

**APPROVED MINUTES  
BROOKFIELD ZONING COMMISSION  
Thursday, February 14, 2013 – 7:00 p.m.  
MEETING ROOM #133 – TOWN HALL, 100 POCONO ROAD**

---

**1. Convene Meeting**

Chairman Blessey convened the meeting at 7:00 p.m.

**Present:** Chairman R. Blessey (left the meeting at 9:18 p.m.), Vice Chairman M. Grimes, Secretary F. Lollie, C. Lynch, Alternate and Voting Member J. Varda, Alternate and Voting Member where indicated, M. Frankel

**Absent:** L. Miller, Alternate J. Cordisco

**Also Present:** Community Development Director K. Daniel, Recording Secretary D. Cioffi

*Commissioner Varda was appointed as a Voting Alternate.*

**a. Review Minutes of Previous Meetings: 1/24/13** – *Chairman Blessey advised that he listened to the recording of the meeting of January 24, 2013. Commissioner Lynch moved to approve the Minutes of the January 24, 2013 meeting. Chairman Blessey seconded the motion. Motion carried unanimously.*

**2. Land Use Enforcement**

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

*ZEO Dew is not in attendance this evening. Chairman Blessey met with her this past week, and there are no action items until March. The following items were discussed.*

**Requests for Voluntary Compliance**

**44 Whisconier Road, #201300034** – Vice Chairman Grimes moved to issue a Cease and Desist to 44 Whisconier Road, #201300034, in the event there was no communication with the Land Use Office by February 8, 2013. Secretary Lollie seconded the motion, and it carried unanimously.

**Cease and Desist Orders**

**51 Junction Road, #201200941** – This item can be removed from the Enforcement Report.

**Town Counsel Action**

**34 Stony Hill Road, #201200874** – This matter will be before the Zoning Board of Appeals in March, 2013.

**Vice Chairman Grimes moved to go to Agenda Item 5.a. Secretary Lollie seconded the motion, and it carried unanimously.**

**5. Old Business:**

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

Chairman Blessey reviewed that the applicant would like to reduce the bond from \$615,000 to \$10,000 for the site work, to close out the site work portion of the project. To continue with the work on the gas station, the applicant is submitting an estimate of \$55,000 for that work.

**Vice Chairman Grimes moved to recommend to the Board of Selectmen, Application #201100126, a Request for Bond Reduction at 84-140b Federal Road, BJ's Wholesale. Secretary Lollie**

**seconded the motion.** Commissioner Varda inquired if the Commission was lowering the bond to \$10,000, and putting the bond back to \$55,000. Commissioner Frankel and Chairman Blessey advised that they are two separate bonds under the same application. Commissioner Frankel suggested that the motion be amended that the bond reduction and request for new bond are simultaneous.

*Commissioner Lynch advised he would be abstaining from this discussion and vote.*

**Vice Chairman Grimes accepted the amendment that bond reduction request runs in congruence with the second bond.** Commissioner Frankel added that the one bond will be reduced to \$10,000, but the second bond will be done simultaneously before the first bond will be reduced. **This is the recommendation to the Board of Selectmen. Secretary Lollie seconded the amendment, and it carried, 4-0-1, with Commissioner Lynch abstaining.**

**Vice Chairman Grimes moved to go to Agenda Item 5.c. Secretary Lollie seconded the motion, and it carried unanimously.**

- c. **Proposed Regulation 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 (Public Hearing Scheduled for 2/28/13)**

It was noted that no action is required on this item at this time.

**Commissioner Lynch moved to go to Agenda Item 6. Vice Chairman Grimes seconded the motion, and it carried unanimously.**

**6. New Business:**

a. **843-847 Federal Road #201300096:** Certificate of Zoning Compliance for a “New Age” business `psychic. *T. Zinnick, Permit-me-Please, was present on behalf of the applicant.* She explained that her client is a psychic/Taro card reader that wishes to occupy this site with his business. There was discussion regarding what type of use this business would fall under: professional/non-medical, or personal services. The use table for the Town Center District was reviewed. There was discussion regarding parking requirements.

**Vice Chairman Grimes moved to approve the Certificate of Zoning Compliance for use for 843-847 Federal Road, #201300096. Secretary Lollie seconded the motion, and it carried unanimously.**

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

- 1. E-mail from Marc Rogg to Zoning Commission dated 1/25/13 Re: Request to table application until the 2/28/13 meeting

*Vice Chairman Grimes recused himself on this matter.*

Chairman Blessey advised that Mr. Rogg will not be coming tonight. If he does not appear at the February 28, 2013 meeting, Chairman Blessey will recommend that this matter be referred to Town Counsel. **No motions.**

**3. Review Correspondence**

- a. **Minutes of other Boards and Commissions: Inland Wetlands Commission 1/14/13; Zoning Board of Appeals 2/4/13; Planning Commission 1/17/13; Zoning Sub-Committee**
- b. Letter from Jeff Farrell, Aquarion Water Company to Ryan Blessey dated 12/5/12  
**Re: Will Serve Letter**
- c. Letter from State Traffic Administration dated 1/23/13 Re: City of Danbury/Town of Ridgefield Stew Leonard’s Expansion Certificate Application
- d. Connecticut Federation of Planning and Zoning Agencies Quarterly Newsletter: Winter 2013
- e. Ct. Federation of Planning & Zoning Agency: CFPZA Annual Conference – March 14, 2013

The above items of Correspondence were noted.

*A recess was taken from 7:15 p.m. to 7:30 p.m.*

**4. Continued Public Hearing 7:30 PM:**

- c. **857-857A Federal Road (Riverview Luxury Apartments) #201200887: Design Review for three 9,200 sq. ft. Incentive Housing Apartment Development (ph close date 2/14/13) – [64 extension days used]**
  - Revised Plans handed into Land Use 2/5/13
  1. Letter from Michael Lillis, P.E. to Zoning Commission dated 2/5/13 Re: Riverview Luxury Apartments, 857-857A Federal Rd, Site Plan for Design Review Approval – Application #201200887
  - 1a. Incentive Housing Restriction Document prepared for Core Plus Properties LLC handed into Land Use Office 2/6/13
  - 1b. Letter from Water Source Review Committee to Zoning Commission dated 2/6/13 Re: Riverview Luxury Apartments, 857 Federal Rd #201200887
  2. Map Cover Sheet titled “Green Acres Luxury Apartments Proposed Incentive Housing Development” prepared by CCA, LLC dated 9/19/12 revised thru 1/31/13
    - “General Legend, Notes And Abbreviations” dated 9/19/12 revised thru 1/31/13 – sheet N1
    - “Boundary & Topographic Survey” dated 6/14/12 – sheet 1 of 1
    - “Site Layout Plan” dated 1/18/13 revised 1/31/13 – sheet C1
    - “Grading And Drainage Plan” dated 9/19/12 revised thru 1/31/13 – sheet C2
    - “Utilities Plan” dated 9/19/12 revised thru 1/31/13 – sheet C3
    - “Landscaping Plan” dated 9/19/12 revised thru 1/31/13 – sheet C4
    - “Erosion And Sediment Control Plan” dated 9/19/12 revised thru 1/31/13 – sheet C5
    - “Notes And Details” dated 9/19/12 – sheet C6 – sheet C8
    - “Sedimentation And Erosion Control Plan” dated 12/7/05 – sheet E1
  3. Lighting Plan – “Site Revised” by Reflex lighting dated 1/31/13 – page 1 of 1
  4. Schematic Design prepared by Seventy2 Architects dated 1/24/13
    - Buildings 1 & 2 (similar – rear of site)
    - Building 3 (North Building at Federal Road)
    - Building 4 (South Building at Federal Road)
  5. “Site Section” Schematic Design prepared by Seventy2 Arch. Dated 1/24/13

- “Federal Road Streetscape” dated 1/24/13
- “Building 3” dated 1/24/13
- “Architectural Review Checklist” dated 1/24/13

Chairman Blessey opened the Public Hearing and introduced the Commission members. Secretary Lollie read the legal notice that was published in the News Times on October 26, 2012 and November 5, 2012. Chairman Blessey noted that the application was received on October 11, 2012. He then reviewed the policies and procedures that govern public hearings.

Chairman Blessey requested that comments from the public that are similar in nature not be repeated.

Secretary Lollie read the following correspondence: 1) from the Brookfield Volunteer Fire Company, dated February 6, 2013, to Zoning and Planning Commissions, with comments; 2) letter dated February 12, 2013, to the Zoning Commission, from S. Michael Steele, Great Heron Lane, in opposition to the application; 3) letter dated February 14, 2013, to the Zoning Commission, from W. George, 4 Meadowbrook Road, also in opposition to the application; 4) a letter dated February 14, 2013, to the Zoning Commission, from M. Propper, 51 Great Heron Lane, in opposition to the proposal. Mr. Propper submitted a hard copy of his letter for the file.

*M. Lillis, PE, CCA, 40 Old New Milford Rd., was present.* He noted that the application was amended in light of the comments at the last hearing date, to follow Option #6. He referenced revised architectural drawings, with modified dimensions of driveways, streets, and setbacks, between buildings. Mr. Lillis reviewed access ways and the pool area, indicating that there will be a total of 95 units (47 1-bedroom, and 48 2-bedroom units), with a 1.57 parking spaces per unit. He added that the Four Corners report calls for 1.4 spaces per unit, as does the Institute of Traffic Engineers Parking Manual.

Mr. Lillis also reviewed the grading and drainage plans. He noted that the storm water detention system is the same. He discussed the water and sewer service plans, pointing out that the two hydrants requested by the Water Source Committee are on the plan. The landscaping will include approximately 55 specimen and understory trees, and the erosion control will consist mainly of sediment fencing.

With regard to the Fire Chief’s memo of January 9, 2013, Mr. Lillis advised that a 30-foot perimeter strip has been provided everywhere except in front of building, the main entrance island has been removed, the secondary access conforms to Section 242-404(8)(h), an aisle has been widened to 26-feet, and the connections on the building are noted on the plans. Mr. Lillis further indicated that Alternatives 2, 3 and 5 are not being pursued.

With regard to the Fire Chief’s letter of February 6, 2013, Mr. Lillis submitted letter dated February 14, 2013. He also noted that another incentive housing development that was approved contained buildings that were closer to the road, had similar features that the Chief objected to, and the access driveway is not a secondary access that the applicant would be willing to widen to 18 feet. He reiterated the applicant’s willingness to put the connection details on the building plans.

Mr. Lillis then reviewed a chart noting compliance with the Incentive Housing regulations, pointing out that the only change is that the separation between buildings which now exceeds the 20 feet required by Section 242-404K(d).

With regard to the demand for housing discussed in the Four Corners study (noted to be 256 units), Mr. Lillis stated that his client's research has indicated that there are only 72 rental units approved in the District.

Mr. Lillis then reviewed the site plan showing the aforementioned proposed landscaping.

Mr. Lillis indicated that he received a memo from CDD Daniel regarding noncompliance with various sections of the regulations, but he advised he believes the plan is in conformance with the incentive housing regulations.

*M. Newell-Juan, 72 Architects, Danbury, was present.* She noted the comments from the public and the Town's architectural consultant, and reviewed the changes made to the plans in light of those comments, including smaller buildings, fewer apartments and changes to the roofs and windows. She compared the changes from the original plans in October to those being presented tonight. Ms. Juan also submitted a handout that details the applicant's response to the Town's architectural recommendations. She shared specifications for the hidden condensing units, and samples of the colors and materials for the building.

*There were no questions of clarification from the audience.*

Commissioner Varda discussed the number of units "within 10-minute drive" and "within district", noting more units to the south. Mr. Lillis advised that according to the Four Corners study, there is a demand for in excess 2,500 units within a 10-minute drive from the District, and that the Four Corners demand figure captures ten percent of those. There were no additional questions of clarification from the Commissioners.

*No one was present to speak in favor of the application. M. Propper, 51 Great Heron Lane, was present, and spoke in opposition to the application.* He referenced the letter he submitted this evening, and advised he was not aware that there is different setback for incentive housing. He added that the Laurel Hill development that was approved cannot be compared with a pending project on Federal Road. Mr. Propper also noted the need to include the Town Brooke Commons development when considering the number of rentals already available in Town.

*B. Brown, 253 Whisconier Rd., was present, and spoke on behalf of the Historical Society, in opposition to the development.* He expressed his concern that the historic building was not given consideration, and believes that the designation of "historic" to the building is "imminent". He also noted the misspelling of "Greene" on the plans.

*J. Salame, 148 Whisconier Rd., was present, and spoke in opposition.* She noted that the architect that reviewed the historic building advised that the "negatives" were related to the context of the building, and that additional research has concluded that the building is "historically significant" and discussed the details of its past history.

*R. Saluga, 32 Great Heron Rd., was present, and spoke in opposition,* noting the significance of Federal Road and the effect the development would have on traffic on the road. He stated that Newbury Village and Oak Meadow developments should be considered in the available units in Town. Chairman Blessey clarified that they were included in the study.

*L. DeLambert, 8 Obtuse Rd. North, was present, and spoke in opposition, citing the proximity to the river and making it more accessible and able to connect to the Greenway, in addition to the concern regarding pollution.*

Mr. Lillis pointed out his letter of December 10, 2012, regarding the historic structure, noting that after checking on several dates, the Historical Society’s website does not mention the property. He also noted that the project does have Inland Wetlands Commission approval, and that body has authority over protection of the river. He further cited that any parties interested in using the river have no interference, as the back of the buildings face the access to the river. Mr. Lillis indicated that there is sufficient room to allow for the trail for the Greenway.

**Chairman Grimes moved to close the Public Hearing re: 857-857A Federal Road (Riverview Luxury Apartments) #201200887: Design Review for three 9,200 sq. ft. Incentive Housing Apartment Development. Commissioner Lynch seconded the motion.** Chairman Blessey made a point of order to clarify to the Commission and the audience, that this application is being filed under the Incentive Housing District, which has its own set of regulations. This is the reason that there are “numbers” (measurements) that vary from the underlying zone. Chairman Blessey noted that the applicant did a satisfactory job presenting the application under the Incentive Housing regulations, but wanted to reiterate this fact for those present. **Motion carried unanimously.**

After some discussion and a review of the statutes, Chairman Blessey advised that he would clarify for the applicant, with Town Counsel, that the decision deadline is sixty-five (65) days from the close of the Public Hearing.

*A short recess from 8:26 p.m to 8:31 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 and (H) Design Flexibility**

Chairman Blessey advised that the same introduction would be utilized for this Public Hearing, and there were no objections.

CDD Daniel reviewed her presentation of December 13, 2012, noting that the proposed change will: clarify existing language (to add “service areas”; remove “Planned Age-Restricted Communities” and “Affordable Housing” which are already permitted); clarify the form of new structures in the District (to change the language to specifically reference footprints of 10,000 square feet, with allowances for various square footage and uses; to change front yard setback language, height definitions and dimensional requirement), and define the pre-application process (the formation of Design Review Advisory Committee and its components). She also discussed the parking schedule for shared parking, with an extension of the distance for off-site parking to up to 1200 feet; and a proposal to allow for flexibility in height restrictions for buildings in the District.

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

*H. Kurfehs, 42 Obtuse Rd. North, was present.* He expressed his concern regarding the height restriction of two stories, noting his preference for at least three stories. Chairman Blessey inquired of Mr. Kurfehs if there as quantifiable data that verifies that two stories are not economically viable. Mr. Kurfehs

referenced his 26 years of working with developers. Mr. Kurfehs also noted the difficulty of assembling the entire proposed Design Review Advisory Committee at one time, and suggested that a follow-up meeting be incorporated. Mr. Kurfehs inquired if the 10,000 square foot footprint applies only to commercial buildings, and was advised by the Commission that it applies to any structure. Additionally, he opined that the “freebies” (amenities that developers may provide related to flexibility in height restrictions) will result in the loss of interest by developers.

*R. Saluga, 32 Great Heron Lane, was present.* He questioned if the proposed language was final or a draft, and Chairman Blessey advised that there is a current regulation (in black) and a proposed change (in red). He indicated that the Commission would make a final draft during the public hearing to allow for comment, prior to closing the public hearing, deliberating and voting.

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

*J. Salame, 148 Whisconier Rd., was present,* and advised she was “fine” with the application, but offered comments regarding building height, with comparisons to neighboring municipalities.

*R. Saluga, 32 Great Heron Lane, was present.* He reiterated his concern about the language of the proposed languages, and Chairman Blessey repeated his explanation of the process.

Commissioner Frankel had the following comments:

- 1) The table should reflect any regulation change. She added that the chart should point out that mixed use is permitted in the zone, even though it is spelled out in the description of the zone.
- 2) Single family residences should be allowed anywhere in the Town Center District, noting that allowance in neighboring municipalities. Vice Chairman Grimes agreed, and after discussion, Commissioner Lynch advised he has no objection to adding it to the draft.
- 3) The farm use should be removed as an allowable use.
- 4) With regard to the proposed front setback of zero feet, to change the language to allow for sidewalks, by revising it to, “property line or sidewalk”.
- 5) She suggested that the building height remain at two stories, but that it be allowed to go to 35-36 feet in height.
- 6) She expressed her favor for the pre-application process, but recommended that the Wetlands Enforcement Officer be included, and that the Design Review group review a completed site plan.
- 7) She indicated she was in favor of the shared parking but questioned if there was enough land set aside for this.
- 8) She questioned the necessity for allowance of flexibility in building height, noting that variation requests could be heard before the Zoning Board of Appeals.

Commissioner Varda discussed the need to align with the Water Source Committee and Fire Departments on the front yard setback distance. Vice Chairman Grimes agreed and also noted that all parties and departments will have to adapt and equip as conditions change in the future.

Vice Chairman Grimes and Commissioner Lynch questioned if height and story limits warranted the strict definition and suggested that they might become “deal killers”. Many of the Commissioners agreed that the character of the area was a more important factor.

Chairman Blessey requested that the Commissioners go through the proposed change with and offer their recommendations before the next regularly scheduled meeting.

Commissioner Varda offered an additional comment regarding safe calculations for fire-fighting purposes related to story height for various uses.

**Vice Chairman Grimes moved to continue 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 and (H) Design Flexibility. Secretary Lollie seconded the motion, and it carried unanimously.**

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

1. E-mail between Hal Kurfehs and Katherine Daniel dated 1/29/13 Re: Four Corners
  - Housing Information provided by Hal Kurfehs received in Land Use 1/28/13 Re: Four Corners Brookfield Town Center Revitalization Plan
2. GIS Map: Modification to Proposed Sub-zones for IHZ

*Chairman Blessey recused himself from this matter, and left the meeting at 9:18 p.m. At this time, Vice Chairman Grimes became Acting Chair, and Commissioner Frankel was appointed a Voting Alternate for this matter.*

Commissioner Lynch read letter from Attorney Peter Scalzo, dated February 12, 2013, to Ryan Blessey and Katherine Daniel into the record.

Commissioner Lynch reviewed the proposed regulation change and the discussion at the initial public hearing. He further advised that he and Commissioner Cordisco met with CDD Daniel to discuss proposed revisions. Commissioner Lynch stated that he felt the 70% figure listed in Section 242-404K(7)(b) is “too restrictive”, and that the Commission should have some discretion, as proposed by Attorney Scalzo in his letter.

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

*R. Saluga, 32 Great Heron Lane, was present. He inquired how this regulation change was related to the single-family housing discussion. It was clarified that this is an independent regulation for incentive housing in an overlay zone.*

*J. Salame, 148 Whisconier Rd., was present. She requested that the percentage of “ground floor square footage” be clarified by adding the following language: “the footprint of the building”.*

*H. Kurfehs, 42 Obtuse Rd. North, was present. He commented that a single-family house in the District would be expensive at \$400,000 per acre.*

*J. Salame, 148 Whisconier Rd., was present, and inquired if you have a building that is currently a commercial structure, but was originally a single-family structure, if a variance would be necessary, and was advised by Acting and Vice Chairman Grimes that it would not.*

*H. Kurfehs, 42 Obtuse Rd. North, was present, and indicated that he is reviewing the proposed changes in light of how they would interact with some mixed use projects he is involved with. He noted that lack of residential development on side roads may have “unintended consequences” for the District. Mr. Kurfehs also stated that he preferred an increase to 80% of ground floor square footage. He further discussed the scenario of having the library in the District, utilizing 30,000 square feet with three stories,*



but only getting credit for 10,000. Commissioner Varda inquired if that included residences, and Mr. Kurfels indicated it would not qualify, but would benefit the Town.

Commissioner Lynch reiterated his agreement with Attorney Scalzo’s suggestion, that the Commission have some discretion.

*J. Coleman, Unicorn Contracting, 199 Main St., White Plains, NY, was present.* He inquired if the language in the regulation related to “per project”, and was advised that it is “per project” or “per application”.

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

Acting and Vice Chairman Grimes suggested that Commissioners Lynch and Cordisco incorporate this evening’s discussion and comments into a new draft.

Commissioner Frankel suggested clarification of the language. She also discussed her concern with the lack of allowance of multi-family housing, and with the designations of the central core and perimeter sub zones. Commissioners Lynch and Varda advised it came out of the Four Corners study, and related to walking distance. Commissioner Lynch suggested that Commissioner Frankel incorporate her comments into the draft and email it to CDD Daniel for their review. CDD Daniel will email Commissioner Frankel the text of the draft regulation, and Commissioners Lynch and Cordisco will work on a revised draft.

Commissioner Varda and Secretary Lollie indicated they agreed with Commissioner Frankel’s comments related to the zone.

**Commissioner Frankel moved to continue 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. Commissioner Varda seconded the motion, and it carried unanimously.**

7. **Tabled Items:** None.

8. **Informal Discussion:** None.

9. **Comments of Commissioners:** None.

10. **Adjourn:** Commissioner Frankel moved to adjourn the meeting at 9:40 p.m. Commissioner Varda seconded the motion, and it carried unanimously.

**\*\*Next Regular Meeting Scheduled for February 28, 2013\*\***