

**APPROVED MINUTES**  
**BROOKFIELD ZONING COMMISSION**  
**Thursday, January 10, 2013 – 7:00 p.m.**  
**MEETING ROOM #133 – TOWN HALL, 100 POCONO ROAD**

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**1. Convene Meeting**

Chairman R. Blessey convened the meeting at 7:00 p.m. and established a quorum of members.

**Present:** Chairman R. Blessey (left at 7:30 p.m.), Vice Chairman M. Grimes, C. Lynch, L. Miller, Alternate and Voting Member J. Cordisco, Alternate and Voting Member where indicated, M. Frankel, Alternate J. Varda

**Absent:** Secretary F. Lollie

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

- a. **Review Minutes of Previous Meetings: 12/13/12 – Vice Chairman Grimes moved to approve the Minutes of the December 13, 2012 meeting. C. Lynch seconded the motion.**

Commissioner Varda pointed out the following corrections:

- 1) On Page 6, in the seventh paragraph, to clarify that the floor height stated, of 47.9 feet, by adding, after that number, the following text: “to the average roof plain, this is how the Town calculates building height. Ms. Newell-Juan did indicate that the building is actually higher, and this was done in response to the request of the Architectural Review Committee to make the building taller. She is unaware of the height of the cupola.”
- 2) On Page 8, to replace the second complete paragraph with the more detailed paragraph as follows, for clarification: “Commissioner Varda inquired if the percentages listed on the last page of the economic viability report included only existing units, or if it includes approved units that are in the local area. Mr. Saunders advised that the table his report used was to illustrate page 11 of Fitzgerald & Halliday’s report. Mr. Saunders further stated that the applicant’s representatives “independently come to the conclusion that it reached about the amount of supply and absorption.” He noted that the Fitzgerald and Halliday report came to a similar conclusion. Commissioner Varda pointed out that there are other developments in the area that have been recently approved that would “take up much of that demand”. Chairman Blessey pointed out that the economic viability report does not include the approval of 40-64 Laurel Hill Road, nor does it include 857-857A Federal Road. Attorney Scalzo added that the report does include Newbury Village and Riverview developments. Commissioner Varda also noted that the numbers do not include the Barnbeck Place Development. He acknowledged that, while it is not in the same zone, it is a local rental development, and should be included in the feasibility study as it is local rental space. Chairman Blessey stated that it is out of the purview of the Commission “to consider an application on the basis of economic factors.” Upon inquiry from Attorney Scalzo, CDD Daniel advised that the Barnbeck Place Development is a rental development. She also added that it is “still bare ground”.

**Motion to approve the Minutes, with the above additions, carried unanimously.**

**2. Land Use Enforcement**

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

*ZEO A. Dew reported on the following:*

**Requests for Voluntary Compliance**

**6 Lillinonah Dr., #201200578** – ZEO Dew’s inspection of December 21, 2012 revealed that all debris and unregistered vehicles, except for one, have been removed. As no violation exists, she will remove this item from the report.

**227 Candlewood Lake Rd., #2012001108** – ZEO Dew inspected this site in response to a complaint regarding sheds on the property. She met with the property owner and the Town Attorney. The property owner, Mr. Rogg, will come in with a site plan modification at the January 24, 2013 meeting. Chairman Blessey indicated he would speak with the Town Attorney. There was discussion as to where boat storage has occurred in the past, and it was noted that there may be maps and/or aerial maps of the site.

**19 Brookfield Meadows, #20130000** – This matter resulted from a complaint regarding a commercial vehicle on the site. ZEO Dew spoke with the property owner, who has a shop in New Milford where equipment is stored. The commercial equipment has been removed as of January 8, 2013. She will remove this item from the report.

**222 Whisconier Rd., #201300000** – This complaint involved commercial vehicles, accumulation of debris, and vehicles not parked in designated drive. ZEO Dew indicated that Deputy Zoning Enforcement Officer Lollie inspected the site, and noted some material present for building in the spring, but as of yesterday, there were no violations.

**Cease and Desist Orders**

**594 Federal Rd., #201200948** – An application for a sign is pending in the Building Department.

**14 Valley View Rd., #201200777** – The property owner has until Spring to move the shed.

**51 Junction Rd., #201200941** – ZEO Dew reported that there were no storage containers on the site as of this past week, nor were there any dumpsters with refuse. No violations exist at this time. Vice Chairman Grimes would like this item left on the Enforcement Report.

**Citations**

**177 Federal Rd., #201200822** – ZEO Dew advised that the business has removed the diesel sign. The owner of the Irving Station came in today, and indicated that the material he used to remove letters from the awning took the coloring off. He is unable to use the new material until it is 40 degrees or warmer. This matter is being referred to Town Counsel and being transferred to that list.

**34 Stony Hill Road, #201200874** – The property owner did not claim the Cease and Desist, and it was sent by sheriff. **Vice Chairman Grimes moved to refer the matter of 34 Stony Hill Road, #201200874, to Town Counsel. Commissioner Lynch seconded the motion, and it carried unanimously.**

**12 Pocono Ridge Rd., #201200893** – The property owner will apply for variance for the shed, and the application will be heard at the February Zoning Board of Appeals meeting. This matter will remain on the report.

**Town Counsel Action**

**533 Federal Rd., #2012000122** – ZEO Dew reported that Mr. Pastor has removed the refrigerators and one vehicle. Town Counsel has spoken with the property owner, and advised that all vehicles except the trailer must be removed by January 14, 2013. ZEO Dew will inspect the site at that time.

**1 High Ridge Rd., #201000315** – It was noted that the Certification of Fines totals \$1,658.00.

**9 Stony Farm Lane, #201100095** – ZEO Dew advised that she emailed Special Counsel P. Olson, but has not yet received a response.

**54 Ironworks Rd., #201100755** – Clean up continues at the site.

**b. Enforcement Correspondence:**

1. Letter from Carol Berkley (Ric Rac on the Lake Inc.) to Zoning Commission dated 12/26/12.
2. Letter from Alice Dew (ZEO), to Carol Berkley dated 12/31/12 Re: 227 Candlewood Lake Rd – File #201201108

**No discussion/no motions.**

**3. Review Correspondence**

- a. **Minutes of other Boards and Commissions: Inland Wetlands Commission 12/10/12, 12/17/12; Zoning Board of Appeals; Planning Commission 12/6/12; Zoning Sub- Committee**
- b. Legal Briefings for Building Inspectors: December 2012

No discussion/no motions.

Vice Chairman Grimes moved to go to Item 7, New Business. Commissioner Lynch seconded the motion, and it carried unanimously.

**7. New Business:**

a. **Nomination and Election of Officers for 2013: Vice Chairman Grimes moved to nominate the following slate of Officers for 2013: R. Blessey as Chairman, M. Grimes as Vice Chairman, and F. Lollie as Secretary. Commissioner Lynch seconded the motion, and it carried unanimously.**

b. **Nomination and Election of Deputy Zoning Enforcement Officers: - Commissioner Grimes moved to nominate the following as Deputy Zoning Enforcement Officers: R. Blessey, C. Lynch, J. Cordisco and M. Frankel. Commissioner Lynch seconded the motion, and it carried unanimously.**

c. **Appointment of Zoning Enforcement Officer: Vice Chairman Grimes moved to appoint A. Dew as Zoning Enforcement Officer for the year 2013. Commissioner Miller seconded the motion, and it carried unanimously.**

d. **10 Gallows Road (Seven Fields) #201001037: Request for Bond Release \$1,089 – Chairman Blessey moved to recommend to the Board of Selectmen the release of the bond for 10 Gallow’s Road, #201001037, in the amount of \$1,089. Commissioner Miller seconded the motion, and it carried unanimously.**

e. **540 Federal Road (Oak Meadows – Incentive Housing Development) #201201116: Site Plan Modification to revise phasing plan and allow for units to be occupied on Old Oak Drive (dec date 3/16/13)**  
1. Map titled “Phasing Plan – Oak Meadows Re-Subdivision” prepared by CCA, LLC dated 8/14/08 revised thru 12/14/12 – sheet PH1 – A. Adams, Landscape Architect, CCA, 40 Old New Milford Rd., was present. She reviewed the proposed revised phasing plan. Additionally, she indicated that the applicant is in possession of the Water Source Committee comments, and will address those comments at the next meeting.

**This matter will be continued to the next meeting on January 24, 2012.**

f. **360 Federal Road #201300004 “Greater Danbury Center for Endodontics”: Site Plan Modification to move (1) one handicap parking space North (dec date 3/16/13)**  
1. Letter from Richard A. Bunnell to Zoning Commission dated 1/3/13 Re: Electronic drawing for 360 Federal Road  
2. “Zoning Location Survey” prepared by CCA, LLC dated 12/11/12 revised 1/3/13 – sheet 1 of 1 – D. Bass, 43 Crescent St., Stamford, CT, was present on behalf of the applicant. He explained the rationale for moving the handicapped parking space. The Commissioners had no questions. **Vice Chairman Grimes moved to approve the Site Plan**

**Modification for 360 Federal Road, #201300004. Commissioner Cordisco seconded the motion, and it carried unanimously.**

**Vice Chairman Grimes moved to go to Item 9, Informal Discussion. Commissioner Lynch seconded the motion, and it carried unanimously.**

**9. Informal Discussion:**

a. **370 Candlewood Lake Road:** Tony Buonaiuto to discuss possible business in RC-41 Zone for a “Youth Training Center” - *T. Buonaiuto, Hayestown Rd., Danbury, CT, was present.* He wishes to inquire regarding the possibility of putting a Youth Training Center at this property. The use table for the zone was reviewed. No equipment will be used at the Center except for ropes and tires. It was noted that private/public daycare and preschools are permitted in the RC41 zone. The Commission explained that the proposal will have to go through other Land Use Departments for approval. Chairman Blessey reviewed the personal care center use in the zone. Vice Chairman Grimes advised he would like to see more detail as to who the clientele would be. Commissioner Miller inquired regarding noise on the site (the Center would be located on a second floor, above residences). It was noted that the Town has a noise ordinance that would be difficult to violate. Chairman Blessey will speak with Town Counsel, and ZEO Dew will be in touch with Mr. Buonaiuto. **No motions.**

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

a. **Proposed Regulation Change #201201033: Section 242-404 K(4) – Incentive Housing Location And Section 242-404 K(7) – Incentive Housing Permitted Uses**

1. Response letter from Town of Newtown dated 10/19/12

*Chairman Blessey recused himself from this matter and left the meeting at 7:30 p.m. At that time, Vice Chairman Grimes became Acting Chair, and appointed M. Frankel as a Voting Alternate.*

Vice and Acting Chairman Grimes opened the public hearing and introduced the Commission members. Commissioner Varda read the legal notice that was published in the News Times on December 28, 2012 and January 7, 2013. Vice and Acting Chairman Grimes indicated that the application was received on November 29, 2012. He then reviewed the policies and procedures that govern public hearings. It was noted that this application was filed by the Zoning Commission.

Commissioner Varda noted the following correspondence: 1) response by HVCEO for both proposed regulation changes on this evening’s agenda; 2) a memo from the Planning Commission dated December 10, 2012, in favor of the application; 3) a memo from the Town of Newtown dated October 19, 2012, in favor of the application.

Commissioner Lynch presented the application for the Commission. He explained that the proposed change relates to boundaries within the Town Center District, to encourage more walkable retail on the first floor uses versus residential. Community Development Director K. Daniel reviewed the GIS map of the District, discussing zone lines, and current multi-family projects that are either in process or approved. She noted the creation of two subzones: a core zone and a peripheral/perimeter zone; one that would be exclusively residential, and another that would be more appropriate for mixed use development.

It was noted that the original incentive housing zone was put into place without notice to property owners. The notices regarding the change will be sent out tomorrow, and the Public Hearing will remain open. CDD Daniel reviewed the proposed language for the regulation change.

*The following members of the audience had questions of clarification.*

*H. Kurfehs, 42 Obtuse Rd. North, was present.* He requested clarification of the zone placement for some of the properties. He inquired if there were desired percentages for mixed uses. Mr. Kurfehs also asked about the possibility of having residential uses behind the retail establishment rather than above, and Commissioner Lynch noted the difficulty with that model. Mr. Kurfehs further noted the arbitrary nature of the radius on the GIS map, pointing out the retail development opportunities to the south, and he was advised that the ¼ mile radius was used only to reflect walking distance, and is not specified in the regulation. .

*Ms. A. Adams, CCA, LLC, 40 Old New Milford Rd., was present,* and submitted a memorandum from CCA dated January 10, 2013, with suggested points of consideration related to the subzones.

*R. Saluga, 32 Great Heron Lane, was present.* He inquired regarding a residential development at 857 Federal Road, and was advised that the decision on that application will be made before the proposed regulation change is decided. Vice and Acting Chairman Grimes added that the proposed regulation change will not affect an application pending right now.

*N. Malwitz, 1 Great Heron Lane, was present.* He asked if the new regulations were adopted, if it would result in some properties being non-conforming. CDD Daniel advised that if the subzones are adopted, there would be no non-conforming properties. Mr. Malwitz also inquired if aesthetics are considered by the Commission, and was advised that they are.

*J. Salame, 148 Whisconier Rd., was present.* She inquired if the Commission was considering reviewing areas outside of the circular overlay zone, and Commissioner Lynch explained that it would not be done with this application.

Commissioner Miller inquired if anything in the regulation would preclude the arrangement of a retail establishment on the first floor, with an office use on the second floor. He was advised that nothing in this proposal would preclude that.

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

**Commissioner Lynch moved to continue the Public Hearing for Proposed Regulation Change #201201033: Section 242-404 K(4) – Incentive Housing Location And Section 242-404 K(7) – Incentive Housing Permitted Uses to the next regularly scheduled meeting on January 24, 2013. Commissioner Miller seconded the motion, and it carried unanimously.**

**b. Proposed Regulation Change #201201034: Section 242-202 – Definitions: Yard, Front**

1. Response letter from Town of Newtown dated 10/19/12

It was noted that the same introduction and legal notice would be utilized for this application, and there were no objections.

Commissioner Varda noted the following correspondence: 1) response by HVCEO for both proposed regulation changes on this evening's agenda; 2) a memo from the Planning Commission dated December 10, 2012, in favor of the application; 3) a memo from the Town of Newtown dated October 19, 2012, in favor of the application.

Vice and Acting Chairman Grimes read the current definition, and the proposed change. He noted that it also clarifies what qualifies as a “side yard”.

*There were no questions of clarification.*

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

**Commissioner Lynch moved to close the Public Hearing re: Proposed Regulation Change, #201201034: Section 242-202 – Definitions: Yard, Front. Commissioner Miller seconded the motion, and it carried unanimously.**

**Commissioner Cordisco moved to approve the Proposed Regulation Change, #201201034: Section 242-202 – Definitions: Yard, Front, with an effective date of one day after publication. Commissioner Miller seconded the motion, and it 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 1/10/13) – [29 extension days used]**

1. Maps: “Alternative #1 Landscape” prepared by CCA, LLC dated 12/6/12 – sheet C1
  - “Alternate #2 Landscape” dated 12/7/12 – sheet C1
  - “Alternate #3 Landscape” dated 12/7/12 – sheet C1
  - “Alternate #4 Landscape” dated 12/12/12 – sheet C1
  - “Alternate #5 Landscape” dated 12/12/12 – sheet C1
  - “Alternate #6 Landscape” dated 12/12/12 – sheet C1

Receipt of a letter from Attorney Scalzo, on behalf of the applicant, requesting an extension to the January 24, 2013 meeting, was noted. It was further noted that the applicant may have to meet with the Water Source Committee on January 16, 2013, to seek clarification on its comments.

It was noted that no questions of clarification could be taken from the audience because the applicant is not present to answer them.

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

**Commissioner Miller moved to continue the Public Hearing for 857-857A Federal Road (Riverview Luxury Apartments), #201300887: Design Review for three 9,200 sq. ft. Incentive Housing Development, to the next regularly scheduled meeting on January 24, 2013. Commissioner Cordisco seconded the motion, and it carried unanimously.**

**6. Old Business:**

**a.** Proposed Regulation Change #201201067: Section 242-505 B-H – Town Center District (*Public Hearing scheduled for 1/24/13*)

**No discussion/no motions.**

**b.** Proposed Regulation Change #201201074: Proposed Zone Map Change for lots 11, 13 & 15 Orchard St. from IRC 80/40 to R40 Zone (*Public Hearing scheduled for 1/24/13*) -

**No discussion/no motions.**

**7. New Business (continued)**

**g. Certified Resolution of the Local Zoning Authority:**

Included in this packet is:

- Housing for Economic Growth – Pre-development Grant Application – Project Plan Summary
- Housing for Economic Growth Program – Pre-Development Grant Application and Instructions

CDD Daniel explained that the Commission’s approval is necessary prior to a grant application being submitted. **Commissioner Lynch moved to authorize the Zoning Staff to submit an application for a pre-development grant for assistance under the Housing for Economic Growth Program referenced in Section 8-13 (m-x) of the Connecticut General Statutes; and certify that it will consider the creation of design standards for existing local housing incentive zones. Vice Chairman Grimes seconded the motion. Motion carried unanimously.**

**8. Tabled Items:           None.**

**10. Comments of Commissioners:**

Commissioner Frankel inquired regarding an expansion at the Candlewood East Marina, and ZEO Dew explained that the necessary Zoning and Inland Wetlands approvals were obtained for that work.

Commissioner Varda inquired regarding a sign Whisconier Road near its intersection with Ironworks Hill, and was advised that this property sits in the Town Center District and is permitted.

Lastly, there was discussion regarding a “bubble” type covering over a pool at the corner of West Whisconier Road and Route 25.

**No motions.**

**11. Adjourn:       Commissioner Cordisco moved to adjourn the meeting at 8:21 p.m. Commissioner Miller seconded the motion, and it carried unanimously.**

**\*\*Next Regular Meeting Scheduled for January 24, 2013\*\***