

APPROVED MINUTES
BROOKFIELD ZONING COMMISSION
Thursday, March 14, 2013 – 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, L. Miller, Alternate and Voting Member where indicated, J. Cordisco

Absent: Alternates M. Frankel and J. Varda

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

a. Review Minutes of Previous Meetings: *2/28/13 – Alternate J. Cordisco was a Voting Member for the Review of the Minutes.*

Commissioner Lynch moved to approve the Minutes of the February 28, 2013 meeting. Secretary Lollie seconded the motion, and it carried, 4-0-2, with Vice Chairman Grimes and Commissioner Miller abstaining.

2. Land Use Enforcement

a. Enforcement Officer's Report:

ZEO Dew reported on the following:

Requests for Voluntary Compliance (RVC)

227 Candlewood Lake Road, #2012001108 – ZEO Dew reported that she had another meeting with Attorney Marcus and Chairman Blessey regarding this property. After an extensive review of the files, this matter will be discussed at the next regular meeting.

40 Mist Hill Drive, #201300077 – ZEO Dew advised that the site has been cleaned up to the satisfaction of the complaining neighbor. This matter will be removed from the Report.

12 Deer Run Road, #201300078 – ZEO Dew reinspected the site. She advised it was difficult to determine which equipment related to the shed and which related to a sewer installation in the front of the house. She will write the property owner to find out if a variance application has been completed for the shed.

17 Old Middle Road, #201300068 – The violation relates to two boats in the side yard. The property owner has advised that one will be moved to the back and screened, and the other one will be sold. ZEO Dew would like to give them more time.

44 Old Middle Road, #201300069 – This violation relates to a boat located in the side yard. ZEO Dew spoke with the property owner's attorney and advised her of the correct regulation that applies to the violation.

195 Federal Road, #201300186 – This violation relates to an illegal sign.

189 Federal Road, #201300187 – This violation relates to an illegal sign.

3 Production Drive, #201300176 – This violation relates to an illegal sign.

14 Candlewood Lake Road, #201300185 – This violation relates to an illegal sign.

806 Federal Road, #201300197 – The property owner will be applying for a Certificate of Zoning Compliance and a sign permit next week.

1112 Federal Road, #201300199 – The sign that has been installed is not the sign that was approved by the Commission. ZEO Dew has reviewed this matter with the Town Attorney. A letter requesting voluntary compliance has been sent to the property owner.

Cease and Desist Orders

14 Valley View Road, #201200077 – The property owner has until Spring to comply. ZEO Dew will write a reminder letter, and Vice Chairman Grimes requested that the property owner be advised that the next enforcement step will be a Citation.

594 Federal Road, #201200948 – ZEO Dew is checking with the Building Department regarding the status of the permit.

125 Commerce Drive, #20130005 – Site Plan application is Item 7.a. on tonight’s agenda.

Citation

12 Pocono Ridge Road, #201200893 – An application for a variance has been submitted. ZBA has continued this matter to its April 1, 2013 meeting.

Town Counsel Action

533 Federal Road, #2012000122 – Two box trucks and a utility vehicle were moved yesterday. Some garbage remains on the site, and Town Counsel is communicating with the property owner.

1 High Ridge Road, #201000315, 9 Stoney Farm Lane, #201100095 – ZEO Dew has not heard from Special Counsel P. Olson regarding these pending matters.

54 Ironworks Hill Road, #201100755 – ZEO Dew will ask the property manager to remove the remainder of the trash in the front.

34 Stony Hill Road, #201200874 – The property owner has applied for a variance. ZBA has continued this matter until April 1.

3. Review Correspondence

- a. **Minutes of other Boards and Commissions: Inland Wetlands Commission 2/25/13; Zoning Board of Appeals; Planning Commission 2/21/13; Zoning Sub-Committee**
- b. **Review letter from Water Source to Zoning Commission dated 3/6/13 re: 871 Federal Road, #201300123**

No discussion/no motions.

4. Public Hearing: None.

Vice Chairman Grimes moved to go to Agenda Item 9.a., 330 Candlewood Lake Road. Commissioner Miller seconded the motion, and it carried unanimously.

9. Informal Discussion:

- a. **330 Candlewood Lake Road:** Discussion for gas station in residential zone.

S. and E. Ballenger, 10 Farm Rd., Sherman, CT, were present. Mrs. Ballenger indicated that they are here to discuss the possibility of obtaining a general repairer’s license at this site. Chairman Blessey advised the repairer’s license is a valid use in that zone, and reviewed the pre-existing, non-conforming uses (sale of gas, convenience store, repairs, towing, but not auto body work). Ms. Ballenger stated that the last business on the lot included auto body repair work. She further noted that the last license was from 1967. There was discussion regarding whether auto body is different than repairs, per the regulation. The garage service definition was reviewed. Mr. and Mrs. Ballenger advised that they have been in business for 30 years, and they feel there are not separate issues for auto body or auto repairs. The Commission encouraged Mr. and Mrs. Ballenger to fill out an application. Chairman Blessey indicated that the garage/service station is “grandfathered” because it is pre-existing and non-conforming.

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

7. New Business:

- a. **125 Commerce Drive #201300175:** Site Plan Modification for existing Industrial Condominiums to add refuse area, fire lane striping, revise parking table and label construction storage area. (dec date 5/17/13)

1. “Site Plan” map prepared by CCA, LLC dated 3/6/13 – sheet S1
ZEO Dew and Chairman Blessey have regularly inspected the site over the past two months. The applicant has provided plans with revised parking and the other items requested, however, the dumpsters and contractor storage locations are not delineated. ZEO Dew is concerned about the refuse blocking the parking area. Commissioner Lynch inquired what the refuse area would be used for, and ZEO Dew advised it would be used for the dumpsters.

No action at this time.

Vice Chairman Grimes moved to add to the agenda as Item 9.b., 227 Federal Road. Commissioner Lynch seconded the motion, and it carried unanimously.

9. Informal Discussion:

b. 227 Federal Road:

ZEO Dew reviewed the plans, and the easements were delineated. She also outlined the additional piece of retail and the expansion of parking. The engineer, M. Lillis, has inquired if the easement would be considered in the calculation for coverage. ZEO Dew will pose this question to Town Counsel. No motion.

A six minute recess was taken from 7:24 p.m. – 7:30 p.m.

5. Continued Public Hearing: Following end of discussion of New Public Hearing

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

1. Revised changes handed in 3/7/13.

Chairman Blessey read the Notice of the Public Hearing, and introduced the Commissioner members. He advised that the application was received on December 13, 2012, and then reviewed the policies and procedures that govern public hearings. It was further noted that there was no additional correspondence in the file.

The revisions incorporated in the last draft were reviewed, including the increase in square footage restriction for the footprint in subsection D(4); the increase in the front yard and maximum setbacks; the increase in the building height to 42 feet; and the increase in sidewalk width to six feet; all in subsection E. Chairman Blessey recommended that the sidewalk width be modified to allow for six feet on Federal Road, and five feet on Station and Whisconier Roads.

There was discussion regarding the impervious coverage and concerns related to the river. Chairman Blessey indicated he did not want to increase the coverage above 80%. Additionally, the Wetlands Enforcement Officer has been added to the pre-application review. Distance for allowed parking was decreased to 900 feet.

Chairman Blessey discussed that Town Counsel was requested to review discretion for building height under certain circumstances. Commissioner Lynch advised that Town Counsel indicated such a provision would require specific language, and Town Counsel will attempt to have draft language for the next meeting.

Commissioner Miller inquired of Commissioner Lynch, if the building height would be allowed to exceed 42 feet, under special circumstances, within the discretion of the Commission. Chairman Blessey advised that in asking for flexibility with the building height, Town Counsel suggested the possibility of an individual review of such circumstances via special permit. CDD Daniel advised that this is already done via special permit (design review).

The following members of the audience had questions of clarification:

H. Kurfehs, 42 Obtuse Road North, was present. He noted that some developers have “prototype buildings”, and inquired if there would be any flexibility when reviewing those applications. Additionally, he inquired regarding the height restriction, and Chairman Blessey advised it is 42 feet. Mr. Kurfehs stated that while the special permit allows flexibility, developers may be hesitant to ask for any deviation due to the Commission’s discretionary powers. Chairman Blessey advised that the requirement for the pre-application meeting should help clarify these issues.

G. Walker, 24 Lillinonah Drive, was present. He inquired regarding the specifics of the height calculation when gable roofs are involved. ZEO Dew read the definition/calculation as it is being proposed, and the specificity of the calculation was noted.

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

J. Salame, 148 Whisconier Rd., was present, and spoke in opposition to the application,

Vice Chairman Grimes moved to continue the Public Hearing re: 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 to March 28, 2013. Commissioner Lynch seconded the motion, and it carried unanimously.

6. Old Business:

- 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 5/4/13)**

After careful consideration, Commissioner Lynch moved to approve #201300015.

Commissioner Cordisco seconded the motion. Chairman Blessey explained that at present, the R40 zone occupies two-thirds of the western part of this area, with the remainder being IRC 80/40. The proposal seeks to align the property line with 16 Elbow Hill Road and make the area IRC 80/40. He noted that it is standard zoning practice to line zone boundaries up with property lines. However, he acknowledged the neighboring owner’s (D. Plante) argument that there currently there is a physical boundary of the grade.

CDD Daniel suggested that when discussing a map change, the Commission direct the Land Use Office to provide visuals. Vice Chairman Grimes advised her that she was out of order. Chairman Blessey noted that all of the Commissioners were in possession of the same material for review.

Commissioner Cordisco also recognized Mr. Plante’s point. The permanence of the State easement was noted.

Vice Chairman Grimes noted that he is recused on this matter, as he was not present for the initial discussion. Alternate Cordisco is a Voting member for this item.

Motion carried unanimously.

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

Continued.

CDD Daniel suggested that it be noted who is a voting member prior to discussion on agenda items.

- c. **857-857A Federal Road (Riverview Luxury Apartments) #201200887: Design Review for three 9,200 sq. ft. Incentive Housing Apartment Development** (*dec date 4/20/13*)

Chairman Blessey noted that all regular Commission members would be voting on this matter.

After careful consideration, Commissioner Lynch moved to approve #201200887, as presented. Secretary Lollie seconded the motion.

Commissioner Lynch noted his initial reservations regarding the application, specifically: building height, parking and architectural features. He stated that he felt all of those issues were addressed, and that, in his opinion, the application meets the zoning regulations. Secretary Lollie agreed.

Vice Chairman Grimes advised that he feels there are still issues, including proximity to the road.

Commissioner Cordisco indicated that he concurred with Commissioner Lynch.

Commissioner Miller noted the extent of the public comment throughout the duration of the hearing. He pointed out the lack of State designation for the building that some members of the public felt should have had “historical” status. Commissioner Miller advised that he agreed with the public comments related to safety and proximity to Federal Road, noting that this application may set the tone for future development.

Commissioner Grimes noted the possibility of approval with stipulations.

Chairman Blessey pointed out that the application does meet the setback regulations for the zone. Vice Chairman Grimes agreed, but stated that the proximity to the road is a “huge safety concern”. Chairman Blessey indicated that this issue should be addressed via a zone regulation change, and noted that the application must be addressed under the regulations in place at the time the application was made. Vice Chairman Grimes reiterated addressing the safety issues via a stipulation, specifically the proximity to the road, fire, and traffic concerns. Commissioner Miller added the factors of access by emergency vehicles and pedestrian walkways. Commissioner Lynch noted that the application was reviewed by the Water Source Committee.

Commissioner Cordisco advised that he did not believe fire issue was a safety due to modern construction, including sprinklering of the buildings, adding that he felt the only possible concern would be a car hitting one of the buildings. He further stated that the proximity to the road would increase accessibility for fire response.

Chairman Blessey indicated that he opposed the removal of the structure that some felt should have historical designation. He was also dissatisfied with the applicant’s lack of willingness to connect

pedestrian walkways to the rear of properties. He noted the 30-foot buffer around the base of building that was requested by the Water Source Committee. Chairman Blessey also felt accessibility to the rear building in a fire emergency was an issue. He acknowledged that there is not a regulation that the application “definitively” does not meet. Chairman Blessey stated that he is not concerned with the front setback. He added that he would have preferred to see a public area incorporated with the plans, and expressed his displeasure with the architecture. Lastly, he noted the Commission’s accountability in deciding this application.

There was additional brief discussion regarding the possibility of incorporating stipulations into the approval. Vice Chairman Grimes suggested tabling the motion. Chairman Blessey called the vote.

Motion to approve the application denied, 2-3, with Chairman Blessey, Vice Chairman Grimes and Commissioner Miller voting in opposition, and Commissioner Lynch and Secretary Lollie voting in favor.

d. Moratorium on Applications for the Town Center District

Chairman Blessey discussed the possibility of setting a public hearing, two weeks from this evening, to discuss a moratorium on applications for the Town Center District, until the regulations are finalized. The moratorium would be for 120 days, or earlier if the regulations are set. Its intent would be to allow the Commission the time to finalize the regulations without having to review applications that come in prior to that finalization. Commissioner Miller agreed with the intent, but noted his concern that this may send a message to the public that progress in the District will be halted. Commissioner Lynch suggested getting language from Town Counsel. He was also concerned regarding the message a moratorium would send to the public as well as developers. Vice Chairman Grimes noted that the function of the Commission is to regulate, not prohibit, and expressed his concern that a moratorium would send a message of a prohibitive environment and a halt of the progress in the District. Commissioner Cordisco added that it would send a message that Brookfield is not open to development. Secretary Lollie disagreed, and stated that developers interested in developing only in Brookfield will not be hindered. Chairman Blessey advised that a moratorium would result in clear regulations that will allow developers to know the Town wants the zone to look like. He offered the Commissioners the opportunity to hold special meetings to work on the regulations, and asked for their commitment for two, 3-hour meetings to work with Fitzgerald & Halliday to conclude work on the regulations. The Commissioners agreed to this commitment. Upon conclusion of the work sessions, a public hearing with all of the regulation changes will be set, by July 1, 2013 or sooner. The Commissioners will email possible meeting dates to each other. No motion.

Chairman Blessey moved to go back to Agenda Item 7.a. Vice Chairman Grimes seconded the motion, and it carried unanimously.

7. New Business:

a. 125 Commerce Drive #201300175: Site Plan Modification for existing Industrial Condominiums to add refuse area, fire lane striping, revise parking table and label construction storage area. (dec date 5/17/13)

1. “Site Plan” map prepared by CCA, LLC dated 3/6/13 – sheet S1

Chairman Blessey noted that the applicant came in during the recess and demarcated the location of the dumpsters.

Secretary Lollie moved to approve #201300175, 125 Commerce Drive. Vice Chairman Grimes seconded the motion, and it carried unanimously.

8. **Tabled Items:** None.

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

11. **Adjourn:** Vice Chairman Grimes moved to adjourn the meeting at 8:40 p.m. 8:40 p.m. Commissioner Lynch seconded the motion, and it carried unanimously.

****Next Regular Meeting Scheduled for March 28, 2013****