

APPROVED MINUTES
BROOKFIELD ZONING COMMISSION
Thursday, January 24, 2013 – 7:00 p.m.
MEETING ROOM #133 – TOWN HALL, 100 POCONO ROAD

1. Convene Meeting

Commissioner L. Miller convened the meeting at 7:03 p.m.

Present: L. Miller, C. Lynch, Alternates J. Cordisco, M. Frankel, J. Varda

Absent: Chairman R. Blessey, Vice Chairman M. Grimes, Secretary F. Lollie,

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

Alternate J. Cordisco moved to elect a temporary Board for tonight's meeting. Commissioner Lynch seconded the motion. Alternate M. Frankel made a point of order, noting that alternate members must be appointed before they can vote.

Commissioner Miller stated that all members in attendance tonight would be voting members.

Commissioner Cordisco nominated Commissioner Lynch as Acting Vice Chairman. Commissioner Lynch nominated Commissioner Miller as Acting Chairman. Commissioner Varda seconded the nominations. Motion carried unanimously.

Acting Chairman Miller introduced the remainder of the Commission members.

Acting Vice Chairman Lynch moved to go to Item 6.a., 540 Federal Road. Commissioner Cordisco seconded the motion, and it carried unanimously.

6. Old Business:

- a. 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)**

S. Sullivan, P.E., CCA, 40 Old New Milford Rd., was present. He reviewed the four outstanding comments regarding the fire pond, and the status of their resolution. The comments were sent to the applicant from W. Gravius, Water Source Committee. They relate to: 1) the positioning of the strainer on the draft hydrant (it has been confirmed that it is in the proper position; 2) a projection from the water to locate the strainer (this will be changed from the current piece of wood in the Spring, when the ice is gone); 3) the water level (this was checked last Thursday and found to be above the minimum required); and 4) the outstanding hydrant flow test to be performed by Aquarion (this will be done shortly).

Mr. Sullivan advised that the developer is anxious to close on some units. It was noted that the decision date is March 16, 2013. Mr. Sullivan indicated that the phasing plan and certificate of occupancy must be approved.

Acting Vice Chairman Lynch moved, after careful consideration to approve the request of application #201201116, 540 Federal Road, conditional on a satisfactory fire tank flow test completed by Aquarion; and that all other issues delineated by the Fire Marshal have been resolved. Commissioner Cordisco seconded the motion, and it carried, 4-0-1, with Commissioner Frankel abstaining.

Acting Vice Chairman Lynch moved to go to Item 7.b., 227 Candlewood Lake Road, #201300016. Commissioner Varda seconded the motion, and it carried unanimously.

7. New Business:

b. 227 Candlewood Lake Road #201300016: Site Plan Modification for a wash water recycling shed (dec date 3/30/13)

1. E-mail from C. James Osborne, Jr. to Alice Dew dated 1/10/13 Re: 227 Candlewood Lake Road
2. Survey Map prepared by CJOJ LLC dated 9/10/95 revised thru 1/7/13

M. Rogg, 227 Candlewood Lake Road, was present. He discussed the state-mandated process for recycling the water that is used to wash the boats. This will involve installing a concrete pad and a shed to put the washing unit in.

ZEO Dew noted that this application was initiated due to an enforcement issue that resulted from a complaint of more boats being present on the property. This matter has been discussed by Chairman Blessey, Town Attorney N. Marcus, and ZEO Dew. It was suggested that this item be continued until the next meeting so that Chairman Blessey can be present. The decision date for this application is March 30, 2013.

Acting Vice Chairman Lynch moved to continue Item #201300016 until the next regularly scheduled meeting. Commissioner Cordisco seconded the motion, and it carried unanimously.

Acting Vice Chairman Lynch moved to go to Item 7.a., Proposed Zone Change, 16 Elbow Hill Road. Commissioner Frankel seconded the motion, and it carried unanimously.

a. Proposed Zone Change #201300015: Proposed change in Zone map to make 16 Elbow Hill Road which is currently a split Zone of R40 and IRC 80/40 to become IRC 80/40 (dec date 3/30/13)

M. Rogg was present. **Acting Vice Chairman Lynch moved to set a Public Hearing for Proposed Zone Change #201300015: Proposed change in Zone map to make 16 Elbow Hill which is currently split Zone of R40 and IRC 80/40 to become IRC 80/40, for February 28, 2013, at 7:30 p.m. Commissioner Varda seconded the motion, and it carried unanimously.**

Commissioner Frankel inquired if certified plot plan was needed for a zone change. The Commission members indicated it would likely be present in the file for review at, or prior to, the public hearing.

Acting Vice Chairman Lynch moved to go to Agenda Item 7.d. Commissioner Cordisco seconded the motion, and it carried unanimously.

d. 84-140 Federal Road (BJ's Wholesale) #201100126: Request for Bond Reduction

Commissioner Lynch recused himself from this matter.

M. Fitzpatrick, Samuels & Associates, Developer for BJ's Wholesale. He indicated that BJ's is currently leasing the land, and is constructing the gas station. He submitted a copy of the revised bond request reduction to \$55,000 which takes into consideration drainage piping and erosion and sedimentation control. Acting Chairman Miller suggested that an itemized list of the reduction request be submitted. Mr. Fitzpatrick then advised he would be asking BJ's to post the bond since it is leasing the land.

Commissioner Frankel moved to continue 84-140 Federal Road #201100126, Request for Bond Reduction to the next meeting. Commissioner Varda seconded the motion, and it carried unanimously.

3. Review Correspondence

- a. **Minutes of other Boards and Commissions: Inland Wetlands Commission; Zoning Board of Appeals 1/7/13; Planning Commission 1/3/13; Zoning Sub-Committee**
- b. **Letter from Jeff Farrell, Aquarion Water Company, to Ryan Blessey dated 12/5/12
Re: Will Serve Letter**

No discussion/no motions.

4. Public Hearing 7:30 p.m.

- a. **Proposed Regulation Change #201201067: Section 242-505 B-H – Town Center District: (B) Plan of Conservation and Development, (C) Common Areas, (D) Permitted Uses, (E) Land Use Standards, (F) Design Review, (G) Parking (H) Design Flexibility**

1. Response memo from HVCEO dated 1/3/13 – Referral No: 931.13

2. Response memo from Planning Commission dated 1/4/13 Re: Application #201201067

Acting Chairman Miller opened the Public Hearing and introduced the Commission members. Acting Vice Chairman C. Lynch read the legal notice that was published in the News Times on January 11 and 21, 2013. Acting Chairman Miller noted that the application was received on December 13, 2012. He then reviewed the policies and procedures that govern public hearings.

There were no questions from the audience regarding the procedures.

Acting Vice Chairman Lynch noted the following correspondence in the file, from: 1) HVCEO dated 1/3/13; 2) Town of Newtown dated 1/18/13, in favor; and 3) Planning Commission dated 1/4/13, with comments.

The application was presented by Community Development Director K. Daniel. She introduced C. Gould, Land Use, and M. Morehouse, Traffic Engineer, from Fitzgerald & Halliday. CDD Daniel utilized a PowerPoint presentation to review the purposes of proposed Town Center District regulation changes, section by section. The changes proposed relate to language changes (common service areas) and deletions (Planned Age Restricted Communities/Affordable Housing, which are already listed in the Table of Uses); square footage specifications; clarification of the dimensional requirements (height, setbacks); a detailed definition of the pre-application process; shared parking calculations and schedule; and a provision for flexibility regarding height restrictions.

M. Morehouse, Fitzgerald & Halliday, was present. He reviewed the details of the shared parking calculations, including the rationale, the area that is considered “the core” of the TCD, demand profiles (by hour and use), and shared parking examples.

CDD Daniel reviewed parking tables for mixed uses during various hours.

The following members of the audience had questions of clarification:

M. Propper, Great Heron Lane, was present. He inquired regarding the rationale for a 50’ height allowance. Commissioner Varda advised Mr. Propper that the regulation currently allows for 50’ and is now defined down to 32’, with an allowance of additional height for the offering more green space, plazas, additional parking and/or municipal parking offered by the developer.

C. Gould, Fitzgerald & Halliday, was present, and discussed the intent of regulations: to allow the Four Corners to develop in the fashion that was envisioned in the plan, noting the public benefit that could be derived from these additional allowances (of green space, plazas and municipal

parking). Mr. Morehouse added that the suggestion of two-story building came from the participants in the public charette.

H. Kurfehs, 42 Obtuse Rd. North, was present. He inquired what the process would be if parties were unable to attend the informal meeting. CDD Daniel indicated she would attempt to address that circumstance in that section. Mr. Kurfehs also inquired regarding how the height restriction would affect investments/applications that are in progress.

J. Grimes, 6 Horse Hill Rd., was present, and inquired if the Town has the right to review a lease to ensure that there are sufficient parking spaces. Acting Vice Chairman Lynch noted that he found it doubtful that a bank would support a lending investment without the assurance of parking. Mr. Grimes pointed out that he was inquiring more about a Town standard/requirement that allows a right of review, rather than a requirement of a financial institution. There was discussion regarding the use of easements by the Town to ensure parking for a lot after a development fails (the easement would run to the next owner).

N. Malwicz, Great Heron Lane, was present. He asked if parking spaces 1,200 feet away would apply toward a business, and was advised that that they would.

R. Saluga, 32 Great Heron Lane, was present. He inquired further regarding the height allowance, and was advised that the three-stories could be applied to any structure. Commissioner Cordisco reiterated that it is allowed in the current regulation, without the requirement of public green space. Commissioner Frankel suggested that there be design standards.

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

N. Malwicz, Great Heron Lane, spoke in opposition to the proposed regulation change. He objected to the lack of quantification regarding building height in Slide #7 of the presentation.

J. Salame, 148 Whisconier Rd., spoke in opposition to the application. She inquired if dormers on a third level could be utilized as apartment space with a 32' building height. She expressed concern about the "extra" story.

Commissioner Frankel inquired what type of application a developer would complete: a special permit or a site plan. CDD Daniel advised it would be a special permit and indicated this specification would be added to the language of the regulation. Commissioner Frankel also suggested that a sidewalk be included with a zero setback. Ms. Gould and CDD Daniel advised that there are already regulations that require a sidewalk. Commissioner Frankel also recommended that a third story be allowed to afford for mixed use. Additionally, she also suggested that a complete set of plans be provided to any member of a pre-application review committee one week before a meeting.

Acting Vice Chairman Lynch moved to continue the Public Hearing for Proposed Regulation Change #201201067 to the next regularly scheduled meeting. Commissioner Varda seconded the motion, and it carried unanimously.

b. Proposed Zone Change #201201074: Proposed change in Zone map to make lots 11, 13 & 15 Orchard Street which is currently in the IRC 80/40 Zone to become R40 (ph close date 1/28/13)

1. Response memo from HVCEO dated 1/3/13 – Referral No: 929.13
2. Response memo from Planning Commission dated 1/4/13 Re: Application #201201074

Acting Chairman Miller opened the public hearing and introduced the Commission members. Acting Vice Chairman Lynch read the legal notice which was published in the News Times on January 11 and 21, 2013. Acting Chairman Miller noted that the application was received on December 13, 2012. He then reviewed the policies and procedures that govern public hearings.

Acting Vice Chairman Lynch noted the following correspondence in the file, from: 1) the Town of Newtown dated 1/18/13, in favor; and 2) a letter from HVCEO dated 1/3/13.

Mr. Matthew Joseph Grimes was present and presented the application. He reviewed the zoning history of the area. Mr. Grimes advised that he owns a lot that is currently zoned commercial/industrial, and is difficult to build as such because of its size. The zone change that Mr. Grimes is proposing includes an additional two lots that he does not own.

CDD Daniel inquired if the applicant has provided certified receipt cards for abutting property owners. Acting Chairman Miller advised that they are in the file.

Commissioner Frankel inquired if residences are permitted in any zone, and was advised that they are not, as of right.

There were no questions of clarification.

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

Commissioner Frankel noted that the change to residential property would require variances and Mr. Grimes advised he was aware that he would need variances to build on the property. A letter from Town Counsel dated January 23, 2013 was read addressing the application for a zone change, as CCD Daniel advised that all zone changes are referred for Counsel's opinion.

Acting Vice Chairman Lynch moved to close the Public Hearing for Proposed Zone Change, #201201074. Commissioner Varda seconded the motion, and it carried unanimously.

After careful review, Acting Vice Chairman Lynch moved to approve #201201074, as proposed, effective the day of publication. Commissioner Cordisco seconded the motion. Commissioner Frankel noted that the change will make the lots more in keeping with the land surrounding them. **Motion carried unanimously.**

5. Continued Public Hearing:

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

Acting Chairman L. Miller reviewed the application. Acting Vice Chairman Lynch advised that he and Commissioner Cordisco met with CDD Daniel and ZEO Dew to discuss the comments submitted at the last public hearing (written and verbal). He noted the proposed amendments, and stated that he feels that a lower percentage than 70% residential use on ground floor would be more favorable. Commissioner Cordisco indicated he felt the 70% is appropriate.

CDD Daniel reviewed the central core (purple) zones on the map, and advised that the perimeter subzone has been changed. It was also noted that the abutting property owners have been properly notified. CDD Daniel advised that the map is part of application. Additionally, she indicated that the 40 & 64 Laurel Hill Road application was approved as mixed use incentive housing development.

Acting Chairman Miller verified that a commercial use on floors other than the first floor would be allowed.

There was additional discussion regarding the percentages for residential and nonresidential uses. ZEO Dew provided the color coding on the original map for clarification. There was discussion regarding whether previously approved developments should be included. CDD Daniel explained the rationale behind incentive housing regulations and the opportunity for State funding.

Acting Vice Chairman Lynch inquired how much funding was possible, and CDD Daniel advised that the adoption of the zone would provide the Town with \$50,000. The Commission further inquired what the loss in grants would be should the development at 40 & 64 Laurel Hill Road not be included, and it was estimated to be approximately \$8,000.

CDD Daniel advised that the removal of these lots from any new incentive housing zone would be “preferable” than changing the required 70 percent. Acting Vice Chairman Lynch disagreed. CDD Daniel offered to prepare a revised map.

Acting Chairman Miller pointed out that the proposed regulation change does not explicitly state that nothing is precluded from commercial development on the upper floors in the proposed zone. He recommended that this language be added.

Commissioner Frankel suggested that Fitzgerald & Halliday review the language of the proposed regulation. She also recommended that in Section 242-404K(7)(b), Central Core Zone, “Federal Road, Station Road, Whisconier Road and Laurel Hill Road” be changed to “Federal, Station, Whisconier and Laurel Hill Roads”.

Acting Chairman Miller inquired if “ground floor square footage” equated with “footprint” and suggested that the language be consistent throughout. CDD Daniel agreed to add the language indicating that commercial development is not precluded from upper floors.

The following members of the audience had questions of clarification:

J. Salame, 148 Whisconier Rd., was present. She indicated that there is a difference in footprint and usable square footage. CDD Daniel advised that the intent of the language was to mean usable square footage.

R. Saluga, 32 Great Heron Lane, was present. He inquired regarding the map coding for 857-857A Federal Road on the previous map, and CDD Daniel advised that it is “incentive housing, in progress”. She further indicated that the subsequent map shows this site as a “core zone property”. CDD Daniel advised that the current application for that site is obligated to follow the current regulation.

H. Kurfehs, 42 Obtuse Rd. North, was present. He thanked the Commission for taking his comments at the last meeting into account with this recent draft. He suggested that other uses, such as services, entertainment and civic uses be included in the central core zone. He also agreed with Acting Vice Chairman Lynch regarding increasing the percentage requirement for residential uses. Mr. Kurfehs also questioned if Station, Whisconier and Laurel Hill Roads should be included in the list for the central core zone. CDD Daniel indicated that they were included to promote a multi-dimensional, rather than a linear, downtown. Mr. Kurfehs further stated that some investors frown upon retail developments on first floors because it is not attractive to potential residents for second

floor uses. He suggested that residential uses be put behind a retail establishment. Lastly, Mr. Kurfehs recommended there be some flexibility with the percentage requirement for developers willing to provide desirable projects to the Town (i.e., a library or arts center).

V. Spiro, Newbury Village, was present. She inquired why commercial development on first floors in this district are being encouraged while there is an abundance of available commercial space already in the Town. CDD Daniel replied that residents expressed a desire for a traditional downtown atmosphere during the Four Corners charette.

R. Grossman, Stillwater Circle, was present. She inquired if the road is wide enough to handle the traffic. Acting Vice Chairman Lynch advised that the impacts of individual applications on traffic are considered when those applications are reviewed by the Commission.

W. George, 4 Meadowbrook Rd., was present. He inquired if architectural design standards are being proposed, and Acting Chairman Miller indicated they would also be considered via specific applications. CDD Daniel added that there are design and technical standards in the incentive housing regulations, but they are not very specific, and it is not part of what is being proposed with this application.

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

V. Spiro, 322 Still Water Circle, was present, Newbury Village, was present, and advised that she is opposed to making the area commercial and residential. She indicated she would prefer to see this entire area residential.

Acting Vice Chairman Lynch reiterated that he feels the requirement of 70% residential is too restrictive; he feels 80% would be more appropriate. He inquired if there was anything in the zoning regulations regarding the flexibility that Mr. Kurfehs discussed. CDD Daniel read Section 16 of the Incentive Housing regulations that outlines some discretionary authority granted to the Commission.

Acting Vice Chairman Lynch moved to continue the Public Hearing to the next regular meeting. He noted that there are other members of the Commission that are absent this evening and may want to comment on the application. The Commission is expecting revisions at the next hearing. **Commissioner Varda seconded the motion, and it carried unanimously.**

A recess was taken from 9:17 p.m. to 9:22 p.m.

b. 857-857A Federal Road (Riverview Luxury Apartments) #201200888777: Design Review for three 9,200 sq. ft. Incentive Housing Apartment Development (ph close date 1/24/13 – [43 extension days used])

Acting Chairman Miller noted the continuation of this public hearing. Acting Vice Chairman Lynch noted and read the following correspondence: 1) letter received January 22, 2013, in the Land Use Office, from N. and M. Malwitz, to the Zoning Commission; 2) an email from Laura Mancuso, Municipal Historian, dated January 24, 2013, to A. Dew, R. Blessey, M. Grimes and K. Daniel.

Acting Chairman Miller read and accepted a petition signed by approximately 50-60 residents in opposition to the application.

Attorney P. Scalzo, 2 Stony Hill Rd., Bethel, CT, was present. He advised that the project is in the incentive housing overlay zone. Attorney Scalzo stated that changes have been made to the engineering and architecture aspects of the plan. He noted that the plan is in conformance with the zoning regulations. There was discussion regarding requesting an extension to keep the public hearing because of the three Commissioners' absences. Acting Chairman Miller advised that if the hearing is closed, the Commissioners will be unable to ask further questions. Attorney Scalzo acknowledged that all of the technical data has not been submitted, but he hopes to get it in to the Land Use Office prior to the next meeting on February 14, 2013.

Commissioner Varda pointed out that tonight's plan is the eighth different proposal. Attorney Scalzo countered that it is actually the applicant's sixth plan, but it is the final plan.

M. Lillis, Engineer, CCA, 40 Old New Milford Rd., was present. He indicated that the modification includes changes to the clubhouse building, moving the entrance to the north, relocating Buildings 1 and 2 to the south, relocating the pool area, and a reconfiguration of the parking. He added that parking will now consist of 144 spaces. Mr. Lillis referenced the Staff report of 11/8/12, indicating that the initial application conformed to the regulations. He then reviewed a chart that outlines the basic dimensional requirements for incentive housing in the TCD zone and noting how the application meets the regulations. He shared a smaller copy of the chart with each Commissioner.

Upon inquiry from Commissioner Frankel, Mr. Lillis advised that the pool will be surrounded by a stockade fence.

Acting Chairman Miller inquired if the issues raised by the Water Source Committee had been resolved. Mr. Lillis advised that the applicant will be moving one of the buildings to the north, which meets the regulations. The Land Use Office will send a copy of the plans submitted this evening to the Water Source Committee.

M. Newell-Juan, Architect, 72 Architects, Danbury, CT, was present. She reviewed copies of a revised plan that she stated considers the public comments and those of Town officials and the Town architect. Ms. Newell-Juan noted that the building at the rear of the site is four-stories but appears to be the same height as the others due to the sloping. She indicated that the buildings are now smaller and contain 18 or 13 apartments. She reviewed the building materials, specifications and elevations. Ms. Newell-Juan advised that the HVAC unit will not be visible. The specifications of Buildings #3 and 4 (which houses the clubhouse, fitness center, lounge) were reviewed. Ms. Newell-Juan utilized a drawing by L. Overland, Town Architect, to compare it to the plan and demonstrate how his suggestions were incorporated into the most recent plan. She submitted a written handout from Seventy2 Architects dated January 24, 2013, which includes copies of Mr. Overland's letter and the applicant's solution. She demonstrated samples of the building materials, and will submit copies to the Land Use Office.

Commissioner Varda requested a review of the heights of the buildings. Ms. Newell-Juan advised that the front buildings are 40 feet and 5 inches, to the midpoint of the highest roof plane. The rear building is 47 feet and 9 inches. She reviewed a photograph of what the site looks like from Federal Road.

Attorney Scalzo submitted his letter dated January 24, 2013, addressed to Chairman Blessey and CDD Daniel, requesting an extension of the public hearing until February 14, 2013.

The Commission welcomed questions of clarification from the audience, but advised it that comments already expressed by another member of the audience would not be considered. The following members of the audience had questions of clarification:

M. Propper, Great Heron Lane, was present. He inquired how far back from Federal Road the buildings are, and was advised by Mr. Lillis that they are 25.5 feet from the right-of-way of Federal Road.

B. Fingerhut, 27 Great Heron Lane, was present. He inquired if there are any other four-story buildings in Brookfield, and was advised that the question was not relevant to the application.

J. Griffin, 18 Still Water Circle, was present. She inquired if the applicant planned to do underground wiring, and Mr. Lillis responded that all utilities within the project will be underground, but nothing that exists on Federal Road will be changed. She also inquired if the units would be apartments or condominiums, and was advised that they are apartments. Ms. Griffin further inquired if there would be satellite dishes on the units, and was advised by the applicant that all cable television wires will be underground. She also asked what makes the apartments, “luxury apartments” and was advised by Acting Chairman L. Miller that it was likely just the name. She expressed her concern regarding teenagers living there and what was planned for activities for them. Attorney Scalzo pointed out that half of the proposed units are single-bedroom, and the others are two-bedroom units. He added that there is another project in between the applicant’s site and Newbury Village.

J. DeMott, 11 Great Heron Lane, was present. She inquired where residents with two cars would park their second car given that 1.6 spots are calculated for the project, and if a traffic study was done. She was advised by Attorney Scalzo that a traffic study is in the file, and that banked parking spaces have been put on the plan but will not be used unless needed. Ms. DeMott questioned the demand for these units given all of the nearby developments. Attorney Scalzo referenced the testimony of R. Saunders, Principal, at the December 13, 2012 public hearing regarding the applicant’s economic feasibility study.

M. Steele, 33 Great Heron Lane, was present. He also requested clarification on the parking calculations. Attorney Scalzo advised that the regulations mandate two parking spaces per unit, but because it is the goal of the area to reduce pavement, it allowed the developer to put in less than two per unit.

R. Saluga, 32 Great Heron Lane, was present. He indicated he did not understand the rationale for the change in the number of units and parking. Attorney Scalzo advised that there are more single-bedroom units now, and less parking is needed, so an area in the center was created. This area was pointed out by Mr. Lillis.

B. Brown, 253 Whisconier Rd. was present. He inquired if there was a concern expressed by the Water Source Committee regarding access to the back of the building, and the Commission members indicated that the plan complied with the fire code, and did not recall that being an issue.

C. Steele, 33 Great Heron Lane, was present. She inquired why the applicant was not required to install a sidewalk. Mr. Lillis advised that there is a sidewalk continuous along the frontage.

N. Malwicz, Great Heron Lane, was present. He inquired if this was a new application, and Attorney Scalzo advised that this is the final application, and technical data would be submitted before the next meeting.

V. Spiro, Still Water Circle, was present. She inquired if it would be necessary to build more schools if children move into this development. Acting Vice Chairman Lynch responded that the Zoning Commission reviews applications through the zoning regulations only. Commissioner Frankel added that the proposed use is a permitted use in the zone. Acting Chairman Miller advised that an application cannot be approved or rejected on whether or not children are going to move into the development.

V. Malara, 26 Still Water Circle, was present. She inquired how wide the sidewalk would be, and Mr. Lillis advised it would be five feet wide.

J. Salame, 148 Whisconier Rd., was present. She inquired if there was any reconsideration of the historic building. Attorney Scalzo advised that it was considered, but the structure is not registered within the State as a historical structure.

B. Prattella, 48 Great Heron Lane, was present. He reiterated the question of Ms. Spiro, above, regarding the addition of school children to the district, and Acting Chairman Miller advised he would not address the question again.

E. Tortora, Great Heron Lane, was present. She inquired if the Commission had considered how close to the road this development and the abutting developments are, and was advised by Acting Chairman Miller that only the application before the Commission is being considered.

W. George, Great Heron Lane, was present. He inquired if the applicant considered putting the gable forward. Ms. Newell-Juan advised that the recent design was proposed with consideration for the Town's architectural consultant's comments. She indicated that the design was done to make the buildings not look as tall.

R. Saluga, Great Heron Lane, was present. He stated that he understands the property was purchased conditionally last April; and that the developers participated in charette but did not reveal this information. The Commission determined this not to be relevant to the application.

No one was present to speak in favor of the application. The following individuals spoke in opposition:

M. Propper, Great Heron Lane, was present. He indicated he was opposed to: 1) the appearance of a row of apartments; 2) the proximity of 25 feet to the road. He also noted another four-story development in Brookfield, that of Town Brooke Commons,

N. Malwicz, Great Heron Lane, was present. He acknowledged that some of the architectural deficiencies were addressed. He suggested that a sidewalk be installed all the way to the Town Center District; stating that the arrangement does not present a safe "walk score", nor does it promote community.

B. Brown, 253 Whisconier Rd., was present. He advised that he concurred with Ms. Mancuso's memo referenced above in the reading of correspondence, and opined that based on age alone, the building is historic, and that it could be incorporated into the development.

J. DeMott, 11 Great Heron Lane, was present. She advised she was doubtful that there was a demand for the units.

J. Salame, 148 Whisconier Rd., was present. She disagreed with the applicant’s position on the structure on the site, and indicated she agreed with S. Verow’s opinion, noting the ties of the structure with the history of the Brookfield area.

J. Griffin, 18 Still Water Circle, was present. She indicated that the development is not appropriate for the Town; and that it would not be supported by a sufficient demand.

R. Saluga, 32 Great Heron Lane, was opposed. He discussed the developer’s involvement in the Town Center District meetings without disclosing its intentions.

The following Commissioners had these comments:

Commissioner Varda discussed the applicant’s economic feasibility study, and acknowledged that while the Danbury region is doing well compared to the remainder of the State, he noted multiple factual errors in the study. He pointed out the Commission’s premise per Article I of the regulations, “to protect and conserve the character of the environment . . . the social and economic stability of all parts of the Town”. Commissioner Varda added that multiple projects for similar types of units have been approved within a short distance from this site, and he has a concern regarding reaching “a saturation point”. He requested that the applicant have Mr. Saunders review this.

Acting Vice Chairman Lynch explained that in reviewing the application, the Commission’s decision will be made based solely upon the zoning regulations. He pointed out that if the project fails, both the owners and the Town will lose.

Acting Vice Chairman Lynch moved to continue the Public Hearing for 857-857A Federal Road, #201200887 to the next meeting. Commissioner Cordisco seconded the motion, and it carried unanimously.

7. New Business (continued)

d. 39 Federal Road, #201300035: Certificate of Zoning Compliance for a convenience store business (Robeke)

1. “Property Survey” prepared by Charles Farnsworth dated 10/20/08 – *on cart S. Howard, CCA, 40 Old New Milford Rd., was present on behalf of D. Retten, Property Owner, and applicant. K. Bickford, Robeks, was also present.* Ms. Howard indicated that the applicant would like to put a 1,000 square foot convenience store at this site. Smoothies and juices will be served. There is no seating in the building, nor will there be a drive-thru. Acting Chairman Miller pointed out that the issue before the Commission is if the use is that of a restaurant or a convenience store. There are 21 parking spaces at the site, and gravel parking in the rear of the building for employees. The application was reviewed. Ms. Howard noted that there is a “lean bar” at the site, but again, no seating. The parking requirements were reviewed.

After careful consideration, Acting Vice Chairman Lynch moved to approve #201300035, with the stipulation that it has three assigned parking spaces and no seating. Commissioner Cordisco seconded the motion, and it carried unanimously.

1. Convene Meeting (continued)

a. Review Minutes of Previous Meetings: 1/10/13 – Commissioner Cordisco moved to approve the Minutes of the 1/10/13 Meeting as submitted. Commissioner Varda seconded the motion, and it carried unanimously.

2. Land Use Enforcement

a. Enforcement Officer’s Report:

Requests for Voluntary Compliance

227 Candlewood Lake Road, #2012001108 – ZEO Dew reported that the original violation relates to boats being stored in a place outside of the approved area. She is attempting to get the property owner to come in with a site plan to denote where boat storage is on this site.

76 Riverford Road, #201300018 – This complaint relates to an accessory apartment. The property owner plans on filling out an application; if he does not, a Cease and Desist will be issued.

44 Whisconier Road, #201300034 – ZEO Dew advised that this relates to a pool enclosure that needs a building permit and a Certificate of Zoning Compliance. A Request for Voluntary Compliance has been sent.

125 Commerce Drive, #20130005 – A Certificate of Zoning Compliance is needed for the addition. A final site plan modification has not yet been submitted. Some of the parking on the site is being utilized for storage, and there is a dumpster on the site. If the property owner does not come in to complete the requisite paperwork, ZEO Dew will issue a Cease and Desist.

Cease and Desist Orders

14 Valley View Road, #201200777 – This matter will be addressed in the Spring.

51 Junction Road, #201200941 – There are no additional violations at this site.

594 Federal Road, #201200948 – ZEO Dew reported that it is too cold to hang the sign.

782 Federal Road, #201300041 – The Dunkin Donuts has installed seating. A Cease and Desist has been sent.

Citation

12 Pocono Ridge Road, #201200893 – This matter will be heard before the Zoning Board of Appeals in March.

Town Counsel Action

533 Federal Road, #2012000122 – ZEO Dew continues to work with the property owner; if it is not resolved, there is a pending court date.

1 High Ridge Road, #201000315 – ZEO Dew is waiting to hear from Special Counsel P. Olson regarding this matter.

9 Stoney Farm Lane, #201100095 – See report.

54 Ironworks Road, #201100755 - It has been too cold for the clean-up to continue at this time.

177 Federal Road, #201200822 – The awning has been cleaned up, and the diesel sign has been removed. She recommended that this item be removed from the report.

Miscellaneous

783 Federal Rd. – Commissioner Varda inquired regarding the status. ZEO Dew reported that the bank that owns the building is finishing the site plan work to make it more attractive

Town Counsel Action (continued)

177 Federal Road, #201200822 – Acting Chairman Miller moved to remove 177 Federal Road, #201200822, from the Enforcement Officer’s Report. Commissioner Cordisco seconded the motion, and it carried unanimously.

8. **Tabled Items:** None.

9. **Informal Discussion:** None.
a.

10. **Comments of Commissioners:** None.

11. **Adjourn:**

Acting Vice Chairman Lynch moved to adjourn the meeting at 11:00 p.m. Commissioner Cordisco seconded the motion, and it carried unanimously.

****Next Regular Meeting Scheduled for February 14, 2013****