

DRAFT MINUTES
BROOKFIELD ZONING COMMISSION
Thursday, April 25, 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. and established a quorum of members.

Present: Chairman Blessey, Vice Chairman M. Grimes, Secretary Lollie, L. Miller, C. Lynch (arrived during the Executive Session), Alternate and Voting Member where indicated M. Frankel, Alternate and Voting Member where indicated J. Varda (arrived during the Executive Session)

Absent: Alternate J. Cordisco

Also Present: Zoning Enforcement Officer A. Dew, Recording Secretary D. Cioffi, Town Counsel N. Marcus (for the Executive Session)

Alternate Commissioner Frankel recused herself from the Executive Session.

Vice Chairman Grimes moved to go into Executive Session at 7:00 p.m., and to invite the Zoning Enforcement Officer A. Dew and Attorney Marcus. Secretary Lollie seconded the motion, and it carried unanimously.

2. a. **Executive Session: Discussion of settlement of appeal by Core Plus – 857 and 857A Federal Rd – Vice Chairman Grimes moved to come out of Executive Session at 7:29 p.m. Commissioner Miller seconded the motion, and it carried unanimously.**

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

- a. **140 Federal Road #201300192: Design Review for a proposed 4,668 Square Foot Chick-fil-A Restaurant with drive thru and associated site improvements (ph close date 5/29/13)**

1. Letter from Water Source received in Land Use 4/18/13 Re: Application #201300192
2. Bond Estimate titled "Estimate of Cost of Construction" dated 4/2/13 faxed into Land Use 4/29/13

Chairman Blessey opened the Public Hearing and introduced the Commission members. Secretary Lollie read the legal notice, which was published in the News Times on April 12, 2013 and April 22, 2013. Chairman Blessey indicated that the application was received on March 28, 2013. He then reviewed the policies and procedures that govern public hearings.

Secretary Lollie noted the following correspondence: 1) a letter from the Water Source Committee to the Zoning Commission and Planning Commission dated April 18, 2013.

Attorney S. Hays, Updike, Kelly & Spellacy, 100 Pearl St., Hartford, CT, was present. She reviewed the recent ownership history of the building, the square footage of the new building, and the neighboring bank.

D. Peterson, DSP Engineering, was present. He advised that the proposal will include 58 parking spaces (52 are required), with two drive-thru lanes for ordering, that will merge into one for pick-up. The restaurant will have capacity to seat 109 people, and there will be a small patio area outside with five tables with seating for four at each. Mr. Peterson advised that the footprint, drive-thru and parking almost the same as previous restaurant, Burger King. He indicated that there will be a large buffer area of over 100' to the northwest, and a 44 square foot pile-on sign. Mr. Peterson also reviewed the landscaping and drainage, noting that the drainage has been upgraded to include hoods, sumps, and bubbler catch basins. He went over the architectural design and building materials.

R. Nagy, Vanasse, Hangen & Brustlin, Boston, MA, was present. He indicated that the traffic study considered the existing use and factored in growth associated with the new use. Mr. Nagy stated that the increase in trip generation will be 30 cars during the peak evening commuter hour. Additionally, the State Department of Transportation has been consulted and gave approval to commence the zoning application process.

At this time, the Chairman welcomed questions from the Commissioners. Commissioner Frankel inquired regarding the lighting plan. ZEO Dew advised that the specifications were on the last page of the plans associated with the application. Mr. Peterson reviewed the specifications for lighting in the parking lot and on the building. Commissioner Frankel asked if the access way to the site would be repaired. Mr. Peterson replied that the back portion will be repaired and re-topped post-construction.

Secretary Lollie inquired if any additional turning and/or bypass lanes would be proposed, and Mr. Nagy advised that the traffic demand did not warrant it. Mr. Nagy indicated that the applicant does plan on discussing with the DOT what it finds ideal for that location. Chairman Blessey asked if there was any possibility that the State could ask for something different. Mr. Nagy advised that if the State does, the applicant would return to the Commission with a modification.

Commissioner Frankel noted her concerns regarding the double lane drive-in. Mr. Nagy advised that the double lane can stack up to 25 cars.

There were no questions of clarification from the audience.

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

Commissioner Miller moved to close the Public Hearing re: 140 Federal Road #201300192: Design Review for a proposed 4,668 Square Foot Chick-fil-A Restaurant with drive thru and associated site improvements. Vice Chairman Grimes seconded the motion, and it carried unanimously.

Vice Chairman Grimes moved to approve Application #201300192, 140 Federal Road, Design Review for a proposed 4,668 Square Foot Chick-fil-A Restaurant with drive thru and associated site improvements. Secretary Lollie seconded the motion. Commissioner Frankel inquired if signage was reviewed, and ZEO Dew advised she wrote a memo verifying compliance with the regulations. **Motion carried unanimously.**

- b. 800, 802, 806 Federal Road & 7 Station Road #201300224: Design Review for a proposed 21,047 Square Foot “Brookfield Village” to include mixed use retail and 79 Residential Units (ph close date 5/29/13)**

Chairman Blessey indicated that the same introduction would be utilized for this Public Hearing as in the prior, and there were no objections. He advised that the application was also received on March 28, 2013. Secretary Lollie read the legal notice, which was published in the News Times on April 12, 2013, and April 22, 2013. He then read the following correspondence: 1) to the Zoning and Planning Commissions, from the Water Source Committee dated April 17, 2013.

Attorney P. Scalzo, 2 Stony Hill Rd., Bethel, CT, was present. With him were: A. Adams, Landscape Architect, P. Bailey, Architect, and M. Galante, Traffic Engineer.

Attorney Scalzo advised that the proposal is for four buildings, containing 76 units, with “an elderly focus”, and retail on the first floor. The proposal is currently before the Inland Wetlands Commission. Additionally, the applicant has had a pre-application meeting with Zoning officials and department heads.

Ms. A. Adams, Registered Landscaped Architect, CCA, 40 Old New Milford Rd., was present. She reviewed the existing conditions at the 2.93 acre site. She discussed the five existing structures and the topography, noting sloping to the southwest and toward Federal Road, and a small pocket of wetlands. Ms. Adams advised that the four mixed use new buildings were designed within the parameters of the incentive housing, as well as the recently approved Town Center District regulations. The application also considers the desire for pedestrian friendly development in the area.

Ms. Adams reviewed the frontage, parking, pedestrian and vehicular access, and landscaping for all four buildings. She advised that the parking counts utilized the chart in the TCD regulations, and that the applicant is investigating off-site parking, per the regulations. Ms. Adams noted that there are areas where the 10’ separation strip is not able to be maintained. The applicant is also proposing a design standard waiver related to the building setback requirement of 25 feet. Further, another waiver would be required for Section 242-305 (parking), and the required 20 feet between buildings.

With regard to the comments of the Water Source Committee, Ms. Adams noted that: 1) the Town regulations allows for a “zero” sideyard setback; 2) the Town supports the on-street parking; and 3) the stand pipes are shown for the Building Permit process, and the fire marshal can review it at that time.

Ms. Adams reviewed the utilities, which will include on-site sewer and water, and a capacity of . 13,000 gallons per day. She indicated that the buildings will be sprinklered, and the drainage system will reduce flows for all storm incidents from two to one hundred years.

P. Bailey, Architect, New Haven, CT, was present. He reviewed the three buildings that will face Federal Road, which will all be three stories tall, with a retail use on each first floor. He discussed the roofs, gables, windows, material and colors, in keeping with the desired character of the TCD. Mr. Bailey similarly went over the fourth building that faces Station Road. He also showed the Commissioners the floor plans for the buildings. Commissioner Frankel inquired what the siding would be, and was advised by Mr. Bailey that it would be clapboard/hardy plank.

M. Galante, Traffic Engineer, Frederick Clark Associates, Fairfield, CT, was present. He referenced the traffic report of March 2013 and discussed the parameters of the traffic study hours and the roads included. Mr. Galante indicated that the volumes were matched with data from the State. He reviewed the points of access. He summarized that the net increase in traffic for the morning and afternoon peaks and on Saturdays, based on the ITE trip generation standards. Mr. Bailey also discussed the levels of service.

Vice Chairman Grimes left at 8:24 p.m. and Commissioner Frankel became the Voting Alternate.

The following Commissioners had questions of clarification: Commissioner Varda inquired what would be on the sidewalk between Buildings 2 and 3, and was advised that it may be concrete or pavers. Commissioner Varda also inquired what the make-up of the fourth “barn” building, fronting Station Road, would be, and was advised that it will be “predominantly residential”. Chairman Blessey advised that the streetscaping will be determined from the Fitzgerald & Halliday design and community surveys.

Commissioner Lynch inquired where the State right-of-way is, and Chairman Blessey reiterated that the curbing would have to match the approved streetscape design. Commissioner Frankel requested verification of what other review is outstanding for this proposal and was advised that it is before the IWC. Additionally, ZEO Dew emailed her report on the proposal today. Commissioner Frankel inquired why all four buildings are different colors, and was advised by Mr. Bailey that it makes it more like a neighborhood.

The Chairman inquired of the audience if there were questions of clarification.

L. Garrah, Mother Earth Gallery, was present, and requested clarification of parking. Chairman Blessey explained that the “smart code” for parking was recently adopted and is common for downtown areas in other municipalities.

J. Damont, 51 Great Heron Lane, was present, and also had questions regarding parking details. Mr. Galante discussed the concept of shared parking considering residential and retail uses.

W. Kenyon, 322 Still Water Circle, was present. She inquired regarding angled, on-street parking. Chairman Blessey indicated that the applicant has committed to comply with the physical attributes of the TCD.

J. Fitzgerald, Kelsey Court, was present, and inquired how many retail businesses would be included in the development. Chairman Blessey indicated that only a square footage calculation for retail could be provided.

R. Daluga, 32 Great Heron Lane, was present, and inquired how many one and two-bedroom units would be included in the residential portions of the development. Mr. Bailey advised that there would be 56 one-bedroom, and 20 two-bedroom units. Mr. Daluga inquired what the rent would be for the units, and Attorney Scalzo explained that the incentive housing formula is based on the area’s median income. He also advised that the elderly designation is for individuals 55 and 62 years of age or older.

J. Salame, 148 Whisconier Road, was present, and inquired if the Town can dictate the lighting within the project, and Chairman Blessey advised that only the portions facing the street have to follow the TCD regulations.

No one was present to speak in favor of this application. R. Saluga, 32 Great Heron Lane, was present, and spoke in opposition, noting his concerns related to so many units in a small amount of space, parking, and traffic.

W. Kenyon, 32 Still water Circle, was present and spoke in opposition, citing no mention of green space, and the size of the project for the site.

Commissioner Frankel inquired if this matter would be referred to the Town Architect. She suggested that it should be. Chairman Blessey, Commissioners Lynch and Miller, and Secretary Lollie are not in favor of any type of third party review. Chairman Blessey pointed out that this application did have a pre-application review, which has very recently become a requirement.

Commissioner Miller moved to continue the Public Hearing for 800, 802, 806 Federal Road & 7 Station Road, #2013000224: Design Review for a proposed 21,047 Square Foot “Brookfield Village” to include mixed use retail and 79 Residential Units, to the next regularly scheduled meeting. Secretary Lollie seconded the motion, and it carried unanimously.

A recess was taken from 8:50 p.m. until 8:56 p.m.

5. Continued Public Hearing – following new Public Hearings: None.

6. Old Business:

- a. 470 Federal Road #201300258: Site Plan Modification for an 18,550 sq. ft. Commercial Condominium building. Site improvements to include rear parking area, revised building door locations, drainage, utilities and landscaping. Bond Reduction (dec date 6/14/13)**

Ms. A. Adams, CCA, was present. Chairman Blessey indicated that was held over last time because of a change. He verified that the current site plan removes the water tank.

Chairman Blessey appointed Commissioner Varda a Voting Member for this item only.

Ms. Adams explained that the applicant has relocated some of overhead doors and pedestrian entrances. After some discussion, it was noted that Mr. Lillis had previously indicated that the building would be sprinklered. This application did not need to go through the Water Source Committee, however, Chairman Blessey inquired of them for clarification on the water tank versus sprinklering of the building. The WSC provided comments on components of the application that were already approved.

Chairman Blessey requested that the sprinkler connections to be noted on the plans. The other WSC comment is under the purview under fire marshal and building permit. The Commission advised this could be handled via a stipulation.

The applicant also requested a bond reduction from \$236,000.00 to 18,733.00. Chairman Blessey indicated that the site is stable, flat and graded.

Chairman Blessey moved to approve the Site Plan Modification at 470 Federal Road, #201300258, with the following stipulations, that: the bond be set at \$18,733.00; the fire department sprinkler connecting will be noted on the plans; and the ventilation and stand pipe location for Unit #3 be put on the plans at the time of the building permit application. Commissioner Miller seconded the motion, and it carried unanimously.

b. 200 Federal Road (Costco) #201300116: Bond Release \$2,774,984.88

Chairman Blessey and Commissioner Lynch recused themselves from this matter and left the room.

Alternates Varda and Frankel were appointed Voting Members, and Secretary Lollie became Acting Chairman.

The Commission noted receipt of a memo from the Director of Public Works, R. Tedesco, dated April 25, 2013. *R. Gradwell, was present, representing Costco.* He advised that Costco is requesting a reduction in the bond amount. He indicated that based on Mr. Tedesco's memo, he visited the site last week, and agreed that there are areas of concern. Mr. Gradwell advised that the contractor is working on pricing out the corrective work. Photographs of the areas of concern were reviewed.

Commissioner Frankel inquired if the grade that currently exists in line with what was approved. Mr. Gradwell offered to confirm this for the Commission. He also showed how the slope is supposed to

look. Commissioner Frankel suggested that the top of the area be terraced prior to the sloping. ZEO Dew indicated that Mr. Tedesco proposed that the retaining wall be much higher.

Mr. Gradwell advised that a geotechnical engineer will be inspecting the site. Acting Chairman Lollie recommended that this individual provide an estimate as to how much the corrective action will cost.

Commissioner Miller inquired if the problem is a “slump”, and Mr. Gradwell indicated he did not feel it was. Commissioner Frankel requested that the ZEO confirm where the erosion is.

Acting Chairman Lollie and Commissioner Frankel indicated they would like to walk the site. The Commission indicated that without knowing how much the corrective action would cost, it is unable to reduce or release any amount of the bond.

Upon inquiry from Acting Chairman Lollie, Mr. Gradwell advised that it is the applicant’s intent to bring a small machine to the area and/or use a good deal of handwork. The fence will have to be taken down to fix the area. The plan before the Commission tonight is an as-built, and Commissioner Frankel asked for spot grades for the next meeting to verify compliance with the site plan.

Commissioner Miller moved to continue 200 Federal Road, #201300116: Bond Release \$2,774,984.88, to the next regularly scheduled meeting. Commissioner Varda seconded the motion, and it carried unanimously.

Chairman Blessey and Commissioner Lynch returned to the meeting at 9:25 p.m.

7. New Business:

- a. 7 Del Mar Drive (Target Flavors, Inc.) #201300308: Site Plan Modification to relocate exterior stairs by warehouse area, use gravel around rear of building for vehicle access instead of grass (dec date 6/28/13)**

1. Map Showing “Lots 1F & 2F – File 9 Map 120 – B.L.R.” prepared by New England Land Surveying, dated 4/3/13 – Job No. 1230

J. MacLean, Target Flavors, Inc., was present. He pointed out where the stairs will be relocated, as well as an area where gravel will be put down instead of grass.

Commissioner Lynch moved, after careful consideration, to approve Application #201300308: Site Plan Modification to relocate exterior stairs by warehouse area, use gravel around rear of building for vehicle access instead of grass. Secretary Lollie seconded the motion, and it carried unanimously.

- b. 355 Federal Road – Unit C-5 (CP Royale Tobacco & Convenience Store) #201300307: Site Plan Modification for an ice-cream vending cart 4’ x 2’ (dec date 6/28/13)**

1. Map showing proposed location of cart handed into Land Use 4/17/13

J. Chelladurai, 355 Federal Rd., was present. He advised he is seeking approval to put a 4’ X 2’ cart outside of his new location to sell ice cream. This was allowed at the previous location, and is an accessory use to the business. The use would require only one additional parking space. The cart will be put in front of the convenience store unit of the building.

Secretary Lollie moved to approve Application #201300307, for Goodwill, LLC, Royale Tobacco & Convenience to add an ice cream vending cart in front of the store at 355 Federal Road, Unit 5. Commissioner Miller seconded the motion. Commissioner Frankel suggested that a time frame

be put on the allowance of the cart, if it is to be seasonal, and that a trash receptacle be required. The dates recommended for the allowance were May 1 until October 1. **Secretary Lollie amended his motion to include the time frame of May 1 to October 1, and that there be a garbage receptacle outside. Commissioner Miller seconded the amended motion, and it carried unanimously.**

- c. **143 Federal Road (Froyoworld) #201300310: Site Plan Modification to create approximately 340 sq. ft. exterior patio between Froyoworld and John’s Best Pizza. The patio will consist of brick pavers, railings, seating and exterior lighting (dec date 6/28/13)**

1. Map titled “Patio Layout” prepared by CL2 and Assoc. and Nash Contracting Inc. dated 3/14/13 – sheet A1.0
2. Google earth map showing Patio Location handed into Land Use 4/18/13

J. Gregg, 143 Federal Rd., was present. Upon inquiry from Chairman Blessey, Mr. Gregg advised that he does not have a letter authorizing him to apply for this modification. He is proposing a patio between his business (Froyoworld) and John’s Best. The proposed area was designated on plans. Six tables are proposed for both businesses to utilize.

After careful consideration, Commissioner Lynch moved to approve Application #201300310, Site Plan Modification to create approximately 340 sq. ft. exterior patio between Froyoworld and John’s Best Pizza. The patio will consist of brick pavers, railings, seating and exterior lighting, with the stipulation that the applicant provides adequate proof that he is allowed to represent the owner of the property. Commissioner Miller seconded the motion. Commissioner Frankel noted her concern regarding trash in the area. The applicant indicated there would be a trash can and he would maintain the area. Motion carried, 4-1, with Commissioner Frankel opposing.

- d. **54 South Lake Shore Drive #201300309: Single Family Dwelling Conversion – 504 sq. ft. apartment (dec date 6/28/13)**

1. Floor Plan of proposed apartment handed into Land Use 4/18/13

No one present.

Chairman Blessey moved to go to Agenda Item 2.b., 1112 Federal Road. Commissioner Miller seconded the motion, and it carried unanimously.

2. Land Use Enforcement

b. 1112 Federal Road #201200727: Revision of sign

William Rogg, 7 Treadwell Ave., New Milford, CT, was present. Chairman Blessey explained what was approved (three units), and noted that it differs from what was built. Mr. Rogg reviewed his discussion with the graphic artist that designed the sign, and indicated that since then, there was a change in ownership in the building. Two addresses are currently on the sign (1112 and 1114 Federal Road). Mr. Rogg is going to allow 1084 Federal Road to utilize his sign space for two years. The sign meets the regulation.

Commissioner Lynch expressed his concern regarding a 911 call being made and emergency personnel being unable to locate the address. Chairman Blessey discussed his experience with fire dispatch, and stated that the business name, rather than address, is usually given.

There was discussion regarding the State not allowing the Town to have the road.

After the two year period, the applicant will return with a comprehensive sign plan.

Secretary Lollie moved to approve Application #201200727: Revision of Sign, for Trident. Commissioner Miller seconded the motion, and it carried unanimously.

Chairman Blessey moved to go to Agenda Item 2.b., Review Minutes of Previous Meetings. Commissioner Miller seconded the motion, and it carried unanimously.

b. Review Minutes of Previous Meetings: 4/4/13 special meeting, 4/11/13

Chairman Blessey moved to approve the Minutes of the April 11, 2013 meeting. Commissioner Varda seconded the motion, and it carried unanimously. *Alternate J. Varda was a Voting Member for this item.*

Chairman Blessey moved to approve the Minutes of the Special Meeting on April 4, 2013. Commissioner Miller seconded the motion, and it carried, 4-0-2, with Secretary Lollie and Commissioner Lollie abstaining.

2. Land Use Enforcement:

a. Enforcement Officer's Report: This item will be discussed at the next regularly scheduled meeting.

3. Review Correspondence

- a. Minutes of other Boards and Commissions: Inland Wetlands Commission 4/8/13; Zoning Board of Appeals; Planning Commission; Zoning Sub-Committee
- b. Letter from Ct. Department of Transportation to Zoning Commission dated 4/12/13 Re: City of Danbury/Town of Brookfield Stew Leonard's Expansion
- c. Letter from Ct. Department of Transportation to Zoning Commission dated 4/9/13 Re: Town of Brookfield – Previously Issued: Traffic Investigation Report No. 018-0805-02; Current Proposal: Barnbeck Place and Nordex, Inc. Change in Land Use (Restaurant to Office); Street Address: 398, 414 and 426 Federal Rd; Current owner: BRT Barnbeck, LLC; Administrative Decision No. 155
- d. Legal Briefings for Building Inspectors: April 2013

No discussion/no motions.

8. Tabled Items: None.

9. Informal Discussion: None.

10. Comments of Commissioners: None.

11. Adjourn: Chairman Blessey moved to adjourn the meeting at 9:51 p.m. Secretary Lollie seconded the motion, and it carried unanimously.