

**APPROVED MINUTES
BROOKFIELD ZONING COMMISSION
Thursday, May 23, 2013 – 7:00 p.m.
MEETING ROOM #133 – TOWN HALL, 100 POCONO ROAD**

1. Convene Meeting

Present: Chairman R. Blessey, Vice Chairman M. Grimes, C. Lynch, L. Miller, Alternate & Voting Member J. Cordisco (except where indicated), Alternate and Voting Members where indicated: M. Frankel, and J. Varda

Absent: Secretary F. Lollie

Also Present: Town Counsel N. Marcus, Zoning Enforcement Officer A. Dew, Recording Secretary D. Cioffi

- a. **Executive Session:** Discussion of settlement of appeal by Core Plus – 857 and 857A Federal Road. - Commissioner Grimes moved that the Zoning Commission enter Executive Session at 7:00 p.m. and invite Attorney Marcus and the Zoning Enforcement Officer. Commissioner Lynch seconded the motion, and it carried unanimously.

Commissioner Frankel recused herself from the Executive Session and left the room at 7:00 p.m.

Commissioner Grimes moved to come out of Executive Session at 7:30 p.m. Commissioner Lynch seconded the motion, and it carried unanimously.

4. Public Hearing: None

5. Continued Public Hearing: following Correspondence:

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

Attorney P. Scalzo, 2 Stony Hill Rd., Bethel, was present. S. Sullivan, P.E., and A. Adams, Landscape Architect, CCA, 40 Old New Milford Road, were also present. Attorney Scalzo advised that the Inland Wetlands Commission approved the application related to this site on Monday, May 20, 2013.

Commissioner Varda inquired regarding the angled parking/public right-of-way line. Chairman Blessey advised that if the applicant does not get Department of Transportation approval, the applicant would have to file a site plan modification and return to the Commission.

There were no further comments or questions of clarification from the public.

No one was present to speak in favor of the application. R. Saluga, 32 Great Heron Lane, was present. He reiterated his opposition to the application, citing the size of the project, traffic concerns, and the focus on residential use. Upon inquiry from Vice Chairman Grimes, he acknowledged that he is not aware of any zoning regulations that the proposal does not comply with.

Vice Chairman Grimes moved to close the Public Hearing for Application #201300224, 800, 802, 806 Federal Road & 7 Station Road: Design Review for a proposed 21,047 sq. ft. “Brookfield Village” to include mixed use retail and 79 Residential Units. Commissioner Miller seconded the motion, and it carried unanimously. (Alternate J. Cordisco was a Voting Member for this item.)

Commissioner Lynch moved to approve Application #201300224, 800, 802, 806 Federal Road & 7 Station Road: Design Review for a proposed 21,047 sq. ft. “Brookfield Village” to include mixed use retail and 79 Residential Units, as submitted. Commissioner Miller seconded the motion. Commissioners Miller, Lynch and Cordisco, as well as Chairman Blessey expressed their

satisfaction with the plan in meeting the expectations for development in the Four Corners area.
Motion carried unanimously.

1. Convene Meeting (continued)

b. Review Minutes of Previous Meetings: 5/9/13

Alternate J. Varda was a Voting Member for this item.

Vice Chairman Grimes moved to approve the Minutes of the Zoning Commission Meeting of May 9, 2013. Commissioner Varda seconded the motion. Vice Chairman Grimes noted the following correction on Page 3, Item 6.b., to clarify that there was no discussion on the item because, “The applicant’s engineer was not present and did not submit any information.” Motion carried, 3-0-2, with Commissioners Lynch and Miller abstaining.

2. Land Use Enforcement

a. Enforcement Officer’s Report:

ZEO Dew reported on the following:

Requests for Voluntary Compliance

44 Old Middle Rd., #201300069 – This matter will come before the Zoning Board of Appeals at its June, 2013 meeting.

9 Baldwin Hill Rd., #201300311 – A Cease and Desist Order could not be issued, because the property owner did not receive the original letter. ZEO Dew reported that the property owner at 11 Baldwin Hill Road is actually storing the truck, and has advised that it will be moved by this weekend.

15 Federal Rd., #201300332 – The A-frame sign has returned.

99 Federal Rd., #201300467 – A Cease and Desist Order was issued for the banner, and it has been removed. The A-frames remain; Chairman Blessey has photographs for the file.

Cease and Desist Orders

594 Federal Rd., #201200948 – A Cease and Desist Order was issued today. The sign is being held down by rocks and cinderblocks

12 Pocono Ridge Rd., 201200893 – The property owner has to re-apply for the deck. A Cease and Desist will be sent.

14 Valley View Rd., #201200777. – This matter has been resolved.

178 Federal Rd., – A Cease and Desist Order was issued on April 24, 2013. The banner has returned.

Vice Chairman Grimes moved to issue a Citation to 178 Federal Road, if not in compliance by May 31, 2013. Commissioner Cordisco seconded the motion, and it carried unanimously.

Citations

12 Deer Run Rd., #201300078 – A Citation was sent today.

Town Counsel Action

533 Federal Rd., #2012000122 – The property has been cleaned up; no violation exists. Chairman Blessey recommended that the matter be cleared from the report.

1 High Ridge Rd., #201000315 – No new information.

9 Stoney Farm Lane, #201100095 – No new information.

54 Ironworks Rd., #201100755 – ZEO Dew has been in contact with Safeguard properties regarding bids for garbage removal.

34 Stony Hill Rd., #201200874 – Town Counsel is sending a letter requesting compliance.

b. 871 Federal Road (Riverview of Brookfield LLC) #201200840: Discussion of Handicap Units – Chairman Blessey noted the email/letter from Attorney Marcus dated May 23, 2013, that was part of the Commissioners’ after-the-fact packet. He reviewed the approval history of this site, and indicated that since the original approval in 2007, the Building Code has changed. The Building Department has requested that 7 more units be designed for handicapped use,

for a total of 12 at the site. Attorney Marcus advised that by making the handicapped units at the ground level, it makes them three-bedroom units as defined by Zoning and the Tax Assessor's Departments. He further stated that the issue relates to the impact of the April 14, 2011 amendment to the Town Center District regulations on the previously approved project's need to satisfy the current Building code. Attorney Marcus noted this was not a problem with original approval under the affordable housing regulations, Connecticut General Statutes 8-30g. He then read Section 242-505D(2), which was an amendment to the Zoning Regulations on April 14, 2011. Attorney Marcus indicated that the conflict with the regulation change can be resolved by advising the ZEO of the Commission's intent at the time of the regulation change. Chairman Blessey discussed the role of the core zone in the TCD, and indicated he believed that the application fell outside of the core. Attorney Marcus indicated that the relevant date is the date of the site plan modification, and the application would have to have come in after April 14, 2011.

Anthony Lucera, Applicant, was present, and indicate that 8 of the 12 handicapped units are affordable housing units. Upon inquiry from Commissioner Frankel, the applicant advised that the parking is not changing.

Chairman Blessey reviewed the map, and showed that the intent was to take first-floor, incentive housing outside of the core zone (purple zone on the map). There was discussion regarding the role of mixed use in the zone.

Commissioner Varda inquired regarding the design of the five originally approved handicapped units. Mr. Lucera explained their original location, and indicated that the code review found them to fall under the commercial code, so the space below the first level unit was created. Attorney Marcus added that those five units predated the regulation, and were built, permitted, and occupied. Mr. Lucera returned to the Commission so that he would not have to build three more townhouse units, because the revised Building Code required him to build seven ranch-style units. He added that the State building code requires that ten percent of the units be handicapped adaptable, and this project is at twenty-five percent. Upon inquiry from Commissioner Varda, Mr. Lucera advised that the handicapped parking is in front of the units.

Vice Chairman Grimes moved to direct the Zoning Enforcement Officer to issue the permit to 871 Federal Road. Commissioner Lynch seconded the motion, and it carried unanimously.

Mr. Lucera advised that the commercial building code requires that the first level of the units be handicapped adaptable, and the requirement of elevators would make the cost prohibitive. He encouraged the Commission to consider the State Building Code when reviewing this regulation.

Town Attorney N. Marcus left the meeting at 8:03 p.m.

7. New Business

a. 110 Federal Road (BJ's Wholesale Club) #201300399: Site Plan Modification for addition to a new door for a proposed Liquor Outlet (dec date 7/26/13)

1. Cover letter from Erik Kukk, Esq. to Zoning Commission dated 5/13/13 Re: BJ's Wholesale Liquor Store 110 Federal Rd
2. Application for Certificate of Zoning Compliance for BJ's Liquor Outlet
3. Google Earth Map handed in with packet on 5/14/13
4. Map titled "Door to Door Path Distances" prepared by New England Land Surveying dated 4/23/13 – job no. 1253

Attorney E. Kukk, 30 Merwin Brook Rd., was present on behalf of the applicant.

Commissioners Cordisco and Lynch recused themselves from this matter, and Commissioners Frankel and Varda were voting members.

Attorney Kukk explained that the modification relates to adding egress/ingress for a proposed liquor store. The plans were reviewed and the location of the door was noted. The other changes are being performed per the State building code. Attorney Kukk explained that there would be no further changes to the exterior or the parking lot.

At the request of Commissioner Frankel, Section 242-308 of the regulations was reviewed and read. Two proposed measurements were reviewed. Attorney Kukk advised that he spoke with Town Counsel regarding the considerations of “structure” when calculating the measurements. He added that the distance was surveyed by New England Surveyors, who prepared the map, with a seal. The recently revised regulation was discussed, noting the radius factor, which is also shown on the applicant’s map. Upon inquiry from Commissioner Miller, Attorney Kukk advised that the shorter and most direct calculation of distance was utilized. Upon inquiry from Commissioner Frankel, Attorney Kukk advised that the square footage of the liquor shop is 2,079 square feet. It was also noted that the signage will be applied for at a later date.

Vice Chairman Grimes moved to approve the Site Plan Modification at 110 Federal Road, #201300399, with respect to a liquor outlet at BJ’s (usage and location of the door), noting that nothing is being approved with respect to signage. Commissioner Miller seconded the motion. Commissioner Frankel requested that it be noted that the proposal complies with the regulations. Motion carried unanimously.

Commissioners Lynch and Cordisco returned to the meeting at 8:14 p.m.

- b. 49 Federal Road #201300414: Site Plan Modification (Shell Station Re-Development Project) to change the layout of expanded parking area from the approved layout on 8/26/10. Eliminated angled parking for perpendicular parking. Spaces increase from 38 spaces to 59 spaces.**
1. Map titled “Site Plan For Parking Expansion” prepared by CCA, LLC dated 2/19/09 revised thru 5/15/13 – sheet S1
 - “Landscape Plan For Parking Expansion” dated 2/19/09 revised 5/15/13 – sheet L-1

S. Sullivan, P.E., and A. Adams, Landscape Architect, CCA, 40 Old New Milford Rd., were present. Chairman Blessey explained that the site plan modification is to expand the parking lot on a portion of the land that is leased from the Town of Brookfield. He further noted that the applicant is receiving a Cease and Desist Order because the work has already been started. Additionally, the Inland Wetlands Enforcement Officer believes that this application must be reviewed by the IWC, and has also issued a Violation. Mr. Sullivan referenced an approval from 2010. Chairman Blessey indicated that the Commission has two options: to accept the application and decide it within thirty-five days of an IWC decision; or to deny it without prejudice and have the applicant resubmit the application with the necessary information.

Mr. Sullivan advised that the impacts to the wetlands are not changing since the 2010 approval, and that the work is no closer to the regulated area.

Commissioner Frankel asked for a review of the circumstances. Mr. Sullivan indicated he would provide a copy of the letter with wetlands approval. He further noted that the parking expansion approval from the Zoning Commission was also obtained in 2010, and the expansion of that approval is what the modification is related to. ZEO Dew reiterated that this portion of the

property is being leased from the Town. Ms. Adams advised that the expansion currently being done is under an approval already obtained, and the modification relates to change in the layout. Town Counsel has advised that the previous approval does not cover the modification. Mr. Sullivan acknowledged that the site plan modification has not gone before the IWC. Upon inquiry from Commissioner Frankel, Mr. Sullivan indicated that the work that has already been done was performed a couple of weeks ago. He also noted that the landscaping plan is attached. Mr. Sullivan further indicated that the layout had a discrepancy in it, which is why he requested that his client halt the work. The correction is changing the plan from angled parking to ninety-degree parking, which is a more efficient layout. Commissioner Frankel noted her concern with the angles on the proposal, and Mr. Sullivan offered to submit the maneuvering diagrams.

Commissioner Miller suggested that erosion controls be installed.

Vice Chairman Grimes moved to table 49 Federal Road, #201300414, to June 13, 2013, noting that in the interim, the applicant must maintain erosion control on the site. Commissioner Miller seconded the motion. At the inquiry of Commissioner Frankel, Mr. Sullivan confirmed that the applicant intends to complete an application to the Inland Wetlands Commission. **Motion carried unanimously.**

Vice Chairman Grimes moved to add as Item 7.c., 857-857A Federal Road. Commissioner Lynch seconded the motion, and it carried unanimously.

Vice Chairman Grimes moved to add as Item 7.d., Appointment of Deputy Zoning Enforcement Officer. Chairman Blessey seconded the motion, and it carried unanimously.

c. 857-857A Federal Road – Commissioner Lynch moved to authorize Town Counsel to enter into a stipulation to settle the pending appeal with modifications to the site plan that have been reviewed by the Commission in Executive Session, and to hold a Public Hearing on June 27, 2013 at 7:30 p.m., to entertain public comment on the stipulations to settle, and the proposed modifications to the site plan, and conditions pertaining thereto. Commissioner Miller seconded the motion, and it carried unanimously.

d. Appointment of Deputy Zoning Enforcement Officer – Vice Chairman Grimes moved to appoint Secretary Lollie as Deputy Zoning Enforcement Officer, effective May 24, 2013. Chairman Blessey seconded the motion, and it carried unanimously. Commissioner Frankel advised that a letter regarding the appointment has to be sent to the Town Clerk.

3. Review Correspondence

- a. Minutes of other Boards and Commissions: Inland Wetlands Commission; Zoning Board of Appeals; Planning Commission 5/2/13; Zoning Sub-Committee**

No discussion/no motions.

6. Old Business:

- a. 419 Federal Road (Sunburst Landscaping) #201300362: Design Review for a 3,752 sq. ft. addition & site improvements (*ph scheduled for 6/13/13*) – *No action.***
- b. 20 Elbow Hill Road – Proposed Zone Change #201300338: Proposed Zone change for 20 Elbow Hill Road to go from an R-40 Zone to an IRC 80/40 Zone, application submitted by Marc Rogg (*ph scheduled for 6/13/13*) – *No action.***

1. Response memo from Planning Commission to Zoning Commission dated 5/6/13 Re:
Proposed Zone Change Application #201300338
- c. **200 Federal Road (Costco Wholesale): Bond Release** – *No one present.*

8. **Tabled Items:** None.

9. **Informal Discussion:**

a. **Generators and Propane Tanks:** - ZEO Dew advised that this item was resolved within the Land Use Office.

Commissioner Miller moved to adjourn the meeting at 8:32 p.m. Commissioner Lynch seconded the motion.

10. **Comments of Commissioners:** Commissioner Varda began a discussion regarding including temporary storage units (commonly known as “pods”) in the regulations. He will draft a regulation change.

Upon inquiry from ZEO Dew, the matter of 594 Federal Road will be discussed at the next regular meeting.

Chairman Blessey encouraged Commissioners to review the information discussed at the May 16, 2013 meeting that was submitted by C. Gould.

After some discussion, it was decided that the next special meeting will be held June 6, 2013.

11. **Adjourn:** The vote on Commissioner Miller’s motion to adjourn was taken at 8:35 p.m., and it carried unanimously.

****Next Regular Meeting Scheduled for June 13, 2013****