

**APPROVED MINUTES
BROOKFIELD ZONING COMMISSION
Thursday, November 29, 2012 – 7:00 p.m.
MEETING ROOM #133 – TOWN HALL, 100 POCONO ROAD**

1. Convene Meeting

Present: Chairman R. Blessey, Vice Chairman M. Grimes, Secretary F. Lollie, C. Lynch, Alternate and Voting Member where indicated, M. Frankel, Alternate and Voting Member J. Cordisco

Absent: L. Miller, Alternate J. Varda

Also Present: Zoning Enforcement Officer A. Dew, Community Development Director K. Daniel, Recording Secretary D. Cioffi

a. **Review Minutes of Previous Meetings:** 11/8/12 – Commissioner Cordisco moved to accept the Minutes of the November 8, 2012 meeting. Commissioner Frankel seconded the motion. Motion carried, 3-0-3, with Vice Chairman Grimes, Secretary Lollie and Commissioner Lynch abstaining.

2. Land Use Enforcement

b. Show Cause Hearing:

1. **177 Federal Road (Irving Gas Station):** Signage – *No one present.* ZEO Dew advised that the Cease and Desist originally went to the proprietor, not the property owner. It was then sent to the property owner. ZEO Dew indicated there was some conflict between the manager and the property owner. The Cease and Desist was not received until November 7, 2012, and the owner requested a Show Cause hearing because he felt he was not represented properly. No one was present for the meeting on November 8, 2012, so a Citation was issued, and it stands.

C. Nielson, the owner of Zoning CT, Connecticut, a Consultant, for the property owner on a different matter, was present. Chairman Blessey reviewed the tenant's discussion at the Show Cause Hearing. He directed the Land Use Office Manager to add the word, "designated" in front of "representative" on the application, to ensure that the owner takes responsibility. Vice Chairman Grimes noted that if the owner of the property is a limited liability corporation, the designee on file with the Secretary of the State can be the designated representative.

Mr. E. Baptista, 31 Equestrian Ridge Rd., Newtown, CT, was present. He indicated he understands why the property was cited, and is aware that the sign company was advised by ZEO Dew what was permitted on the site. The manager was advised by the Commission to take down the awning, and he has not done this yet. Mr. Baptista was also told that the new sign is larger than the previous sign, and the awning with the lettering is an additional violation.

Photographs of the building, the signs and the site were reviewed. The Commission again advised Mr. Baptista that the lettering on the awning has to be removed. He was also told that signage on the inside of the windows is acceptable. Mr. Baptista advised the signs would be in compliance by the next meeting.

Chairman Blessey also requested that the delivery truck at the Federal Road site come earlier. The original approval for that site called for the truck to come before 7 a.m. Chairman Blessey has observed the truck delivering at approximately 8:30 a.m., which blocks Federal Road and makes traffic in the drive-through lane at Dunkin Donuts hazardous. Mr. Baptista advised he would make a request to the distribution center that the truck deliver the donuts earlier.

No motions.

2. **51 Junction Road (A. Cossuto):** Waste and debris in Aquifer Protection District –

Mr. B. Fusco, 23 Franklin St., Danbury, CT, was present. Chairman Blessey advised Mr. Fusco that the Commission has issued two Cease and Desist Orders. The first is for trash in the dumpsters on the site, which he was advised is prohibited in the aquifer protection district. Mr. Fusco contended that the material was recycling. Chairman Blessey has observed trash there over the past two weeks. Photographs were reviewed.

S. Gordon, 24 Laurel Dr., Brookfield, CT, was present. He was also advised that the trucks and containers have to be empty, and that scrap metal is considered trash.

There was additional discussion regarding the storage containers, which are considered a structure. The property owner and business owner were advised that they have to meet setback and all other structure requirements. Mr. Gordon was advised he must come in with a site plan.

The property representatives were also advised that utility trailers are acceptable as contractor's equipment, but they cannot have things in them. They were advised that under no circumstances can trash of any sort go onto the site.

With regard to the storage containers, Mr. Fusco advised that one of the storage containers was gone, and the other would be removed by tomorrow.

No motions.

3. Review Correspondence

- a. **Minutes of other Boards and Commissions: Inland Wetlands Commission; Zoning Board of Appeals 11/5/12; Planning Commission 11/1/12, 11/2/12 site walk, 11/15/12; Zoning Sub-Committee**
- b. **Legal Briefings for Building Inspectors: November 2012**

No discussion/no motions.

Vice Chairman Grimes moved to go to Agenda Item 7.e., 117 Old State Road. Commissioner Lynch seconded the motion, and it carried unanimously.

7. New Business

- e. **117 Old State Road (Unity Scientific, LLC) #201201029: Site Plan Modification to install three new window units at the Front Elevation.**
 - 1. Map titled "Building Elevations" prepared by Mark Aldieri Architecture dated 8/28/12 – sheet A200

ZEO A. Dew was present, and discussed the applicant's plans to change three windows, which will be rectangular.

Vice Chairman Grimes moved to approve #201201029, 117 Old State Road, Site Plan Modification, for three windows. Commissioner Lynch seconded the motion, and it carried unanimously.

Commissioner Lynch moved to go to Agenda Item 7.a., 12 Pocono Ridge Road. Secretary Lollie seconded the motion, and it carried unanimously.

- a. **12 Pocono Ridge Road #201201005: Single Family Conversion for a 616 sq. ft.**

apartment

Attorney M. McGetrick, was present, on behalf of his clients, M. Valentine and E. Molina, who were also present. The application is for a single-family dwelling. The file was reviewed, and it was noted that Mr. Valentine has been disabled since 1991, and his wife is over 55 years of age. They live in the main portion of the building. Attorney McGetrick indicated that his clients obtained a Certificate of Occupancy in 1979 for a guest house, that they assumed they could rent. Parking was briefly discussed.

Vice Chairman Grimes moved to approve #201201005, Single Family Conversion for 12 Pocono Ridge Road. Commissioner Lynch seconded the motion, and it carried unanimously.

4. Public Hearing 7:30 p.m.:

a. Proposed Regulation Change #201200975: Section 242-404K(9)(c) – Incentive Housing District Density Requirements; Section 242-505D(2) – Town Center District Permitted Uses

1. Letter from Neil Marcus, Town Attorney, to Zoning Commission dated 11/14/12 Re: Application #201200975
2. Response letter from HVCEO to Zoning dated 11/15/12 – Category 1
3. Response memo from Planning Commission to Zoning Commission dated 11/19/12

Chairman Blessey opened the public hearing and introduced the Commission members. Secretary Lollie read the legal notice, which was published in the News Times on November 16, 2012, and November 26, 2012. Chairman Blessey indicated that the application was received on November 8, 2012. He then reviewed the policies and procedures that govern public hearings.

Secretary Lollie read the following correspondence: Items 4.a.2 and 4.a.3 (listed above).

Chairman Blessey presented the application on behalf of the Commission. He explained the current density requirements, and discussed that the Commission is proposing to add the third category to address Incentive Housing units, and exclude them from the “condo cap”.

The other proposed change comes under the Town Center District, Permitted Uses, Section 242-505D(2). It will allow residential apartments of condominium units on floors other than the first floor of a mixed use structure, if they do not contain more than two bedrooms. These units will also be excluded from the “condo cap”. The rationale behind the proposed changes is to make the regulations more in conformance with the recommendations of the Fitzgerald & Halliday study regarding the Four Corners. Chairman Blessey stated that he felt to restrict the amount of available housing in that zone is outdated.

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

N. Malwitz, Newbury Village, Chairman of the Water Pollution Control Authority, was present, He inquired how the regulation might affect the sewer flow. Chairman Blessey advised that the proposed change is not specific to a particular development, only what it will allow for units.

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

Vice Chairman Grimes moved to close the Public Hearing for Proposed Regulation Change #201200975: Section 242-404K(9)(c) – Incentive Housing District Density Requirements; Section 242-505D(2) – Town Center District Permitted Uses. Secretary Lollie seconded the motion, and it carried unanimously.

After careful consideration, Commissioner Lynch moved to approve Proposed Regulation Change #201200975: Section 242-404K(9)(c) – Incentive Housing District Density Requirements; Section 242-505D(2) – Town Center District Permitted Uses. Vice Chairman Grimes seconded the motion. Vice Chairman Grimes noted that many municipalities do have a “condo cap”, and explained that the Commission is not lifting the cap with this change, as it only applies to incentive housing in the Town Center District. He does not see a compelling reason to change the regulation for the remainder of the Town. Community Development Director Daniel advised that there are 928 units in Brookfield (at the “cap”). **Motion carried unanimously.**

5. Continued Public Hearing:

a. 857-857A Federal Road (Riverview Luxury Apartments) #201200887: Design Review for three 9,200 sq. ft. Incentive Housing Apartment Development (ph close date 12/13/12)

1. Letter to John Farley from Nina Mack (on behalf of Zoning Commission) dated 11/13/12 Re: Motion from Zoning meeting held 11/8/12
2. Report titled “857 and 857A Federal Rd, Historical Significance Evaluation” prepared by Carow Architects Plus dated 11/19/12
3. Carow Historical Resume – Firm Qualifications, received in Land Use 11/20/12

Attorney P. Scalzo, 2 Stony Hill Rd., Bethel, CT, was present, along with M. Lillis, PE, CCA, 40 Old New Milford Rd. He reviewed discussion at November 8, 2012 public hearing relating to the potential historical structure on the site, and the economics of the project (the absorption rate once the 92 units are built). Attorney Scalzo indicated that his team has concluded that the economic analysis was beyond scope of standard site plan review. He advised that his team has been to the Economic Development Commission and has discussed this plan with Todd Poole.

Attorney Scalzo reviewed Todd Poole study which concluded that there is a “build out potential” of 291 units under current conditions. Mr. Poole’s forecast of what was needed to keep up with modest demand/flat growth, 254 more units would be needed by 2016. Attorney Scalzo believes that Mr. Poole would agree, that to support retail development in the Town Center District, more residential unit would be needed.

Chairman Blessey inquired if the applicant would be willing to provide a feasibility study of the 92 units associated with this project, acknowledging that it cannot be required by the Commission, and Attorney Scalzo advised that this was a reasonable request.

Attorney Scalzo further advised that approval was obtained from the Inland Wetlands Commission, and the applicant is meeting on Monday, December 3, 2012 at 3 p.m. with CDC Daniel and Architect L. Overland. CDC Daniel submitted to the Commission the letters that are part of the file, from the Land Use Office to Todd Poole and L. Overland.

Attorney Scalzo advised that the applicant is willing to pay for an architectural review, and will provide a check for \$3,000 at the meeting December 3rd. Secretary Lollie and Commissioner Lynch will attend the meeting as well, with Commissioner Cordisco being available if one of them is not.

J. Carow, Historical Architect, 712 South Britain Rd., Southbury, CT, was present. He reviewed his qualifications, including teaching and working with historical buildings. He also discussed his report dated November 19, 2012. Mr. Carow then reviewed the materials and problems with the building. He advised that, despite the fact that the structure is on the State registry, in his opinion, it would not qualify. Mr. Carow inquired if the Town has done an inventory of similar buildings,

and was advised that the Historical Commission is currently working on that. Upon inquiry from Vice Chairman Grimes and Commissioner Lynch, he is unaware how they received registry status.

Chairman Blessey advised that Historical Commissioner J. Salame will get her memo in the file, and that an inventory was requested. Mr. Carow is also hopeful that the source of the nomination to the State registry will become known.

There were no questions of clarification. No one was present to speak in favor of the application, nor was present to speak in opposition.

Vice Chairman Grimes moved to continue 857-857A Federal Road, to the next regularly scheduled meeting on December 13, 2012. Commissioner Cordisco seconded the motion, and it carried unanimously

A brief recess was taken from 8:16 to 8:21 p.m.

2. Land Use Enforcement

a. Enforcement Officer's Report:

Requests for Voluntary Compliance

6 Lillinonah Drive, #201200578 – The property owner has until December 31, 2012 to comply.

12 Pocono Ridge Road, #201200893 – This matter is on the agenda for the December Zoning Board of Appeals meeting.

Cease and Desist Orders

34 Stony Hill Road, #201200874 – The property owner had until November 13, 2012 to schedule a Show Cause Hearing and has not. **Vice Chairman Grimes moved to issue a Citation for 34 Stony Hill Road, #201200874. Chairman Blessey seconded the motion, and it carried unanimously.**

177 Federal Road, #201200822 – This matter was discussed above.

594 Federal Road, #201200948 – The property owner has applied for a sign/tenant fit-up.

14 Valley View Road, #201200777 – ZEO Dew advised it will be a while before the property owner can resolve this issue due to the tree falling on the shed.

51 Junction Road, #201200941, #201201001 – Discussed above.

Town Counsel Action

533 Federal Road, #2012000122 – ZEO Dew advised that L. Pastore and Wellsville, LLC quitclaimed the property. J. Pastore is going through the bankruptcy courts again. ZEO Dew is in possession of his cell phone number, and he has advised he will cooperate.

Has his cell phone number

1 High Ridge Road, #201000315 – Dr. Zaky was arrested today for alleged healthcare fraud. Special Counsel P. Olson will file for the fines in the Superior Court matter.

9 Stony Farm Lane, #201100095 – Special Counsel Olson is also working on this matter.

54 Ironworks Road, #201100755 – ZEO Dew has been corresponding with Safeguard Property Management. A good deal of the outside of the property has been cleaned.

6. Old Business:

a. 20 Vale Road #201200935: Design Review for a proposed 30,000 sq. ft. office building (PH scheduled for 12/13/12) – No discussion/no motions.

b. Report titled “Town of Brookfield, Connecticut 20 Year Sanitary Sewer Flow Projection” - prepared by Birdsall Services Group, Inc. dated June 2012: Nelson Malwitz, Chairman of WPCA will be in attendance

N. Malwitz was present on behalf of the Water Pollution Control Authority. He referenced the above report (Item 6.b.). He discussed the lack of communication among the various Land Use Commissions. Mr. Malwitz advised that the WPCA must plan further out because of capacity limitations in Danbury. He advised that the estimates for peak capacity are not accurate. The report above incorporates properties that are eligible to be on sewer system and considers the effect if they are added to the system within the next five years. He noted the areas in Brookfield that are “stressed”: Green Ridge, Candlewood Shores, Dean Road.

Chairman Blessey inquired if the WPCA has given consideration to the Fitzgerald & Halliday study. It was suggested that the involved parties look at this.

There was discussion regarding how the calculations for use (of 100 gallons per bedroom for residential) are currently made.

Chairman Blessey suggested that members of each Commission (Zoning and WPCA) meet in the spring.

Mr. Malwitz discussed the need to estimate calculations for renegotiations with Danbury, as well as problems with phosphorous. He indicated that Danbury would have to be duly notified of significant increases in development and how it will affect capacity. The Fitzgerald and Halliday plan was noted, as well as the upcoming review of the Plan of Conservation and Development.

No motions.

c. 40 & 64 Laurel Hill Road (The Residences at Laurel Hill) #201200588: Design Review for a proposed Incentive Housing Project (dec date 1/12/13)

There was discussion regarding an effective date for any approval, and the possible stipulations discussed at the last meeting. The file and the Minutes of the October 25, 2012 meeting were reviewed.

Ms. A. Adams, Landscape Architect, CCA, 40 Old New Milford Rd., was present, and advised that the Belgian block was incorporated on the most recent plan. Additionally, the air conditioners were moved, and the siding was changed, and that is reflected on the drawing. The barn on the site at 64 Federal Road will be moved and utilized elsewhere. Ms. Adams reviewed the lighting.

M. Daigle, Dakota Partners, was present. Upon inquiry from Chairman Blessey, he advised that the common areas will be completed when the units are done.

After careful consideration, Commissioner Lynch moved to approve #201200588, 40 & 64 Laurel Hill Road, Design Review for a proposed Incentive Housing Project, with the following stipulations: 1) that it meets the architectural plans dated 10/15/12; 2) the site plan is dated 10/9/12; 3) the rear parking includes Belgian blocks, and these will be noted on the site plan; 4) the barn for 64 Laurel Hill Road will be removed and be taken off the site; 5) three streetlights will be installed to conform to Brookfield Department of Public Works’ standards, unless the DPW requires more; 6) the current owner of the property and the future owner will do everything that they can to facilitate the proper disposal of 64 Laurel Hill Road’s house; and 7) the bond was agreed to at a previous meeting. Commissioner Cordisco seconded the motion, and it carried unanimously.

Vice Chairman Grimes moved to go to Agenda Item 7.d., 125 Commerce Drive. Commissioner Lynch seconded the motion, and it carried unanimously.

7. New Business:

d. 125 Commerce Drive: Certificate of Zoning Compliance in Aquifer Protection District – G. Atkinson, 70 Cedar Rd., Wilton, CT, was present. He advised that his business constructs and designs race car parts. The location of the site, and the neighboring businesses were reviewed. It was noted that the hazardous materials plan is included in the application materials. Mr. Atkinson advised that he recycles materials at 10 gallons. There will be no chemicals kept outside. Trailers to deliver the cars will be parked outside but that is allowed in the zone.

After careful review, Commissioner Lynch moved to approve #201201049, 125 Commerce Drive, Certificate of Zoning Compliance in Aquifer Protection District. Vice Chairman Grimes seconded the motion, and it carried unanimously.

f. Proposed Regulation Change #201201033: Section 242-404 K(4) – Incentive Housing Location and Section 242-404 K(7) – Incentive Housing Permitted Uses
Vice Chairman Blessey recused himself from this matter and Commissioner Frankel was a Voting Member for this item only.

Commissioner Lynch moved to set a Public Hearing for #201201033, Proposed Regulation Change, Section 242-404 K(4) – Incentive Housing Location and Section 242-404 K(7) – Incentive Housing Permitted Uses, for January 10, 2013, at 7:30 p.m. Secretary Lollie seconded the motion. Commissioner Lynch summarized the proposed change for the Commission members. Motion carried unanimously.

g. Proposed Regulation Change #201201034: Section 242-202 – Definitions: Yard, Front
Chairman Blessey rejoined the meeting at 9:16 p.m.

Vice Chairman Grimes moved to schedule a Public Hearing, #201201034, Section 242-202 – Definitions: Yard, Front, for January 10, 2013, at 7:30 p.m. Commissioner Lynch seconded the motion. Chairman Blessey explained that the change relates to defining where the front and side yard are on an internal lot. The proposal adds two words, and strengthens the regulation’s enforceability. Motion carried unanimously.

- c. 28 Old Grays Bridge Road #201201025: Site Plan Modification to add one-way drive and additional handicap parking. Variances were granted.**
1. Copy of ZBA Approval letter to Stephen Kelley dated 11/9/12
 2. **Map Cover Sheet titled “Proposed Industrial Building” prepared by CCA, LLC, dated August 4, 2011 revised thru 11/9/12**
 - “General Legend, Notes And Abbreviations” dated June 2012 – sheet N1
 - “Property Survey” dated 8/3/11 revised 9/6/11 – sheet 1 of 1
 - “Site Layout Plan” dated 8/4/11 revised thru 11/9/12 – sheet C1
 - “Grading & Drainage Plan” dated 8/4/11 revised thru 11/9/12 – sheet C2
 - “Utilities Plan” dated 8/4/11 revised thru 11/9/12 – sheet C2B
 - “Erosion Control Plan” dated 8/4/11 revised thru 11/9/12 – sheet C3
 - “Landscape Plan” dated 8/4/11 revised thru 11/9/12 – sheet C4
 - “Notes & Details” dated 8/4/11 revised thru 11/9/12 – sheet C5
 - “Notes & Details” dated 8/4/11 revised thru 11/9/12 – sheet C6

- “Notes & Details” dated 10/18/11 revised thru 11/9/12 – sheet C7
 - “Sedimentation And Erosion Control Plan” dated Dec. 7, 2005 – sheet E1
3. Memo from Ralph Tedesco, Public Works Director to Katherine Daniel dated 11/19/12 via e-mail Re: 28 Old Gray’s Bridge Rd #201201025

Ms. A. Adams, CCA, 40 Old New Milford Rd., was present. She reviewed the recent history at the site related to handicapped parking spaces requested by the Building Department. Three variances were obtained by the Zoning Board of Appeals. She reviewed the reduction in landscaping and what trees will remain.

Vice Chairman Grimes moved to approve #201201025: Site Plan Modification to add one-way drive and additional handicap parking, 28 Old Gray’s Bridge Road. Commissioner Cordisco seconded the motion, and it carried unanimously.

b. Land Use Commission Regular Meeting Schedule for 2013 “DRAFT”: Review for Approval

This will be discussed at the December 13, 2012 meeting.

Vice Chairman Grimes moved to add to the Agenda, at Item 7.h., #201201038, 426 Federal Road, Nordex. Secretary Lollie seconded the motion, and it carried unanimously.

h. 426 Federal Road, Nordex, #201201038 - D. Agus, Majority Property Owner of Site and Nordex, was present. He advised that new equipment will soon be delivered, and the company wishes to keep the old equipment in an airtight and watertight space. Therefore, he is proposing the addition of a storage container. There is sufficient parking at the site. Chairman Blessey recalled that the property owner was required to install a barrier when a generator was added. Mr. Agus is unsure how long the storage container will be needed. Chairman Blessey added a line on the plans that the container cannot go over without violating the setback.

Chairman Blessey moved to approve #201201038, for the property at 426 Federal Rd., for there to be a storage structure placed outside of the buffer per a drawing dated 5/30/2000; marked up by Chairman Blessey; and some type of siding element (i.e., T-111), and for it to be painted to match the building color scheme. Vice Chairman Grimes seconded the motion. Mr. Agus signed the modified copy of the plans. Motion carried unanimously.

8. Tabled Items: None.

9. Informal Discussion:

a. Proposed Regulation Change: Section 242-505B-H: Town Center District – CDC
Daniel requested feedback on this proposed change with regard to: 1) the changes to the front setbacks; 2) dimensional factors such as height; 3) instituting an obligatory pre-application review process with a range of specialists; and 4) shared parking. Chairman Blessey agreed that time needs to be spent on these regulation changes. He and CDC Daniel suggested that the regulation change be put on the agenda, a public hearing be set, and the Commission can work on the proposal.

Commissioner Lynch discussed putting guidelines in place for sidewalks, crosswalks, furniture, lighting and landscaping. There was additional discussion regarding forming a subcommittee to discuss these designs standards. Commissioners Lynch and Cordisco will serve as the subcommittee.

No motions.

**b. 355 Federal Road: Possible “Catering Hall” – Nelly Tenesaca
No discussion/no motions.**

10. Comments of Commissioners: There was brief discussion regarding the required distance between liquor vendors and how it is measured.

11. Adjourn:
Commissioner Lynch moved to adjourn the meeting at 9:50 p.m. Secretary Lollie seconded the motion, and it carried unanimously.

****Next Regular Meeting Scheduled for December 13, 2012****