., #201200578 – ZEO Dew explained that the violation related to vehicles parked in undesignated drives, as well as tents on the site. She advised that the property owner has made great efforts to clean the blight. She indicated that all of the unregistered vehicles will be removed by November 1, 2012, and the tents will be removed per the regulations. ZEO Dew inspected the site today.

Chairman Blessey explained the levels of enforcement (Request for Voluntary Compliance, Cease and Desist, Citation, Town Counsel Action) to the two new Commission members, Commissioners Miller and Frankel. He also reviewed the Show Cause Hearing process.

36 Kellogg St., #201200714 – ZEO Dew indicated that the property owner has a temporary shed for foundation work on the site. The Building inspector has been notified, and the property owner has advised he will have the property in compliance by the end of September. **Vice Chairman Grimes moved to issue a Cease and Desist to 36 Kellogg St., #201200714, if not in compliance by September 23, 2012. Chairman Blessey seconded the motion, and it carried unanimously.**

483 Federal Rd., #201200772 – ZEO Dew advised that this complaint involves an illegal sign.

14 Valley View Rd., #201200777 – ZEO Dew explained that this involves a complaint regarding a shed without a Certificate of Zoning Compliance, and it has been requested that the site be in compliance by September 30, 2012.

15 Hop Brook Rd., #201200816 – This complaint relates to the number of people renting at this site. There was police involvement this past Saturday after a party. Five tenants were charged fines. A letter has been drafted to Town Counsel for its review. The owners of the property live on Riverford Road. Chairman Blessey recommended sending a Cease and Desist Order to the property owner. **Chairman Blessey moved to send a Cease and Desist to 15 Hop Brook Rd., #201200816, for violation of Section 242-401A(4). Commissioner Miller seconded the motion, and it carried unanimously.**

Cease and Desist Orders

85 Ironworks Hill Rd., #201200509 – Upon inspection today, ZEO Dew noted that there are televisions and shelves on the site. **Vice Chairman Grimes moved to issue a Citation to 85 Ironworks Hill Rd., #201200509. Commissioner Cordisco seconded the motion, and it carried unanimously.**

Chairman Blessey recused himself from the above matter and Commissioner Varda was a Voting Member.

Citations

14 Knollcrest Dr., #201200493 – ZEO Dew advised that the property is being foreclosed on, and the bank cleaned up the garbage within two days. The property is now vacant. **Chairman Blessey move to remove 14 Knollcrest Dr., #201200493, from the Enforcement Report, for compliance. Vice Chairman Grimes seconded the motion, and it carried unanimously.**

227 Federal Road, #201200723 – The business owner paid the Citation fee. Town Counsel sent a stern letter, and the property owner has advised that the business tenant will be leaving shortly. **Chairman Blessey moved to remove 227 Federal Rd., #201200723, from the Citation list, for compliance. Commissioner Cordisco seconded the motion, and it carried unanimously.**

Town Counsel Action

11 Nicole’s Court, #201200331 – Attorney Buchsbaum` and ZEO Dew met with Mr. Mazur, who sent a letter back to the Zoning Commission. Chairman Blessey reviewed the location of the lot, the easement, and the history of the dispute with the neighbor. The Commission would like to have Town Counsel come in for an Executive Session to determine next action.

533 Federal Road, #2012000122 – A date for a court hearing has been set for October 15, 2012. There was discussion regarding the history of the property owners filing for bankruptcy.

1 High Ridge Road, #201000315 – No new action.

9 Stoney Farm Lane, #201100095 – The property owner has reached a settlement and will bring it to the Commission for its review in Executive Session.

54 Ironworks Road, #201100755 – ZEO Dew advised that subcontractors of the Bank of America have cleaned up the “blight” materials. Additionally, the mortgage has been transferred to M & T Bank. This bank will not discuss this matter with ZEO Dew until she provides certain information. .

Miscellaneous

37 Huckleberry Hill Rd.(Ballard) – Commissioner Cordisco advised that the cherry picker is back on this property.

c. Enforcement Correspondence:

1. Letter from Jason Buchsbaum to Vasquez Stone Supply dated 8/31/12 Re: Zoning Violations at 227 Federal Road – See above.
2. Letter from Jason Buchsbaum to Laurie Pastor dated 9/4/12 Re: Zoning and Wetlands Violations at 533 Federal Road – See above.
3. Letter from Peter Olson to Douglas Moss dated 8/24/12 Re: Moss. V. Froelich, Docket No. DBD CV 11 5008930 S Zoning Commission of the Town of Brookfield v. Moss, Docket No. DBD CV 11 60005877 S

6. Old Business

- b. 57 Laurel Hill Road #201200636: Design Review for Proposed Incentive Housing “Laurel Hill Townhomes” (dec date 10/27/12)**

Chairman Blessey indicated that the Water Source Committee has requested thirty feet of flat ground around the building. The applicant advised that this requirement is an affordable housing regulation, not an incentive housing regulation. Commission members will be meeting with Land Use Office and Water Source Committee staff shortly. **No motions.**

- c. 46 Delmar Drive (ABC Fuel Oil) #201200729: Certificate of Zoning Compliance in the Aquifer District for office space, storage and parking of company vehicles for a home fuel oil business (*application withdrawn*)**
1. Letter from Gary Michael, Jr. to Zoning Commission dated 9/5/12 Re: Withdrawal of application #201200729

Withdrawn.

- d. 887 Federal Road #200300284: Application for Permit Extension – 5 years and Request for Bond Reduction of \$130,083.12**

- 1. Bond Reduction worksheet prepared by CCA, LLC dated 9/6/12

Chairman Blessey reviewed the history of the permit for the Commission and noted the regulation changes since the initial approval. He suggested that the applicant agree to incorporate the new Town Center District (TCD) parking regulations and the TCD streetscape regulations. **Tabled to 9/27/2012**

- e. *Proposed Regulation Change #201200721: Section 242-401E – Prohibitions in Residential Districts to delete “Drainage and Storm Water Run-off” (PH scheduled for 9/27/12)***

- f. *Proposed Regulation Change #201200756: Section 242-505A – Town Center District (PH scheduled for 9/27/12)***

8. Tabled Items: none

10. Comments of Commissioners: None.

11. Adjourn:

Vice Chairman Grimes moved to adjourn the meeting at 8:57 p.m. Chairman Blessey seconded the motion, and it carried unanimously.

****Next Regular Meeting Scheduled for September 23, 2012****