

**APPROVED MINUTES
BROOKFIELD ZONING COMMISSION
Thursday, June 13, 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, L. Miller, Alternative and Voting Member J. Varda, Alternates M. Frankel and J. Cordisco

Absent: C. Lynch

Also Present: Zoning Enforcement Officer A. Dew, Recording Secretary D. Cioffi

- a. **Review Minutes of Previous Meetings: 5/23/13 – Vice Chairman Grimes moved to approve the Minutes of the May 23, 2013 Regular Meeting as submitted. Commissioner Varda seconded the motion. Motion carried, 5-0-1, with Commissioner Frankel voting as an Alternate and Secretary Lollie abstaining.**

5/16/13 – Vice Chairman Grimes moved to approve the Minutes of the May 16, 2013 Special Meeting. Commissioner Varda seconded the motion, and it carried, 3-0-2, Commissioners Miller and Secretary Lollie abstaining.

Vice Chairman Grimes moved to amend the agenda to add the Minutes of the Special Meeting of June 6, 2013, to Item 1.a. Chairman Blessey seconded the motion, and it carried unanimously.

6/6/13 – Chairman Blessey moved to approve the Minutes of the June 6, 2013 Special Meeting. Commissioner Frankel seconded the motion. Commissioner Varda noted that “after spirited discussion, they were ... fairly concise”. Motion carried, 3-0-2, with Secretary Lollie and Commissioner Cordisco abstaining.

2. Land Use Enforcement

a. **Enforcement Officer’s Report:**

Requests for Voluntary Compliance

44 Old Middle Road, #201300069 – ZEO Dew advised that the property owner did not submit an application for a variance by June 12th, and the boat is still there as of yesterday. Vice Chairman Grimes reviewed the history of this matter and the referral to the Zoning Board of Appeals, where it was listed as an “Informal Discussion”. A formal application was not filed. **Chairman Blessey moved to issue a Cease and Desist Order to 44 Old Middle Road, #201300069. Commissioner Miller seconded the motion, and it carried unanimously.**

9 Baldwin Hill Road, #201300311. – ZEO Dew advised that the truck has been removed. This matter will be taken off the Enforcement Officer’s Report.

15 Federal Road, #201300322 – Chairman Blessey advised that a large banner has been hanging at the site for two weeks. He has a photograph for the file. **Chairman Blessey moved to issue a Cease and Desist to 15 Federal Road, #201300322. Vice Chairman Grimes seconded the motion, and it carried unanimously.**

70 Ironworks Hill Road, #201300482 – This matter involves a pool without a Certificate of Zoning Compliance. **Vice Chairman Grimes moved to issue a Cease and Desist to 70 Ironworks Hill Road if the property is not in compliance by June 17, 2013. Chairman Blessey seconded the motion, and it carried unanimously.**

26 Meadowbrook Road, #201300483 – This matter involves a shed that does not meet the setbacks. An application for a variance will be heard by the Zoning Board of Appeals on July 1, 2013.

148 North Lakeshore Drive, #201300507 – ZEO Dew advised that a complaint was made by a neighbor regarding two vehicles parked in an undesignated area. Upon her inspection, she found the vehicles as well as debris. The neighbor has also alleged that something was being dumped into septic. ZEO Dew reported that the property owner has indicated he would clean up the site by June 27, 2013.

Vice Chairman Grimes moved to issue a Cease and Desist to 148 North Lakeshore Drive if no compliance by June 27, 2013. Secretary Lollie seconded the motion, and it carried unanimously.

Cease and Desist Orders

594 Federal Road, #201200948 – Vice Chairman Grimes moved to issue a Citation to 594 Federal Road. Commissioner Miller seconded the motion, and it carried unanimously.

12 Pocono Ridge Road, #201200893 – ZEO Dew reviewed that the property owners recently obtained a variance for the pool shed; however, the deck does not meet setbacks. As of today, the property owners have not filed an application for a variance. ZEO Dew issued a Cease and Desist today.

Commissioner Frankel inquired why the property owners are afforded the opportunity to apply for variances prior to a Cease and Desist Order being issued. Chairman Blessey explained that the first measure of enforcement, the Request for Voluntary Compliance was created to give property owners an opportunity to comply in good faith. He further noted that a date for compliance is set in the RVC.

Citations

12 Deer Run Road, #201300078 - ZEO Dew advised that the shed was removed and the fine was paid. Vice Chairman Grimes moved to remove 12 Deer Run Road from the Enforcement Officer's Report. Secretary Lollie seconded the motion, and it carried unanimously.

178 Federal Road, #201300477 – ZEO Dew advised that a Citation was issued, and the banner was then removed. However, the fine has not yet been paid. The Commission will leave this matter on the report until the fine is paid.

Town Counsel Action

1 High Ridge Road, #201000315 – Nothing new to report.

9 Stoney Farm Lane, #201100095 – Nothing new to report.

54 Ironworks Road, #201100755– ZEO Dew advised that the Health Department has inspected the site. Additionally, a title search is being done, and the property will likely go into foreclosure.

34 Stony Hill Rd., #201200874 – The property owner will be submitting a lot line revision.

Miscellaneous

200 Federal Road – ZEO Dew indicated that the Town Engineer has recommended that the entire bond be held. Representatives of the property may be coming to the next meeting. Commissioner Frankel noted that some of the trees in the parking lot are dying. ZEO Dew will inspect the landscaping.

Vice Chairman Grimes moved to go to Agenda Item 7.b. Secretary Lollie seconded the notion, and it carried unanimously.

There was discussion regarding the Commission's authority to designate authority of Zoning Enforcement deputies. Chairman Blessey noted Item 3.c., (Letter from Neil Marcus to First Selectman dated 6/3/13). Commissioner Grimes advised that it is well-documented in case law that the Commission may appoint deputies.

7. New Business:

b. 360 Federal Road, #200900068 - Request for final Bond Release - \$60,040.10 – P. *Mascia, LLC, 360 Federal Road, was present.* ZEO Dew inspected the site a few days ago. She discussed the low percentage of plants that did not survive, and pointed out that the driveway striping was corrected. She indicated it would be sufficient to reduce the bond to \$2,000. **Chairman Blessey moved to recommend to the Board of Selectmen to reduce the bond for 360 Federal Road, #201100465, to reduce the amount to \$2,000.** ZEO Dew noted that the work was done by the property owner. She suggested the bond be released, and that the applicant pay cash. **Chairman Blessey indicated his motion was to recommend reduction of the bond by \$60,040.10. Commissioner Miller seconded the motion, and it carried unanimously.**

Chairman Blessey moved to set the bond for 360 Federal Road, #201100465, for \$2,000.

Commissioner Miller seconded the motion, and it carried unanimously.

b. Enforcement Correspondence:

1. Letter from Jason Buchsbaum of Cohen & Wolf to Lizbel Sanchez & Yvette Diaz of 34 Stony Hill Rd dated 5/28/13 Re: Zoning Violations of 34 Stony Hill Rd.
2. Letter from A. Dew, ZEO to William Lavelle of 594 Federal Road dated 6/3/13

No discussion/no motions.

3. Review Correspondence

- a. **Minutes of other Boards and Commissions: Inland Wetlands Commission 5/13/13 5/20/13; Zoning Board of Appeals 6/3/13; Planning Commission 5/16/13; Zoning Sub-Committee**
- b. Legal Briefings for Building Inspectors: May 2013
- c. e-mail from Bill Davidson to Ryan Blessey dated 6/5/13 Re: ZEO, 6/3/13 NRM
 1. Letter from Neil Marcus to First Selectman dated 6/3/13 Re: Appointment of Zoning Enforcement Officer

Item 3.c. discussed above.

Vice Chairman Blessey moved to go to Agenda Item 6.a. Secretary Lollie seconded the motion, and it carried unanimously.

6. Old Business:

- a. **49 Federal Road #201300414: Site Plan Modification 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 (*dec date 7/26/13*)**
 1. “Parking Expansion Overlay” prepared by CCA, LLC dated 5/23/13 – sheet 1 of 2

Ms. A. Adams, Registered Landscaped Architect, CCA, 40 Old New Milford Rd., was present. She reviewed the original layout, and discussed the realignment of the driveway and parking, which will allow more space for maneuvering. The landscaping plan has not changed.

Chairman Blessey moved to approve #201300414, 49 Federal Road, for a site plan modification with a soil and erosion control bond of \$2,000, and with the stipulation that all the commercial parking of vehicles will be at the rear of the side lot, i.e., parallel with the river in the rear. Commissioner Miller seconded the motion, and it carried unanimously.

4. Public Hearings: 7:30 p.m.

- a. **419 Federal Road (Sunburst Landscaping) #201300362: Design Review for a 3,752 square foot addition & site improvements (*ph close date 7/17/13*)**
 1. Letter from Water Source to Zoning Commission dated 5/29/13 Re: Application #201300362 – no comments needed.

Chairman Blessey opened the Public Hearing and introduced the Commission members. Secretary Lollie read the legal notice for the Public Hearing, which was published in the News Times on May 31, 2013 and June 10, 2013. Chairman Blessey noted that the application was received on May 9, 2013. He then reviewed the policies and procedures that govern public hearings.

Secretary Lollie read the following correspondence: a memo to the Zoning Commission from the Water Source Committee dated May 29, 2013.

M. Kornhaas, P.E., Artel Engineering and P. DiScala, Sunburst Landscaping, 419 Federal Road, were present. Mr. Kornhaas reviewed the location of the property and its proximity to “the cornfield”. He indicated that the site was formerly used for boat sales repair/outdoor storage. Mr. Kornhaas further

discussed that a variance for setbacks was approved. The site plan was reviewed. Mr. Kornhaas explained that his client plans on occupying the building addition in the back, and the main structure will be utilized in the future for retail and/or an office. He also noted the other improvements to the site, including 20' X 30' foot storage for salt, and bins for wood/mulch storage.

Upon inquiry from Commissioner Miller, Mr. Kornhaas stated that the plan was approved by the Inland Wetlands Commission.

The material and color specifications were submitted for the record.

Upon inquiry from Commissioner Frankel, the wetlands were denoted, as was the parking and widening of the southern driveway. Mr. Kornhaas advised that the neighboring property owner is open to negotiating for parking purposes if a future use requires it.

Mr. Kornhaas further explained that the existing septic will be abandoned and connected to the sanitary sewer. There are no plans at this time to connect to water; the existing well will be utilized. There is a water main and fire hydrant on the west side of the road. Mr. Kornhaas reviewed the results of the hydrant test.

Chairman Blessey pointed out that due to the property location over the aquifer protection, the salt storage can be built but cannot be stocked with salt. He advised that the State Department of Energy and Environmental Protection regulations require any salt storage to be enclosed. There was discussion regarding storage for mulch and setbacks, and additional discussion regarding the salt storage. Mr. Kornhaas advised that an enclosed structure with concrete bottom and walls (5 feet tall) with an 8 foot steel structure, and a loading surface. He further stated that the storage would not be year round, and only small quantities would be stored.

Mr. DiScala offered to submit a drawing of the building that the salt will be stored in.

D. Plante, 32 Elbow Hill Rd., was present. He inquired regarding the size of the business (equipment and employees) and expressed his concern regarding the aquifer. The applicant advised that the business utilizes ten trucks, and that any maintenance will be done inside the building.

Commissioner Miller requested a description of the wash bay and drainage/containment. Mr. Kornhaas explained that a 1,000 gallon oil/grit chamber will be registered with the DEEP, and connected to the sanitary sewer. The material collected by the separator will be pumped out twice a year and hauled away.

Commissioner Cordisco discussed his concern regarding the runoff from parked vehicles. Mr. Kornhaas pointed out the gravel surface, and a “natural” berm. Chairman Blessey discussed previous approvals of landscaping business with indoor/contained storage. Commissioner Cordisco inquired regarding a buried fuel tank on the site, and Mr. Kornhaas advised that it has been removed. Secretary Lollie inquired regarding the containment of the salt bin. Mr. Kornhaas discussed the solid loading surface and grading at the site.

Commissioner Frankel pointed out her concern regarding the setbacks for the mulch storage.

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

Vice Chairman Grimes moved to recess the Public Hearing for 419 Federal Road, #201300362, until the June 27, 2013 Zoning Commission meeting, at which time the applicant will submit

elevations for containment and potential relocation. Secretary Lollie seconded the motion, and it carried unanimously.

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 close date 7/17/13*)

1. Response letter from HVCEO to Zoning Commission dated 5/21/13 Re: Application #201300338
2. Opinion Letter from Neil Marcus to Zoning Commission dated 5/29/13 Re: Zone Change Application – 20 Elbow Hill Rd, R-40 to IRC 80/40

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

Secretary Lollie read the legal notice for the Public Hearing which was published in the News Times on May 31, 2013 and June 10, 2013.

Chairman Blessey indicated that the application was received on May 9, 2013. Chairman Blessey inquired if Mr. Plante wanted his letter read. Secretary Lollie read the following correspondence: 1) to the Zoning Commission from D. Plante, dated 6/10/2013, in opposition to the zone change; 2) to the Zoning Commission from the Planning Commission, dated May 6, 2013, advising that the Planning Commission is in favor of the application; 3) to the Planning and Zoning Commission from the Town of Newtown, dated June 7, 2013, advising recommendation of approval; and 4) response from HVECO to the Zoning Commission dated May 21, 2013; and 5) from Cohen & Wolf, dated 3/29/2013, noting that no letters complying with Section 242-803 were included.

M. Rogg, 227 Candlewood Lake Rd., was present. He explained that he is proposing to change the zone that adjoins 16 Elbow Hill Road. He discussed the commercial zoning on the abutting properties. Upon inquiry from Chairman Blessey, Mr. Rogg indicated he had nothing more to present to the Commission or the public. After some discussion, he was requested to come back with plans to present what he plans to do, how and why.

Vice Chairman Grimes moved to continue 20 Elbow Hill Road, #201300338, Proposed Zone Change, until June 27, 2013, at which time the applicant will provide a comprehensive presentation on this application. Chairman Blessey seconded the motion. Commissioner Frankel noted, Article 8, Section 2-4, 2-801, Requirements and advised the applicant to read that section. Motion carried unanimously.

5. Continued Public Hearing: None

6. Old Business (continued)

b. 800, 802, 806 Federal Road & 7 Station Rd (Brookfield Village) #201300224: Bond Set

1. Bonding Cost Estimate-Sitework Sheet dated 3/15/13 for \$19,054.75 –

Ms. A. Adams, Registered Landscape Architect, CCA, 40 Old New Milford Rd., was present.

Chairman Blessey advised he was concerned because the streetscape funding was not discussed. At this time, he can only recommend a bond for the stabilization of the property.

Chairman Blessey moved to recommend to the Board of Selectmen to set a bond for \$19,000 for 800, 802, 806 Federal Road & 7 Station Road, #201300224. Commissioner Miller seconded the application, and it carried unanimously.

Ms. Adams inquired if the design review approval letter would be forthcoming, and Chairman Blessey indicated he would speak with Town Counsel.

7. New Business:

- a. **857 and 857A Federal Road #201200887:** 8-8(n) Hearing: Revised plans as per appeal. (*ph scheduled for 6/27/13*)
1. Map Cover Sheet Titled “Green Acres Luxury Apartments – Proposed Incentive Housing Development” prepared by CCA, LLC dated 9/19/12 revised thru 5/22/13
 - “General Legend, Notes And Abbreviations” dated 9/19/12 revised thru 5/22/13 – sheet N1
 - “Boundary & Topographic Survey” dated 6/14/12 – sheet 1 of 1
 - “Site Layout Plan” dated 1/18/13 revised thru 5/22/13 – sheet C1
 - “Grading And Drainage Plan” dated 9/19/12 revised thru 5/22/13 – sheet C2
 - “Utilities Plan” dated 9/19/12 revised thru 5/22/13 – sheet C3
 - “Landscaping Plan” dated 9/19/12 revised thru 5/22/13 – sheet C4
 - “Erosion And Sediment Control Plan” dated 9/19/12 revised thru 5/22/13 – sheet C5
 - “Notes And Details” dated 9/19/12 revised 5/22/13 – sheets C6 – C8
 - “Truck Maneuvering Plan – Fire Truck” dated 5/8/13 – sheet C9
 - “Truck Maneuvering Plan – WB-40” dated 5/8/13 – sheet C10
 - “Sedimentation And Erosion Control Plan” dated 12/7/05 – sheet E1

No discussion/no motions.

- c. **Proposed Regulation Change #201300511: Section 242-404 K(7) – Incentive Housing Permitted Uses**

A date for a public hearing will be set at the next regularly scheduled meeting.

- d. **4 & 16 Elbow Hill Road #201300512(DR): Design Review for a 20,413 sq. ft. Boat Storage Facility including an Application for Natural Resources Removal (#201300512-NRR) (dec date 8/16/13)**
1. **Bond Estimate – Erosion Controls: \$12,006.50**
 2. Erosion Control Plan prepared by CCA, LLC dated May 2013
 3. Map Cover Sheet Titled “Proposed Boat Storage” prepared by CCA, LLC dated 5/28/13
 - “Echo Bay Marina Boat Storage Site Plan” dated 5/24/13 – sheet S1
 - “Landscape Plan” dated 5/24/13 – sheet LS 1
 - “General Legend, Notes And Abbreviations” dated 5/24/13 – sheets N1 & N2
 - “Drainage Areas” dated 5/24/13 – sheet N3
 - “Sedimentation And Erosion Control Plan” dated 12/7/05 – sheet ERO1
 - “Topographic Property Survey” dated 12/12/12 revised thru 6/4/13 – sheet 1 of 1

Vice Chairman Grimes moved to set a Public Hearing for 4 & 16 Elbow Hill Road, #201300512 (DR), for July 11, 2013, at 7:30 p.m. Commissioner Miller seconded the motion, and it carried unanimously.

8. **Tabled Items:** None.

9. Informal Discussion:

- a. Chairman Blessey reviewed the recent discussions of the incentive housing core zone. He advised he recused himself from those discussions, and was recently advised by Town Counsel it was not necessary. He pointed out that it has been determined that the map adopted by

Commission was flawed. The change made six properties eligible for incentive housing, but eliminated all other incentive housing in that zone. The map has now been corrected, and it was recommended that the Commissioners review the new map.

Chairman Blessey will draft another application.

10. Comments of Commissioners: Commissioner Frankel inquired regarding a site on Elbow Hill where excavation has occurred. She produced a photograph for the Commission’s review, and pointed out there are no erosion controls. She will file a formal complaint.

ZEO Dew advised there is a potential four-story building with a flat roof for the Town Center District, at 777 Federal Road. Plans have been made for a pre-application meeting. The language in the regulation requires a member of the “Architectural Review Committee” be present at that meeting. Presently, the Committee is not staffed. There was discussion regarding the appointment of architect(s). Commissioner Miller explained how the IWC handles review of these matters. After some discussion, the Commission requested that the architect for 800 Federal Road, Jane Didona and Dirk Sabin be considered for third-party representation for 777 Federal Road.

ZEO Dew pointed out that there are incoming sign applications that include LED lighting. Chairman Blessey suggested that S. Kelley be consulted regarding the conversion of watts to lumens, and light hitting the ground. Commissioner Cordisco noted that the LED lighting does not produce heat, and therefore, freezes during cold weather and is a potential danger if they fall.

11. Adjourn:

Secretary Lollie moved to adjourn the meeting at 8:43 p.m. Vice Chairman Blessey seconded the motion, and it carried unanimously.

****Next Regular Meeting Scheduled for June 27, 2013****